

1  
2                   *PUBLIC SCOPING MEETING FOR*  
3                   *SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT*  
4                   *STATEMENT ON DEC'S OIL AND GAS REGULATORY*  
5                   *PROGRAM FOR THE MARCELLUS SHALE*

6  
7       HELD ON:   November 6th, 2008

8       HELD AT:   Allegany Limestone Central School

9  
10      DEC APPEARANCES:

11  
12      Molly McBride, ALJ

13      Bradley Field

14      Jack Dahl

15      Val Washington

16      John D'Amato

17      Carrie Friello

18      Kathy Sanford

19  
20      REPORTED BY:  Danielle R. George

21

22

23

24

1                   ALJ: Good evening, everyone. My  
2 name is Molly McBride and I'm the  
3 administrative law judge with the New York  
4 State Department of Environmental  
5 Conservation, I'll be presiding over this  
6 evening's scoping session.

7                   The purpose of this scoping session  
8 is to receive public comments on the Draft  
9 Supplemental Generic Environmental Impact  
10 Statement on the oil/gas and solution mine  
11 regulatory program.

12                  Notice of this hearing and five  
13 additional hearings that will be held  
14 throughout New York State have been  
15 published in both newspapers throughout New  
16 York State and the DEC's electronic  
17 Environmental Notice Bulletin, it's an  
18 electronic publication on the DEC's website  
19 which is accessible by the public.

20                  The purpose of this public scoping  
21 session is to receive unsworn statements  
22 from the public. The comments received  
23 here tonight will form a part of the  
24 record. Like I say, there will be five

1 additional hearings held throughout the  
2 state, tonight is the first of six  
3 hearings.

4 It is not a question and answer  
5 session, but an opportunity for the public  
6 to make their comments on the record. If  
7 you do not wish to make a comment here this  
8 evening, you may also submit a comment in  
9 writing to the Department. After I get  
10 some brief opening comments here,  
11 representatives from the Division of  
12 Mineral Resources will give further  
13 information on how to make written comments  
14 regarding this program.

15 If you do wish to speak here this  
16 evening, you need to fill out a speaker  
17 card. Speaker cards are right outside the  
18 room, there at the table. Fill out a card  
19 and give it to one of our Department  
20 representatives who will bring it down here  
21 and we're going to call everyone who fills  
22 out a card here tonight and give them an  
23 opportunity to be heard.

24 I will call your name when it's your

1           turn to speak. I think for purposes of  
2           making sure that everyone can hear you, I  
3           will have all speakers come down to the  
4           podium, which is to my left, it has the DEC  
5           logo on it.

6                     Do you see that young woman sitting  
7           there at the table, that is our court  
8           reporter for this evening. She is going to  
9           be making a record of everything that is  
10          said here. When you do make your comments  
11          I would ask that you please speak slowly so  
12          that she can make an accurate record. We  
13          want to make sure that everyone's comments  
14          here are accurately recorded.

15                    Please also show respect for the  
16          person that is speaking, even if you  
17          disagree with their comments. If you would  
18          hold any applause until the person has  
19          finished speaking, again so that we do have  
20          an accurate record of this hearing here  
21          this evening.

22                    Before I do begin receiving public  
23          comments, I'm going to introduce Bradley  
24          Field who is the director of the

1 Department's Division of Mineral Resources  
2 who will introduce some other speakers here  
3 this evening.

4 MR. FIELD: Thank you, Judge McBride.  
5 Welcome everyone to this evening's first  
6 public scoping meeting. Before we get  
7 started we have a brief presentation that  
8 we will go through here on the PowerPoint  
9 up on the screen, but before we do that, I  
10 would just like to introduce you to some of  
11 the people for information and receive your  
12 comments. First off I would like to  
13 introduce Deputy Commissioner for Radiation  
14 and Materials Management, Val Washington.  
15 Also with us here tonight is Assistant  
16 Director for the Division of Mineral  
17 Resources, John Arman. Director of the  
18 Bureau of Oil and Gas Regulation, Jack  
19 Dahl. Also we have Carrie Friello who  
20 works in the Bureau of Oil and Gas  
21 Regulation. And last, but not least, your  
22 presenter this evening who will go through  
23 the PowerPoint for you is Kathy Sanford,  
24 who is chief of our permit section. She

1 will get started here in a moment. So  
2 thanks for coming out everyone, we look  
3 forward to hearing from you.

