

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter

-of-

a Public Hearing on the Draft Generic
Environmental Impact Statement on the Oil,
Gas and Solution Mining Regulatory Program

TRANSCRIPT OF PROCEEDINGS at a
public hearing in the above-entitled matter held
by the New York State Department of Environ-
mental Conservation at its Central Office, 50
Wolf Road, Albany, New York, on the 6th day of
June 1988, commencing at 1:00 o'clock p.m.

PRESIDING:

ROBERT S. DREW

Chief Administrative Law Judge

P R O C E E D I N G S

MR. DREW: Ladies and gentlemen, good afternoon. I'll formally call this public hearing to order.

This is a public hearing before the Department of Environmental Conservation on the Department's Draft Generic Environmental Impact Statement for Oil, Gas and Solution Mining Regulatory Program. The Department staff has prepared this Draft Environmental Impact Statement dated January 1988, consisting of two volumes.

MR. SOVAS: Three volumes.

MR. DREW: Three volumes, excuse me. And the Department has asked the Office of Hearings, in which I'm located, to hold a series of hearings around the state on the Draft Impact Statement.

My name is Robert Drew. I'm Chief Administrative Law Judge in the Office of Hearings, and I'll be chairing today's hearing here in Albany and hearings later this week on June 9th in Ithaca and Canandaigua. On the

following week on June 14th, there's an additional hearing in Amherst which is outside -- in Amherst Town Hall which is outside of Buffalo, on the 15th in Jamestown, New York and on the 16th in Wellsville.

This is a cumulative hearing record, so that while people are free to attend any or all of the hearings, we ask that you only make a statement at one of the hearings unless later on, if you speak at one of them you want to make a supplemental statement. It will be a combined hearing record of all the hearings and, in addition, written statements may be filed until July 8th, and my address is Robert Drew, Chief Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings, Albany, New York, 12233.

Notice of today's hearing was published in the Department's Environmental Notice Bulletin on April 27th and in many newspapers around the state and, for this area, it was published in the Albany Times-Union on April 28th and 29th. I have proofs of

publication which I won't read or mark for all the other papers around the state.

At this time, I'd like to call on Mr. Greg Sovas from the Department's Division of Mineral Resources to give a brief synopsis and highlights of what is proposed in the Draft Impact Statement and the purpose of the draft statement.

MR. SOVAS: Thank you.

Good afternoon, ladies and gentlemen. My name is Gregory H. Sovas. I'm the Director of the Division of Mineral Resources within the New York State Department of Environmental Conservation.

As part of the stewardship and management of the state's natural resources, DEC regulates the drilling, operation and plugging and abandonment of oil and natural gas underground gas storage, solution salt mining, brine ~~prime~~ disposal, geothermal and stratigraphic wells.

The purpose of the regulatory program is to ensure that the activities related

to these wells are conducted in an environmentally sound manner consistent with the legislative mandates found in Article 23 of the Environmental Conservation Law.

Aside from strengthening environmental concerns, DEC is also responsible for preventing waste of the state's oil and gas resources and protecting correlative rights; that is, the right of any mineral owner to recover the oil and gas resources beneath his land.

New York State first began regulating oil and gas activities with the passage of the first comprehensive legislation in 1963 which -- excuse me -- which eventually was codified as Article 23 of the Environmental Conservation Law. Based on this law, rules and regulations were adopted under Parts 550 to 559 of Title 6 of the New York State Code of Rules and Regulations. Thus, both legislation and rules and regulations are in place to regulate the oil, gas and solution mining industries in this state.

MR. DREW: Just a little slower.

MR. SOVAS: A little slower, O.K.

I can give this to you in writing in any event.

MR. DREW: O.K.

MR. SOVAS: Since the passage of the State Environmental Quality Review Act in 1977, the Department has endeavored to establish a rational basis and consistent criteria for environmental review of DEC actions in matters of discretionary approval such as the granting of permits.

The primary method of review for a broad regulatory program is the preparation of a Generic Environmental Impact Statement, GEIS, which is designed to be a general -- to be general and conceptual in nature. The goals of the GEIS are to assess the environmental impact on the entire regulatory program and to suggest changes that may be necessary to strengthen the program.

The Department pursued the development of this GEIS with the state's on-going oil and gas regulatory program to show

compliance of the existing regulatory program with the state's Environmental Quality Review Act.

In addition to the passage of new oil and gas legislation in 1981, the Legislature mandated that the state's authority for regulation of these industries should supersede all local regulation with the exception of taxation and local roads. Because of the supersedure issue and the need for public information, the Department has expanded this GEIS to be an information document to help the public and local governments understand the oil and gas industries in the state and how DEC regulates these industries.

