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PUBLIC SCOPING MEETING FOR SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT STATEMENT ON DEC'S OIL AND GAS REGULATORY PROGRAM FOR THE MARCELLUS SHALE.

HELD ON: November 13, 2008  
HELD AT: Southside Central High School

DEC APPEARANCES:

- Susan Dubois, ALJ
- Bradley Field
- Jack Dahl
- Val Washington
- Carrie Friello
- Kathy Sanford

REPORTED BY: MYRA J. LUDDEN

1           ALJ: Good evening, this is a meeting  
2 about the subjects that the Department of  
3 Environmental Conservation should include  
4 in its Supplemental Generic Environmental  
5 Impact Statement on its oil, gas and  
6 solution mining program. My name is Susan  
7 DuBois, I'm with the DEC's office of  
8 Hearings and Mediation Services in Albany,  
9 and I've been assigned to conduct the  
10 meeting tonight.

11           The Supplemental Impact Statement  
12 concerns permits for horizontal drilling  
13 and high-volume hydraulic fracturing for  
14 natural gas wells in the Marcellus Shale  
15 and other low-permeability natural gas  
16 reservoirs. The Supplemental Generic  
17 Environmental Impact Statement would  
18 supplement the existing Environmental  
19 Impact Statement that DEC prepared in 1992  
20 about its oil, gas and solution mining  
21 program.

22           This evening's meeting is for the  
23 purpose of receiving comments on the DEC's  
24 draft outline of the subjects that should

1 be included in the Supplemental Impact  
2 Statement. The outline is referred to as  
3 the scope for the Supplemental Impact  
4 Statement and this evening's meeting is  
5 known as a public scoping meeting.

6 Kathleen Sanford from the  
7 Department's Division of Mineral Resources  
8 will explain in more detail the process and  
9 the plan schedule for preparing the  
10 Supplemental Impact Statement.

11 This evening's meeting is one of  
12 several scoping meetings in which the  
13 public can comment on the Draft Scope,  
14 particularly with regard to identifying any  
15 additional information or subjects that  
16 should be included in the supplement in  
17 identifying any subjects in the Draft Scope  
18 that they may feel are irrelevant or not  
19 significant.

20 Following this meeting the DEC will  
21 prepare a Final Scope or final outline and  
22 then will prepare the supplement itself.  
23 The meetings that have been held, there's  
24 two thus far, one in Allegany on November

1           6th and one last night in Bath. Then in --  
2           rather on November 17th, which is a Monday,  
3           there is going to be one in Binghamton.

4           And I believe there is going to be a  
5           webcast of that but I haven't yet been able  
6           to get information on where you can access  
7           the link for reviewing that. The other two  
8           meetings are going to be on December 2nd in  
9           Oneonta and December 4th in Loch Sheldrake.

10                   There are several ways you can  
11           comment on the Draft Scope. One is to make  
12           a comment on the record tonight. Another  
13           is to submit a written comment and there is  
14           an address which is in the notice for this  
15           meeting, which I can give you during a  
16           break in the meeting or after the meeting.  
17           And I believe it's part of the slides that  
18           Miss Sanford will show also. So there's  
19           written comments that you can submit. The  
20           deadline for those is December 15, 2008.  
21           The comments should be received by DEC by  
22           close of business on December 15th. You  
23           can also comment on -- by internet if you  
24           want to send an e-mail comment. And the

1 address for that is also in the notice.  
2 And the deadline for those is also December  
3 15. And then the last way in which you can  
4 comment is on the table outside in the  
5 lobby they have some blue cards that you  
6 can just write a comment on those and just  
7 leave it at the table if you just want to  
8 write something short and simple on a card  
9 and leave that via comment.

10 So there is four ways of commenting,  
11 either, you know, by saying something  
12 tonight, by sending a letter by December  
13 15th, by sending an e-mail by December 15th  
14 or by filling out a comment on a card  
15 tonight. And I think that's most of the  
16 process. I'd like now to introduce Brad  
17 Field who's the director of the  
18 Department's Division of Mineral Resources  
19 who will introduce some other individuals  
20 from the Department who are here tonight.

21 MR. FIELD: Thank you, Judge Dubois.  
22 And good evening, everyone and welcome to  
23 tonight's meeting. Before we get started  
24 I'd like to introduce some of the

1 Department's staff that have come out here  
2 to help with this meeting and answer some  
3 of your questions. First of all I'd like  
4 to point out Val Washington who is the  
5 deputy commissioner at the DEC responsible  
6 for remediation and materials management.  
7 Also with us here tonight, Jack Dahl who is  
8 the director of the Bureau of Oil and Gas  
9 Regulation in the Division. Carrie Friello  
10 who is the mineral resource specialist in  
11 our division and Kathy Sanford who will be  
12 speaking to you in a moment. So after  
13 Kathy's presentation, the judge will open  
14 it up for your comments and we look forward  
15 to hearing what you have to say. So thanks  
16 again for coming and with that, Kathy?

17 MS. SANFORD: Thank you, David, Judge  
18 Dubois. Just so you know, I'm standing up  
19 here so that my remote will work, it seems  
20 to be the magic place. Anyway, good  
21 evening and thank you for being here  
22 tonight so we can get your input on how the  
23 Department should regulate shale gas  
24 drilling in New York.

1                   We will spend most of our time  
2                   tonight hearing your comments, but before  
3                   we do I'm going to talk a little bit about  
4                   how this works tonight. I would just like  
5                   to mention this is a public scoping --  
6                   sorry, a public scoping meeting. And the  
7                   subject is a Draft Scope for Supplemental  
8                   Generic Environmental Impact Statement on  
9                   the Department's Oil and Gas Regulatory  
10                  Program. So I will explain what a Generic  
11                  Environmental Impact Statement is, and then  
12                  I will talk a little bit about an existing  
13                  generic statement that covers oil and gas  
14                  drilling in New York. Then I will explain  
15                  why the Department's preparing the  
16                  supplement and I will also cover objective  
17                  of the scoping process in a little more  
18                  detail and how what we are doing tonight  
19                  fits in with that.

20                 As Judge Dubois mentioned, this is a  
21                 Public Scoping Meeting and the subject is a  
22                 Draft Scope for a Supplemental Generic  
23                 Environmental Impact Statement on the  
24                 Department's regulatory natural gas

1 program. So I will explain what a Generic  
2 Environmental Impact statement is and I  
3 will talk a little bit about an existing  
4 statement that covers oil and gas drilling  
5 in New York. Then I will explain why the  
6 Department is preparing the supplement.  
7 And I will also cover the objectives of the  
8 scoping process in a little more detail and  
9 finally I will go over some of the things  
10 that are in the draft first which is the  
11 document that we released in early October,  
12 many of you have already read it. We do  
13 have copies here tonight, as well.

14 Okay. It did work here. Okay. I  
15 guess I have to sit.

16 All right. So a Generic  
17 Environmental Impact Statement is a way to  
18 evaluate the potential impact of separate  
19 actions that have common effects on the  
20 environment. Most of the impacts of  
21 drilling an oil and gas well are the same  
22 regardless of where the well is drilled,  
23 regardless of how deep the well is drilled  
24 or whether it is drilled horizontally or

1 vertically. So an individual site-specific  
2 impact statement is not necessary unless a  
3 specific project has unique, non-generic  
4 characteristics. DEC completed a Generic  
5 Statement on gas well drilling in New York  
6 which was completed in 1992.

7 It's on DEC's website at  
8 [www.dec.ny.gov/energy/45912.html](http://www.dec.ny.gov/energy/45912.html).

9 Now, even with this Generic Statement  
10 in place, the Department still reviews  
11 application to drill a gas well  
12 individually. We look at the proposed  
13 location, we look at the proposed methods.  
14 And we determine on a site-specific basis  
15 what conditions are necessary on a permit  
16 to protect the environment.

17 If everything is consistent with the  
18 Generic Statement, then there will be no  
19 significant effect on the impact.

20 We may find that during our reviews  
21 that other Department permits are necessary  
22 such as for a stream or wetland  
23 disturbances. And in a case like that, we  
24 have to consider the implications of that

1 permit before we determine the  
2 environmental significance of a proposed  
3 drilling project. It was found in 1992  
4 that for their review beyond the Generic  
5 Statement, it is always necessary if a well  
6 is proposed in a state flood land or if the  
7 proposed well site will disturb more than  
8 two and a half acres in an agricultural  
9 district.

10 Further review is also necessary if  
11 the proposed well site is within 2,000 feet  
12 of a municipal water supply well.

13 Other circumstances that weren't  
14 discussed in 1992 could arise that require  
15 further evaluation beyond the Generic  
16 Statement. For example, the 1992 Generic  
17 Statement did not address drilling near  
18 underground water supply tunnels. It did  
19 however cover -- does however cover  
20 drilling in watersheds and aquifers.

21 Most -- or I should say many. Many,  
22 if not almost, of the potential impacts of  
23 shale well development are covered by the  
24 existing Generic Statement. Many of the

1 effects will be the same from well to well  
2 no matter where the well is drilled. For  
3 these reasons, DEC will prepare a  
4 Supplemental Generic Environmental Impact  
5 Statement to address the new potential  
6 common impacts. I will refer to that  
7 tonight as "the Supplement." Most of the  
8 new potential impacts relate to the large  
9 fluid volumes that will be used for  
10 high-volume hydraulic fracturing that is  
11 necessary to develop the shale gas  
12 resources.

13 So now that I've explained a little  
14 bit about what a Generic Environmental  
15 Impact Statement is and why we're doing a  
16 supplement, we'll go over again the Scoping  
17 Process and the objectives of it, why we  
18 are here tonight.

19 Let's see -- Scoping. Scoping is how  
20 we determine the topics that will be  
21 included in the Supplement. We have, as  
22 Judge Dubois mentioned, we have scheduled  
23 six meetings like this across the Southern  
24 Tier and in the Catskills to receive public

1           comments. This is the third meeting, and,  
2           you know, you can submit your comments or  
3           you can make any written comments later and  
4           I will provide more information about that  
5           at the end of the presentation. We will  
6           consider your comments before we finalize  
7           the table of contents for the Supplemental  
8           Generic Environmental Impact Statement.

9           The first objective of scoping is to  
10          identify potential environmental impacts of  
11          an activity. The activity that we are  
12          reviewing now is high-volume hydraulic  
13          fracturing. DEC has identified some  
14          potential impacts that I will describe in  
15          the Draft Scope. One example is the  
16          potential visual effects of larger well  
17          sites. Another is the noise associated  
18          with fluid pumping. Larger withdrawals  
19          from surface water volume can have various  
20          effects that are reviewed in the Draft  
21          Scope. And there are other potential  
22          impacts that are listed in the Draft Scope,  
23          as well.

24                 Our second objective is to identify

1 any concerns that are insignificant or  
2 irrelevant. These would not need to be  
3 included in the Supplement.

4 Third, scoping will help to identify  
5 what additional information we need in  
6 order to complete the supplement. One  
7 example of this that is mentioned in the  
8 Scope is the results of radioactivity  
9 testing of the Marcellus shale that is  
10 currently underway. Another example is the  
11 information that we are currently  
12 collecting regarding the additives in  
13 hydraulic fracturing.

14 The fourth objective of Scoping is to  
15 identify the ways to minimize any  
16 environmental impacts. And this would  
17 include review of any available  
18 alternatives to the proposed activity.

19 And finally Scoping is the way that  
20 we get your comments on these topics that  
21 are listed on this -- the focus of scoping  
22 is the Draft Scope which is like an outline  
23 or a table of contents for the Supplement.  
24 The Department prepared the Draft Scope and

1           made it available for review so that you  
2           could give us your comments for our ideas  
3           on what should be in there. We did include  
4           some background information in the Draft  
5           Scope so that you could learn about gas  
6           well drilling in New York and how the  
7           Department regulates it.

8           As I mentioned, we do have copies  
9           over here. If we do run out tonight, we  
10          can send you one if you give us your  
11          mailing address.

12          It's also on DEC's website at  
13          [www.dec.ny.gov/energy/47554.html](http://www.dec.ny.gov/energy/47554.html).

14          So again, the purpose of tonight's  
15          meeting is to get your comments on that  
16          Draft Scope. After we receive your input  
17          we will prepare a final scope considering  
18          your input. That scope will serve as the  
19          outline, or table of contents, for the  
20          Supplemental Generic Environmental Impact  
21          Statement. I'm going to briefly describe  
22          the key points that were in the Draft  
23          Scope.

24          High-volume hydraulic fracturing is

1 not adequately addressed by the 1992  
2 Generic Statement. The supplement will  
3 generically address the common potential  
4 impacts of this activity. Nevertheless,  
5 even when that supplement is finalized, the  
6 Department will continue to review each  
7 well application individually.

8 One well at a time we will determine  
9 consistency or lack thereof with the  
10 Generic Statement and the Supplement.

11 One well at a time we will determine  
12 whether there are any unique  
13 characteristics of a proposed well that  
14 require other permits or changes to the  
15 proposed activity in order to protect the  
16 environment.

17 And last but not least, the  
18 Department will continue to make sure that  
19 every single permit includes the necessary  
20 requirements to protect the environment.

21 To be a little bit more specific, one  
22 activity not addressed by the existing  
23 Generic Statement is the taking of water  
24 from surface water bodies. This could

1           potentially affect stream flow. Taking too  
2           much at the wrong time in the wrong place  
3           could affect the amount of water that's  
4           available for other uses including public  
5           supply. The Department must also consider  
6           the water needs of fish and wildlife.  
7           These are discussed in the scope and we  
8           will address these concerns in the  
9           supplement.

10                   The Draft Scope also describes how --  
11           oh, I didn't mean to read that -- oh, I'm  
12           sorry. The Draft Scope also describes how  
13           hydraulic fracturing has been managed under  
14           the existing Generic Statement. But the  
15           Department will use the Supplement to  
16           evaluate unique issues related to shale gas  
17           development. An example is a high-volume  
18           fluid storage at the well site. Another  
19           example is transportation of the fluids to  
20           and from the well site. Others include the  
21           available options for fluid reuse,  
22           treatment and disposal. I encourage you to  
23           read the Draft Scope for a more complete  
24           list of all of the topics that the

1 Department is reviewing.

2 The activities that we've discussed  
3 could affect the environment in several  
4 ways. Without proper control, water  
5 resources could be impacted. There will be  
6 noise and visual effects. There may be  
7 potential air quality impacts. Trucks will  
8 haul water on local roads. And the  
9 Supplement will also discuss cumulative  
10 impacts, impacts to the community and any  
11 environmental justice concerns. Ultimately  
12 the Supplement will answer these questions  
13 about high-volume hydraulic fracturing.  
14 What are the potential impacts and how can  
15 they be minimized or avoided. When will  
16 the Generic Statement and the Supplement be  
17 sufficient to support issuance of a well  
18 drilling permit or high-volume hydraulic  
19 fracturing may be used. When will a  
20 site-specific individual Supplemental  
21 Environmental Impact Statement be  
22 necessary.

23 That's the overview of the key points  
24 in the Draft Scope to give you some details

1 about our process and the timeliness.

2 Our final meeting like this is on  
3 December 4th and we are accepting comments  
4 through December 15th. So we hope to  
5 consider all of those comments and produce  
6 the final scope or outline for the  
7 Supplement in early 2009. Then we will  
8 work on preparing the Draft Supplemental  
9 Environmental Impact Statement which we  
10 hope to have ready for your review in the  
11 spring of 2009. There will be a notice  
12 published so that you'll know when that is  
13 ready for review.

14 After receiving your comments on the  
15 draft Supplement, we will publish a Final  
16 Supplemental Generic Environmental Impact  
17 Statement. We are hoping to do that in the  
18 summer of 2009. And at least ten days  
19 after we've done that, the Department will  
20 issue findings. And these findings will  
21 guide our future environmental review of  
22 individual well permits. So we are here  
23 tonight to encourage public participation.  
24 And as we have mentioned, this is the third

1 of six meetings where you may make verbal  
2 comments. You may also provide written  
3 comments tonight. Or at any of these  
4 scheduled meetings you can provide either  
5 verbal or written comments. You may submit  
6 your written comments until December 15th  
7 and you will have another chance to review  
8 comments when we release the draft  
9 Supplement next spring.

10 If you don't have written comments  
11 ready to submit tonight, you can send them  
12 to us by mail or by e-mail. If you send an  
13 e-mail, please send it by the end of  
14 business day and use scope comments as the  
15 subject heading. The e-mail address is  
16 [dmnog@gw.dec.state.ny.us](mailto:dmnog@gw.dec.state.ny.us). If you do e-mail  
17 us comments or you send us written  
18 comments, please include your name and your  
19 return address. That is so that we can let  
20 you know when the final scope and when the  
21 draft Supplement is ready for review and  
22 comment. If you would rather mail your  
23 comments, please put them to the attention  
24 of Scope Comments and mail them to the

1 Bureau of Oil & Gas Regulation that's in  
2 the DEC's Division of Mineral Resources.  
3 That's at 625 Broadway on the third floor  
4 in Albany, New York, 12233-6500.

5 That is all that I had to say. Thank  
6 you for your attention. We look forward to  
7 hearing your comments. And so with that I  
8 will turn it over to Judge Dubois.

9 ALJ: Thank you. There are about 35  
10 people who've signed up to speak as it  
11 stands now. So if you can try to keep your  
12 comments brief, if you have long comments  
13 and you can summarize them and hand in a  
14 written comment, that would be helpful too.  
15 The written comments count for the same in  
16 terms of being considered as do the  
17 comments that are said out loud at the  
18 meeting tonight. For anyone who came in  
19 from the side door, over there (indicating)  
20 and didn't sign up to speak but would like  
21 to, there are cards -- I think there may be  
22 some on the edge of the stage there. There  
23 is also cards out in the lobby that you can  
24 sign up on and get them to one of the

1 people at the table and they'll get them to  
2 me and I'll call on you to speak.

3 Also for your information, for anyone  
4 who came in the side door there is some  
5 maps of the states with respect to oil and  
6 gas out in the lobby that you might want to  
7 look at. When I call on speakers, there  
8 are two lecturns down here with  
9 microphones, so whichever one is more  
10 convenient for you to come to, please go  
11 ahead. The first speaker will be Senator  
12 George Winner.

13 SENATOR WINNER: Good afternoon,  
14 still. I appreciate the opportunity to be  
15 here this afternoon. Now, first and  
16 foremost, I'd like to thank the Department  
17 for this effort to reach out to the public  
18 and to fully air an issue that I believe  
19 can become a vitally important foundation  
20 on which to build and strengthen the future  
21 of the Southern Tier.

22 That's the reason I asked to be here  
23 today, and I'll get right to the point. As  
24 I said before, I approach this hearing from

1 the perspective of a state legislator whose  
2 legislative district has a lot at stake in  
3 the Department's action on this matter.

4 When I first took office in the New  
5 York State Senate in 2005, one of my  
6 earliest legislative actions was to partner  
7 with a longtime colleague, Western New York  
8 Assemblyman Bill Parment, on the first  
9 major revision of New York State's oil and  
10 gas explorations and development laws in  
11 more than 40 years.

12 The regions we represent were  
13 witnessing a revival in natural gas  
14 exploration. In fact, hundreds of  
15 thousands of acres of state-owned and  
16 private land were already under lease. At  
17 that time, Assemblyman Parment and I  
18 recognized two overriding needs:

19 First and most of all, was that New  
20 York State was relying on laws governing  
21 natural gas and oil exploration that dated  
22 back to 1963. The rapid growth in  
23 exploration within the Southern Tier and  
24 Western New York gas fields raised a number

1 of new questions surrounding landowner  
2 rights and industry regulation.

3 Assemblyman Parment and I immediately  
4 recognized that the State's old laws didn't  
5 address new realities in the gas and oil  
6 industry in New York State. We felt we  
7 needed to rebuild this industry on a modern  
8 regulatory bedrock, and so we initiated the  
9 first major revision of New York's oil and  
10 gas exploration and development laws in  
11 more than 40 years. Our legislation was  
12 enacted into law by former Governor George  
13 Pataki in August 2005.

14 I won't go into any great detail  
15 today on Chapter 386 of the laws of 2005  
16 except to say that it was a comprehensive  
17 overhaul of state laws and regulations  
18 governing oil and gas exploration and  
19 drilling; it upgraded industry practices in  
20 the drilling, development, and operation of  
21 gas wells; and it clarified landowners'  
22 rights and lease options.

23 The 2005 law was carefully  
24 constructed, and I continue to believe that

1           it was meaningful. It reinvigorated  
2           out-of-date laws. It responded to the  
3           modern industry, and it opened the door to  
4           a potentially exciting and productive surge  
5           of economic activity and job creation for  
6           the Upstate region.

7                     And that was the second reality that  
8           Assemblyman Parment and I focused on: How  
9           could we best help to spark meaningful, and  
10          responsible growth in, potentially, a very  
11          valuable industry for landowners and  
12          communities across the Upstate region?

13                    Since 2005 we have seen this industry  
14          continue to grow in concert, I'll stress  
15          here, with the nation's demand for natural  
16          gas. I'm fully on record with my belief  
17          that natural gas exploration and  
18          development could be a cornerstone of the  
19          necessary, more comprehensive strategy to  
20          reenergize and revitalize the upstate  
21          economy.

22                    We know, for example, that it could  
23          create thousands of new jobs across an  
24          Upstate region, from Buffalo to Binghamton,

1           that I don't have to tell any of you has  
2           experienced what can only be called an  
3           exodus of jobs and economic opportunities.  
4           I'm sure that you have seen the 2005  
5           economic impact study conducted for the  
6           Fayetteville shale in Arkansas, a  
7           comparable but less fertile shale than  
8           Marcellus, that projected \$22 billion of  
9           economic activity and the creation of  
10          11,000 jobs alone.

11                 We know that it could establish a  
12           strong and enduring economic foundation for  
13           our Upstate region. In North Central  
14           Texas, for example, natural gas exploration  
15           and production companies, together with the  
16           service industries that accompany them,  
17           have created nearly 100,000 new jobs and,  
18           last year alone, a combined economic impact  
19           of \$8.2 billion.

20                 We know that it could generate a  
21           source of steady capital investment and  
22           revenue that our state desperately needs,  
23           as well as significantly expand the tax  
24           base for our local governments and our

1 schools, thereby easing a local property  
2 tax burden that has become too hard to  
3 handle for too many homeowners.

4 We know that it could help establish  
5 New York State as a leader in the nation's  
6 drive for energy independence, thereby  
7 giving the Upstate region a newfound source  
8 of pride and prominence.

9 I continue to believe that we should  
10 be doing everything within our power to  
11 create a climate that welcomes the new  
12 jobs, that invites the economic activity,  
13 and that allows our communities to benefit.  
14 Which is what brings me before you today.

15 Earlier this year, following a  
16 meeting with the DEC which I'll address  
17 shortly, I was convinced that New York  
18 State was fully prepared to move forward in  
19 a way that would have allowed the industry  
20 to begin to flourish and the benefits to  
21 flow. But today, instead of acting to  
22 seize the opportunities before us, I'm  
23 concerned that New York State is on the  
24 verge of revisiting a sad history of

1           unreasonable, unfair, and unnecessary  
2           overregulation. It's a concern I feel  
3           compelled to express.