4 MS. SANFORD: Thank you, Brad, Judge  
5 McBride. If we could have the lights now.  
6 Thank you.

7 Good evening and thank you for being  
8 here tonight to give us your input on how  
9 DEC should regulate shale gas wells.

10 As already has been mentioned, most  
11 of our time here tonight will be spent on  
12 hearing your comments, but first I'm going  
13 to tell you a little bit more about how  
14 this works.

15 This is a public scoping meeting and  
16 the subject of the meeting is the draft  
17 scope Supplemental Generic Environmental  
18 Impact Statement on DEC's oil and gas  
19 regulatory program.

20 I will explain what a Generic  
21 Environmental Impact Statement is and then  
22 I'm going to tell you about an existing  
23 Generic Environmental Impact Statement on  
24 oil and gas well drilling.

1           After that I will explain why the  
2           department is preparing a supplement and I  
3           will explain the purpose of scoping.  
4           Finally, I will talk a little bit about the  
5           draft scope that was released in early  
6           October. Many of you have already read it  
7           and we do have copies available here  
8           tonight.

9           A Generic Environmental Impact  
10          Statement is a way to evaluate separate  
11          actions that have common potential effects  
12          on the environment. Most of the potential  
13          impacts of drilling an oil or gas well are  
14          the same from well to well. This is true  
15          no matter where or how deep the well is  
16          drilled or whether it's drilled  
17          horizontally or vertically.

18          An individual impact statement is not  
19          necessary unless a specific project has  
20          unique or non-generic characteristics. DEC  
21          completed a Generic Statement on gas/oil  
22          drilling in New York in 1992. It's on  
23          DEC's website at  
24          [www.dec.ny.gov/energy/45912.html](http://www.dec.ny.gov/energy/45912.html).

1           Even with a Generic Statement in  
2           place, DEC reviews each drilling  
3           application individually. We look at the  
4           location and the proposed methods. We  
5           determine on a site-specific basis what  
6           permit conditions are necessary to protect  
7           the environment. If everything is  
8           consistent with the Generic Statement, then  
9           there will not be significant environmental  
10          impacts.

11           We may find that another DEC permit  
12          is needed for the project, such as stream  
13          or wetland disturbance. If this is the  
14          case, then we must consider that, before we  
15          can determine the significance of any  
16          potential impacts. Further review is  
17          required for any well proposed in state  
18          parkland, and, likewise, if the activity  
19          will disturb more than two and a half acres  
20          in an agricultural district. DEC must  
21          further evaluate any proposal to drill  
22          within 2,000 feet of a municipal water  
23          supply well.

24           There are other circumstances that



1           could arise which require additional  
2           review. For example, the 1992 Generic  
3           Statement does not address drilling near  
4           underground water supply tunnels. On the  
5           other hand, the generic statement does  
6           cover drilling in watersheds and aquifer.

7           Many, but not all, aspects of shale  
8           well development are covered by the  
9           existing Generic Statement. Many of the  
10          effects will be the same from well to well  
11          no matter where the well is drilled. For  
12          these reasons, DEC will prepare a  
13          Supplemental Generic Environmental Impact  
14          Statement to address the new potential  
15          common impacts. I will refer to that  
16          tonight as the supplement. Most of the new  
17          potential impacts relate to the large fluid  
18          volumes that will be used for high-volume  
19          hydraulic fracturing.

20          We have reviewed the use of the  
21          Generic Environmental Impact Statement and  
22          the need for a supplement. So now I will  
23          talk about the reason we are here tonight.  
24          This is a scoping meeting. Scoping is how

1 we determine the topics that will be  
2 included in the supplement. DEC has  
3 scheduled six meetings like this across the  
4 Southern Tier and Catskills. At these  
5 meetings DEC is receiving comments from the  
6 public. You may also submit written  
7 comments later and I will say more about  
8 that. We will consider your comments  
9 before we finalize the table of contents  
10 for the supplement.

11 The first objective of scoping is to  
12 identify the potential environmental  
13 impacts of the activity. The activity that  
14 we are reviewing now is high-volume  
15 hydraulic fracturing. DEC has identified  
16 some potential impacts. One example is the  
17 visual effect of larger well sites.  
18 Another is the noise from fluid pumping.  
19 Large water withdrawals can have various  
20 effects. There are more listed in the  
21 draft scope.