Further, because of the major overhaul of the legislation in 1981, both new and amended rules and regulations are necessary. Thus, the GEIS has been expanded to include proposed regulations as well as suggested changes to existing regulations so that a full public discussion of all the issues can be accomplished in one document. It should

be recognized, however, that regulatory changes can only be promulgated through a separate process dictated by the state's Administrative Procedures Act.

Many of the primary issues and areas of concern covered in this GEIS were identified by the process known as "scoping". Through this process, the affected community agencies, public interest groups, members of the petroleum industry and the general public were notified by DEC about the preparation of the GEIS and their comments were solicited through mailings and public hearings in the early 1980s. A comprehensive outline of the GEIS was distributed to facilitate their review.

The GEIS represents a major accomplishment in providing the public with information on how the Department manages these non-renewable natural resources. A great deal of effort has been expended over a period of nine years to produce a working document that will serve as the basis for public discussion on the way in which the state regulates these

industries and how the process can be approved. More than 1600 copies of this document have been distributed statewide to a variety of different individuals, institutions, local governments and other authorities having any interest in the oil and gas and solution mining industries.

To be as effective as possible, public comment and discussion are encouraged and welcomed.

Thank you.

MR. DREW: I just wanted to check that figure again. Was that 1600 copies?

MR. SOVAS: Yes.

MR. DREW: Various units within the state.

Thank you, Mr. Sovas. The purpose of the hearing is to solicit comments from either the general public or those representing units of government or various trade or professional associations. Members of the Department staff, in addition to Mr. Sovas, are here today and I'm sure that, if you have any questions, they'll be free to answer them

when the hearing ends.

At this time, for the purpose of making a statement on behalf of the Independent Oil and Gas Association of New York, I'll call on Mr. Richard Runvik, Vice-President. You can stay right there.

MR. RUNVIK: Thank you very much.

Ladies and gentlemen, my name is Dick Runvik. I'm Vice-President of the Independent Oil and Gas Association of New York and I wish to present this statement of that Association at this time.

On behalf of its members, the Independent Oil and Gas Association of New York wishes to express its appreciation for the opportunity to publicly comment on the Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program prepared by the staff of the DEC Division of Mineral Resources.

The Independent Oil and Gas Association of New York, IOGA, is a

not-for-profit trade organization representing oil and gas producers, contractors, allied service companies and suppliers and professionals who serve that industry. At the present time, IOGA has 250 members.

A committee of IOGA members has reviewed every page of the Draft GEIS. The committee members included engineers and geologists, all of whom had extensive experience in oil and gas operations. The committee met several times and conducted the technical review which forms the basis of our comments. In addition to the work contributed by the committee, IOGA sought advice from its Legislative and Legal Committees, its board of directors and other industry members.

We want to make the point that the framework of existing law and regulations, when coupled with existing permit conditions, are more than adequate to protect the environment and to regulate the oil and gas industry. Much of what now exists as permit conditions should be adopted as regulations. In this

regard, IOGA supports the DEC's desire for a more evenly administered uniform regulatory program as evidenced by the numerous recommendations made in the GEIS.

What we will present today is an overview of some of the general points and areas of concern to the oil and gas industry.

First, we note that this is industry's first opportunity to review and comment on this Draft GEIS even though the DEC has taken several years to prepare the document. In any project of this size, there are bound to be some discrepancies or oversights. On the whole, however, we feel an honest effort has been made by the agency to accurately depict New York's oil and gas industry from its beginning up to the present time.

Second, IOGA disagrees with the present GEIS format in which the agency makes lengthy and detailed proposals for future recommended legislation, rules, regulations, permit conditions and mitigating measures. We

firmly believe the GEIS should only cover (1) the history of the industry; (2) the current operating procedures and the technical advances of the industry and (3) the present body of law, regulation, rules and permit conditions imposed on the industry to protect the environment.

Third, we make the following comments not as criticisms, but as our sincere belief that these areas would need to be addressed differently than they are in the Draft GEIS. Such action will allow our industry to function as it must to develop the state's resources in a responsible manner that will protect our environment and the rights of the landowner and the operator, as well as to continue to provide jobs, tax dollars, royalty payments and other benefits associated with oil and gas development.

Point Number 1: State action in the form of regulations or permit conditions can effectively prohibit the mineral owner's right to recover his oil and/or gas reserves. Should this occur, we believe that the involved parties

should be financially compensated by the state for the unrecoverable reserves at full market value.

Point Number 2: The oil and gas regulations or permit conditions applicable to land or resources privately owned should also similarly apply to resources owned by New York State. There should not be separate rules for state-owned lands.