4           I'm here, very simply, to warn  
5           against any prolonged effort that can only  
6           serve to drive away another Upstate  
7           industry and place us at a competitive  
8           disadvantage with other states, including  
9           our neighboring state of Pennsylvania.

10          Environmental protection and economic  
11          opportunity can co-exist, and my key point  
12          tonight is that you've already proven that  
13          when it comes to the oil and gas industry.  
14          It's important to note, I can't stress it  
15          enough, that the Department of  
16          Environmental Conservation has, for a long  
17          time now, provided effective and successful  
18          oversight of gas drilling in New York  
19          State. Five years ago, New York State  
20          produced 30 billion cubic feet of natural  
21          gas. Last year, we produced 55 billion  
22          cubic feet.

23          DEC oversight has served to protect  
24          the environment and achieved the important

1 goal of allowing property owners and the  
2 industry to achieve worthwhile economic  
3 benefits. For that, I'm here to commend  
4 the DEC.

5 You have given property owners the  
6 opportunity to take advantage of the  
7 resources beneath their properties. It has  
8 sparked meaningful and valuable industry  
9 investment in the future of this industry  
10 in New York State. I believe that needs to  
11 continue. I'm prepared to continue to work  
12 with you on actions that help it continue.  
13 I truly hope it continues. At the moment,  
14 it's not.

15 I previously mentioned that earlier  
16 this year the state legislature approved  
17 and Governor Paterson signed a new law to  
18 extend uniform gas well spacing rules and  
19 establish boundary setbacks to protect the  
20 interests of adjacent property owners. It  
21 was a piece of legislation that the DEC  
22 itself initiated and brought before the  
23 legislature.

24 Before moving forward on this

1           measure, many legislators, including  
2           myself, sought reassurance from the  
3           Department that the environmental concerns  
4           we were hearing from many of our  
5           constituents were fully taken into account.  
6           In fact, the legislature only agreed to act  
7           following a meeting with DEC staff to  
8           discuss exactly the environmental concerns  
9           that are the focus of these hearings.

10           At that time, the Department made it  
11           very clear that you were confident in  
12           existing environmental protections. You  
13           noted that the directional drilling  
14           technology proposed for the Marcellus shale  
15           was not new to New York and that numerous  
16           horizontal wells have been permitted in the  
17           past.

18           You made it clear that you were  
19           confident in the Department's longstanding  
20           experience overseeing oil and gas drilling.  
21           You were confident in the ability of your  
22           highly experienced mineral resources staff  
23           to execute tight regulation that would  
24           ensure environmental compliance, that would

1           ensure safety, and that would ensure  
2           responsible industry growth.

3           At that time, I heard your message  
4           loud and clear, which was this: Because of  
5           New York's rigorous regulatory process, the  
6           unacceptable problems that have visited  
7           other states without strong environmental  
8           laws and rigorous regulations have not  
9           happened here. You made your case  
10          effectively, you addressed our concerns,  
11          and so we shared your confidence in the  
12          existing regulatory framework.

13          As a result, the legislature moved  
14          forward believing that the industry would  
15          be allowed to grow effectively and  
16          environmental protections would remain  
17          paramount. But upon signing the  
18          legislation into law in late July, Governor  
19          Paterson unexpectedly changed course and  
20          imposed the current moratorium on drilling  
21          throughout the Marcellus shale.

22          So I feel compelled to ask today,  
23          what made the administration change its  
24          mind? I'm concerned that New York State

1           may now be engaged in a process that's  
2           causing uncertainty. I fully appreciate  
3           and agree with the need for growing this  
4           industry carefully and deliberately. But  
5           it was my understanding earlier this year  
6           that that was exactly what would occur.

7                     Why, now, do we seem to be sending a  
8           message to property owners and to the  
9           industry itself that New York State could  
10          be reversing course? So I'm here to urge  
11          your deliberate action, with the emphasis  
12          on action.

13                    I've been around the block long  
14          enough to sense when a regulatory review  
15          process can easily become an unreasonable  
16          economic hurdle. I urge you to not let  
17          that happen here. I feel compelled to  
18          express my deep concern that we are engaged  
19          in a process that could, if it's drawn out  
20          for too long, put at risk meaningful  
21          Upstate jobs and economic opportunities for  
22          landowners and communities alike.

23                    I feel compelled to express my  
24          concern that we are engaged in a process

1           that could put at risk an opportunity for  
2           New York State to secure a place in  
3           America's energy future. I feel compelled  
4           to say that I respect your desire for due  
5           diligence, but please don't lose sight of  
6           the need to move forward with all due  
7           speed.

8                         Thank you again for the chance to  
9           participate today. As you know, I look  
10          forward to the opportunities we will have  
11          to continue working with the Paterson  
12          Administration on the goals we share for  
13          the future of Upstate jobs, Upstate  
14          communities, Upstate landowners and Upstate  
15          workers and their families. Thank you very  
16          much.

17                        ALJ: Thank you. The next speaker  
18          will be Assemblyman Tom O'Mara.

19                        ASSEMBLYMAN O'MARA: Thank you,  
20          Judge. I do not have any prepared written  
21          comments at this point. I would like to  
22          thank the Department of Environmental  
23          Conservation for hosting this forum this  
24          evening and for all of you who have come

1 out to share your views this evening, to  
2 share your views as we go forward in this  
3 important industry that we have here at our  
4 feet to move forward in gas exploration in  
5 New York State and balancing the important  
6 environmental concerns with those economic  
7 interests and the economic activity that we  
8 can see with the boom in the national gas  
9 industry here in New York State.

10 I share the concerns of Senator  
11 Winner with this process being drawn out.  
12 I find it unacceptable that the process  
13 will take until the summer of 2009 to get  
14 to a point where we can move forward and  
15 assure the industry that has already made  
16 significant investments in our community  
17 with headquarters being located here in  
18 Chemung County, as the assemblyman with the  
19 137th assembly district which represents  
20 Chemung, Schuyler and Tioga Counties, there  
21 is a great deal at stake for our  
22 communities. There is a great deal of  
23 wealth at stake for the property owners.  
24 There is a great deal at stake on the

1 investments that this industry and the  
2 companies involved that have come here and  
3 invested already. And already sharing some  
4 of the wealth and some of the drilling  
5 that's been done so we see what benefits  
6 are there and we must move ahead with all  
7 due speed and separate the facts from the  
8 fiction. Let's get to the bottom line.  
9 Let's get to the truth so that we can move  
10 forward so that the industry will continue  
11 its commitment to this area, this  
12 community. This Marcellus shale play that  
13 we are primarily here about today covers  
14 many states, New York is but one of them.  
15 There is already indication that the  
16 industry is looking to the other states  
17 where they -- to move forward to access the  
18 Marcellus shale which will put us behind  
19 the play.

20 We cannot afford to wait and allow  
21 that to happen so that we sit here in these  
22 particularly difficult economic times and  
23 allow other states to move forward and beat  
24 us to this economic activity.

1                   Just yesterday I went to an oil and  
2 gas conference up in Niagara Falls, it was  
3 joint with the United States and providence  
4 of Ontario and Canada with interests in the  
5 industry with -- and there was a  
6 presentation by the Canadian Ministry of  
7 Natural Resources where they themselves  
8 were outlining in charts where the shale  
9 they felt was exploitable and where gas  
10 could be found in the providence of Ontario  
11 encouraging the industry to come there.

12                   We have the opportunity here in New  
13 York State to take advantage of this and we  
14 need to move forward with all due speed and  
15 I put that to the Department to move  
16 forward without haste. Let's get here  
17 where we can have a balance between the  
18 important environmental concerns and the  
19 important economic interests that we all  
20 have a problem with so that we can create  
21 the jobs and share the wealth that we have  
22 here with this natural gas in New York  
23 State. Thank you for the opportunity to be  
24 here.

1 ALJ: Thank you. The next speaker  
2 will be County Executive Tom Santulli.

3 CO EXECUTIVE SANTULLI: Thank you,  
4 Judge. And hopefully I'll be the last  
5 politician you have to listen to tonight.  
6 Can you hear me okay in the back? You  
7 know, first, I don't want to, in the  
8 interest of time, I don't want to repeat  
9 everything that I wrote for Senator George  
10 Winner's speech -- you did an excellent  
11 job.

12 But in all seriousness, with 35  
13 people speaking tonight, I just kind of  
14 want to get to the point of what our  
15 concerns would be. Now, first of all we  
16 live in a county and we live in a region  
17 that has seen tremendous change over the  
18 years. Now, this was once a great economic  
19 manufacturing country. And with time I've  
20 seen a great exodus of industry to the  
21 south and now abroad. And unfortunately I  
22 think the last couple years has been kind  
23 to us with Skorski and Synthes and  
24 Hilliard's and a lot of the new businesses

1           that have come to town -- with new  
2           buildings right here and American  
3           headquarters here. And we're working on  
4           another project with a gas exploration  
5           company to build a 400,000 square foot  
6           building here employing another 400 people.

7                     These are opportunities that we don't  
8           want to take lightly in Upstate New York.  
9           You know, we are not noted for being  
10          business friendly and that's important. We  
11          need to change what the perception is of  
12          New York State nationally. We've worked  
13          hard, this is a great community to live.  
14          It's a great place to raise a family. We  
15          have great educational institutions. What  
16          I worry about is what George and Tom just  
17          talked about, that the summer of 2009 is a  
18          long ways away. I have watched Chesapeake  
19          and Fortuna and others run to Pennsylvania  
20          to do operations that they should be doing  
21          right here in the Southern Tier in New York  
22          State.

23                     And what happens is, that if we don't  
24          drag this out to the point, knowing we are

1 all concerned about the environment,  
2 everybody. And if no one wants to do  
3 anything that's going to make the  
4 environment either value for the future,  
5 something less than what it is going to  
6 make the environment either now or for the  
7 future. But I'm of the opinion that the  
8 gas exploration companies know they can't  
9 afford to move on with what they have,  
10 they'll be out of business. But let's let  
11 New York complete, for once let us be -- we  
12 have a great resource that could physically  
13 and socially change who we are providing  
14 opportunity, jobs, money for people that  
15 have worked very hard everyday.

16 Let's be at the forefront of this.  
17 Let's not get so bogged down with  
18 overregulation that we miss a great  
19 opportunity to put Upstate New York and  
20 especially the Southern Tier back on the  
21 map. I just want to say personally, as  
22 county executive, that when I've dealt with  
23 the gas exploration companies that are here  
24 now they've been up-front, at least in my

1 dealings, they've been up-front, they've  
2 been open. They've invited me to sites to  
3 watch drilling which I find it very  
4 fascinating. I know that Marcellus Shale  
5 is something new and we have questions  
6 especially about the water as we move  
7 through the system and where it goes.  
8 There's a lot of questions. But I think  
9 they can answer them. And I think we need  
10 to get this information out as quickly as  
11 we can so that we can move forward.

12 I thank DEC for the opportunities,  
13 for their hard work that they've put into  
14 this, but let's get to the bottom of this  
15 and let's get to work. Let's get this  
16 community back on its feet and the Southern  
17 Tier and the State, let's change the  
18 attitude that we are not a business  
19 friendly state to work in. Let's do it and  
20 let's do it now.

21 And again, thanks for the  
22 opportunity. I will submit my comments by  
23 December 15th in writing. And again, thank  
24 you for the opportunity to speak.

1           ALJ: Thank you. The next speaker  
2           with be John Moore.

3           MR. MOORE: Thank you, Judge. I am  
4           the Chairman of the Board of the Chemung  
5           County Chamber of Commerce and I'm  
6           appearing on their behalf. And I  
7           appreciate the opportunity to speak to you  
8           regarding the production of gas in the  
9           Marcellus shale geologic formation.

10           This area has seen 1,000 new  
11           full-time jobs, 1 million dollars in  
12           increased county taxes, not to mention the  
13           increased revenue for the towns and  
14           villages and schools. And a direct  
15           spending stimulus of over \$100 million.  
16           Applying a conservative economic  
17           multiplier, the total impact has been at  
18           least \$300 million. All of this from the  
19           gas production of Trenton Black River  
20           formation.

21           There is significant more gas  
22           available from Marcellus shale, and when  
23           drilling is permitted, the above numbers  
24           will increase dramatically. Much larger

1 investments will be made by the gas  
2 companies when Marcellus shale drilling  
3 starts. These are tough economic times for  
4 all of us, especially in Upstate New York.  
5 We have to look no further than our 401(k)  
6 statements, or mine's called a 201(k)  
7 statement, to see the economic picture.  
8 The Chamber understands the protection.  
9 Our vast protection of the environment is  
10 critical. We also understand the need to  
11 improve the local economy. Both of these  
12 goals may be achieved as expeditiously as  
13 possible.

14 Therefore as the Chemung County  
15 Chamber of Commerce, representing over 700  
16 employers and their 36,000 employees,  
17 urgently request the earliest responsible  
18 conclusion of the SGEIS and the prompt  
19 commencement of permitting to permit  
20 drilling in the Marcellus shale. Thank you  
21 very much for the opportunity to speak  
22 before you.

23 ALJ: Thank you. Next speaker will  
24 be Kate Bartholomew.

1 MS. BARTHOLOMEW: Thank you, Judge  
2 Dubois. My name is Kate Bartholomew and  
3 I'm the Chair of the Schuyler County  
4 Environmental Management Council. So I  
5 admit, I'm out of my county. So I thank  
6 you all for allowing us to share this  
7 venue. The Environmental Management  
8 Council applauds the DEC for its diligence  
9 in protecting our environment and going  
10 through this process to make certain that  
11 there are any potential environmental  
12 impacts are addressed up-front so that we  
13 don't have any surprises at the end of this  
14 tonight. We have already submitted some  
15 written comments in conjunction with the  
16 Chemung, Steuben and Schuyler Counties for  
17 the Water Conservation District boards as  
18 well as the Schuyler and Chemung Water  
19 Quality Coordinating Committees and the  
20 Finger Lakes Resource Conservation and  
21 Development Council and we will be  
22 submitting another individual written  
23 comment by the deadline.

24 So all of our comments are on record

1 at this point. But one issue that we have  
2 wanted to raise tonight, because this is,  
3 you know, not a new technology, definitely  
4 just state, but it is a significantly  
5 increased scope volume so that we wonder if  
6 perhaps some other concerns might arise  
7 when looking at specifically connectivity  
8 to geological fault patterns. And so we  
9 are hoping that in this process that the  
10 DEC may contact the New York State  
11 Geological Survey to make certain. I mean,  
12 we are not geologists, we admit that and we  
13 don't know how deep the fault patterns go  
14 and how close they are to formation only or  
15 if there is any connection shell or  
16 aquifers, but, you know, that is something  
17 that we will hope that, you know, a concern  
18 that we hope will be put to rest through  
19 this process.

20 And especially we want to commend  
21 both Governor Paterson and the DEC given  
22 the fact that this process and this  
23 particular technology is completely exempt  
24 from any type of federal regulation --

1 Clean Water Acts or Clean Air Acts, Safe  
2 Drinking Water Acts. I think that the DEC  
3 is exhibiting great concern and care for  
4 our environment. They're not withstanding  
5 but they're not, you know, we are not in  
6 any way, shape or form ignoring the  
7 economic vitality that this could bring to  
8 the community, but I think they need to go  
9 hand in hand. And that's the council's  
10 concerns because, you know, we don't want  
11 surprises after this is all said and done.  
12 So again, I thank you very much for  
13 allowing us to make comments. And, thank  
14 you.

15 ALJ: The next speaker will be Autumn  
16 Stoscheck.

17 PUBLIC: She's right outside, we'll  
18 get her.

19 ALJ: There is some from the same  
20 address here. Is Ezra Sherman here?

21 PUBLIC: That's me.

22 ALJ: Okay. Why don't you go  
23 first --

24 PUBLIC: Okay.

1 ALJ: -- and then she can speak when  
2 she comes in.

3 MR. SHERMAN: Good evening, my name  
4 is Ezra Sherman. I grew up in Spencer, New  
5 York and presently live in Van Etten, New  
6 York with my wife and our young  
7 two-year-old daughter. There is a number  
8 of things that I could probably speak  
9 about. My impressions of shale gas  
10 drilling and the prospect of it in this  
11 area, but I won't speak to that because I  
12 would speak ad nauseum about it. So I'll  
13 try to restrict my comments to the subject  
14 that the DEC laid out here. And that is,  
15 the scope of the GEIS.

16 And I submit that there is one  
17 particular area that should be included in  
18 the GEIS that is not, and that is  
19 consideration of the cumulative impact of  
20 gas drilling in the state. Now, as the DEC  
21 I'm sure is aware and probably many of you  
22 are aware, the Susquehanna River Watershed  
23 Commission is predicting 1,500 Marcellus  
24 wells in New York State beginning the first

1 year of drilling. I attended a legal  
2 training in Binghamton in September of this  
3 year where the first presenter was the  
4 owner of a drilling company. And he  
5 indicated that in Broome County in 50 years  
6 he'd see 3 to 6.000 Marcellus Wells in the  
7 southern part of the county. The effect I  
8 submit on a small town as Van Etten by such  
9 massive development it's incredibly  
10 different than the few wells -- of any few  
11 wells here and there.

12 Putting it another way, by example,  
13 the DEC may conclude that there is a safe  
14 way to dispose of used fracking fluids.  
15 You can expect 1.5 billion gallons of  
16 polluted water that needs disposal in the  
17 first year. If you assume a conservative  
18 estimate of 2 million gallons of fracking  
19 fluid used per well and half it remains  
20 underground.

21 Now, as the number of wells drilled  
22 in the state goes into the thousands, all  
23 of the stresses and problems with shall gas  
24 drilling will be exacerbated. The visual

1 effects, the noise, the effect on  
2 infrastructure, our safety, groundwater  
3 pollution, air quality pollution. And I  
4 submit the DEC's ability to police the gas  
5 industry will be affected.

6 Now, first of all, I submit that we  
7 should dispel right off the bat that our  
8 experience with shale gas wells is any  
9 indication of what it will be like when  
10 there is concentrated shall gas extraction  
11 in this state. In Van Etten if you look at  
12 a map, there's the land phase is guided on  
13 the map with marks that indicate shallow  
14 gas wells. If you drive around you  
15 wouldn't even notice they're there. That  
16 contrasts greatly with what is involved  
17 with the Marcellus well. You're talking  
18 about a five acre industrial site that  
19 lasts decades that's fracked repeatedly.  
20 You're talking about a gas line to each  
21 well. I submit that in Van Etten that the  
22 industries develop the Marcellus play the  
23 way they will be allowed to if there's a 40  
24 acre spacing, the way of life will

1           absolutely go down the toilet. It will be  
2           totally different. With 12 percent of the  
3           land taken up with these industrial sites  
4           with the land riveted by underground  
5           pipelines. Now here are the particular  
6           areas of cumulative effects of facts I  
7           think we should look at. Visual effects,  
8           as I said, if the industry is allowed to  
9           drill on the concentration that they are  
10          presently allowed to on a 40 acre spacing,  
11          that's 12 percent of the land.

12                 Noise, there is -- there was a --  
13          there is a Trenton Black River well on my  
14          family's property. It was under  
15          compression for about five months. You can  
16          be a politician, and you can tell me that  
17          you visited a Marcellus well, but that is  
18          not living next to a Marcellus well.

19                 Now, it is incompatible with serenity  
20          to have a compressor in your back field.  
21          You're talking about a large diesel engine  
22          running 24 hours a day seven days a week,  
23          in our case for around seven months. Now  
24          the Trenton Black River well that was on

1           our property stopped producing and that  
2           compressor has been turned off. But every  
3           Marcellus well needs to be under  
4           compression. It may be that those  
5           compressors will be at a compression -- at  
6           a pumping station, but I submit that the  
7           DEC needs to look at what will be the  
8           cumulative effects of high concentration of  
9           Marcellus wells have on the noise pollution  
10          in our area. The effect on infrastructure,  
11          for each million gallons of water that they  
12          will use in a fracking you will need to  
13          have 200 10,000 gallon tanker trucks  
14          driving down the road to service that frac  
15          job. A conservative estimate is a two  
16          million gallon frac job, that's 400 50 ton  
17          trucks rolling to one fracking at one site.

18                 I submit that the DEC needs to study  
19          what will the cumulative effects on our  
20          highways and rural roads be by the time  
21          that -- rolls over. The DEC needs to talk  
22          to civil engineers and they need to talk to  
23          our highway superintendents.

24                         Safety, the Millennium pipeline

1 traversed our road about a mile away. I  
2 can tell you that I was on edge from the  
3 truck traffic going down our road. And  
4 that truck traffic was mostly pickup  
5 trucks. Mr. Winner, and the other  
6 politicians talked about the jobs that are  
7 created. I didn't see any New York license  
8 plates on any of the work trucks going down  
9 our road. They're all from Louisiana and  
10 New Mexico. And I don't want to put too  
11 fine a point on it because I know people  
12 from out of state are nice people, too, but  
13 this is not their community. And they are  
14 trying to get a job done. I cannot imagine  
15 what it will be like to have 50 ton semis  
16 rolling to a frac job in -- to the extent  
17 that we will be required even for one  
18 fracking.

19 My wife was run off the road by a  
20 tractor trailer. I submit that the DEC  
21 must look at what is the capacity. Even if  
22 they conclude that there is a safe way to  
23 dispose of the produce water, what is the  
24 capacity of New York State to dispose of

1           that water. One and a half billion gallons  
2           in the first year alone.

3                     Air quality, when I read that the  
4           GEIS indicated that there are no gas  
5           submissions from shale gas wells, it  
6           reminded me of my response when I saw the  
7           new DEC website that out of a million  
8           fracked wells there has not been one  
9           incident of contamination. Now all you  
10          have to do, if you're somebody who goes  
11          online, is to type in Google shale gas  
12          extraction and pollution and you will see a  
13          wealth of information about the  
14          environmental problems that other states  
15          have experienced that have already had  
16          shale gas extractions.

17                    Gas wells produce volatile organic  
18          compounds when you're combining with  
19          nitrogen oxide and sunlight produces ozone.  
20          Basically VOCs alone also create health  
21          hazards. They are benzene, ethylbenzene,  
22          toluene and xylene. And gas wells produce  
23          sulfur dioxide. As evidence from my  
24          statement, in the winter of 2002 up to 2008

1           -- 2007 to 2008, the Wyoming Department of  
2           Environmental Quality issued five ozone  
3           warnings for the area of the Pinedale  
4           Anticline and Jonah fields and was in the  
5           least populated areas of one of the least  
6           populated states. In western Colorado's  
7           Garfield County, monitoring stations have  
8           recorded eight-hour ozone averages as high  
9           as 77 parts per billion. The ETA standard  
10          currently is 84 parts per billion.