22 A second objective is to identify any  
23 concerns that are insignificant or  
24 irrelevant, those can be left out of the

1 supplement.

2 Third, scoping will help us identify  
3 what additional information DEC needs to  
4 complete the supplement. One example that  
5 is mentioned in the scope is the results of  
6 radioactivity testing of the Marcellus  
7 Shale currently underway. Another is  
8 information about the composition of the  
9 additives in hydraulic fracturing fluid.

10 The fourth objective is to identify  
11 ways to minimize impacts. This includes  
12 any available alternatives to the proposed  
13 activity.

14 Finally, scoping is the way that DEC  
15 gets your input on these topics. That's  
16 why we are here tonight.

17 The scope is like an outline or table  
18 of contents for the supplement. DEC  
19 prepared the draft scope so that you could  
20 comment on our ideas. We included  
21 background information so that you could  
22 learn about gas well drilling and how the  
23 DEC regulates it. We have copies here. If  
24 we run out tonight, we can send you one if

1           you give us your mailing address. And it's  
2           also on DEC's website at  
3           www.dec.ny.gov/energy/47554.html.

4           So that brings us again to the  
5           purpose of tonight's meeting. We are here  
6           to take your comments on DEC's draft scope.  
7           Your input will help DEC prepare a final  
8           scope. The scope will serve as the outline  
9           or table of contents for the supplemental  
10          Generic Environmental Impact Statement.  
11          Now I will briefly describe the key points  
12          in the draft scope.

13          High-volume hydraulic fracturing is  
14          not adequately covered by the existing  
15          generic statement. The supplement will  
16          generically address the common impacts of  
17          this activity. Nevertheless, we will  
18          continue to review each proposed well  
19          individually.

20          One well at a time, DEC will  
21          determine consistency, or lack thereof,  
22          with the Generic Statement and the  
23          supplement.

24          One well at a time, DEC will identify

1 unique concerns that require other permits  
2 or changes to the proposed activity.

3 Last but not least, DEC will make  
4 sure that every single permit includes the  
5 necessary requirements to protect the  
6 environment.

7 One activity not addressed by the  
8 existing generic statement is the taking of  
9 water from surface water bodies. This  
10 could potentially affect stream flow.  
11 Taking too much water at the wrong time  
12 could reduce how much is available for  
13 public supply. DEC must consider the water  
14 needs of fish and wildlife. We will  
15 evaluate all of these concerns in the  
16 supplement.

17 The draft scope discusses how  
18 hydraulic fracturing has been managed under  
19 the existing GEIS. DEC will use the  
20 supplement to evaluate unique issues  
21 related to shale gas development. An  
22 example is high-volume fluid storage at the  
23 well site. Another is transportation of  
24 the fluid to and from the site. Others are

1 the available options for fluid reuse,  
2 treatment and disposal. I encourage you to  
3 look at the draft scope for a more complete  
4 list of the topics DEC is reviewing.

5 The activities and facilities I just  
6 described could affect the environment in  
7 several ways. These are explained in  
8 Section 4 of the draft scope. Without  
9 appropriate controls, the activity could  
10 affect water resources. Noise and visual  
11 effects will occur. They may be potential  
12 air quality impacts. Trucks will haul  
13 water on local roads. The supplement will  
14 also discuss cumulative impacts, impacts to  
15 communities and environmental justice  
16 concerns. We expect that you will have  
17 many comments on potential impacts tonight.  
18 Your input will help us refine the scope  
19 before we make it final.

20 The supplement will answer these  
21 questions about high-volume hydraulic  
22 fracturing: What are the potential impacts  
23 and how can they be minimized or avoided?  
24 When will the Generic Statement and the

1 supplement together adequately support  
2 issuance of a well drilling permit? When  
3 will DEC require a site-specific  
4 supplement?

5 DEC expects to release a final scope  
6 in early 2009. This will be followed by a  
7 draft supplement in spring 2009. We will  
8 publish a notice when the draft is ready  
9 and there will be an opportunity for public  
10 comment on the draft supplement.

11 DEC hopes to finalize the supplement  
12 by summer of 2009 and then at least 10 days  
13 after the supplement is finalized, DEC  
14 issues findings. These findings will guide  
15 DEC's environmental review of individual  
16 well permits from that point forward.