The third point: The DEC does not have the legal right to impose itself as a third party in landowner/operator contracts. Numerous statements made in the GEIS are covered in contractual agreements and DEC involvement here would be an infringement of landowner rights.

The fourth point: We do not believe access roads should be regulated by the DEC because (a) this is a contractual matter between the landowner and the operator and (b) such access roads are not regulated in any other industries such as timbering or agriculture.

Five: The GEIS makes reference

to safety concerns of oil and gas operations. The safety of such activities is already regulated by New York State Department of Labor, the federal Department of Labor, OSHA and MSHA. We believe the DEC should defer to the more than adequate standards and regulations developed by these other agencies and which are already in place.

Six: We're in agreement with the present casing and cementing guidelines, but we disagree with the use of grouting as a means of protecting fresh water aquifers. Although this is a very technical point, we mention it here because grouting often appears in the GEIS and we do not believe it will achieve the DEC's objective.

Seven: All well drillers, including water well drillers, should be regulated to ensure comprehensive and adequate protection of fresh water aquifers.

Eight: Most visual impacts of the oil and gas operations occur during the drilling phase which is temporary. Once a well

is drilled and the land reclaimed, the visual impact is negligible. Regulation of visual impacts in this instance is too subjective and discretionary.

Point 9: Statements made in the GEIS imply that soil is a commonly held natural resource similar to air and water. This concept is then used to justify regulation of private property. We disagree that soil is a commonly held natural resource requiring special protection by the DEC in every instance.

10: Several sections of the GEIS refer to changes that will occur in the future but which in fact, have already taken place. These sections should have been revised before the document was released for public comment.

Finally, the GEIS is of critical importance to our industry. The outcome of these hearings and the final decisions made on the GEIS will affect New York's oil and gas industry for many years to come. It is vital to the life of our industry that the final document addresses our concerns.

I want to thank you for the opportunity to comment. Our detailed technical presentation will be submitted at a later date.

MR. DREW: By "a later date", Mr. Runvik, do you mean at one of the additional hearings or in writing before the deadline of July 8th?

MR. RUNVIK: It certainly will be before the deadline of July 8th.

We have a small problem in that the technical committee of review has referred this to our board of directors which has yet to meet. Hopefully we will meet yet this week and these comments will then be available if they don't -- if they aren't subject to further change.

MR. DREW: My point is that, since this is a cumulative record, both the oral statements at all the hearings and whatever written statements that come in, that, if you have comments that are really specific point by point on -- and this is a lengthy document, obviously, it's probably best served if those

things were just filed in writing and that, if you wanted to come to any of the other hearings, you may -- you could make additional comments such as you did today.

MR. RUNVIK: Yes, sir, I understand that. We have -- we have a great number of comments, and until our board has passed on them, we don't want to put them into the record but we will do that most assuredly.

MR. DREW: There's no question that these comments are welcome.

MR. RUNVIK: Yes.

MR. DREW: It's just the means of the easiest way of getting them into the record.

MR. RUNVIK: I don't think we'd want to read them into the record. I think they'd be a little bit one-sided. We'd take too much time away from the general public.

MR. DREW: Let me go off the record and see -- I take it you have other representatives who are with you today and you're all part of one group.

MR. RUNVIK: That's correct.

MR. DREW: I see there are several DEC people around the room, and there are one or two over in the back corner who have indicated they're just observers.

Are there any others who would wish to make a statement for the record at this time?

(There was no response.)

At this time, we'll go off the record for ten minutes to see if there are any late arrivals.

(A short recess was taken.)

MR. DREW: We'll go back on the record. It does not appear that there are any other speakers who have arrived since we went off and who want to make statements at this time.

With that in mind, at this time I'll formally conclude today's session and mention that the next session is on June 9th at 1 p.m. in the city of Ithaca offices, the Common Council Chamber on the first floor, 108 East

Green Street in Ithaca.

On behalf of Commissioner Jorling and the Department staff, I thank you for coming to this first of the several hearings on the Draft Generic Impact Statement, and we stand adjourned.

(Whereupon, at 1:40 p.m., the hearing was adjourned.)

STATE OF NEW YORK)

COUNTY OF ALBANY)

Pauline E. Williman, being duly sworn, deposes and says:

That she is a Certified Shorthand Reporter licensed by the University of the State of New York under permanent Certificate Number 297 issued May 21, 1949; that she acted as the Official Reporter at the hearing herein on June 6, 1988; that the transcript to which this affidavit is annexed is an accurate transcript of said proceedings to the best of deponent's knowledge and belief.

Pauline E. Williman

Sworn to before me this
30th day of June, 1988.

Georgette N. Hoerning

GEORGETTE N. HOERNING
Notary Public, State of New York
Qualified in Albany County
My Commission Expires March 30, 1989