11                    On September 18th, 2008 Professor Al  
12          Armendariz, a professor at Southern  
13          Methodist University stated "the combined  
14          air pollution from gas well drilling in the  
15          Fort Worth, Texas is equal to all  
16          motorized, moving vehicles in the  
17          Dallas/Fort Worth metroplex. A study by  
18          the Texas commission on environmental  
19          quality in 2006 estimated that storage  
20          tanks alone account for about 38 tons of  
21          volatile organic compounds per day or seven  
22          to eight percent of the volatile organic  
23          compounds in the air of in North Texas.  
24          And that was reported in the Fort Worth's

1 Star Telegram on October 12th.

2 The Regional Air Quality Council in  
3 Colorado reported that 62.6 percent of  
4 nonattainment emissions from VOCs from gas  
5 and oil wells were from gas well condensate  
6 tanks, not trucks or processing facilities.  
7 My two closing thoughts are that, number  
8 one, the DEC must not grant a moratorium on  
9 drilling in the New York City watershed.  
10 There is no reason to treat New York City  
11 differently if their geology is the same as  
12 ours. Number two, and finally I submit  
13 that our air and our water are a most  
14 important resource. If the state fails to  
15 enact regulations that adequately protect  
16 the air and water, our most important  
17 assets will be gone. This money that the  
18 politicians talk about coming into our  
19 area, it will be a drop in the bucket in  
20 trying to cure water pollution. It will be  
21 with us for the rest of your  
22 grandchildren's lives. Thank you.

23 ALJ: If you're reading from a  
24 statement and you have a copy that you can

1 give to the stenographer, that would be  
2 helpful. I know that there are some  
3 statements we have already, but if you have  
4 the statement in writing or if there's  
5 something you read from, if you can give a  
6 copy to her, that would be helpful.

7 The next speaker will be Autumn  
8 Stoscheck.

9 MS. STOSCHECK: Hello. Hi, I'm  
10 Autumn Stoscheck, I live in Chemung County  
11 and I operate a farm business in Chemung  
12 and Tompkins Counties.

13 As a farmer I'm acutely aware of how  
14 dependent we are on the natural world. The  
15 water, the air and the soil are resources  
16 without which we cannot survive. I am  
17 deeply concerned about the lack of evidence  
18 that widespread high-volume horizontal  
19 hydrofracturing in the Marcellus shale is  
20 compatible with life. Agriculture,  
21 tourism, human health, natural beauty, all  
22 of these are interests that stand to lose  
23 from environmentally-intensive gas  
24 extraction. Are the risks worth the

1 benefits to the majority of the state? I  
2 urge the Department to include this in its  
3 scope the opportunity to study whether or  
4 not this type of development should occur  
5 at all. Can the current environmental laws  
6 of this state encompass this kind of  
7 drilling?

8 The Department has had significant  
9 experience with regulating conventional  
10 drilling in the state, but unconventional  
11 gas development is a whole different set of  
12 circumstances. Industry expects the next  
13 15 years to be a transition time from  
14 conventional sources to unconventional  
15 sources requiring industrial extraction  
16 techniques, so now is a good time to  
17 prepare for it not after the fact. Not  
18 after my town and the poor rural areas of  
19 the Southern Tier have been sacrificed in a  
20 great big environmental and human health  
21 experiment. I urge the Department to  
22 include in the scope a comprehensive  
23 inventory of DEC laws and regulations to  
24 determine if they are adequate to protect

1 human health and the environment.

2 I'm just going to concentrate the  
3 rest of my testimony on the issues of water  
4 and resource.

5 Although waste disposal regulation  
6 lies out of the jurisdiction of the mineral  
7 resources department, the revised GEIS --

8 ALJ: Could you slow down, you're  
9 reading a little --

10 SPEAKER: Okay. I'm sorry.

11 ALJ: You tend to speed up when  
12 you're reading.

13 MS. STOSCHECK: -- should account for  
14 the impacts of the disposal itself. Just  
15 because an option exists, doesn't mean that  
16 it will be viable on the scale that the  
17 Marcellus shale development will require.  
18 So much is unknown about the impacts that  
19 this will have, therefore each option must  
20 be fully researched with full disclosure to  
21 the public and scientifically proven to be  
22 safe before drilling commences. Before  
23 issuing a revised Generic Environmental  
24 Impact Statement, the Department needs to

1           have a very good idea of the actual  
2           quantity of produced water and the actual  
3           capacity of the waste disposal options.  
4           Because as many people in our towns who  
5           have lived with drilling know, this is an  
6           industry with a cowboy mentality who will  
7           have no qualms about unloading waste where  
8           it is convenient.

9                     Deep well injection disposal: It is  
10           my understanding that there are currently  
11           no deep well injection disposal sites for  
12           frilling waste and produced frac water in  
13           the state. In fact, the SPDES program  
14           currently does not have information about  
15           whether the geology in New York State is  
16           even appropriate for deep well injection.  
17           The state must include studies about the  
18           safety of deep well injection disposal in  
19           the scope, if this is to be a waste  
20           disposal option. There is ample scientific  
21           evidence of the risks associated with this  
22           disposal option and it is in fact  
23           considered a major source of shallow  
24           groundwater contamination in leading

1 hydro-carbon-producing states.

2 As part of my testimony to the DEC, I  
3 am submitting a study called "Evaluation of  
4 Aquifer Contamination from Salt Water  
5 Disposal Wells" by Stephen G. McLin,  
6 Professor of School of Engineering and  
7 Environmental Science at the University of  
8 Oklahoma.

9 The introduction lists possible  
10 pathways for underground migration of  
11 injection fluids and describes deficiencies  
12 in regulating subsurface brine disposal.  
13 As the author says, "the injection sources  
14 can render vast quantifies of groundwater  
15 resources useless for municipal,  
16 industrial, or irrigation purposes over  
17 prolonged periods. Once an aquifer is  
18 contaminated, these chloride rich brines  
19 are not easily or inexpensively removed."  
20 Is it safe to dispose of waste where there  
21 is past and future gas drilling? For all  
22 private and public water wells in proximity  
23 to the injection well and provide continued  
24 testing to monitor water quality.

1           Therefore, in order to understand the  
2           impact associated with Marcellus  
3           development, the Department should include  
4           in its scope an estimation of the number of  
5           injection wells required and the scale of  
6           risk associated with this method of waste  
7           disposal.

8                       Municipal waste treatment facilities:  
9           The scope for the revised GEIS must include  
10          a study of the environmental and human  
11          health impacts of dilution and discharge of  
12          spent frac fluids through municipal  
13          treatment plants. These plants have  
14          limitations on their treatment capacity.  
15          They cannot remove total dissolved solids.  
16          They cannot remove much of the heavy metals  
17          and they cannot remove certain chemicals.  
18          Many treatment plants discharge into  
19          drinking water sources, for example, Cayuga  
20          lake. They operate on a principle  
21          dilution. Recently, the PA DEP had to ask  
22          waste treatment plants along the  
23          Monangahala River in Western Pennsylvania  
24          to stop accepting drilling waste because it

1 was contributing significantly to TDS  
2 content in the river. What is the dilution  
3 capacity of the water our treatment plants  
4 discharge into? Additionally, there are  
5 many chemicals that cannot be filtered out  
6 and cause human health effects in the parts  
7 per trillion range.

8 I would also like to submit to the  
9 DEC the testimony to congress in 2007, of  
10 Dr. Theo Colburn discussing the chemical  
11 2-BE which has been found in fracking  
12 fluids. The EPA has no standard for 2-BE  
13 in drinking water and there are few  
14 laboratories which can detect its presence  
15 in water. 2-BE causes a range of health  
16 effects including hemolysis and organ  
17 damage. The scope needs to include a  
18 comprehensive list of all chemicals that  
19 may be used in drilling and fracking, and  
20 study what their acceptable dilution rates  
21 would be in drinking water. The study also  
22 needs to include what the effects of these  
23 chemicals would be on plant and animal  
24 life.

1           Out of state industrial treatment  
2 facilities: The scope must include an  
3 inventory of these plants, what their  
4 expected capacity is and whether or not  
5 they expect drilling waste from their own  
6 states. I'm sure we have all heard by now  
7 that the plants in Pennsylvania that were  
8 supposed to be taking this waste are at  
9 capacity already. If it becomes apparent  
10 that this disposal option is not realistic,  
11 and that only a limited quantity of waste  
12 can be processed through municipal  
13 treatment plants before TDS becomes a  
14 problem, where will the waste water go?

15           Road spreading: The DEC must  
16 determine whether or not road spreading  
17 will be included in waste disposal options.  
18 It needs to be illegal to road spread  
19 fracking fluid. If it is not made illegal,  
20 then the DEC must include a study of the  
21 impacts of road spreading in the scope  
22 because you can bet industry will do it.

23           In conclusion, I would like to  
24 comment on the entire scoping documents,

1 but I have a job and a kid and I want to  
2 leave time for others to speak. Thank you  
3 very much.

4 ALJ: The next speaker will be  
5 Suzanne Cornell. And after her will be  
6 Robin, I think it's Strombun from the  
7 Residents for the Preservation of Lowman  
8 and Chemung.

9 MS. CORNELL: Hi, I'm Suzanne  
10 Cornell, my family has lived in Chemung for  
11 a very long time, has had a farm in Chemung  
12 for a very long time. And a lot of people  
13 has said already what I would have said, so  
14 most of my comments are going in a written  
15 submission. But there are a few things I'd  
16 like to say to Mr. Winner is -- water,  
17 it's about water, it's about water and our  
18 future. Now, I don't know if many of you  
19 know it or not, but there has been  
20 projections over 20 years. We're going to  
21 have wars over water, over clean water.  
22 This summer, this past summer we had states  
23 fighting over water that were in a drought.

24 Now the problem is, if we don't

1           implement, when we do the drilling, some  
2           kind of recycling of the water, we are  
3           going to have real problems either in  
4           deficits or with the water table or with  
5           toxicity in your water table. I'm sorry,  
6           I'm not a very good public speaker.

7                   PUBLIC: You're great.

8                   MS. CORNELL. Thank you. I'm  
9           thankful. The water issue and a lot of the  
10          issues that were just raised by those two  
11          very knowledgeable young parents that just  
12          spoke, is that a lot of these issues have  
13          -- and a lot of them have their faults, not  
14          all of them, but some of them have. Like  
15          in the Barnett shale in Texas, they started  
16          doing recycling with the frac. What they  
17          did with the fracking fluid was they pick  
18          it up, they filtered it, they did thermal  
19          -- chemical thermal reduction of the VOCs  
20          which basically means chemically they burnt  
21          the fossil or gas chemicals to dissipate  
22          them so they were reduced. And what they  
23          did was they took the water up, they  
24          filtered it, they used it again in the next

1 well and they added fracking things to it  
2 and they used it again in the next well.

3 Now I'm asking the DEC to please look  
4 over the paper that I'm submitting with  
5 some of these solutions so that they can  
6 include them in their regulations. We  
7 should have mandatory recycling of the  
8 water, it would reduce so many  
9 difficulties. It would reduce the amount  
10 of water being taken out of our rivers,  
11 water which goes other places. They don't  
12 just go by -- you know if we take a huge  
13 vault of water out of the river here, it's  
14 going to eventually impact something down  
15 the river. And for something -- and I was  
16 told initially when I said, where are all  
17 of those millions of gallons of toxic  
18 fluids going to go and I was told, well  
19 don't worry, we don't have facilities in  
20 New York State for toxic -- so they are  
21 going to take it to Pennsylvania. And I'm  
22 like, wait, isn't that part of the earth?  
23 I do believe they are my neighbors. So,  
24 you know, the thing about when they recycle

1           it and there is the company that is at the  
2           Barnett shale said that the benefit of it  
3           is that instead of getting millions of  
4           gallons of toxic waste that you have to  
5           ship -- now, how many people here believe  
6           that a gas company is going to ship 25 huge  
7           tankers down and pay for toxic waste  
8           disposal of that much for every -- I don't  
9           believe they're going to, I think they are  
10          going to open it up on the way down the  
11          highway and end up empty when they get  
12          there. I, you know, a little critical,  
13          maybe, but I think that's the truth.

14                 And the thing about the recycling of  
15          the water is that you get a much smaller  
16          toxic package. That you can believe that  
17          they would pay a toxic waste site to  
18          dispose of it properly. The other thing  
19          is, the DEC says here that they're not very  
20          concerned with a pigging in process about  
21          it ruining the water. When they first  
22          drill in the water -- when they put the  
23          first part of the drilling in in a fracking  
24          well site they go through our good water

1           and then to salt water in our region.  
2           That's what happens, there is no secret.  
3           And there is a process in their pigging in  
4           there they drill down and then they drill  
5           past both waters and then they put in this  
6           big steel drum and then they fill that with  
7           cement and then they squish it down until  
8           it comes up the size of the other thing,  
9           right, so you get cement that is supposed  
10          to keep our water table safe for that  
11          correct level of the beginning of the  
12          drilling. The problem is that as that  
13          young gentleman that talked before me  
14          pointed out, when people -- when the  
15          drilling guys come they usually are from  
16          out of state, they have no vested interest  
17          in our local environment or our locality.

18                           (INTERRUPTION)

19           MS. CORNELL -- Okay. There are  
20          other things people have no vested interest  
21          in our land or -- they get paid by the job.  
22          They don't get a percentage from the gas  
23          company. Gas companies are basically  
24          brokers. They put up the money to

1           initially drill a well and then they hire  
2           out, they job out every part of that gas  
3           drilling. It's not like they come in and  
4           it's their company and their men and they  
5           have the best interest in how do to a job.  
6           They job out every part of gas drilling.  
7           So they job out the gas drilling to the  
8           guys that are drilling and they say -- and  
9           the DEC has a rule in this part of the gas  
10          drilling is they assure, make sure that  
11          when they first initially do the pigging in  
12          that our water table is safe. And, yes,  
13          their rules are safe if they follow their  
14          rules. So we have this company that is  
15          from out of state and they don't really  
16          give a hoot about your farm. And they are  
17          drilling and when they drill if they don't  
18          calculate the amount of space correctly, if  
19          they don't have an engineer calculate the  
20          amount of cement they're going to need, if  
21          they don't have somebody checking the type  
22          of cement, if they don't wait when they  
23          have somebody put it in, if they don't wait  
24          eight hours, and this is the important

1            thing, if they don't wait eight hours  
2            between when they pour that cement and when  
3            they do anything else to that well, then  
4            that cement gets fractured. And any of you  
5            who have ever poured cement knows what  
6            happens if it gets disturbed before it's  
7            set. You're going to have leaking either  
8            from what they poured down into that well  
9            into your water table or from the salt  
10           water into the fresh water or from the  
11           fresh water into the salt water and the DEC  
12           regulation says you must wait eight hours.  
13           And you have to have a ticket when you  
14           start the drill and it says on there that  
15           you have to wait eight hours. But they do  
16           not have enough people to go to every well  
17           site now. If they don't have enough people  
18           now to stand there and make sure that that  
19           well is pigged in correctly and then make  
20           sure they wait eight hours now when we have  
21           wells every 320 acres, who's going to  
22           oversee these guys. They are going to try  
23           to get -- they're going to say, yes, we  
24           will wait eight hours, but they get paid by

1 the job. They don't get paid by the hour.  
2 And it's not their cousin's farm. They are  
3 going to do it as quick and as dirty as  
4 they can and get out of there to the next  
5 job 'cause that's how they make money.

6 Okay. Hum -- I think I'm going on  
7 and I really wanted to make it short but  
8 there was something else that I really  
9 wanted to say if I can remember what it  
10 was. Oh, and that was -- yeah, I think I  
11 wanted to really address Mr. Winner saying  
12 that these people were trying to take jobs  
13 throughout the area. They will never go  
14 because the state demands 40 percent of the  
15 profits coming from the gas companies out  
16 of Canada. So we don't have to worry about  
17 our gas drilling not coming here and going  
18 to Canada. The Canadian government gets 40  
19 percent of their profits no matter what.  
20 So don't worry about our gas buys going to  
21 Canada. I really wanted to point that out.

22 The other thing -- I'm sorry, I'm  
23 taking so much time.

24 ALJ: Could you wrap it up, there's a

1 lot of people still to speak.

2 MS. CORNELL: Okay. One more  
3 thing -- this is the thing that I really  
4 wanted to make sure the DEC did and that I  
5 don't see anything anywhere about testing  
6 local water, ponds, rivers, springs and our  
7 wells before they drill and then after they  
8 drill to test for VOCs and all the other  
9 contaminants that are -- that can affect  
10 our water. Okay. The rest I'll put in my  
11 written statement. Thank you very much.

12 ALJ: Thank you. The next speaker  
13 will be Robin Strombun I think it is and  
14 then after her will be Ashar Terwilliger.

15 MS. STROMBUN: Thank you, Judge  
16 Dubois. The name is Robin Delill Strombun.

17 ALJ: Okay.

18 MS. STROMBUN: Thank you for this  
19 opportunity for public input regarding the  
20 draft scope of environmental concerns for  
21 drilling in the Marcellus shale in New  
22 York. I'm a resident of the Town of  
23 Chemung in Chemung County, New York. I'm  
24 speaking tonight as a member of the Board

1 of Directors of Residents for the  
2 Preservation of Lowman and Chemung or RFPLC  
3 for short. RFPLC is a 501(c)(4) nonprofit  
4 community preservation organization  
5 incorporated in July of 2005. RFPLC exists  
6 for three purposes, to maintain and  
7 preserve the historical quality of the  
8 communities of Lowman and Chemung, to  
9 protect these communities from  
10 contamination of air, water and land  
11 including visual and sound pollutions and  
12 lastly, to protect the communities from any  
13 loss of the quality of life that might  
14 result from such degradation.

15 In keeping with these purposes, we  
16 also offer comments and concerns with  
17 regards to the permitting process for  
18 horizontal drilling and hydraulic  
19 fracturing in the quest to develop the  
20 Marcellus gas well reservoir in our  
21 community. Chemung and Lowman are located  
22 in the Chemung Sub basin of the Susquehanna  
23 River basin. We have noticed a decrease in  
24 the water level of the Chemung River and

1 its distributaries even before the gas  
2 companies began drawing massive amounts of  
3 water for their drilling operations.  
4 Guidance in the draft scope seems to be  
5 lacking with regards to setting overall or  
6 cumulative limits on the amount of water  
7 that can be removed from the water bodies  
8 of New York State. While there are  
9 individual limits in terms of gallons per  
10 day, we would like to see some discussion  
11 of just how much the Department considers  
12 to be too much with respect to water  
13 withdrawals from our local streams and  
14 rivers over a longer specified time period.

15 The Draft Scope also fails to make  
16 the. Distinction between confined and  
17 unconfined aquifers and the discussion of  
18 groundwater faulting protection. Each  
19 aquifer type requires unique protective  
20 measures. This is an important distinction  
21 to residents of Lowman and Chemung since a  
22 significant unconfined aquifer has been  
23 mapped as recently as April of 2006 in our  
24 area by the Bureau of Public Water Supply

1 Protection. And that is an arm of the New  
2 York State Department of Health. We rely  
3 on individual wells for our drinking water  
4 and cannot stress strongly enough the  
5 importance of protecting this vital  
6 community resource. The draft mentions  
7 that drilling operations should maintain a  
8 1,000 foot distance from a municipal well.  
9 Ms. Sanford's Power Point had the number  
10 2,000 but I've read the draft scope over  
11 the last two weeks and the number I recall  
12 is a 1,000 foot distance from a municipal  
13 well should be maintained, but from a  
14 drilling well. 95 percent of the rural  
15 population relies on groundwater for our  
16 drinking water supply. No such distance  
17 recommendation for avoiding the residential  
18 well is contained in the draft scope, at  
19 least not that I can find.

20 Our residential wells must be  
21 protected from possible contamination by  
22 the drilling process where at the very  
23 least a minimum for the setback requirement  
24 such as that mentioned for municipal wells.

1           Further with regard to groundwater  
2           protection similar to what Ms. Cornell just  
3           mentioned, we strongly urge the Department  
4           to require mandatory baseline water testing  
5           of all residential wells and water bodies  
6           in the vicinity of the proposed gas  
7           drilling operations are begun. All  
8           residents should be informed of this  
9           baseline. Then periodic testing should be  
10          undertaken and residents and local  
11          appropriate authorities and agencies should  
12          receive copies of the results in an effort  
13          to protect the area's water supplies.

14           The Department would also have to  
15          establish suitable criteria for what the  
16          rather vague term vicinity means around a  
17          gas well. Since the process of horizontal  
18          drilling and fracking can impact an area  
19          miles underground from the initial drilling  
20          site, then its parameter that they should  
21          take into account that distance.

22           The discussion of surface water  
23          quality in the Draft Scope mentions the  
24          requirements that wells must be sited at



1 rank in New York State of radon, the  
2 colorless, odorless radioactive gas. Radon  
3 is the leading cause of lung cancer among  
4 non-smokers. According to the ETA and  
5 others, it accounts for anywhere from 1,500  
6 to 23,000 radon related cancer deaths among  
7 non-smokers every year in this country.  
8 Drilling in the Marcellus shale in Chemung  
9 County is certain to release significant  
10 amounts of this harmless gas which means  
11 that production water will contain elevated  
12 levels of NORM materials as a result.  
13 Extra precaution and regulation may be  
14 needed in Chemung County to ensure that  
15 this fluid does not show up at local sewage  
16 treatment plants that may be unequipped to  
17 deal with this kind and level of water  
18 contamination. A safe process must be  
19 determined for the disposal of this  
20 contaminated fluid. It may be that testing  
21 at the well sites would be required to  
22 determine levels of radioactivity before  
23 the fluid leaves the site.

24 The Draft Scope does not appear to

1 address the potentiality of wildlife  
2 disturbance caused by drilling and trucking  
3 activities and the possibility of increased  
4 animals to motorists collisions on roadways  
5 as a result, deer especially. The online  
6 version of the Draft Scope should indicate  
7 the end date for acceptance of written  
8 public comments. I know it's been  
9 publicized here, and it may be that it's  
10 being publicized in newspapers or legal  
11 notices, but when you access that document  
12 online it say where to send comments to,  
13 but it doesn't give a cut off date to which  
14 I believe is December 15th.

15 We would also caution the Department  
16 regarding a Generic Environmental Impact  
17 Statement. This does not account for the  
18 uniqueness of each site in which drilling  
19 permits are being sought in New York State.  
20 There is an incredible variation in  
21 community character, population density,  
22 geology, geography, historical assets and  
23 so on across New York State. It is worth  
24 examining each application on a

1 case-by-case basis to reflect that  
2 variation in order to be truly protective  
3 of the environment. It was good to hear  
4 Ms. Sanford assure that this indeed will be  
5 the case. Thank you again for this  
6 opportunity to comment on the Draft Scope.