17 DEC is here tonight to encourage  
18 public participation. You may provide  
19 verbal or written comments on the draft  
20 scope tonight or at one of the other  
21 scheduled meetings. You may submit written  
22 comments until December 15th. And you will  
23 also have a chance to review and comment on  
24 the draft supplement next spring.

1                   Please include your name and return  
2                   address when you submit written comments.  
3                   This will help us let you know when the  
4                   final scope is ready and then when the  
5                   draft supplement is ready. If you do not  
6                   have your written comments ready tonight,  
7                   you may e-mail them to us at  
8                   dmnog@gw.dec.state.ny.us. Please use scope  
9                   comments as the subject heading. Send the  
10                  e-mail before the end of the business day  
11                  on December 15th.

12                  You may also mail your comments. We  
13                  need your mail to arrive in our building by  
14                  the end of the business day on  
15                  December 15th. And the address is up  
16                  there, send them to the attention of scope  
17                  comments. Send it to the Bureau of Oil &  
18                  Gas Regulation in the NYSDEC Division of  
19                  Mineral Resources. That's at 625 Broadway,  
20                  Third Floor, Albany, New York, 12233-6500.

21                  Thank you for your attention and I  
22                  look forward to hearing your comments. So  
23                  I will turn it back over to Judge McBride.

24                  ALJ: Again those addresses for both



1 the e-mail and for sending written comments  
2 by mail are available in the hallway,  
3 correct, Kathy?

4 MS. SANFORD: Yes.

5 ALJ: So they are on the table there  
6 and people from the Department can also  
7 give you both the e-mail address and the  
8 mailing address if you want to submit  
9 written comments and you didn't get that  
10 until just now in the presentation.

11 I will now start calling our speakers  
12 in the order that the cards were submitted  
13 to me. And again, I would just ask that  
14 you come up here to the podium at my left  
15 and state your full name for the record.  
16 And if you are representing a group, please  
17 identify the group that you are  
18 representing so we know who that is please.  
19 And our first speaker is Stanley Scobie.

20 PUBLIC SPEAKER: Good evening. My  
21 name is Stanley Scobie. I'm representing a  
22 group called New Yorkers for Sustainable  
23 Energy Statewide that is concerned with the  
24 health, environmental, social and

1 socio-economic impacts of gas drilling and  
2 production. And I brought my water.

3 As a resident of Broome County, I'm  
4 here today because I became very aware of  
5 some of the unique aspects of Allegany  
6 County this summer when I began working on  
7 the Whitesville oil/gas variance hearing.

8 Allegany and some of the other  
9 western counties have three unique aspects  
10 regarding gas drilling in unconventional  
11 formations like the Marcellus.

12 First, although Western New York was  
13 prominent in energy development in the  
14 early part of the 20th century, the gas  
15 rush excitement that has been in many of  
16 the eastern counties for the past  
17 nine months or so has not been felt much  
18 here. Thus, probably most citizens don't  
19 know much about the implications of this  
20 development, even though the Marcellus is a  
21 broad-sheet or blanket formation that  
22 underlies much of the Southern Tier.

23 Second, the formation is thinner here  
24 than in the east and likely to be somewhat

1           less productive. Thus, development here  
2           will come later, well after most of the  
3           drilling controls and regulations are  
4           firmly established. It will be difficult  
5           for many people to comment effectively at  
6           hearings such as these without the  
7           background that comes from relatively long  
8           and concentrated exposure to specific gas  
9           drilling development issues.

10                   Third, and most unique to Western New  
11           York counties is the double whammy of  
12           having a substantial but unknown number of  
13           undocumented and unplugged wells and the  
14           fact that a considerable number of  
15           landowners do not own their mineral rights.  
16           This means that some landowners are not  
17           afforded the option of at least some  
18           control of whether or not drilling takes  
19           place near them by means of leasing or not.  
20           They can't build any protections into their  
21           leases, as many of us can, because they  
22           don't control the right to lease.

23                   And finally, if and when drilling  
24           does occur, they have to bear whatever

1           burdens of the disruption of industrial  
2           development brings without any of the  
3           compensatory benefits such as leasing  
4           bonuses and royalty payments that might  
5           allow them substantial mitigation.