7 ALJ: Thank you. The next speaker  
8 will be Ashar Terwilliger and then after  
9 him will be Laura Six.

10 MR. TERWILLIGER: I'm Ashar  
11 Terwilliger, I'm president of the Chemung  
12 County Farm Bureau. And I can tell you  
13 over the last ten years I've spoke a  
14 million words on this subject. In fact  
15 there's members of my board here that are  
16 tired of listening to me. I should tell  
17 you that in 1998 I knew what was coming.  
18 In '99 I urged people, get on the stick.  
19 In the year of 2000, September put on the  
20 first seminar in New York State about this  
21 subject. They were drilling Trenton and I  
22 tried to tell the DEC and I tried to tell  
23 government people we are going to have  
24 thousands of shallow wells. Nobody wanted

1 to hear it. My own New York Farm Board of  
2 Directors said I was blowing smoke. My  
3 neighbors said I was blowing smoke, it's  
4 here.

5 We could have been way on top of it,  
6 way on top of it. We could have had  
7 treatment plants built and the companies  
8 would have paid for the buildings because  
9 they've got the money to. I'm not going to  
10 make a long speech, I'm just -- I'm glad I  
11 don't work for DEC because they've got  
12 headaches. I don't envy them. I just gave  
13 Jack Dahl a copy of X amount of the  
14 fracking fluids, the product, I can't get  
15 the breakdown, I don't know what's in it.  
16 I'm afraid that the DEC can't get a  
17 breakdown. Now, if there is something so  
18 bad in it, how many of you watched that  
19 drilling on Direct TV or Dish websites,  
20 them guys on the drilling rigs get that all  
21 over them, they are covered from head to  
22 toe, absolutely covered. I watched them --  
23 they actually left the pump on to do a  
24 drill with some of them guys -- and now

1           there was old men there and there was young  
2           men there. None of them appeared very  
3           sick. I don't know what's in it, I'd like  
4           to know what's in it. First of all I'll  
5           tell, you farmers are the best  
6           environmentalists there is. We take care  
7           of the land, if we don't take care of the  
8           land we don't have a farm. I mean, we've  
9           got to take care of the land.

10                   I'll tell you, when I first  
11           complained about what we let New York  
12           State's land up for at 12.5 percent.  
13           Afraid we are going to buy them out.  
14           Everybody knows the payments a farmer deals  
15           with, feed bill, etcetera, it's all around.  
16           I just gave Tom O'Mara a copy of what they  
17           are paid. You've got to be properly  
18           compensated to cover the problems. 25,000  
19           an acre in most of those places, 27 in  
20           some, 30 in some. Anywheres from 15 to 30  
21           percent royalties. Have you seen the  
22           companies leaving those places, no, the  
23           offers just go up. Proper compensation to  
24           cover the problems. I hope New York State

1           on their next lease on land will remove  
2           that -- what did the SUNY colleges just  
3           raised their tuition? I don't know if the  
4           SUNY land has been let out yet, but there  
5           was talk of letting out of the SUNY land.  
6           Our economy is in bad shape. Hand over the  
7           property -- like I say, I'm not going to be  
8           the expert. The experts are here, the DEC  
9           is here. They are going to have to face  
10          this problem and make sure it's right for  
11          us.

12                    But I agree with the speaker who  
13           said, don't hold it up. This economy in  
14           this state is terrible. I just got a  
15           report from Kevin McCabe, I don't know if  
16           any of you know who Kevin McCabe is. He's  
17           an aide to the governor. He sent me the  
18           whole thing, e-mailed me the whole thing on  
19           everything they're cutting. And it doesn't  
20           look good. I don't want to see the kids  
21           not properly educated. I don't want to see  
22           the cuts to the schools. And at the same  
23           time I don't want to see a good -- if  
24           you've read some of the things I've said, I

1 want to leave a good earth here for our  
2 grandchildren. That's what some of the  
3 folks know, that's all that matters, grand  
4 babies and great grand babies. I say to  
5 this thing, expedite this thing, find out  
6 what's in the fracking solutions. Find out  
7 if it's harmful to you. By the way, the  
8 concrete is 600 feet down, that's what  
9 they're required. It is forced down the  
10 small pipe in the middle until it comes out  
11 the top pipe. It's pumped right down in it  
12 until it comes out the top pipe. I don't  
13 know if they've gone around and inspected  
14 that -- I know DEC is understaffed, the  
15 government's put a freeze on hiring. I  
16 think that's a mistake. I think you should  
17 get anybody you need.

18 Kathy Sanford's -- part of her number  
19 one comment said, get to Texas or Louisiana  
20 and hire some real experts. Do you  
21 remember that, Kathy?

22 MS. SANFORD: I do.

23 MR. TERWILLIGER: We need them, we  
24 need more people. We need more inspectors,

1 we need more field people. Back DEC, help  
2 DEC get this thing done. Don't fight them,  
3 back them. That's about all I've got to  
4 say. I'm a realist, I'll tell you, I've  
5 talked to, like I said, since 1998 when I  
6 got ahold of papers I wasn't supposed to  
7 have. And by the way, something that I  
8 think it was George Winner said to me and  
9 that was at the assembly hearing -- when  
10 did they start the new law, in 2005? We  
11 had a good compulsory integration law. The  
12 companies wanted 400 times the cost of the  
13 well before you could get your share of if  
14 you were compulsory integrated. We already  
15 had 200 times. Two times I should say, two  
16 times versus four times. And they said the  
17 law was antiquated and it was four years  
18 old. When did the 12.5 percent royalty law  
19 come in? Anybody know? Try 1974. Which  
20 one is adequate? For God's sakes, State of  
21 New York, don't accept 12.5. If you're  
22 going to get this thing, be properly  
23 compensated so if anything goes wrong we've  
24 got the funds to correct it. That's all

1 I've got to say.

2 ALJ: Thank you. The next speaker is  
3 Laura Six and after her is Jerry Simmons.

4 MS. SIX: Good evening. I came here  
5 to speak for personal purposes. Since  
6 about 2001 or 2002 we have had a well, gas  
7 well producing not even 500 yards from our  
8 home. I agree with the value of drilling,  
9 gas well drilling. I feel that now more  
10 than ever our economy needs -- you can't  
11 imagine how much my husband and I and our  
12 family have appreciated the royalties over  
13 the years. It's been very helpful. And  
14 now even more so as our economy worsens.

15 As a private land owner I believe I  
16 need more assessable, affordable and  
17 educated information on leasing and land  
18 impacts. Now knowing what I was coming to  
19 to this DEC -- I just didn't know what to  
20 expect. But what I do know is what I've  
21 experienced. Having had our well water  
22 contaminated by the gas well drilling over  
23 the past seven years, and this is confirmed  
24 by professional laboratory testing pre and

1 post drilling, I felt that I have needed an  
2 affordable advocate who can help me see  
3 that our needs as a landowner are met. And  
4 basically that's what it comes down to, I  
5 feel I need an education on the whole  
6 process. I don't feel I've received that  
7 only from the gas company. I feel that  
8 regarding the property impacts I feel that  
9 I need affordable ways to remedy that.  
10 While the gas company has provided some  
11 temporary measures over the years, as a  
12 person now and as the economy the way it  
13 is, I have my home as one of my major  
14 assets. And right now without having --  
15 waters per se, without those temporary --  
16 without those temporary fixings, is my home  
17 really an asset? Again, I believe in gas  
18 well drilling, it's a wonderful opportunity  
19 for our area, for our community. I do  
20 agree with the statements made beforehand  
21 that we need to employ more members of our  
22 community, that that's very important  
23 because members of our community will stay  
24 here and spend the money and buy homes.

1 Again, I'm just asking for more affordable  
2 remedies for impacts for private  
3 landowners.

4 ALJ: The next speaker will be Jerry  
5 Simmons and after him will be Vincent  
6 Stalis.

7 MR. SIMMONS: Well, maybe we're going  
8 to shift gears here just for a couple of  
9 minutes. I have submitted these comments  
10 in writing and I'm just going to kind of  
11 skim through them I think and read you what  
12 I think are just the pertinent points. My  
13 name is Jerry Simmons, I have been  
14 president of a consulting firm that for  
15 seven years provided technical support to  
16 the United States Department of Energy's  
17 Oil & Gas Environmental Program.

18 I once served as the Chairman of the  
19 Society of Petroleum Engineers technical  
20 committee on the environmental safety. As  
21 the associate executive director of the  
22 Interstate Oil & Gas Compact Commission I  
23 authored the: EPA/IOCC Study of State  
24 Regulation of Oil and Gas Exploration and

1           Production Waste; the IOGCC Environmental  
2           Guidelines for State Oil and Gas regulatory  
3           programs; the IOGCC/EPA State Review of Oil  
4           and Gas Exploration and Production Waste  
5           Management Regulatory Programs and twelve  
6           State regulatory reviews.

7           I commend the State of New York and  
8           the Department of Environmental  
9           Conservation for undertaking this review of  
10          the original GEIS to be sure that the state  
11          is protective of human health and the  
12          environment when it's issuing permits for  
13          horizontal shale gas wells. The resulting  
14          SGEIS will ensure the state has taken into  
15          account the impacts that utilizing these  
16          new technologies will have on the citizens  
17          of New York as well as the valuable natural  
18          resources.

19          Now with all of that said, that's not  
20          why I'm here. I'm here because I'm  
21          currently the Executive Director of the  
22          National Association of Royalty Owners.  
23          And I am not going to provide any technical  
24          comments on the SDEIS or the DEIS. The

1 mission of NARO, the organization I  
2 represent is to encourage and promote  
3 exploration and production of minerals in  
4 the United States while preserving,  
5 protecting, advancing and representing the  
6 interests and rights of mineral and royalty  
7 owners through education, advocacy,  
8 assistance to our members, to NARO chapter  
9 organizations, to government bodies and to  
10 the public.

11 We were formed in 1980 in Ada,  
12 Oklahoma. We've grown to have state  
13 chapters that represent all of the rocky  
14 mountain states, Oklahoma, Texas, Arkansas  
15 and as of September 18th of this year we  
16 have an Appalachian chapter that is  
17 incorporated in the State of New York and  
18 represents New York, Pennsylvania, Ohio,  
19 West Virginia, Kentucky and Tennessee. We  
20 are a not for profit 501(c)6 corporation as  
21 well as the corporate entity here in New  
22 York.

23 Under section 6.0 of the draft SGEIS,  
24 consideration is given for community

1 character specifically any potential  
2 positive or negative community impact and  
3 evaluation of potential economic and energy  
4 supply impacts. We have heard some fairly  
5 compassionate folks talk tonight about  
6 impacts. Positive community impacts of  
7 mineral development, I can tell you as  
8 royalty owners those payments mean a lot to  
9 royalty owners. We've just heard someone  
10 say that it means a lot to her even though  
11 she's been damaged by the company that's  
12 paying her the royalties. The bonuses and  
13 royalty payments to mineral owners can have  
14 a dramatic positive impact on the community  
15 and individuals.

16 The impact can also be very positive  
17 through local, state and federal tax  
18 collections in addition to meeting the  
19 energy needs of this country. The State of  
20 Texas collected 1.76 billion dollars in  
21 severance tax in 2007 just for natural gas,  
22 no oil, just from natural gas production.  
23 The most recent year I could find for  
24 Oklahoma was 2005 where the state and

1 federal tax collection was right at 900  
2 million dollars. These taxes don't include  
3 the income, property or other taxes the  
4 companies, royalty owners and service  
5 industries, etcetera paid to local, state  
6 and federal governments.

7 In Oklahoma, about one in ten adults  
8 receive a royalty check. And that income  
9 means something. If you assume, and sorry  
10 for New York and Pennsylvania, you're  
11 behind the curb, if you assume an average  
12 of 3/16 or 18.75 royalty in Oklahoma, which  
13 is where we start from these days, and you  
14 use the energy and mineral -- Energy  
15 Information Administration's average oil  
16 and gas price for 2006, Oklahoma royalty  
17 owners received right about 2 billion  
18 dollars in royalties. That's an impact. I  
19 don't care who you are, that's an impact.  
20 And that would go a long way for your  
21 children's education and other positive  
22 benefits and things you might need for your  
23 future.

24 I have a letter that was submitted

1 with my written comments from one of our  
2 members talking about how it was important  
3 to him that his mother, as she was dying,  
4 it talks about the importance of her  
5 royalty income and the \$700 a month she  
6 received paid for her cancer medications up  
7 until her death, it kept her in her home up  
8 until her death. In section 7 of the draft  
9 GEIS alternative actions will be reviewed  
10 which includes, number one, the prohibition  
11 of the development of Marcellus shale and  
12 other low permeability reservoirs by  
13 horizontal drilling and high-volume  
14 hydraulic fracturing.

15 I am sure that the DEC is aware that  
16 the United States Constitution guarantees  
17 private property may not be taken for  
18 public purposes without just compensation.  
19 Outside of an estimated one percent of the  
20 mineral estate in Canada, this is the only  
21 country on the planet that allows for  
22 private mineral ownership. You can argue  
23 that that private royalty being paid to  
24 citizens of this country has made up the

1 world's largest economy -- well, it's  
2 smaller right now, and the superpowers that  
3 we turned into. Of the 2.3 billion acres  
4 owned in the United States, private royalty  
5 owners own and manage about 80 percent,  
6 1.84 billion acres. With the exception of  
7 any state or federal lands in New York,  
8 individual citizens who own the resources  
9 under consideration in this GEIS and as  
10 such, they have the right for their  
11 minerals to be developed. In New York it's  
12 a -- is a state-worthy prominence of the  
13 minerals is over the surface and some -- my  
14 friend from the Farm Bureau may argue with  
15 us on this, but in fact with the state and  
16 federal law are pretty clear on zonings  
17 with mineral estate and we support. So for  
18 the state in this GEIS, if you prohibit or  
19 from other actions make the development of  
20 these private resources delayed or code  
21 restrictions for owners so that they're not  
22 effectively developed, you should expect  
23 the mineral owners in New York to ask for  
24 independent geologic engineering study or

1 from economic assessment to ensure that the  
2 New York citizens deprived us of these  
3 rights, receives compensation, and what do  
4 I mean by that, is that they get bonus per  
5 acre and the amount of long term royalty  
6 income per well from the State of New York  
7 that they would have received from oil and  
8 gas companies. I don't believe that's --  
9 for DEC and SDII, but expect that, if for  
10 any reason you hinder the development of  
11 someone's minerals, they have that right  
12 under constitutional law.

13 In closing, I want to again, commend  
14 the State of new York and the DEC for  
15 taking these measures to ensure the  
16 protection of human health and the  
17 environment. I believe the technical  
18 discussions between the state regulatory  
19 agencies and the industry is vital in  
20 setting reasonable and responsible permits  
21 and operational parameters for these  
22 horizontal wells and for the hydraulic  
23 fractures. And I also want to say that  
24 from just a guy who's a citizen from

1 different parts of the country and a  
2 citizen here, I've been a farmer, I've been  
3 a rancher, I've lived in five western  
4 states involved in this oil and gas  
5 production. And I've only had head and two  
6 eyes and two arms. There's nothing strange  
7 that's happened to us. There are  
8 contamination problems that have occurred  
9 from time to time and the water well might  
10 get contaminated, but DEC works  
11 expeditiously to clean those things up.  
12 State and Federal laws require cleanup.  
13 It's not that they are allowed to open the  
14 valve and let stuff run down the road as  
15 the trucks are driving. If they are,  
16 they're in violation of the law and they  
17 need to be sent to jail.

18 So as you're reviewing these things,  
19 understand, there are people that have  
20 technical background and technical  
21 knowledge, and knowledge of the law. It's  
22 not the passion involved, but to know  
23 exactly what is supposed to happen, that's  
24 the charge of DEC and what they are

1           supposed to do to see that this industry is  
2           accurately regulated and that they're doing  
3           what they're supposed to do. Thank you  
4           very much.

5                     ALJ: The next speaker will be  
6           Vincent Stalis.

7                     MR. STALIS: Thank you. Thank you  
8           for having this meeting and for -- so we  
9           could address our concerns. I have  
10          reviewed the scope proposal. And I'd like  
11          to say that there are many topics that we  
12          discussed earlier on what this does mean to  
13          the area. And I think we have to take a  
14          look at what the DEC has done so far in the  
15          area of the Trenton Black River. I do not  
16          know of any big environmental issues or  
17          pollution going on. I have to say that the  
18          DEC I feel has done a good job in  
19          regulating the Trenton Black River and now  
20          it's time for us to move on to the  
21          Marcellus play. And it's not only the  
22          Marcellus, there is a number of other  
23          formations that the companies are going to  
24          be looking at. And I feel that this is a

1           tremendous opportunity for the Southern  
2           Tier.

3           I am a local person, I'm a land  
4           owner. I am concerned with environmental  
5           issues. I've been born and raised in  
6           Elmira and I'm going to die in Elmira. And  
7           I care about the area and the people. But  
8           this is -- the people of the Southern Tier  
9           don't believe that anything good can happen  
10          in the Southern Tier, that's the mind set.

11          Well, the Trenton Black River, I feel  
12          is the best thing that's happened in the  
13          Southern Tier. And the Marcellus and some  
14          companies are saying we are setting history  
15          here. And I believe it is going to happen,  
16          the Marcellus wells can produce for 30 to  
17          50 years, and it's unknown at this stage of  
18          the game. But I do believe we have to  
19          address some of the environmental concerns.  
20          Things good are happening in the Southern  
21          Tier and I think we do need to have them  
22          continue, but I also think we have to be  
23          realistic. What is currently going on in  
24          the oil and gas industry? There are

1 companies that do not want to come to New  
2 York. There are companies that were  
3 considering New York and have pulled out.  
4 And this is being realistic. Some of the  
5 offers that were being offered, and I'm  
6 sure you folks have heard of some of the  
7 offers that were put on the table over in  
8 the Broome County area. They are no longer  
9 there. And a lot of the issues are are  
10 they going to allow us to drill in New York  
11 State.

12 And the issues with the Marcellus  
13 Fracking, I think Asher brought a very good  
14 point. These well drillers are getting the  
15 stuff spilled on them. Here we've got --  
16 and not that we don't have to address these  
17 issues, but we've got people saying we  
18 should address parts per million. My God,  
19 have you looked at the ingredients in some  
20 of your foods today? Do you even know what  
21 you're eating?

22 I'm not saying that we don't need to  
23 address these issues, but I think it's  
24 being blown out of proportion. And in

1           order to stop the drilling in New York  
2           State and not bring the revenue into the  
3           area, right now we are talking we are going  
4           to start doing away with coal, T. Boone  
5           Pickens stated, I heard it on the radio  
6           today he is dropping his wind farms, that's  
7           just in Oklahoma. We have a real energy  
8           problem in this country. We need to  
9           develop it, we have the infrastructure  
10          here. We have the market here in the  
11          northeast and now we've got the gas. Not  
12          to take it and use it and stop relying on  
13          so much of the foreign oil and energy that  
14          we have, we would be making a grave  
15          mistake.

16                 If we are going to be, I feel,  
17                 over-concerned with the environmental  
18                 impacts or what could happen, and I have no  
19                 knowledge of any big problems in New York  
20                 State, we should stop all trucks going down  
21                 the road in the Susquehanna Basin, we  
22                 should turn off the railroad because they  
23                 could have an accident and they could  
24                 pollute the environment. Accidents are

1 going to happen. It happens in any  
2 industry. But to say we're not going to  
3 have that industry because things could  
4 happen, I do not have any knowledge of  
5 these big pollution or environmental  
6 impacts happening in New York State, but  
7 they could happen.

8 And I would like to close with this.  
9 Okay, we do need energy, it's not going to  
10 go out of style. We've got it here and I  
11 believe I have faith in the DEC that they  
12 can address the issues and keep it under  
13 control. The landowners, the taxpayers  
14 from Upstate New York and the Southern  
15 Tier, I would like to speak for them, I  
16 think they are saying, drill here in the  
17 Southern Tier and drill now. Thank you for  
18 your time.

19 ALJ: We'll take a short break for  
20 about five or ten minutes and then come  
21 back.

22 (RECESS TAKEN)

23 ALJ: Okay. If you could take your  
24 seats, please, we'll resume with the

1 meeting. The next speaker will be Gudrun  
2 Scott and after her will be Lynie DeBeer.  
3 Is Ms. Scott here?

4 SPEAKER: I'll let them know that we  
5 are starting.

6 ALJ: Is Gudrun Scott here? Okay. I  
7 may come back to her. The next speaker  
8 will be Lynie DeBeer followed by Scott  
9 Blauvelt.

10 MS. DEBEER: Good evening, ladies and  
11 gentlemen. My name is Lynie DeBeer and  
12 I've been a landowner in Steuben County for  
13 over 30 years. And I have some concerns  
14 that I'd like to share with you. I'd like  
15 to know, why are the gas leasing companies  
16 afraid to tell us what the chemicals are  
17 they want to force into the ground as  
18 fracking fluids. It's an industry secret.  
19 Why? If it's safe, why can't we know  
20 what's in there? How could we ever hope to  
21 clean up our water supplies after drilling  
22 if we don't know what the chemicals are  
23 that we're trying to get rid of? And what  
24 would we do when people start getting

1 illnesses from drinking polluted water that  
2 no doctor can treat because he has no way  
3 of knowing what chemicals are in the water?  
4 Our water supply does not belong to the gas  
5 drilling companies, it belongs to all of  
6 us. And no one has the right to jeopardize  
7 our health and put lives at risk for the  
8 sake of money and jobs.

9 I am grateful to be living in New  
10 York State with a DEC which is willing to  
11 update regulations to protect our  
12 environment, our natural resources and the  
13 health of our people and maybe even our  
14 lives. I request that the DEC find out  
15 what the fracking chemicals are and the  
16 amounts that are being used and that they  
17 follow up with rigorous and continuous  
18 testing of our water whether it's the  
19 community water supply or private wells.

20 I applaud the DEC for this necessary  
21 and intelligent approach and ask that they  
22 take whatever time is actually needed in  
23 order to protect the environment and the  
24 residents of the State of New York. Thank

1           you.

2                   ALJ: Thank you. The next speaker  
3 will be Scott Blauvelt, followed by Andrew  
4 Byers.

5                   MR. BLAUVELT: Thank you, Judge.  
6 Good evening, I'm Scott Blauvelt, the  
7 Regulatory Compliance Manager for East  
8 Resources. And I'd like to thank the DEC  
9 for the opportunity to provide the  
10 following comments concerning scoping for  
11 the Supplemental Environmental Generic  
12 Impact Statement.

13                   I'd like to speak first about the  
14 socio-economic benefit, a topic that you've  
15 heard a lot about this evening. The  
16 Marcellus shale play, as it is termed, has  
17 created an important new opportunity for  
18 New York and the nation. Especially at  
19 this time of financial uncertainty, the  
20 potential economic benefits are staggering.  
21 Billions of dollars of new investment is  
22 possible each year for the foreseeable  
23 future. This investment would not only  
24 result in considerable financial gain for

1 New York landowners, but also new  
2 well-paying jobs and economic advantages  
3 for many businesses and communities.