6           Now I want to discuss five issues  
7           about the draft scope. The first four are  
8           general to the entire state, the last will  
9           expand to unique features of the Western  
10          New York Region.

11          Number one, throughout the draft  
12          scope there is reference to experience in  
13          New York. For example, in Section 4.1.2,  
14          reference is made to using pictures of New  
15          York sites with regard to appearance. This  
16          makes no sense as there is not any sort of  
17          representative set of Marcellus-like  
18          horizontal wells in New York. Probably the  
19          only comparable mature model would be in  
20          the Barnett Shale in Texas, the use of New  
21          York pictures would just not be useful.

22          Also, the draft scope makes reference  
23          to experience with hydrofracturing in New  
24          York. And again, there is no set of

1 hydrofractured horizontal Marcellus wells  
2 from which to draw any sort of experiential  
3 lessons. The vast majority of  
4 hydrofractured New York wells are small and  
5 relatively shallow wells that are in no way  
6 comparable. The much smaller number of  
7 existing large hydrofractured horizontal  
8 wells are not configured in the multiple  
9 horizontal manner envisioned in the 2008  
10 amendments to gas and oil law.

11 These newer Marcellus wells will be  
12 -- I'm sorry units for Marcellus wells will  
13 be about a mile square, they'll have one or  
14 just a few five-acre well pads with a large  
15 number of horizontal wells coming from each  
16 pad in the so-called zipper configuration.  
17 These multi wells can be drilled over a  
18 three-year period, hardly a weeks instead  
19 of years temporary disruption and  
20 inconvenience, more like years instead of  
21 weeks.

22 It is entirely appropriate to use  
23 data and experience from other states that  
24 are roughly comparable to what development

1 will be in New York. There is no  
2 reasonable basis for relying much at all on  
3 New York experience, it would be like  
4 comparing apples to bananas. Both are a  
5 food and a fruit, that's about it.

6 Number two, in the draft scope there  
7 is occasional mention of health issues and  
8 occasional mention of coordination with  
9 other agencies. Under NY 617.7, creation  
10 of a hazard to human health is listed as a  
11 criterion for determining environmental  
12 impact significance. There is ample  
13 evidence that industrial processes like gas  
14 drilling and production are threats to  
15 human health. However, with regard, for  
16 example, to potable/drinkable water,  
17 although it occasionally speaks about water  
18 testing, the DEC does not have a suggested  
19 water testing protocol on its website.  
20 Certainly a substantial health-related  
21 concern is contamination of drinking water,  
22 surface or subsurface, by one or more of  
23 the gas development procedures. The  
24 Department of Health does have a fairly

1 extensive water testing protocol posted.

2 One would think that because perhaps  
3 the greatest overall concern with Marcellus  
4 and similar development is human health,  
5 that the DOH should be a co-lead agency or  
6 at least its participation in scoping and  
7 supplemental GEIS development should be far  
8 clearer and much more specific. And,  
9 again, the New York experience is not  
10 particularly relevant regarding health  
11 issues because New York has not had the  
12 large-scale extraction experience that is  
13 envisioned, and that has an experiential  
14 base in other states, for example the  
15 Barnett Shale in Texas.

16 Because of the relatively large  
17 number of anecdotally-reported drinking  
18 water and health-related incidents in other  
19 states where large-scale gas drilling is  
20 more mature and thus more appropriate as  
21 models, we suggest that a special task  
22 force be constructed to evaluate, using the  
23 best science possible, the likely health  
24 impact of natural gas development in New

1           York. As far as we're aware there is no  
2           good science that proves gas drilling poses  
3           no threat. Therefore, following the  
4           precautionary principle of first try to do  
5           no harm, and using the clear knowledge that  
6           this is an industry that uses some very  
7           health-damaging chemicals in settings  
8           outside the fairly well-controlled  
9           industrial settings that most of us are  
10          familiar with, an unconflicted, blue-ribbon  
11          panel of experts should be assembled to  
12          consult and recommend on health matters for  
13          the supplement GEIS.

14                 Number three, the dismissal of the  
15          participation of the public service  
16          commission in the GEIS process is  
17          inappropriate. What is unacceptable is  
18          that the DEC refuses to assess the impact  
19          of gathering lines, transmission lines, and  
20          accidental spills or releases as part of  
21          the EIS process. This appears to be  
22          segmentation of an inherently integral  
23          process.

24                 DEC's reasoning is that there will be



1 no PSC involvement regarding gathering  
2 lines until after a well is drilled and  
3 thus no involvement with EIS issues prior  
4 to issuing a permit for a particular well,  
5 this is backwards. There will be no wells  
6 without gathering transmission lines. One  
7 of the first things that oil and gas  
8 companies do is to arrange right-of-ways in  
9 their leases prior to drilling so that when  
10 they drill they can market the gas.

11 We know that the Marcellus is a  
12 sheet/blanket formation and its success is  
13 about 98 percent. Probably the DEC's  
14 position on excluding the PSC and gathering  
15 lines from the GEIS is a historical legacy  
16 that was somewhat appropriate for the types  
17 of wells drilled in the 1980s and 1990s  
18 that had much lower probabilities of  
19 success, but it is not appropriate now.

20 Number four, private potable water  
21 wells. The scope should revisit the  
22 subject of gas well setbacks from private  
23 water wells for four reasons: First  
24 reason, no coherent reasoning was ever

1 presented in the 1992 GEIS for wanting a  
2 2,000 foot setback from municipal water  
3 wells and specifying a minimum setback from  
4 private wells of only 150 feet. The  
5 language in the 1992 GEIS, such as  
6 extremely unlikely and most common, was  
7 short term problems does not inspire  
8 confidence in individual homeowners who  
9 have only one well. The issue must be  
10 reexamined in light of the use of much  
11 larger volumes of hydrofracking fluids with  
12 a wide variety of chemicals, some of which  
13 may well be synthetic, ones unanticipated  
14 in 1992, and many of which are known to be  
15 dangerous to human health.

16 Second on wells, the setbacks  
17 suggested in 1992 were examined relative to  
18 40-acre well spacing. The 2008 amendments  
19 to Environmental Conservation Law allows  
20 units as large as 640 acres, with multiple  
21 horizontal wells that can be drilled over a  
22 three-year period from a few pads within  
23 the unit. It is unclear what the  
24 implications of these very different

1 configurations and the semi-continuous  
2 drilling over a long period of time may  
3 have.

4 There is anticipated a very large  
5 number of Marcellus wells, 2,000 to 3,000  
6 per county may be likely, assuming 25  
7 percent of the total land is filled with  
8 wells at 16 per 640 acre density, because  
9 of the wide-area sheet configuration of the  
10 formation of the high predicted hit rate.  
11 The large number of wells means that even  
12 with very small probabilities of damage to  
13 private water wells, and the term is used  
14 unlikely, there will almost certainly be  
15 some meaningful number of water wells  
16 damaged. Current regulations and  
17 procedures require private owners to pursue  
18 damage claims versus having a presumption  
19 of causation by the gas drilling. This all  
20 imposes an unreasonable burden.

21 Third point, again, the scope  
22 absolutely should not limit itself to data  
23 from the New York experience. New York has  
24 little experience with this kind of

1 drilling and there are numerous examples of  
2 potable water problems in a number of other  
3 states using horizontal hydrofracturing.  
4 Thus, the 1992 GEIS suggested there were  
5 problems, although rare, and the  
6 experiences in other states support the  
7 idea that there can be problems. With much  
8 larger and more wells, the number of  
9 problems will increase considerably.

10 Fourth point, the massive horizontal  
11 drilling and hydrofracturing of these  
12 unconventional formations use much larger  
13 fluid volumes and there are much larger  
14 amounts of produced fluid than was ever  
15 envisioned in the 1992 GEIS. Thus, simple  
16 probabilistic analysis of the almost  
17 certain accidental spills resulting in loss  
18 or control of these fluids implies strongly  
19 that there will be more opportunities for  
20 surface and groundwater contamination.  
21 This, coupled with the large number of  
22 Marcellus wells virtually insures a  
23 meaningful number of serious challenges to  
24 private water wells.

1                   Therefore, the setback provisions for  
2 private wells should be no different than  
3 for municipal wells. Moreover, the setback  
4 provisions for private wells should be no  
5 different than for municipal wells.

6 Moreover, the setbacks and other protective  
7 provisions for both should be revisited.

8                   My last point is special regional  
9 circumstances. There is clear  
10 acknowledgement of the special aspects of  
11 the New York City watershed in the Delaware  
12 River area. However, there are likely to  
13 be special smaller region issues, ones that  
14 potentially affect far fewer people and  
15 likely rural populations.