4 A report from the Penn State  
5 Education and Development Initiative  
6 estimates that for each \$1 billion of  
7 royalty income generated by the Marcellus  
8 shale reserves, the State could gain  
9 approximately 7,880 jobs once the  
10 Supplement to the GEIS process is completed  
11 and development of the play is restarted in  
12 New York, and close to 8,000 the following  
13 year.

14 At the same time, development of the  
15 Marcellus Shale resource results in the  
16 production of a clean-burning fuel, indeed,  
17 among all the options, the cleanest fuel at  
18 the burner tip, needed to heat our homes  
19 and provide power supplies, it is clear  
20 that natural gas is and will continue to  
21 serve for some time as an essential  
22 component of the nation's energy portfolio.

23 In 2002, a United States Geological  
24 Survey estimated that the Marcellus shale

1 formation held 30.7 trillion cubic feet of  
2 natural gas, a colossal amount for the  
3 United States considering that the United  
4 States consumes about 23 Tcf of natural gas  
5 per year, but only produces about 19 Tcf.

6 According to a recent study, which  
7 takes into account the technological  
8 advances made in the industry from 2002 to  
9 present, the Marcellus formation could hold  
10 a volume of a natural gas as high as 500  
11 Tcf, more than 16 times the old estimate.  
12 Currently New York must import 95 percent  
13 of its natural gas from other states  
14 including the southwest. Now is the  
15 opportunity to supply New York, and the  
16 rest of America, with a proven energy  
17 source that is not only clean burning and a  
18 low carbon content, but is also homegrown  
19 and will reduce our reliance on others by  
20 giving us our own source of low-cost  
21 energy.

22 Drilling for natural gas is not new  
23 to New York. In 1821, the first gas well  
24 was drilled in Fredonia, New York and, to

1 date; more than 75,000 oil and natural gas  
2 wells have been drilled. Approximately  
3 14,000 of these are still active and have  
4 had an excellent track record of  
5 environmental compliance and safety.

6 Water withdrawals, putting the  
7 Marcellus water use into perspective: At  
8 the outset, East Resources, Inc. believes  
9 it is important to put the water use  
10 involved in development of Marcellus shale  
11 wells into perspective. The fact is that  
12 gas well development is quite unlike many  
13 other water uses. Where most water uses  
14 are continuous, or at least relatively  
15 constant in certain seasons, the  
16 development of each gas well involves what  
17 is essentially a pattern of short-duration  
18 withdrawals. For those wells that are  
19 utilizing water-based fracture stimulation,  
20 sometimes referred to as "hydrofracture"  
21 stimulation, the development of a typical  
22 vertical well may involve a total  
23 consumptive use of between 75,000 gallons  
24 to 700,000 gallons. A typical horizontal

1 well may utilize between 1 and 3.5 million  
2 gallons of water, with the withdrawals  
3 occurring over a period of approximately 30  
4 days.

5 The Marcellus shale play is still in  
6 its infancy, and any projection of its  
7 potential and pace of development remains  
8 somewhat speculative. Under one  
9 calculation, if one were to optimistically  
10 assume that well drilling activities will  
11 at some future point roughly equate to what  
12 has been seen in the Barnett shale in  
13 Texas, where 1,800 wells were drilled in  
14 2007, one might calculate a conservative,  
15 e.g., high, estimate of potential annual  
16 water use across the entire 5,700 square  
17 mile portion of the upper Susquehanna River  
18 Basin underlain by Marcellus shale of  
19 approximately 19 mgd. Placing this in  
20 context, under such an optimistic scenario,  
21 the entire gas development industry, all  
22 companies, all locations, would equate to a  
23 small fraction of the total water use in  
24 the basin, resulting in an increase in

1 total basin consumptive use by a mere 3.4  
2 percent. Viewed through another lens, the  
3 water use involved for the entire sector,  
4 across all 5,700 square miles of Marcellus  
5 shale area, would equate to about one-third  
6 of the water use of a typical steam  
7 electric power generation station, or the  
8 equivalent of about two paper product  
9 manufacturers.

10 Most of the Marcellus shale  
11 development activity is expected to occur  
12 within the jurisdiction of the Susquehanna  
13 River Basin Commission and the Delaware  
14 River Basin Commission. Natural gas  
15 operators currently using or planning to  
16 use water to develop natural gas wells in  
17 the Marcellus shale formation in the  
18 Susquehanna watershed must have approval  
19 from the SRBC. The same is true in the  
20 Delaware River watershed which requires  
21 approval from the DRBC. Both the SRBC and  
22 the DRBC make frequent well site  
23 inspections, monitor all water withdrawals  
24 and the disposal of all waste fluids.

1 Cease and desist orders have and will be  
2 issued to companies not in compliance with  
3 either the SRBC's or DRBC's stringent  
4 standards. The SRBC's and DRBC's approval  
5 process is a critical step in environmental  
6 protection while supporting the development  
7 of a potentially viable energy source.

8 East Resources, Inc. encourages  
9 regulatory deference to the SRBC and DRBC,  
10 NYDEC has representatives on each  
11 commission.

12 East Resources, Inc. believes the  
13 Draft Scope goes too far regarding  
14 activities outside SRC and DRBC  
15 jurisdiction. Because water withdrawals  
16 will be short term and temporary in nature,  
17 site-specific analyses are inappropriate  
18 and unnecessary. The Department should  
19 establish a statewide set of conditions for  
20 both stream and river withdrawals that will  
21 be protective of the resource, and  
22 consistent with established SRBC and DRBC  
23 requirements.

24 Fluid Handling: Hydraulic fracturing

1 has been used for decades by the Oil and  
2 Gas industry in New York. In 1963, the  
3 State's oil and gas regulatory program was  
4 established and has been through two  
5 substantial revisions, the first in 1981  
6 and second as recently as 2005. Since that  
7 time, the program has effectively protected  
8 New York's groundwater and drinking water  
9 sources. This has been accomplished  
10 through the administration of this  
11 comprehensive program by the State's  
12 Department of Environmental Conservation,  
13 DEC, through a permitting program and  
14 regulations that mitigate, to the greatest  
15 extent possible, any potential  
16 environmental impact of oil and natural gas  
17 well drilling and operation.

18 To protect the environment during and  
19 after oil and gas extraction, DEC imposes  
20 strict drilling permit requirements that  
21 are designed to prevent oil spills and  
22 groundwater contamination, and requires the  
23 proper disposal for all wastes and  
24 appropriate containment of drilling and

1 fracking fluids. Drilling permits also  
2 protect groundwater by mandating a casing  
3 and cementing program for each well, which  
4 prevents the flow of oil, gas or salt water  
5 between underground formations. The  
6 combination of multiple cemented strings of  
7 casing and the significant vertical  
8 distance, 3,000 to 3,500 feet, separating  
9 groundwater aquifers and the Marcellus  
10 shale are designed to protect the integrity  
11 of groundwater supplies. Drilling rules  
12 and regulations require setbacks from  
13 municipal water wells, surface water-bodies  
14 and streams. Further, since 1992, the DEC  
15 has reviewed all oil and gas drilling  
16 permits in accordance with the 1992 GEIS  
17 which, as evidenced by the lack of reported  
18 contamination, has adequately ensured that  
19 the environmental impact of resource  
20 extraction is mitigated to the greatest  
21 extent possible. The end result has been  
22 and continues to be under the existing GEIS  
23 effective oversight of hydraulic fracturing  
24 and ample protection of the State's

1 groundwater and drinking water sources.

2 In addition, concerns about hydraulic  
3 communication with older shallow unplugged  
4 wells is unjustified because the shallow  
5 wells did not penetrate the Marcellus Shale  
6 formation.

7 Environmental Impacts: The potential  
8 for noise, visual or air impacts are  
9 insignificant due to their short-term and  
10 temporal nature. Impacts to community  
11 character are insignificant or nonexistent  
12 due to the short-term nature of drilling  
13 activities and the small size of a well  
14 site after it is turned into production and  
15 reclaimed. The 2008 Spacing Bill greatly  
16 encourages the use of a single, centrally  
17 located wellpad for units with multiple  
18 horizontal wells. This will also minimize  
19 potential short-term environmental impacts.

20 Traffic: During the drilling and  
21 fracking period, there will be a short  
22 duration, increased flow of traffic, with  
23 the potential for dust due to heavy  
24 equipment in the area. In order to

1 mitigate traffic disruptions, movement  
2 schedules are provided to local fire  
3 districts, emergency service centers and  
4 traffic departments. Activities are  
5 scheduled around school bussing hours and  
6 community events whenever possible and on  
7 roads that will not be damaged by these  
8 temporary conditions.

9 Cumulative impacts: East Resources,  
10 Inc. believes that the Department's  
11 analysis of the 1992 GEIS remains accurate,  
12 even with respect to Marcellus shale  
13 development. Cumulative review is  
14 impractical and unnecessary given the  
15 independent nature of each well, i.e., no  
16 compounding environmental impact, and the  
17 uncertain factors that dictate when and  
18 where wells will be drilled, e.g.,  
19 economics, drilling equipment availability,  
20 leaseholds, etc., in addition to the remote  
21 and non-cumulative nature of these  
22 activities.

23 In closing, East Resources, Inc.  
24 Believes that the Department accurately and

1           appropriately determined to limit the  
2           Supplemental Generic Environmental Impact  
3           statement and not re-open the 1992 Generic  
4           Environmental Impact statement. East  
5           Resources, Inc. encourages the Department  
6           to complete the Supplemental GEIS  
7           expeditiously in accordance with the  
8           proposed schedule, otherwise the  
9           aforementioned economic benefits may not be  
10          realized.

11                       East Resources, Inc. appreciates the  
12           opportunity to provide these comments. On  
13           behalf of our industry, East Resources,  
14           Inc. again wants to thank the Department  
15           for the time and attention provided by the  
16           staff throughout the past six or so months,  
17           as the agency has come to understand and  
18           address the issues relating to Marcellus  
19           shale resources. It has been a learning  
20           process for all of us, but stand assured  
21           that we are committed to working together  
22           and proceeding in a thoughtful and  
23           cooperative effort to develop, use and  
24           conserve these resources responsibly.

1 Thank you.

2 ALJ: Thank you. The next speaker  
3 will be Andrew Byers, followed by Jason  
4 Knapp.

5 MR. BYERS: Politicians want speed  
6 and citizens want it slow. I didn't  
7 realize that this was a campaign platform  
8 with a Jerry Madden speaking order. I got  
9 here at 4 thinking I would be able to speak  
10 early. First of all, I think Senator  
11 Winner is an industry's tool and that he is  
12 short-sighted, confused with diluted  
13 economics and is no friend of mine.

14 My name is Andrew Byers, I'm a  
15 botanist and a farmer and I live in  
16 Newfield, New York. I would first like to  
17 address the use of the defendant language  
18 in the DSGEIS, repeatedly stated in section  
19 2.1.2 that the Department does not recall  
20 any incidents of groundwater contamination  
21 in the last 50 plus years when the entire  
22 reason we are here is because this is  
23 different, this is new and this is full of  
24 toxic liquid.

1           Also in section 2.1.2 there is a  
2           statement, "fracking fluid is typically  
3           comprised of more than 99 percent fresh  
4           water." I don't believe this number. I  
5           have read in a variety of websites, which  
6           are available to the world, that the number  
7           is two to three percent. Two to three  
8           percent of two to five million gallons is  
9           no benign number. From the oil and gas  
10          accountability project, I understand that  
11          they're using two to six million gallons of  
12          water per frac per well, multiple fracs  
13          within the well's lifetime. East  
14          Industries just stated for us that  
15          pollution is very brief and the water  
16          withdrawal is a very short thing when in  
17          fact that the Marcellus wells last decades  
18          and are fracked repeatedly, seven to ten  
19          times per well. So seven to ten times  
20          times two to six million times 50,000 give  
21          or take ten thousand gallons of chemical --  
22          so 50,000 times seven to ten per well is  
23          just a pure number of chemicals. And  
24          again, they're generally powdered and they

1           have to be diluted under water which is  
2           what they're doing. So 50,000 gallons of  
3           dry powder is a difficult number to wrap  
4           your head around, times seven, times three  
5           to six thousand in Broome County. At least  
6           four of these chemicals cause severe  
7           reproductive problems at one part per  
8           trillion. That's what people are talking  
9           about, parts per trillion. They cause  
10          severe reproductive harm at one part per  
11          trillion, that's according to the  
12          introduction exchange website which is also  
13          Dr. Theo Coburn PhD -- so again, spills  
14          occur, you can check the web. We are here  
15          because this is different and this is  
16          toxic. And it's threatening my children.  
17          And it's threatening my children's ability  
18          to grow and have children. And it  
19          threatens me here and now.

20                 As defined by the U.N., this proposed  
21                 activity is the threshold of industrial  
22                 genocide. No amount of money will clean my  
23                 daughter's fallopian tubes. One part per  
24                 trillion. In this context I have three

1 issues that I do not feel are adequately  
2 addressed. The cumulative impact is  
3 flaring unrefined gas for months while  
4 wells were proven and then well pipelines  
5 are built. I'm not going to explain what  
6 that is, I would expect the DEC to  
7 understand that figure. Combine that  
8 flaring and the diesel exhaust from the  
9 thousands of trucks across the state as the  
10 drilling occurs, it's not going to be one  
11 well at a time times 3,000 in one county.

12 So the diesel exhaust from thousands  
13 of trucks and then the compression of  
14 generators from the wells that have already  
15 been drilled and the compression while the  
16 wells are being drilled to force that  
17 liquid down and the generators needed to  
18 repeatedly stimulate across these different  
19 counties, that's a cumulative effect I  
20 would like to be addressed. I'm not sure  
21 how we measure that -- in the amount of  
22 ozone that is destroying the chloroplasts  
23 and stromata of my crops. But that would  
24 be too late because it sits in air and in

1 the water at one part per trillion  
2 destroying the genetics of my body.

3 The second thing is the current lack  
4 of the full build out modeling to begin to  
5 understand what it is that the DEC is about  
6 to allow to understand, to determine. Full  
7 build out modeling is a way for any project  
8 to develop what it is they might be  
9 thinking about. You add to it, you play  
10 the whole thing out, it's modeling, it's  
11 the newest rage, have a look at it. You  
12 might ought to figure it out what you're  
13 about to let through your door. It's not  
14 acceptable to ignore the full system in  
15 exchange for the linear of bureaucracy.

16 And the third thing is I see no  
17 probable way for this quantity -- or this  
18 quantity of assessments to be done by such  
19 a small town under a hiring freeze with  
20 budget cuts.

21 The main question though is what is  
22 the method of assessment? When the word  
23 determine is used in the draft, who is that  
24 determined by? Are they also a tool of the

1           distraction industry? Are they part of the  
2           Division of Mineral Resources? Will they  
3           test my stream flow before the drilling and  
4           stimulation occurs or is that my  
5           responsibility? Thousands of wells,  
6           thousands of streams, millions of people  
7           and billions of gallons of use of toxic  
8           water. Who is doing the determining? Who  
9           is doing the testing? Are there enough  
10          parties on your squad? You need a few, but  
11          you can't pay them, and it's been  
12          volunteers in the community --

13                 Finally, the cumulative effects of  
14                 the deep well injection and the continued  
15                 fracturing, if we have deep well injection  
16                 times 3,000 wells in one county, times God  
17                 knows how many gallons of water, how many  
18                 of these people injecting these sites will  
19                 there be? And look at this deep well  
20                 fracturing, the deep well injections, you  
21                 put a bunch of chemicals in the ground and  
22                 you seal the geologic formation in for  
23                 fracturing around that in every direction  
24                 and that's an interesting visual that would

1 be addressed beautifully by a full build  
2 out modeling.

3 The other cumulative effect that I  
4 think I would note as with all the other  
5 beautiful things that people have said, is  
6 the cumulative effect of fugitive gas.  
7 Fugitive methane, fugitive VOCs as well as  
8 defects in the ozone produced locally by  
9 diesel combustion. So you have a massive  
10 pile -- and again, because you have VOCs  
11 coming off of evaporation pits that sit for  
12 weeks and weeks at every single well.  
13 Specifically there's zoning to allow those  
14 VOCs to evaporate off. And then you have  
15 ozone being produced by these trucks and  
16 generators that will be with the wells for  
17 life. So I mean, an estimated 40 years on  
18 one Marcellus well with a generator,  
19 keeping that under pressure the entire  
20 time. That's a lot of diesel exhaust and  
21 that's a lot of ozone. And that's a lot of  
22 VOCs. And I think that's going to destroy  
23 every last bit of forests that we have in  
24 this region. And that's not taking into

1 account that these forests are going to be  
2 sucking up every -- okay, I'll leave that  
3 be. I have three questions and I'll be  
4 done. What can be done to remediate the  
5 irrigation ponds full of arsenic run? Is  
6 there a plan for that in the permitting  
7 process? I know remediation was mentioned  
8 when you raised your hand a long time ago,  
9 and it made me think like what do you do to  
10 remediate contaminated water when you  
11 really have that scare or how do you  
12 remediate the air? In Los Angeles you just  
13 look at how close the rivers are and you  
14 have a beautiful sunset and you don't have  
15 to worry about it. But I wonder if there  
16 are studies being done about the inversion  
17 zone, where this ozone's going to pile up  
18 and which low valley, you know, which tiny  
19 little community they're going to settle  
20 with this thick deep brown and get to  
21 breathe that in and watch their children  
22 suffer.

23 What are you rushing for? This is  
24 big. Please slow down. And per your



1 to speak. My name is Jason Knapp, and I  
2 live in Lowman. I'm president of the  
3 Residents for the Preservation of Lowman  
4 and Chemung. And I'm a lifelong farmer,  
5 I've lived in Lowman all of my life. Our  
6 farm has been in my family for over 200  
7 years, with the same family. So I  
8 obviously have a great stake in our land  
9 and what may happen to it with this  
10 proposed drilling. Everything that I was  
11 going to say has been said by people before  
12 me, so I don't repeat all of that. I would  
13 just like to maybe put this whole thing  
14 into a little different perspective. Since  
15 the industrial revolution began, man has  
16 been putting toxins and pollutants in  
17 anyplace they can find, into our rivers, in  
18 your water, in the ground, in the air. And  
19 they continue to do that. Because of that,  
20 we are bombarded by pollutants that we  
21 never thought we would have. We don't know  
22 they are there, we don't see them. But if  
23 you look at cancer rates, they are going  
24 up. Chemung County has some of the highest

1 cancer rates in the state. I have been a  
2 teacher and I see students who have many  
3 more problems with concentration, with  
4 focussing. And having talked to a number  
5 of experts, a lot of these problems could  
6 and probably are caused by pollutants in  
7 our environment.

8 Our environment, if you really look  
9 at it, into it deeply, it is polluted more  
10 than it has ever been. And it's just  
11 getting worse. When you are thinking of  
12 drilling gas wells and pumping them full of  
13 millions of gallons of polluted water to  
14 get the gas out, alls you're going to be  
15 doing is adding to that. And until we get  
16 a good method of doing this that we feel is  
17 safe and can be done without harming our  
18 environment, our children, our  
19 grandchildren, our future, I think we need  
20 to hold off. The drilling companies don't  
21 tell us what the pollutants are, what's in  
22 the fluid that they're putting in. Why is  
23 that? There's got to be a reason. And I  
24 have to think that it's just going to be

1           one more pollutant that we're adding or  
2           many pollutants that we're adding to our  
3           environment.

4                        So when they talk about, oh there has  
5           been no major accidents, our state, our  
6           county is covered with toxic waste sites  
7           that need to be remediated, there's no  
8           money to do it. So they sit there and they  
9           still continue to pollute -- we have water  
10          wells in Chemung County that have been  
11          closed because toxins were put into the  
12          ground and those toxins have reached the  
13          wells.

14                       So many things are dependent on --  
15          excuse me, I'll start over again -- this  
16          whole process of pollution is something  
17          that doesn't always show itself right away.  
18          A lot of these well sites that have been  
19          contaminated and polluted, they're  
20          beginning to show it now after many, many  
21          years. This process of injecting toxic  
22          water into wells is something that could  
23          very easily and very probably will show up  
24          50 years down the road. In that time, who

1 is going to remediate it? The drilling  
2 companies will be gone probably. Are they  
3 going to pay for it? They won't pay for  
4 it. Who's going to have to pay for it?  
5 Who pays for some of these remediation  
6 sites now, we do, taxpayers. We need to  
7 think this thing through very carefully  
8 before we are allowed to continue to have  
9 pollution. Industries put pollutants in  
10 the water, in the rivers, in the ground,  
11 wherever they could. We didn't know better  
12 back then. We thought that the world could  
13 take all of this stuff and we would be fine  
14 and life would go on and there wouldn't be  
15 any problems. We know better now. We've  
16 learned. We are still learning. But we  
17 haven't gotten all the answers yet. We  
18 need to be careful and very vigilant.

19 A lot of those people inferred that  
20 there's no problem involved with this. We  
21 don't know that yet. We don't know what  
22 may happen, what some of the -- some of  
23 these procedures may involve, what problems  
24 they may cause. And we need to know before

1 we do anything. We need to be very  
2 careful.

3 I just want to mention one other  
4 thing. I live in Lowman on County Route 60  
5 and there is a site several miles down the  
6 road where they are taking water from the  
7 Chemung river to use in some drilling some  
8 wells in -- I think in the Troy area. This  
9 is just one example. We have probably 40  
10 trucks going by our house every day,  
11 weekends and holidays included. We live on  
12 a residential road and these trucks could  
13 take Route 17, but they have chosen to go  
14 on our road. This is just one type of  
15 pollution. It is a problem of pollution  
16 where you're dealing with noise and with  
17 the environmental exhaust given off and so  
18 forth. So this is just one little area, it  
19 doesn't even involve -- it's being taken  
20 out of the -- so there are lots and lots of  
21 things that we don't really think about at  
22 this early stage in this potential bonanza  
23 as the politicians like to call it. It may  
24 be a bonanza for them, but for the average

1 person on a piece of land it may not be a  
2 bonanza and we need to think about that.  
3 So those are my comments. Thank you.

4 ALJ: Thank you. Earlier I called on  
5 Gudrin Scott. Is she here? I believe she  
6 probably left then.

7 PUBLIC: She's here.

8 ALJ: Oh, she is. Okay.

9 MS. SCOTT: Thank you, Judge. My  
10 name is Gudrin Scott and I have lived in  
11 Allegany County for 40 years. I've been a  
12 taxpayer for 40 years. The mineral rights  
13 owner has not paid taxes for any of those  
14 years. The property values should be part  
15 of the socio-economic evaluation. And what  
16 will become of the property values should  
17 be part of the evaluation.

18 And in Allegany County, which is an  
19 old field, there is hardly a single  
20 property owner who is also a mineral right  
21 owner. That is separated -- the two are  
22 separated. And I do think that DEC should  
23 consider this.

24 The greenhouse gases I understand are

1 not going to be accounted for as far as I  
2 could see from the assessments of the DEC.  
3 And the previous speaker has discussed that  
4 there will be greenhouse gasses emitted.  
5 Methane is four times a greenhouse gas as  
6 carbon dioxide, which is like most of  
7 hydrocarbon dioxide. So I think that they  
8 should be -- by scoping recommendations  
9 that greenhouse gases should be accounted  
10 for. The water -- some things I've read  
11 five million gallons for a well and other  
12 businesses said -- the DEC said two million  
13 gallons. I don't know what the answer is.  
14 Anyway, the water is a big problem of  
15 course.

16 There is so many things that have  
17 already been said. There are so many more  
18 things to say. All I'm going to say here  
19 is the thing that you're relying on, the  
20 explanation of the assessment was from  
21 1992. Your assessment is from 1992. And I  
22 believe it was 2005 that the Energy Policy  
23 Act was written. It exempted the oil and  
24 gas industry from the Clean Water Act, the

1 Clean Air Act, the Super Fund law, the Safe  
2 Drinking Water Act. So I think that we  
3 shouldn't be going by 1992 standards.  
4 Since the law in 2005 it says here from the  
5 West Virginia Surface Owners' Rights  
6 Organization, since the law went into  
7 effect in 2005, hundreds of drilling sites  
8 in the president's home state of Texas have  
9 been contaminated by radioactivity and  
10 towns in the vice president's home state of  
11 Wyoming have had their drinking water  
12 polluted by drilling chemicals. We've got  
13 our -- all I can say is NORM, you know,  
14 like Joe the plumber, NORM stands for what?  
15 It's not normal. It's natural occurring  
16 radioactive materials. Okay. They are not  
17 natural. They happen to be accumulated in  
18 the Devonian age by biological animals that  
19 lived in the black shale down there. And  
20 they were attracted to the uranium because  
21 it was similar to calcium because if you  
22 look at the periodic table it all kind of  
23 goes together with uranium. So these  
24 animals -- and they give out some uranium,

1 and it's all found there together. And  
2 they give off something -- the uranium has  
3 a very long half life, but when it does  
4 change -- it produces radon which is  
5 radioactive, it's a gas, it accumulates in  
6 the Marcellus Shale area which is in  
7 Oneonta north of the -- much higher than  
8 the other parts of New York State, of the  
9 United States.

10 The main part is we need to know more  
11 about these Normans. And I think that the  
12 DEC's going to address that. And I hope  
13 that they really let us know what are these  
14 things and we should know about it. I  
15 understand that the industry is going to  
16 give the DEC the -- supposedly these  
17 fracking chemicals, if they are as much as  
18 a big amount like a barrel, but if it's a  
19 small amount they don't have to -- but at  
20 any rate, the DEC will know what some of  
21 these things are. But somebody here  
22 pointed out that if you were trying to test  
23 the water in your well you should know what  
24 to test for. Well, I think the public

1           should know the same amount that the DEC  
2           knows. And also I would like to know that  
3           the DEC -- do the -- find out which are the  
4           good laboratories for testing water and  
5           that farmers should be allowed to have  
6           their water tested by these recommended  
7           labs because if they just leave it up to  
8           the industry then they are beholden to the  
9           industry who then can later on say, well  
10          your water was already contaminated or  
11          whatever. This has happened in  
12          Pennsylvania. I've talked to the people  
13          down in Pennsylvania and they have  
14          experienced a lot more in the oil and gas  
15          field -- which is where I also live.  
16          Because like I say, almost nobody in my  
17          county has mineral rights because when  
18          people become old and they sell their land  
19          they like to give mineral rights to their  
20          heirs, even if their heirs are not living  
21          in the area. But it isn't really -- normal  
22          that people that have been paying their  
23          taxes for 40 years. So I guess I'm kind of  
24          -- it's hard to describe my feelings, but I

1 do know that next year is when the Kyoto  
2 treaty for greenhouse gases evaluation is  
3 due for the United States of America be  
4 involved in it also. So we're not just  
5 going to ignore the treaty starting next  
6 year because basically we are heading to  
7 what they call a tipping post of too much  
8 carbon dioxide in the air. And gas is part  
9 of the problem too. So we should be going  
10 towards wind and solar as much as we can.  
11 And in our county we have windmills galore  
12 and they are paying a lot more taxes to the  
13 community than the oil and gas industry is  
14 paying.

15 And we should look in general about  
16 the value of soil because in the future we  
17 are going to be more focused on food and  
18 that has to be done with clean and good  
19 soil. So soil will be very valuable. So  
20 all of those are factors but I'm just  
21 really nervous and I can't think of  
22 anything else, but I know there is plenty  
23 more. Thank you very much for the  
24 opportunity to speak.

1           ALJ: Thank you. The next speaker  
2 will be Megan Cosgrove.

3           MS. COSGROVE: Good evening, my name  
4 is Megan Cosgrove. I'm a life-long  
5 resident of New York State with family ties  
6 in Central New York going back, we think we  
7 have five plus generations. We know at  
8 least five. So I'm here for myself and for  
9 my family, my elders and generations yet to  
10 come. I'm in nursing school with plans to  
11 continue living in Central New York. And  
12 I'm sort of speculating to -- I'm trying to  
13 find a good place to live that I think is  
14 going to be safe for my family. I've read  
15 the DEC scoping documents and found it  
16 deficient in the area of health impacts.  
17 So I'd like to address this with a  
18 suggestion for the inclusion of a health  
19 impact statement in the overall scope of  
20 research prior to the issuance of the  
21 drilling permits.

22           While the DEC's area of  
23 responsibility clearly includes air and  
24 water quality, and this will be included in

1 the SGEIS, this does not go far enough to  
2 effectively protect public health. To  
3 fulfill their responsibility as the  
4 governing agency with regards to the  
5 issuance of drilling permits, the DEC must  
6 complete or work with other agencies to  
7 complete a health impact assessment. Just  
8 as we need a baseline assessment of air and  
9 water, we need one of our health and a plan  
10 for following up to ensure our safety and  
11 health.

12 And I'll just say that as far as I  
13 know there's no current available as a  
14 genealogical information about New York  
15 State since the year of 2000. That's not  
16 current enough information for us to use as  
17 a baseline in monitoring, planning and  
18 evaluating the impacts of drilling as we go  
19 forward. So I'll say a little bit more  
20 about the health impact assessment.

21 The World Health Organization and DEC  
22 both recommends these health impact  
23 assessments. And the World Bank uses them  
24 in making decisions about projects that

1           they're going to support. I know there are  
2           a lot of other organizations that use them.  
3           The World Health Organization defines  
4           health impacts as the overall effects,  
5           direct or indirect as a policy, strategy,  
6           program or project on the health of its  
7           population. And in its definition,  
8           physical, social, emotional and cultural  
9           impacts are all considered impacts of  
10          health.

11                 So it's used to basically objectively  
12           identify potential health impacts. And the  
13           DEC says on their website that -- that it's  
14           especially useful because it brings public  
15           health issues to the attention of persons  
16           who make decisions about areas that fall  
17           outside of traditional health arenas such  
18           as transportation or land use. So the  
19           steps in this process are screening,  
20           scoping, assessing risks & benefits,  
21           methods, developing recommendations and  
22           reporting and evaluating. It sounds a lot  
23           like this process that we are here tonight  
24           to discuss. But it has a focus on health

1 and I think that is very important to be  
2 included in a much bigger way.

3 So I won't talk a whole lot about  
4 chemicals because I've heard a lot of good  
5 information put forward. I will say though  
6 that Commissioner Grannis has stated before  
7 the New York State Legislature that the DEC  
8 will obtain and make public a list of  
9 chemicals that the industry plans to use in  
10 the extractions of gas from the Marcellus.  
11 Acting on this commitment is vital to the  
12 ability of the communities to protect the  
13 health of citizens and also for medical  
14 professionals to be prepared in the event  
15 of an accident, explosion or spill.  
16 Independent analysis of fracking fluids  
17 should be completed rather by decomposition  
18 information rather than these drilling  
19 company's valuable information about health  
20 effects should be provided for our health  
21 impact analysis purposes and made available  
22 to local officials and the public for  
23 review.

24 I've looked at a lot of research in

1 the last two days trying to get ready to  
2 sound like I know what I'm talking about up  
3 here, but one stood out, it was a  
4 literature review done by a group of  
5 researchers at the University of Colorado  
6 School of Public Health. And they said  
7 review literature research done within the  
8 last five years, it contains a lot of  
9 information about specific chemicals and  
10 the known health impacts of exposure to gas  
11 and oil drilling. So I'm providing copies  
12 of papers evidenced of scoping process and  
13 I'll just briefly tell you about it here.

14 Specific chemicals associated with  
15 fracking fluids, machinery and vehicle  
16 emission and ground chemicals brought forth  
17 by drilling are discussed along with noise  
18 and light pollution. Of the chemicals of  
19 known health effects and many of the  
20 chemicals identified had very little  
21 information available either about  
22 long-term low chronic exposure or that they  
23 just -- some of them had no information in  
24 fact. So whatever ones that had known

1 health effects, adverse effects beyond a  
2 huge range from skin irritation to  
3 headache, mental health issues, birth  
4 defects and fetal deaths, cardiovascular  
5 and respiratory diseases, cancer and  
6 particularly people understood it, I don't  
7 know about the others, but vehicle  
8 emissions have been known to be what's  
9 related to elevated states of heart attack  
10 and stroke. So that's a big deal, I didn't  
11 have to tell you that.

12 And the other thing, we heard that,  
13 you know, it's a little bit crazy for us to  
14 be talking about parts per trillion, but it  
15 was determined in this literature review  
16 that current maximum exposure  
17 recommendations for some chemicals  
18 including benzene, and I'm not thinking off  
19 the top of my head what the other ones  
20 were, that current exposure recommendations  
21 for these chemicals may not be protective  
22 against certain impacts including cancer.  
23 The overall -- of this study was that with  
24 this huge amount of information that was

1 recovered, the research and ultimate  
2 determination was that further  
3 investigation was needed. And it's clear  
4 to me that the data we have is alarming  
5 enough to determine necessary safety  
6 measures for protecting public health.

7 Air and water pollution have been  
8 addressed very well. Air and water  
9 pollution having demonstrated effects of  
10 natural gas drilling throughout the state,  
11 The American Lung Association considers air  
12 containing high levels of carbon monoxide  
13 and hydrogen sulfide, it's a possibility of  
14 immediate danger for life and health.

15 Ozone is known to cause respiratory disease  
16 and elevate risk for premature death even  
17 with short-term exposure. In the lit  
18 review that I'm submitting they found an  
19 EPA health effect in documents and numerous  
20 epidemiologic and experimental studies  
21 regarding diesel exhaust which show  
22 long-term exposure to diesel exhaust having  
23 adverse effects on human and certainly  
24 non-human health. It's considered a risk

1 factor of lung cancer as well as non-cancer  
2 health issues such as asthma, chronic  
3 obstructive pulmonary disease and  
4 allergies.

5 And on top of that, we've got  
6 combinations of various pollutants that may  
7 be present at a drilling site. So this  
8 presents an even more complex problem. And  
9 as I stated before, assessing potential for  
10 air and water pollution as in the draft is  
11 not enough to fulfill the needs and  
12 responsibility for the public. It must  
13 clearly identify health risks and  
14 preventions and monitoring strategies  
15 before giving agreement to any drill.

16 Noise, so we know that low levels of  
17 constant noise are capable of damaging  
18 health. It's actually common practice in  
19 animal research studies to induce  
20 physiological stresses on them such as  
21 elevated blood pressure and synthetic air  
22 continuation by using constant white light  
23 stimulation. So the impact of noise and  
24 quality of light should not be ignored, nor

1           should it be written off as something  
2           individuals signed up for as it applies by  
3           the scoping documents. The levels of noise  
4           created at the drilling sites should be  
5           addressed that we're permitting and should  
6           be reassessed from the standpoint of  
7           health.

8                         Site-specific issues as a role of  
9           local government and permitting, topography  
10          and water flow within a residences distance  
11          are necessary data in determining well  
12          placement in relation to water supply.  
13          Municipalities should be involved in the  
14          permitting process to the extent, at least  
15          to the extent that there's specific  
16          knowledge that key local factors should be  
17          sought out and used in determining whether  
18          a site is appropriate for water withdrawal  
19          or permitting. Local public health  
20          agencies can be mobilized to gather initial  
21          and monitor & evaluate health assessment  
22          data.

23                         Acute health issues are possible as  
24          high concentrations of chemicals might

1 occur with major leakage, a situation that  
2 should be planned for with the cooperation  
3 of municipalities and local healthcare  
4 facilities based on the specific resources  
5 available at each site.

6 So I'm talking again about  
7 site-specific planning. The ability of  
8 municipalities in such a rural area and  
9 responses of the situation should be  
10 researched before the possibility of an  
11 event -- of such an event exists long-term  
12 exposure to aesthetic and other  
13 drilling-related chemicals have the  
14 potential to affect entire communities. As  
15 among other things increased diesel traffic  
16 and air pollution are certainties and  
17 drinking water pollution a definite  
18 possibility.

19 I would also like to point out the  
20 importance of a thorough cumulative impact  
21 assessment as related to health impacts.  
22 The overall issues of noise of multiple  
23 drilling sites and re-fracking at  
24 individual sites over time will have

1 significant effects on air/water quality,  
2 environment and quality of life for human  
3 and non-human residents nearby.

4 I love this land. And I hope with  
5 all my heart that it will continue to  
6 nourish my family as it has done for  
7 however many generations. So much is at  
8 stake here. Children, pregnant women and  
9 the elderly are known to be particularly  
10 sensitive and susceptible to the ill  
11 effects of exposure to toxic chemicals and  
12 other environmental stressors. But we will  
13 all feel the effects of poor oversight of  
14 planning. The long-term physical and  
15 psychological effects of our families and  
16 communities will be impacted by the  
17 decisions and actions of the DEC on this  
18 matter. The New York State DEC is an  
19 impressive agency in many ways. It has the  
20 capacity, I hope, to do an excellent job  
21 protecting the integrity of our communities  
22 at hand and if it is determined that the  
23 DEC's capacity at this point is not enough  
24 to protect us, we are not ready.

1           I hope that the allure of economic  
2 stimulation and energy independence will  
3 not outweigh our need for a safe and  
4 healthy home which will far outlast the  
5 money from the gas. Let us learn from the  
6 experiences of other states, allowing  
7 research from Pennsylvania, Colorado and  
8 others to illuminate areas that require the  
9 attention of New York State DEC. As I've  
10 heard others say before, the gas isn't  
11 going anywhere. Please, let it remain  
12 where it is, until or unless our health and  
13 homes are truly protected. Thank you very  
14 much.

15           ALJ: Thank you. The next speaker  
16 will be Ben Sherman.

17           MR. SHERMAN: Hi, my name is Ben  
18 Sherman and I represent standing here three  
19 generations, including myself, who you've  
20 heard speak tonight. At least the youngest  
21 of them, my little granddaughter by being  
22 happy and healthy and you heard running  
23 around the room here was making her own  
24 comments very well known. And I would like

1 ultimately for that situation to continue.  
2 For her to be happy and health for a long,  
3 long time.

4 I live in a rural county -- in Tioga  
5 County, right in the middle of the  
6 potential gas field. We moved from New  
7 York City around 38 years ago. My wife had  
8 a serious illness and we thought we wanted  
9 to get away to get better health, to get a  
10 better style of living where her health  
11 could be improved. A lifestyle of peace --  
12 peaceful and healthy surroundings. We love  
13 our home and our 22 acres of tranquility.  
14 Gas fracking and all those companies that  
15 use it will destroy this community and  
16 return us to the pollutants that we tried  
17 to escape. The nature of our rural land  
18 and the community we live in, which makes  
19 possible the lifestyle that we love, the  
20 family lifestyle, also affects some of the  
21 industries that sustain us, industries and  
22 businesses. And that's some of the issues  
23 that I want to address specifically  
24 tonight. I know a lot of other issues were

1 addressed and I want to be a little more  
2 specific and hone in on others.

3 So I'm not going to take an awful  
4 long time. I think a lot of us are fading  
5 at this point. So I'd like to just  
6 quickly, at least as quick as I can, to go  
7 over some of the effect on industries. Of  
8 course the most glaring would be  
9 agriculture. Tioga County specifically is  
10 a hot bed of organic farming. The remnants  
11 of the milk industry is hanging on to Tioga  
12 County. Vegetable farms, fruit orchards,  
13 they are all in danger by the water  
14 contamination, especially the organic farms  
15 of not being able to say that their foods  
16 are clean and pure anymore which is a big  
17 deal. The probability of toxic spills  
18 containing runoff into our streams and the  
19 irrigation of crops, the long-term  
20 possibility of injected waste water  
21 percolating into the aquifer. Air quality  
22 along with wells affects negatively crop  
23 pollution which has been mentioned earlier.  
24 Noise, lights are negative effects --

1 negatively affect milk production and of  
2 course our own sanity. The weight of  
3 hundreds of multi-ton trucks will destroy  
4 the roads that they go on. And who's going  
5 to pay for it. The towns don't have the  
6 money for it.

7 Okay. Secondly, agri-tourism which  
8 is becoming a -- that along with  
9 art-tourism is becoming an industry in  
10 Tioga County and the surrounding counties.  
11 The physical beauty of the land that we  
12 live upon draws mentors to our area. And  
13 if the proliferation of gas fields  
14 continues, I wouldn't want to be the  
15 tourist to come and see the beauty of our  
16 lands being dotted with drilling sites,  
17 both finished and in process. I'd go  
18 somewhere else where the environment is  
19 more pristine. And tourism in general is  
20 going to be affected. I know Watkins Glen  
21 has put in the big hotel. Ithaca has a new  
22 hotel and another one being built. B&Bs  
23 are proliferating. All of these are being  
24 put in to tax the potential of the wine

1 industry, the agri-tourism. All of those  
2 things are there and that are being put in  
3 because we live in an area that people want  
4 to come to and we don't want to change  
5 that. We want people to still come here  
6 because of the healthy rural lifestyle.  
7 Its peacefulness, its beauty, its health.  
8 All of that will disappear and the proposed  
9 making of Tioga and surrounding counties  
10 with the gas fields. With that, dying of  
11 tourism. And of course I could be a little  
12 bit more specific about the wine industry.  
13 When we first came up here from New York  
14 City in 1970, all of these vineyards, at  
15 least I would guess 95 percent of them were  
16 -- they weren't being used, the wine  
17 industry was in decline. And now that we  
18 found out that wine is healthy, every year  
19 when we travel up and down the lakes, which  
20 we do quite often, we see new vineyards  
21 serving every year, any many new vineyards  
22 every year. And occasionally we see a gas  
23 well interspersed with the vineyards, which  
24 is distracting to say the least. And I am

1           projecting that if that continues, first of  
2           all the effects of the pollutants on the  
3           vineyards is going to be intense along with  
4           any other crops in the vicinity of the  
5           wells. So I think wine tourism and also  
6           the wine industry will be affected by  
7           having the proximity of these wells and  
8           because no one will be hunting and fishing.

9                     The sounds, the lights, the road  
10           issues, the possible spills, animals are  
11           very shy and they really try to get away  
12           from all of this stuff. I mean, hunting  
13           season is starting now and the animals are  
14           moving and we just hit three deer in the  
15           last month and a half. And you can imagine  
16           what could happen with the noise and the  
17           activity that would be generated by these  
18           proliferation of wells. These animals  
19           would go crazy, they would be all over the  
20           place.

21                     And another one would be real estate,  
22           which was specifically mentioned by one of  
23           the speakers. When you have a gas well on  
24           your property you have a lien on your

1 property. And it's going to be extremely  
2 difficult if you ever want to move and sell  
3 your land, sell your house, to get a loan  
4 from the bank because there is a lien on  
5 your property. Once you've signed a  
6 contract, the gas company could be there for  
7 years and years. All they have to do --  
8 even if they haven't done anything on your  
9 land, okay, and your contract is up, if you  
10 don't want to sign, they could start some  
11 innocuous work on your land and that will  
12 perpetuate the contract. So you're locked  
13 in there for years and years. So real  
14 estate values will go down. You won't be  
15 able to sell your property. You won't be  
16 able to sell your land.

17 And lastly, high tech industries,  
18 that might be a bit of a stretch, but I  
19 don't think so. We have the universities,  
20 Binghamton University, Cornell, Ithaca  
21 College, that produce scientists, engineers  
22 that like to stay in the area. There are  
23 many small high tech industries in the area  
24 that are directly a result of these

1 professionals that want to stay in the area  
2 because of its beauty. And these people  
3 are not stupid people. They read, they  
4 understand what's happening. And I suspect  
5 -- I suspect that as things evolve and  
6 develop and they see that the environment  
7 and the welcoming of the land for their  
8 families is no longer there, they will move  
9 on to other places where the money is also  
10 good but the environment is better. Okay.  
11 I'm sorry the light is on 'cause I've had  
12 to paraphrase my comments because I can't  
13 see them too well. Okay. To the DEC,  
14 please read all the literature that's  
15 available concerning similar drilling  
16 operations in other parts of the country.  
17 And the reports of scientists enumerating  
18 the many detrimental consequences of gas  
19 drilling. You're the people who we want to  
20 trust to protect us. Please, please do so.  
21 Our lifestyle, our health and the health of  
22 our children and grandchildren are at  
23 stake. So remember, scientific studies  
24 assured us, they assured us cigarette

1 smoking was safe. It's always the -- PCBs,  
2 dioxins, fire retardants and also  
3 insecticides and herbicides, drug hormones  
4 and antibiotics in our meats. We could go  
5 on and on without any levity, the whole  
6 process of Marcellus shale drilling and  
7 fracturing and it's effects seems like deja  
8 vu all over again. And my apologies to  
9 whomever made that comment originally. We  
10 are already exposed to so many pollutants  
11 as been mentioned. Okay. And I truly  
12 believe that many of our illnesses are not  
13 caused by one factor, there are many, many  
14 causes of our illnesses. And most of it is  
15 pollutants and it's a combination of  
16 pollutants. One you could probably eat the  
17 stuff coming out of the wells and if that  
18 was the only thing that we were exposed to  
19 and we'd still be pretty healthy, probably.  
20 Like that gentleman who said he got  
21 splashed with it and he probably walked  
22 away with a smile on his face. Okay. But  
23 I think the combination and the additional  
24 pollutants that the wells will add might be

1 the straw that breaks the camel's back for  
2 some of us. And that's going to be the  
3 ones that are going to suffer. So please,  
4 to the DEC, consider all of these things.  
5 And things are not immediately evident,  
6 things can happen down the line 50 years as  
7 also mentioned. Thank you.

8 ALJ: We have about 14 additional  
9 people signed up to speak and after we take  
10 a break about an hour and a half left to  
11 use the space here for the meeting. So if  
12 you could go over your statement if you  
13 have a written statement or if you have  
14 notes and maybe abbreviate it or just  
15 summarize things, that would be helpful.  
16 We'll take a short break for about five or  
17 ten minutes.