16                   The one that I wish to quickly review  
17 here is the issue of old undocumented and  
18 unplugged inactive wells. These exist in  
19 western counties of New York. They are  
20 typically old non-productive wells where,  
21 for example, the steel casing was pulled  
22 for salvage. There has been oil and gas  
23 drilling in Western New York for many  
24 decades prior to modern regulatory

1 practice.

2 The issue is that with potentially  
3 large numbers of Marcellus wells using  
4 massive amounts of fluid, the likelihood  
5 that a hydrofracture job would communicate  
6 with an unplugged abandoned well, make a  
7 U-turn, and come back up with water-bearing  
8 strata and cause serious and possible  
9 widespread water well contamination becomes  
10 fairly high.

11 The double whammy that I spoke about  
12 earlier represents a particularly nasty  
13 problem for the landowners who do not  
14 control their mineral rights, and who  
15 probably bought their land under very  
16 different circumstances than we now face.  
17 I assume that many bought with the good  
18 faith assurances that gas and oil  
19 development was just about over for this  
20 area, as it seemed until quite recently.  
21 It imposes an undue burden to expect them  
22 now to live with the consequences that  
23 could not be foreseen as little as  
24 three years ago by both the DEC and by the

1 New York State legislature when it passed  
2 the 2005 amendments to Environmental  
3 Conservation Law. Dealing with this  
4 problem will be difficult but necessary.  
5 The scope must include it. Thank you.

6 ALJ: Thank you. Our next speaker is  
7 Mike Hogan.

8 PUBLIC SPEAKER: Good evening, I'm  
9 Mike Hogan. I'm an energy consultant for  
10 the Upstream Oil and Gas Industry. I was  
11 born and raised in Olean, New York, so I'm  
12 familiar with this area, although I reside  
13 now in Chautauqua County. I'm here tonight  
14 representing the Independent Oil & Gas  
15 Association, also known as IOGA. I'm also  
16 a member of the Society for Petroleum  
17 Engineers, the Association of Energy  
18 Engineers and the Independent Petroleum  
19 Association of America.

20 IOGA of New York has reviewed the  
21 DEC's existing GEIS and draft scoping  
22 document on a point-by-point basis. The  
23 review was an effort to determine if IOGA  
24 of New York concurs with the proposed draft

1 scope and to identify any areas where IOGA  
2 of New York's analysis may differ from that  
3 of the DEC.

4 Through this process, IOGA of New  
5 York has determined that the overall scope  
6 proposed by the DEC appears to be justified  
7 based on the potential development of low  
8 permeability gas reservoirs in the state,  
9 especially the Marcellus formation.

10 Although our review did identify some  
11 points that IOGA of New York believes that  
12 the DEC should further consider as part of  
13 the scoping process of drafting a  
14 supplemental document, our analysis is very  
15 much in support of DEC's scope of the  
16 proposed supplemental GEIS.

17 IOGA of New York supports the DEC  
18 determination not to reopen the entire 1992  
19 GEIS. IOGA further supports DEC's  
20 determination to exclude pipeline  
21 regulations from the document.

22 Additionally, since foam water fracturing  
23 was covered in the GEIS, DEC has determined  
24 the SGEIS will focus on slick water



1           fracturing.

2                   IOGA fully supports -- or fully  
3 concurs and appreciates the recognition  
4 that there has not been any groundwater  
5 contamination caused by hydraulic  
6 fracturing of gas well development in New  
7 York State, despite the use of this  
8 technology on thousands of wells during the  
9 past 50 or so years.

10                   Well site operations, there are no  
11 potential environmental impacts associated  
12 with horizontal drilling in itself and they  
13 have already been addressed sufficiently in  
14 the existing documents and mitigated.

15                   Information about fracturing fluid  
16 additives are now being collected from  
17 service companies and chemical suppliers,  
18 this is now part of the permit application.

19                   Fluid handling will be fully  
20 addressed in each permit and there is no  
21 additional generic controls required.

22                   Examination of water whether PIP,  
23 water specifications should be required for  
24 high-volume hydraulic flowback operations

1           should be addressed by a case-by-case,  
2           permit-by-permit basis.