18 (RECESS TAKEN)

19 ALJ: Could you take your seats,  
20 please, and we'll resume. As I said, there  
21 are about 14 additional people who  
22 indicated they would like to speak. If you  
23 could keep your statements to about four  
24 minutes or less that would be helpful. The

1 room here is going to be -- our use of the  
2 room here is going to be ending at 10:00  
3 tonight. Okay. The next speaker will be  
4 Janet Sherman. And after her will be Mark  
5 Scheuerman.

6 MS. SHERMAN: Hi, I'm Janet Sherman  
7 and actually practically all of my family  
8 has already spoken. In addition to them,  
9 many of the points that were said is  
10 extremely dear to my heart. I'm a really  
11 emotional person and this whole issue has  
12 affected me tremendously. And actually I  
13 think it's affected all of us. I think  
14 that we have already experienced a lot of  
15 hostility in the whole -- the communities  
16 are actually really, you know, against each  
17 other, people who have signed, who have not  
18 signed. It's caused already a lot of  
19 animosity and being an emotional person I  
20 actually feel it tremendously. But I don't  
21 know how that can be healed, it's already  
22 started to have impact on our lives. I'm  
23 hoping there will be ways of healing that  
24 as time goes on.

1                   One of my biggest fears is for the  
2                   future. The future generations are, as you  
3                   know our beautiful grandchild who was here.  
4                   The generations that will come after her, I  
5                   am filled with fear as to what this all  
6                   means, I really am, if this continues. I  
7                   don't trust the industry. I don't trust  
8                   the gas industry. People have been lied  
9                   to, our neighbors have been lied to. They  
10                  have been told things that aren't true. I  
11                  find that they have not taken  
12                  responsibility, for instance, there is a  
13                  gas well that I just read about in  
14                  Pennsylvania near Montrose where it has  
15                  caused a well to be contaminated already.  
16                  And the article stated that the gas company  
17                  doesn't feel they are to blame. Oh, there  
18                  comment was, well, get polluted, it's got  
19                  nothing to do with us. Out of the goodness  
20                  of their hearts they are going to help  
21                  clean it up. We have people in our area,  
22                  in fact a neighbor of mine who was  
23                  threatened for not signing by another  
24                  neighbor because he was considering signing

1           that other person up for making money. I  
2           mean this to me just seems to go on and on,  
3           neighbors were lied to about who signed,  
4           who didn't sign.

5                        I have no feeling about these  
6           companies being accountable. So I guess  
7           what I'm asking from the DEC is to really,  
8           really be on top of this. The toxicity of  
9           the chemicals I've heard about through Dr.  
10          Leo Coburn's presentation that I sat  
11          through in a Binghamton meeting was  
12          horrific. Apparently there was some gas  
13          explosion in New Mexico that she had the  
14          ability to test the components in those  
15          wells and the toxicity of what was used in  
16          those fracking materials. And nobody could  
17          believe because it was so awful a chemical  
18          that caused nerve damage. As somebody said  
19          before, things that would harm newborns and  
20          fetuses, it's just mind boggling, you know.  
21          It's almost unbelievable that these  
22          materials are used. And I think I'm right  
23          that she actually said that 90 percent of  
24          the materials that she found in those wells

1           were not listed as the materials from --  
2           that they were using from the gas  
3           companies.

4                        So what do you do about dishonesty, I  
5           don't know. But I want so badly for the  
6           DEC to be on top of this for knowing the  
7           truth of what's going to be used. And if  
8           necessary, have an outside overseeing  
9           ability from other agencies to check on  
10          these people. And I am scared that there  
11          is no money to do this. The state is  
12          broke, what to do, I would love to be more  
13          confident, but I'm not. I'm really very  
14          frightened. I'm hoping for the best.  
15          Thank you.

16                      ALJ: Thank you. The next speaker  
17          will be Mark Scheuerman and after him will  
18          be Dirk Trachy, T-R-A-C-H-Y.

19                      MR. SCHEUERMAN: Good evening. I'll  
20          do my best to confine my remarks to four to  
21          five minutes and I thank you all for  
22          staying. Your Honor, my name is Mark  
23          Scheuerman, I serve as the general counsel  
24          and manager of public relations at Fortuna

1 Energy. I'm also a life-long resident of  
2 New York. I was born and raised in Upstate  
3 New York, was educated in schools in New  
4 York and love this area very much.

5 Your Honor, Fortuna Energy deeply  
6 appreciates the opportunity to provide this  
7 statement in connection with the draft  
8 SGEIS scoping document hearings and the  
9 analysis of the potential environmental  
10 impacts of producing natural gas from the  
11 Marcellus shale geologic formation.

12 Of the six scheduled scoping  
13 hearings, two are in Fortuna's area of core  
14 operations. Tonight's hearing and  
15 yesterday's in Bath, are both in that area  
16 and as such, I will be making a statement  
17 here tonight that summarizes much of my  
18 more detailed comments given at last  
19 night's hearings. For anyone who would  
20 like a copy of those remarks, I will be  
21 happy to provide them upon request.

22 In addition, we would also like to  
23 recognize the DEC staff, both in Albany and  
24 the Region 8 office in Avon, for their work

1 on behalf of the citizens of New York.  
2 They have the significant task of guarding  
3 the public interest with respect to the  
4 greater ultimate recovery of oil and gas,  
5 as well as the protection of our treasured  
6 natural resources. The proper balance  
7 between these two important goals is  
8 something all of us strive for every day  
9 and since 2002, it has been our privilege  
10 to work with these dedicated professionals  
11 during Fortuna's exploration and  
12 development of the Trenton Black River  
13 formation. We look forward to continuing  
14 that work with the DEC in New York's  
15 Marcellus shale at the soonest possible  
16 time.

17 Socio-economic benefits: As New York  
18 State's most successful natural gas  
19 exploration and development company,  
20 Fortuna Energy annually accounts for about  
21 70 percent of New York's total natural gas  
22 production. In 2007, Fortuna commissioned  
23 an economic impact study to analyze its  
24 economic impact study on the Southern Tier

1 of New York. That study was carried out by  
2 Penn State professor of Natural Resource  
3 Economics, Tim Considine. Dr. Considine's  
4 study focused on Fortuna's annual economic  
5 impact in the eight county area of New  
6 York's "Southern Tier" region and revealed  
7 that Fortuna's operations have \$90.4  
8 million in total annual economic impact,  
9 including a direct spending stimulus of  
10 more than \$64 million resulting in the  
11 equivalent economic impact of more than 730  
12 new full-time jobs.

13 With the prospect of annual spending  
14 in pursuit of the Marcellus shale in New  
15 York being many multiples of this level of  
16 expenditure, it is fair to estimate that  
17 Fortuna Energy's Marcellus shale activity  
18 could generate an economic impact  
19 sufficient to create many thousands of new  
20 jobs in Upstate New York. Unfortunately,  
21 in the face of a much longer delay before  
22 drilling permits can be issued following  
23 the completion of the SGEIS, Fortuna Energy  
24 has been forced to re-evaluate its pending

1 projects in New York that contemplate  
2 exploration and development in the  
3 Marcellus shale.

4 Although we applaud DEC Commissioner  
5 Pete Grannis' commitment to conclude the  
6 SGEIS process as soon as possible, there  
7 remains significant uncertainty concerning  
8 when New York State will be in a position  
9 to issue Marcellus shale drilling permits.  
10 In the meantime, the commercial and  
11 business demands facing our company simply  
12 cannot wait. Assurances made for an  
13 expeditious conclusion of the SGEIS without  
14 solid commitments to do so by a specific  
15 date, are insufficient to allow Fortuna  
16 Energy to commit large amounts of  
17 investment risk capital necessary for the  
18 development of the Marcellus shale in New  
19 York at this time.

20 Thus, until a final SGEIS is  
21 completed and reliable drilling permits are  
22 able to be issued based on that final  
23 SGEIS, Fortuna has re-directed all of its  
24 Marcellus shale efforts to Pennsylvania and

1 halted all leasing activity associated with  
2 that formation in New York.

3 During this delay, New York is facing  
4 the loss of tens of millions of dollars of  
5 direct economic impact stimulus and is  
6 forfeiting the opportunity to create  
7 thousands of new jobs at a time in our  
8 state's history when they have never been  
9 needed more. Moreover, this risk also  
10 extends to the long-term viability of New  
11 York as a desired location for Marcellus  
12 shale development as operators face the  
13 expiration of contiguous land positions  
14 into fragmented holdings that will be  
15 commercially unattractive for many years to  
16 come.

17 Primary points concerning the draft  
18 SGEIS scoping document: Number one, recent  
19 legislation signed into law by Governor  
20 Paterson, extended the well spacing and  
21 setback requirements for horizontal shale  
22 wells, along with one of the most robust  
23 and rigorous regulatory programs in the  
24 nation, are sufficient within the bounds of

1 the current GEIS, to properly address  
2 drilling activities in the Marcellus shale.

3 Number two, we ask that everyone  
4 involved take special note of the statement  
5 within the draft scoping document that  
6 there is no documented instance of any  
7 groundwater contamination caused by  
8 hydraulic fracturing for gas well  
9 development in New York, despite the use of  
10 this technology in thousands of wells  
11 across New York over the last 50 years.

12 Number three, we agree with the  
13 Department's decision to limit the scope of  
14 the SGEIS to primarily those impacts  
15 involving the use of increased amounts of  
16 water during the hydraulic fracturing  
17 process.

18 Number four, Fortuna has a dedicated  
19 unit of full-time employees whose sole task  
20 is to work with communities and stakeholder  
21 groups well ahead of the drilling and  
22 development stage for each well, in order  
23 to plan for the temporary surface impacts  
24 from Marcellus shale operations. We offer

1           this activity, known as the Fortuna Energy  
2           "Good Neighbor" program, as a model that  
3           could be adopted by industry participants  
4           right now. Details of the Good Neighbor  
5           program can be viewed at [FortunaEnergy.com](http://FortunaEnergy.com).

6           In conclusion, to conclude in light  
7           of the existing regulatory structure in New  
8           York with respect to oil and gas drilling,  
9           as well as the nature of hydraulic  
10          fracturing and the conditions under which  
11          it occurs, Fortuna Energy believes that  
12          adequate regulatory protections are already  
13          in place with respect to oil and gas  
14          operations in New York. Development of the  
15          Marcellus shale gas resource can and will  
16          be undertaken in a way that allows  
17          development of this important energy  
18          resource in a manner that will not result  
19          in any contamination of drinking water or  
20          other adverse effects on the environment.  
21          Further, our commitment to working with  
22          communities and other stakeholders to limit  
23          the temporary effects from Marcellus shale  
24          operations should be a model that industry

1           associations and individual operators adopt  
2           and implement right now in New York State.  
3           We commend the DEC for their limitation of  
4           the scope of the SGEIS process currently  
5           underway and urge those who would seek to  
6           expand or attack this approach to be  
7           mindful of the great price New York will  
8           pay in the form of lost economic  
9           opportunity if further delays occur.

10                       Finally, when considering the  
11           positions of those who would oppose the  
12           development of New York's natural gas  
13           resources, we ask that you demand of them  
14           the same level of accuracy, accountability  
15           and empiricism that you ask of us. For in  
16           the final analysis, we believe all points  
17           of view should be fairly judged in the  
18           absence of false, misleading or  
19           unsubstantiated assertions and it is our  
20           hope that through the SGEIS process, that  
21           outcome will ultimately be achieved. Thank  
22           you.

23                       ALJ: The next speaker will be Dirk  
24           Trachy and after him Candace Mingins.

1 MR. TRACHY: Hello. There is a  
2 certain type of pattern which I feel exists  
3 really strongly within our culture wherein  
4 one can intersperse friendliness and kind  
5 reassurances with threats and they all kind  
6 of bundle together and that's supposed to  
7 be a successful way of communicating and I  
8 think that's what we just experienced. And  
9 everybody knows what a threat feels like,  
10 but do this or we are going to take away  
11 everything, that seems to be a very  
12 persistent, the senator that opened this up  
13 had very similar things to say as did all  
14 the politicians who had to speak. It  
15 really tends to strike me as being similar  
16 to those threats commonly used by domestic  
17 abusers who hold purse strings. You are  
18 going to deny your own safety and concerns  
19 and put off putting them like it's  
20 important or you're going to go without.  
21 That's what was just said to you. And I  
22 feel like that's what's being said to all  
23 of us across our whole region. The gas  
24 isn't going to go anywhere, people have

1           already said that. As energy resources  
2           become increasingly scarce, every single  
3           place where there are energy resources is  
4           going to be available at some point under  
5           this particular arrangement of doing  
6           things. They are never going to take, you  
7           know, a supply of oil or a supply of coal  
8           or a supply of natural gas and say, we're  
9           not going to touch that because you acted  
10          too slowly. No, they are going to take all  
11          of the gas. See, that's what a corporation  
12          does. A corporation is ultimately I think  
13          called -- obligation. The corporation's  
14          sole guiding light is to maximize  
15          short-term returns for gases. Everything  
16          else is public relations. Friendly  
17          neighbors act, like whatever. Like that is  
18          the bottom line reality. And therefore a  
19          corporation will be staffed by people who  
20          only comport themselves to that reality.  
21          That's what it is. The fiduciary  
22          obligation of a corporation, that's how it  
23          works. Anything else is public relations.  
24          And like I said -- I feel like most of the

1 things that I had to say have already been  
2 said. I would like to stress once again  
3 how DEC possibly would have enough people  
4 to keep an eye on all of those sites, how  
5 will it be funded. Our financial crisis  
6 deepens as a hiring freeze persists, as  
7 state budgets will have to be cut back.  
8 There are already enough people to  
9 reinforce the regulations. However good or  
10 not good the regulations might be, if  
11 there's no one to enforce them, they might  
12 as well not exist. Thank you very much.

13 ALJ: Thank you. The next speaker  
14 will be Candace Mingis followed by Matthew  
15 Sheppard.

16 MS. MINGIS: Hi. I also have been a  
17 landowner, a taxpayer for 35 years in New  
18 York. And this really will be brief  
19 because most things have been said. I  
20 appreciate Commissioner Grannis' statement  
21 to the standing committee of the  
22 environmental conservation that the DEC  
23 will make decisions based upon fact  
24 findings and engineering. However, I

1 believe many of the scientific studies  
2 about the impacts of this unconventional  
3 method of natural gas extraction have yet  
4 to be conducted.

5 The first point I want to make is  
6 that I urge the DEC to be perfectly clear  
7 about the issue of re-fracking. This was  
8 stated by Commissioner Grannis that a well  
9 is typically fracked only one time. Either  
10 the DEC will prohibit multiple fracking on  
11 each well or it must include the maximum  
12 possible frackings in its code. This  
13 matters. Water usage, trucking,  
14 disturbance, waste disposal, all of it can  
15 be multiplied by ten adding it to the  
16 cumulative impact. And of course this  
17 would mean that the size of the well head  
18 would not be reduced in the life span of  
19 the well. But we need to know.

20 Secondly I urge the DEC to fully  
21 consider cumulative impact. The scope of  
22 this development is way beyond considering  
23 each well as "of independent nature" as  
24 stated in the SGEIS. The development

1 proposed will forever change our landscape  
2 and our lives. I speak from personal  
3 experience.

4 In 1999 our family signed a ten year  
5 lease with the small abandoned wells on our  
6 hills in mind. That was before there were  
7 informational forums and before most  
8 attorneys knew anything about what was to  
9 come. In 2006 the Trenton Black River well  
10 was drilled on our farm. Our family has  
11 been impacted in one way or another ever  
12 since. The well site which we did not want  
13 in the middle of a Howard gravelly field was  
14 moved there to be further from the creek.  
15 What was to take three to four acres for  
16 development ended up taking eight acres.  
17 The agreed upon location of access road was  
18 ignored and we had to insist that it be  
19 done. When the site was produced, the  
20 restoration of the land around it was not  
21 repaired as per written agreement and it  
22 will be incumbent upon us to make sure that  
23 it is. It took us over three months to  
24 drill the well, 24 hours seven days a week



1 farm. They are now seriously considering  
2 not doing so because of the unknowns and  
3 the potential risks of the Marcellus  
4 development. This breaks our hearts. Our  
5 family has been cumulatively impacted.  
6 Without a doubt the DEC must consider the  
7 impacts, not only from what is in its  
8 jurisdiction but from faults in the purview  
9 of other agencies or departments as well.  
10 The air quality, compressors, pipeline  
11 construction, final disposition of wastes,  
12 etcetera, this all adds up to affect us.

13 Over 130 families benefited from  
14 royalties from the well on our property.  
15 It is a good thing when folks can finally  
16 afford to replace their roofs or have  
17 something toward retirement, but we need to  
18 know the risks as well as the benefits of  
19 Marcellus shale development. We need  
20 information. The public has a right to  
21 know what's in that fracking solution. We  
22 need scientific studies on health,  
23 aquifers, accident probability, baseline  
24 data on air, water and wildlife, studies on

1           injections, disposal, etcetera. It does  
2           not ease citizen's concerns by  
3           marginalizing them or calling them  
4           agitators. It does not ease citizen's  
5           concerns by implying that there's nothing  
6           different here than in Chautauqua. It does  
7           not ease citizen's concerns by implying  
8           that the experiences in Upstate are  
9           categorically irrelevant.

10           I'm not saying don't drill. The  
11           point is the scale of this. Please, slow  
12           this down, conduct studies. We need  
13           scientific data demonstrating unequivocally  
14           that our natural resources and our health  
15           will not be harmed.

16           ALJ: Thank you. The next speaker  
17           will be Matthew Shepard followed by Suzie  
18           Stevens.

19           MR. SHEPARD: Thank you very much,  
20           Judge, for allowing me to speak this  
21           evening. My name is Matt --

22           PUBLIC: Try to address the actual  
23           scope?

24           MR. SHEPARD: Pardon me?

1 PUBLIC: Try to address the actual  
2 scope.

3 ALJ: Okay. Go ahead with your  
4 statement, please.

5 MR. SHEPARD: My name is Matt  
6 Shepard, I'm the director of corporate  
7 development of Chesapeake Energy  
8 Corporation's Eastern Division. Chesapeake  
9 is the largest producer of clean-burning  
10 natural gas in the country and is  
11 responsible for more than 150 operating --  
12 for new reserves and production across our  
13 18 state operating area. We also are  
14 responsible approximately four percent of  
15 natural gas produced in the United States.  
16 Chesapeake is also the largest leasehold  
17 owner in the Marcellus shale which  
18 stretches from New York to West Virginia,  
19 as well as the number one developer of  
20 shale gas in America. In the State of New  
21 York alone we have an estimated one million  
22 acres under lease which includes the  
23 Marcellus shale and other prospective  
24 formations.

1           As I have outlined in my attached  
2           more detailed comments, the process of  
3           horizontal drilling and well stimulations  
4           scrutinized under the post scope of the  
5           Department of Conservation's Supplemental  
6           Generic Environmental Impact Statement are  
7           largely addressed by the existing Generic  
8           Environmental Impact Statement with  
9           reasonable clarity and accuracy. The  
10          difference between the drilling of vertical  
11          wells compared to the drilling of  
12          horizontal wells are subtle and in many  
13          cases demonstrate that horizontal drilling  
14          is actually a socially responsible act if  
15          not more than vertical well drilling. I  
16          will briefly address that.

17                 Horizontal drilling is the process of  
18                 drilling and completing the well that  
19                 initially drills the vertical well at a  
20                 given depth at which point through the use  
21                 of a specialized motor the drill bit is  
22                 then termed liable. From this point the  
23                 drill bit demonstrates the target zone by  
24                 moving horizontally thereby exposing more

1           trapped natural gas to the well zone. By  
2           utilizing this method we are able to drill  
3           as few as six to eight wells to produce the  
4           same volume of gas that would require no  
5           less than 16 vertical drills. Despite the  
6           common misconception, horizontal drilling  
7           is not a new method, in fact it has been  
8           utilized within the State of New York since  
9           1989.

10                         With that said, horizontal drilling  
11           is now, through the use of well stimulation  
12           technologies applied to low permeability  
13           reservoirs which heretofore have not been  
14           commercially viable. It should be noted  
15           that the drilling rigs utilized in the  
16           drilling of horizontal wells are quite  
17           similar in size and configuration to those  
18           used for vertical wells which were  
19           addressed in the existing GEIS.

20           Accordingly, there are no environmental  
21           impacts through the use of these drilling  
22           rigs that were not contemplated by the  
23           existing GEIS. While I have explained how  
24           a horizontal well is drilled, I have not

1 mentioned how deep they are drilled. A  
2 typical Marcellus shale natural gas well is  
3 drilled vertically to a depth of  
4 approximately one mile before the move to  
5 horizontal drilling is made. While the  
6 depth combined of the length of the  
7 horizontal dig may lead one to believe that  
8 the volume of fluid and amount of drill  
9 pipe in such activity may be dramatically  
10 more for the traditional well, such notions  
11 are false. This is due largely to the fact  
12 that this requires significantly fewer  
13 wells to be drilled to produce the same  
14 volume of natural gas from the --  
15 reservoir.

16 Another method of horizontal drilling  
17 is to combine the noise, visual impacts and  
18 increased vehicle traffic to a more limited  
19 area. Utilizing vertical drilling, these  
20 inconveniences are stretched through a  
21 greater area and impact a greater number of  
22 people and places. Chesapeake works  
23 diligently every day to reduce the impact  
24 on citizens' daily routine where necessary

1           alternate routes are utilized, pipelines  
2           are utilized and noise reduction methods  
3           and technology are employed. And in the  
4           end horizontal drilling requires less  
5           acreage than vertical drilling. With that  
6           said, vertical drilling, which has been a  
7           staple in New York's exploration and  
8           production efforts since 1821 must always  
9           remain available as a viable option.

10                        Finally the same environmentally  
11           protected protocols prescribed for use in  
12           vertical wells are utilized in horizontal  
13           wells. That is the same casing and many  
14           requirements used in vertical wells are  
15           followed and used for horizontal wells.  
16           Accordingly fresh water aquifers are just  
17           as adequately protected. In addition,  
18           given the depth of horizontal Marcellus  
19           wells in New York, there is layer upon  
20           layer upon layer of impermeable rock  
21           formations between the reservoir walls,  
22           rock and any table of fresh water.

23                        In closing I would like to note that  
24           the overall long term possible benefits of

1 moving forward with horizontal well  
2 drilling and low permeability natural gas  
3 reservoirs such as the Marcellus shale are  
4 seemingly immeasurable. In 1992 the  
5 original GEIS used a multiplier of 1.4 to  
6 estimate the economic contributions to the  
7 state's economy from oil and gas  
8 development and production. At that time,  
9 it was estimated that for every million  
10 dollars spent, 7.9 jobs would be created.  
11 As evidenced in other areas of the country,  
12 specifically those in Oklahoma, Arkansas,  
13 Texas and Louisiana, which have been  
14 exploring or producing natural gas in low  
15 permeability formation similar to the  
16 Marcellus shale, these numbers are grossly  
17 understated. Given the relatively even  
18 distribution in the developmental  
19 activities, it is unlikely that a racial,  
20 ethnic, or socio-economic group would be  
21 disproportionately affected by the  
22 developmental activities. In short, the  
23 benefits of New York and its citizens could  
24 realize the exploration and production of

1 formation such as the Marcellus shale far  
2 outweigh any theorized downside.

3 ALJ: Thank you. The next speaker  
4 will be Suzy Stevens. Is Suzy Stevens  
5 here? Julian Drix?

6 MR. DRIX: Before I start my  
7 statement, I just want to point out that  
8 none of us here are on equal footing. The  
9 people here speaking on behalf of the  
10 corporations are representing some of the  
11 most powerful multinational interests in  
12 the world. To give a little background,  
13 Chesapeake who just spoke, just yesterday  
14 the news came out that they sold 33 percent  
15 of their landholdings to Marcellus for a  
16 joint operation with Statoil Hydro --  
17 Statoil Hydro is a Norwegian company which  
18 is the largest provider of gas to Europe  
19 and together they will be operating in the  
20 New York and Pennsylvania area implanting  
21 between 13,000 and 17,000 wells over the  
22 next 20 years. Statoil Hydro, if you  
23 search them, and look up the /scandal has  
24 been -- has had some of its executives

1 resign because of scandals in Libya and  
2 Iran for corruption cases.

3 Earlier we heard from Fortuna, a nice  
4 local friendly neighborhood energy company  
5 which just happens to be a wholly owned  
6 subsidiary of Talisman Energy. Talisman  
7 Energy operates in Sudan where the  
8 Presbyterian church of Sudan has accused  
9 them of supporting genocide. The  
10 Presbyterian church of the United States,  
11 in backing up the Presbyterian church of  
12 Sudan, has been pushing for divestments of  
13 all of Talisman's resources. These are non  
14 innocuous interests. They are not looking  
15 out for our best interests. In Peru,  
16 Talisman Energy is occupying indigenous  
17 lands. Indigenous groups in the area have  
18 asked them to cease all operations and  
19 leave for fear of pollution and a ceasing  
20 of their livelihood, no longer having the  
21 ability to continue living traditional ways  
22 which are in balance with the planet and  
23 sustainable. They have said that if  
24 Talisman does not leave, they will have to

1           blockade them in until they leave. We  
2           should be wise to follow suit.

3                       That was not part of my planned  
4           statement, but I felt it necessary to  
5           address. I want to back up for a minute  
6           here and look at what this whole GEIS  
7           process is about. With all of these  
8           beliefs and wrong titles, the draft scope  
9           for the draft Supplemental Generic  
10          Environmental Impact Statement, who's  
11          excluded from the strategy? Whose voices  
12          are listened to more than others? Which  
13          ways of speaking gets reworded and listened  
14          to, whose logics are involved in it every  
15          single day? Who is called uninformed, not  
16          an expert? Let me remind you all that the  
17          entire purpose of the scoping process is to  
18          look at minor modifications on this GEIS.  
19          We're supposed to be ramifying it and the  
20          industries are saying, we don't even need  
21          this, we can just go on with all of this --  
22          let us have it.

23                       The entire purpose of this Generic  
24          Environmental Impact Statement is to

1 expedite oil and gas drilling, specifically  
2 high volume hydro-fracture horizontal  
3 drilling in New York State. The companies  
4 may be complaining that it is taking too  
5 long, but we are moving far too quickly.  
6 And in the process common knowledge like  
7 water is life, we should leave more behind  
8 than when we came in, how do these fit into  
9 these testimonies on proposed rule changes  
10 for cumulative impacts, how do you study  
11 that? This GEIS has done an amazing job of  
12 looking comprehensive, filling 42 pages  
13 with detailed information, breaking  
14 everything down to a microscopic bundle and  
15 in so doing refuses to see the big picture.  
16 It breaks everything down, looks at it in  
17 great detail and then explains it all, oh,  
18 noise impact, oh, we'll just put in a whole  
19 row of shrubbery here and drown it out --  
20 any of these concerns. You can't take all  
21 of our concerns and then just explain it  
22 away like that. From waste water to where  
23 the water is coming from to how many roads  
24 to the defective -- oh, it's mostly 99

1           percent -- don't worry about it if there's  
2           -- chemicals or something in there. I am  
3           deeply worried that this GEIS gives us the  
4           illusion that there's someone out there  
5           protecting us, looking out for us. All 11  
6           of their field inspectors are going to  
7           check the tens of thousands of planned  
8           wells. Am I correct?

9                   A friend of mine described the  
10            language of the GEIS as feeling like a  
11            pillow, it's soft and soothing, it will  
12            explain things away, calm you, comfort you.  
13            But if this was a pillow if it were to  
14            pass, it would smother us. We need to look  
15            at the cumulative impact of this. It's not  
16            about individual rights. If the Generic  
17            Environmental Impact Statement for these  
18            wells were to pass, we would be a mark to  
19            fall upon, it would transform our area.  
20            Even the industry people and the platform  
21            politicians who're getting paid, they've  
22            said, the quality of this is just  
23            unbelievable, the benefits that they will  
24            bring here are staggering. What really are

1           these benefits? What do we get in return?  
2           What are the monetary costs that it would  
3           impose?

4                       When we look at the full rescale,  
5           redevelopment of our region at a scale as  
6           massive as this, we need to keep in mind  
7           what these outsiders have -- how powerful  
8           they are. Where does the money go?

9                       ALJ: Could you wrap up your  
10          statement, please.

11                      MR. DRIX: Yes, I will. On page 34  
12          of the GEIS it mentions rolling impacts --  
13          from one to here, to there, to other  
14          places, but there are not rolling, this is  
15          a constantly building bit by bit by bit  
16          onslaught that is going to transform our  
17          area. We are talking about the health and  
18          the health of our community and the  
19          economic health of our community. And as  
20          the politician people said, and the  
21          industry people said, we need this now, we  
22          need these jobs. We need this money. We  
23          do need money, we do need industry. But  
24          what this GEIS does not look at is what the

1 effects on all the other industries that we  
2 have here which sustain our local economy,  
3 which sustain the kind of life where we  
4 want to be living here.

5 The impact upon farms, the impact  
6 upon wineries, the impact on tourism. Take  
7 the money from the woods and compare it to  
8 the money lost from all the farms, from the  
9 wine industries. Wineries are the second  
10 -- excuse me, it says the wineries here are  
11 the second best wineries --

12 ALJ: Excuse me, could you  
13 conclude --

14 MR. DRIX: -- in this country --

15 ALJ: You've been talking for almost  
16 ten minutes, could you conclude your  
17 statement, please.

18 MR. DRIX: I will. There is not one  
19 mention of claimant change in the entire  
20 GEIS. What we're talking about, 500  
21 trillion -- perhaps -- of hydrocarbons that  
22 are currently locked underground, they're  
23 going to be brought up and put in gases  
24 here. What is going to be the cumulative

1 environmental impact of that? All those  
2 hydrocarbons, that is something that we  
3 need to be massively reducing our  
4 emissions? And not just the thought of  
5 these hydrocarbons underground, but the  
6 entire industry surrounding it and all of  
7 the submissions and all of the burning and  
8 all of the energy and all the compressors  
9 and all of the water that close with that.

10 In closing, I will say that this is  
11 an environmental justice issue. And these  
12 companies only target the poor areas where  
13 people are the most desperate for money,  
14 but this is not going to cover the cost of  
15 health impacts, the cost of the industries  
16 that are destroyed in the path and the  
17 unmeasurable costs of the water we're  
18 trading away for just one resource. This  
19 is stupid. Chief -- once said, and I'll  
20 paraphrase here -- only once the last  
21 forests have been cut and the last rivers  
22 have run dry and the last of the air  
23 polluted and the last bits of the food  
24 gone, will you people finally realize that

1           you cannot eat money. That's a bumper  
2           sticker that I saw recently --

3           ALJ: Okay. Could you please wrap it  
4           up. The next speaker is Bernard --

5           MR. DRIX: -- is that you cannot eat  
6           natural gas. Thank you.

7           ALJ: Thank you. The next speaker is  
8           Bernard Vanskiver. Is Bernard Vanskiver  
9           here? Okay. The next speaker is speak  
10          Sevron Drix.

11          MR. DRIX: I'll try to keep this  
12          really brief. I know it's late and  
13          everybody is anxious to get home and get  
14          some sleep. I've been a resident, my  
15          name's Sevron Drix, I've been living in  
16          Schuyler County for 35 years. I'm a math  
17          teacher. Just a few things. This is  
18          different. This is a massively different  
19          technology. It may be related to something  
20          that's gone on before, but we really  
21          absolutely need to take it slow. We once  
22          thought pesticides were safe, there is a  
23          farmer, neighbor of mine, he's now dead.  
24          He was rather carefree about the use of

1 pesticides, he died of cancer as a result.  
2 We know better now, we see these damaging  
3 effects, to not make the same mistakes  
4 again. People say, well, someone got  
5 covered with this stuff and he was fine.  
6 You see a bunch of teenagers smoking and  
7 they look perfectly healthy, too. We need  
8 to look at what in the long run is going to  
9 happen.

10 The money isn't here. Development in  
11 the area can be very good, but we need to  
12 be very careful. People thought mortgage  
13 based derivatives were a great way to make  
14 money, look where that led us. We have to  
15 go into this with eyes wide open. We are  
16 depending upon you, DEC, your Department of  
17 Environmental Conservation, to protect our  
18 community, our resources, the health of our  
19 land and our community. We urge you to  
20 take that very, very seriously.

21 Development should come second and it  
22 should be slow enough so it can be tested.  
23 There should be a moratorium on drilling  
24 first and perhaps a small pass where it can

1 get started where we can see industry is  
2 going to be safe before we spread it over  
3 the entire community. We are depending on  
4 you to protect us.

5 ALJ: Thank you. Judith Sterling?  
6 Is Judith Sterling here?

7 PUBLIC: What was the name?

8 ALJ: Judith Sterling.

9 PUBLIC: Ut um.

10 ALJ: John Holco?

11 MR. HOLCO: Wow, it's a lot less  
12 people than when it started and it's nice  
13 to probably be almost last. My name is  
14 John Holco, I'm here on behalf of  
15 Independent Gas & Oil Association in New  
16 York, it's an industry association.  
17 Founded in 1980 to protect, foster and  
18 advance the common wealth interests of oil  
19 and gas producers, professionals and  
20 related industries and probably everybody  
21 here is going to start booing. But what  
22 I'd like to say, I sat here and listened to  
23 everybody's comments, I have some comments  
24 that I was going to read here. I'll make

1           it very pointed because a lot of the things  
2           that were said are just simply untrue. So  
3           that's as much as I know.

4           I'll give you a little background on  
5           me, I've been currently secretary of the  
6           association and I'm president of a company  
7           called Lenape Energy. Unlike some of the  
8           other companies, Lenape Energy is a small  
9           company, it's run by myself. I have  
10          children, I live in New York. I like this  
11          state. I think the people in the DEC and  
12          the people regulating us do a very good  
13          job. I've been on the other side of  
14          regulations. I've been one of the guys  
15          that they come out and inspect and they do,  
16          that's their job, they take it serious. We  
17          understand that being regulated part.

18          I have a degree in -- engineering  
19          from Pennsylvania State University. I  
20          started my business -- I started my career  
21          with Halliburton Energy Services in  
22          Bradford, Pennsylvania. I mean, I'm very  
23          familiar with stimulation and fracking. It  
24          has been done for a long time. It is safe.

1           There hasn't been any wells polluted by  
2           hydrofracture. It isn't that different a  
3           process. I mean, the value of water is  
4           much larger and that's the comment I want  
5           to focus on because a lot of things are  
6           said that the industry doesn't care. We do  
7           care. We try to do things that make a  
8           difference. We try to take care of the  
9           things around us. I mean, you can sit back  
10          there and snicker and laugh all you want,  
11          but the truth of the matter is it's a  
12          cooperative environment, we have to try.  
13          When we talk about healthcare and we talk  
14          about issues, somebody has to pay for our  
15          hospitals, somebody has to provide the jobs  
16          to get things done. One of the impacts  
17          that we have is the cumulative impact on  
18          water resources. Cumulative impact of  
19          water volume stimulation treatments is  
20          being addressed by industry in its focus to  
21          advance the technology to allow the reuse  
22          of flowback fluid. This is a serious  
23          matter to us, we want to reuse it. In  
24          using large volumes of water one of the

1 issues is consumptive use, the amount that  
2 never makes it back. We want to minimize  
3 that, the reuse of the existing fluid is  
4 something to be taken seriously.

5 The entire Southern Tier of New York  
6 was dotted with a lot of industries in the  
7 past. Well, all of those industries are  
8 gone. What we've tried and what we're  
9 going to try to do in our industry is use  
10 those facilities that used water  
11 previously, use some of the processing  
12 facilities, reuse the stuff we have. We  
13 don't -- we want to minimize our impact,  
14 we're not an environmentally aggressive  
15 industry that wants to ruin things. It's  
16 been -- it's been mentioned by everybody  
17 else, we're here for 20 or 30 or 40 or 50  
18 years. I mean, if we are there that long,  
19 why would we want people not to like us?

20 A lot of things were mentioned, there  
21 has been a lot of comments about the  
22 chemicals and the issues. The chemicals  
23 used in simulation treatments are used --  
24 specifically designed to do certain things.

1           A lot of water -- we use for factories,  
2           okay. So factories are used -- okay. So  
3           can we clean things up, I think we can. I  
4           think there's a lot of technology out there  
5           that can help us address this. I think  
6           there's a lot of those types of things in  
7           sewage treatment plants today, very common  
8           in sewage treatment facilities.

9           So the things that we are using and  
10          the things that we worry about are the same  
11          things that everybody sitting here does.  
12          You have to take it seriously, we want to  
13          work with you. I mean, don't sit there and  
14          take an aggressive stance and say no, you  
15          know, go away, don't do it. This can all  
16          exist. I live in Spencerport, New York.  
17          On my way home last night I happened to  
18          stop by a sign that says CNG, compressed  
19          natural gas. At a state re-fueling  
20          station. Okay. And I pulled in and I  
21          looked at the compressed natural gas pump  
22          and I said, well that's interesting. They  
23          actually have it -- it's supplied by  
24          Rochester Gas & Electric and they have two

1 sides to the pump, a low pressure side  
2 which is 3,000 PSI and by the way, this  
3 3,000 PSI makes no noise. Okay. The other  
4 side is 3,600 PSI on the bottom of the pump  
5 it has an equivalent price to a gallon of  
6 gasoline. The 3,600 side of the pump is \$1  
7 per gallon. If there is as much gas around  
8 here as we think and as an industry we want  
9 to try to develop it in an environmentally  
10 safe manner, not to impact, what we are  
11 working with or who we are working with,  
12 this could have a dramatic impact on the  
13 energy in the entire company. That is  
14 something to really think about. And when  
15 you're talking about making prices better,  
16 what would you rather have, a large coal  
17 fired power plant or a clean burning  
18 natural gas power plant. Maybe you would,  
19 but if we want to cover the State of New  
20 York with windmills, we can supply New York  
21 City. I'm all for windmills, I'm all for  
22 solar. But the truth of the matter is, in  
23 today's environment, where we're going it's  
24 a cooperative effort to get our hands

1           around everything. Thank you.

2           ALJ: Thank you. The next speaker  
3           will be Becca Harber.

4           MS. HARBER: Okay. I didn't plan to  
5           speak tonight, I haven't been feeling well  
6           for a few weeks, but just listening I  
7           wanted to -- I decided I have these notes  
8           that I have been compiling that I would  
9           love to share briefly, I know I only have  
10          four minutes. I got to hear three people  
11          who were involved in citizens' action  
12          groups in Wyoming, Colorado -- at a  
13          Catskill Mountainkeeper event sometime this  
14          spring and I heard it on WEOF which is 88.1  
15          fm, you can get it up near Ithaca. But on  
16          the unwelcome guest website you could  
17          contact them and you can probably get a  
18          tape of it. But I wanted to just -- these  
19          are people who have been going through the  
20          process and I, you know, they may be  
21          completely different gas companies, but I  
22          think it's just worth hearing what they  
23          have -- one of them basically said, it's  
24          true, some local people and some businesses

1 will make lots of money while other people  
2 are financially devastated. And I'm going  
3 to be going kind of going here and there  
4 with this. The comments about, you know,  
5 by the industry people about the New York  
6 State regulations being so great, I don't  
7 know all of what they are, but out in  
8 Wyoming, Colorado in -- there were no  
9 regulations, state or federal. And these  
10 people said that when there was a problem  
11 they could choose to go to court, but it  
12 was like this endless process of spending  
13 thousands of dollars and the gas industries  
14 have tons of money. And it's just totally  
15 frustrating. But they have -- I do want to  
16 mention for those who haven't seen it,  
17 there is an excellent documentary called,  
18 Land Out of Time, about some of what's  
19 happened out in those states and there is  
20 wonderful visuals and you get to hear  
21 people talk, like the ranchers who  
22 basically went out of business because the  
23 water was so poisoned and their cattle kept  
24 dying and they finally gave up. People

1           have been like, you know, ranchers for many  
2           years and generations as well.

3                     Let's see, I just want to say that  
4           the issue of jobs, it sounds good, but you  
5           don't know again what the cumulative impact  
6           -- and the example with this writer from  
7           Colorado, she talked about having two  
8           years, the population who kind of struggled  
9           by all the people who kind of came in from  
10          the outside to work for the gas -- and  
11          they're doing, you know, like Marcellus  
12          shale hydrofracking out there. And  
13          basically the rents went up so high that  
14          the number of local people could not afford  
15          to live there anymore and tourism  
16          businesses in nearby Glenwood Springs  
17          locally owned went out of business because  
18          they didn't have people who could work who  
19          were there to live to work there any  
20          longer. And there are not sure if they're  
21          going to keep the big hunting, fishing  
22          tourism businesses that happen seasonally  
23          every year.

24                     In terms of chemicals, there are

1 chemicals that they have identified -- that  
2 are part of the process. Let's see, okay.  
3 What are they -- there is some -- Benzine  
4 which is a known carcinogen and tolual  
5 benzine (sic) and some other similar -- I  
6 can't find them -- oh, yeah, here they are.  
7 Toluene, ethylbenzene, benzene and other  
8 exotic various heavy metals which are all  
9 toxic leads -- mercury, arsenic, things  
10 like that. And that one of those speakers  
11 said that in New Mexico, Colorado, I don't  
12 know if the results were run, but the state  
13 tested water that came out and found 7 to  
14 15 new chemicals all considered hazardous  
15 in 25 to 90 percent of the different  
16 samples. And the question is, how do you  
17 really dispose of these liquids.

18 In terms of wells, there are numbers  
19 of people who either their wells were  
20 contaminated and could no longer be used or  
21 their wells were depleted because of the  
22 use by the industry's use of the water.  
23 And these people said they knew of nobody  
24 who had ever gotten compensation in any way

1 for what happened to their water.

2 In terms of traffic, the traffic in  
3 their areas went up ten times from ten cars  
4 a day, pretty much, to often 100 trucks  
5 every day. And they had major -- the local  
6 government couldn't afford to keep up the  
7 roads, they get damaged so quickly. And  
8 it's hard to believe that all of the wells  
9 are going to go in simultaneously so when  
10 you think of the quote, temporary period  
11 for drilling and putting in the whole  
12 thing, you know, that's going to happen  
13 over time in different places that you're  
14 going to be able to see and hear from where  
15 you live, people who live in the area of  
16 the wells. And as you heard the gas lease  
17 people speak here, they're planning to do  
18 many thousands of wells.

19 Let's see, in their experience,  
20 because there is no real regulation in the  
21 exception from the clean air, clean water,  
22 all that super fund laws, the gas industry  
23 in their experience was not liable for any  
24 of the toxic spill incidents. And they

1           said they just happen, it's the way it is,  
2           it's inevitable. And the first time it  
3           happened in one area, the emergency  
4           responders showed up and they all ended up  
5           in the hospital for toxic exposure. So  
6           they said also once the industries really  
7           got in there and the hospitals -- the local  
8           hospitals tended to get overwhelmed by all  
9           the injuries of the people working on the  
10          gas drilling including loss of fingers and  
11          parts of bodies and stuff. That was the  
12          one example that they gave as the chronic  
13          injuries.

14                 So I just want to say that I agree  
15          with what other people said, that once the  
16          water is polluted, you can't use money to  
17          un-pollute it. Once your well is useless  
18          you can't usually often, you know, usually  
19          -- you can't just drill another well and  
20          get wonderful water again, once somebody is  
21          really horribly sick and you can't just put  
22          out the money and they're going to be  
23          healthy again. So I really want to  
24          encourage the DEC to do whatever people

1           have requested, slow down, the capacity is  
2           there. Slow it down. Let's really take  
3           the time to make sure we are going to  
4           prevent problems, not have to do expensive,  
5           what these local municipalities have  
6           described as, you know, clean up these  
7           toxic spills with their own money --

8           ALJ: Could you wrap up your  
9           statement, please.

10          MS. HARBER: Oh, sure. And I also  
11          just want to say, given the limits on staff  
12          and the limit -- the limiting of hiring, it  
13          makes sense to me to not have any of this  
14          new drilling going on unless we are ensured  
15          the abundant factors. And they also don't  
16          point that out -- like 65,000 acres and two  
17          people to inspect thousands of wells and it  
18          can't happen. So thank you.

19          ALJ: Thank you. The last person  
20          that's signed up to speak is Jay Wasinski.

21          MR. WASINSKI: I shall be brief.  
22          Nine and a half years ago I was badgered  
23          into leasing my 120 acres to Fortuna for  
24          pittance. Badgered, I choose the word

1 thoughtfully.

2           Nevertheless, they have been I think  
3 a good neighbor, but now it's Norway,  
4 Norway owns Fortuna, ah ha, we'll see.

5           But we are dealing with an incredible  
6 industry of such strength as had been said  
7 so well under -- overwhelms all of what we  
8 say. I want to make a couple of quick  
9 points. After eight years of Bush  
10 administration where regulatory agencies  
11 were emasculated, I think now one of them  
12 in particular is inflicting the economy in  
13 New York State to the point where we must  
14 -- we must do what we must to get money  
15 into the state. Well, it's a little too  
16 late, folks, because our governor has had  
17 to reduce agencies that are for us  
18 regulatory. I urge that we have a  
19 moratorium on this effort to extract by  
20 whichever method, whether it's horizontal  
21 or vertical in the Marcellus shale until we  
22 have sufficient strength in the DEC to man  
23 those regulations that we must have. And I  
24 think I'll stop right there.

1                   Incidentally I am a geologist and I  
2                   think that I must mention that for many  
3                   people who have spoken who were not trained  
4                   in geology that I am terribly, terribly  
5                   impressed with the quality and  
6                   thoughtfulness of the comments that have  
7                   been made.

8                   ALJ: Thank you. That's everyone  
9                   who's signed up to speak. And that  
10                  concludes the meeting. And I'd like to  
11                  thank you all for your patience of staying  
12                  for the lengthy meeting. And also thank  
13                  the school district for the use of their  
14                  space. Good night.

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.

---

MYRA J. LUDDEN