3                       Assessment of whether steel tanks  
4           should be required on some or all areas  
5           containing flowback fluids from high-volume  
6           hydraulic fracturing operations is also  
7           something that should be addressed on a  
8           permit-by-permit basis.

9                       The use of single well pad and  
10          drilling multiple wells at a single surface  
11          location will reduce the environmental  
12          impacts, so further evaluation beyond the  
13          GEIS is not needed.

14                      Whether larger lined pits will be  
15          used for temporary storage of fluids  
16          associated with high-volume hydraulic  
17          fracturing operations is a matter to be  
18          determined on a permit-by-permit basis.

19                      Water withdrawal, the SRBC,  
20          Susquehanna River Basin Commission and the  
21          DRBC, Delaware River Basin Commission  
22          addresses surface water withdrawals for  
23          most of the areas where anticipate that  
24          Marcellus drilling will be anticipated and

1           they will respectively address the  
2           potential cumulative impact of numerous  
3           withdrawals and no further review is  
4           needed.

5           The aspects of the GEIS scoping  
6           document related to water withdrawal,  
7           therefore is over -- accordingly overboard  
8           and is not necessary.

9           Community character, hydraulic  
10          fracturing of Marcellus Shale wells will  
11          not change the GEIS assessment that  
12          community character will not be impacted  
13          except by environmental -- economic  
14          benefits associated with the industry and  
15          the employment opportunities provided by  
16          the corporations involved and associated  
17          service development.

18          By example, the development of the  
19          Barnett Shale in the Dallas/Fort Worth,  
20          Texas area has provided 70,000 new jobs in  
21          a five-county core area. The core area of  
22          the Marcellus Shale has been estimated to  
23          be seven to ten times larger than the  
24          Barnett.

1           Development of reservoirs from the  
2           Marcellus and other unconventional shale  
3           reservoirs will have a significant positive  
4           impact upon local communities. Thank you.

5           ALJ: Thank you. Our next speaker is  
6           William Dibble.

7           PUBLIC SPEAKER: Thank you. One of  
8           the big concerns that I've got is the  
9           impact, economic impact that it has on  
10          Allegany County, the Southern Tier and New  
11          York State. We're holding up a process  
12          that is quite severe. For example, I will  
13          leave this map with you, Molly, this is a  
14          county map and there is active leasing  
15          going on in the southern part on these 10  
16          columns across the border, two bottom tiers  
17          in the county.

18          I looked at the acreage on this thing  
19          and this came in during the leasing, it  
20          would have brought in \$103 million this  
21          year to the taxpayers in the county, that  
22          would have been taxed by the state, too bad  
23          it's lost, hopefully it will come back  
24          soon. You know, that \$103 million means a

1 lot to a poor county like Allegany County.

2 I also wanted to mention a little bit  
3 about the shallow oil field, the old oil  
4 field in this area. There was a resolution  
5 back in January asking about the state, I  
6 will leave a copy here, Resolution Number  
7 25-08, January 25th, I will leave a copy  
8 with you. We did another resolution,  
9 25-08, October 27th, this has to do with  
10 the shallow wells in this area, especially  
11 the Independence thing. And I recommend  
12 that you make a permanent change to the  
13 regulations according to the resolve in  
14 that resolution.

15 We're asking right now for a  
16 variance, but I think as this goes forward  
17 we should have a permit changed to the  
18 regulations, so hopefully DEC will grant  
19 this variance soon, because you have a  
20 company that has \$150 million to invest  
21 over in the Independence/Willing area,  
22 that's lost. They are going to go to  
23 Pennsylvania, we are losing business in New  
24 York State unfortunately.

1                   This resolution that I mentioned to  
2                   you talks about drilling wells and suggests  
3                   to you that if you do away with the spacing  
4                   requirements, any oil wells drilled above  
5                   the Tully formation, also any gas to oil  
6                   production ratio is done away with  
7                   completely. Any laws -- above the Tully  
8                   and there's a -- chart attached to this,  
9                   the formation that I'm talking about is  
10                  above the Tully. Tully is a limestone  
11                  caprock, it's above the Marcellus  
12                  formation.

13                  And if this resolution as it states  
14                  is not what you like as far as wording,  
15                  because we referred to the formations, you  
16                  might consider drilling oil wells  
17                  42 degrees, 50 minutes, 35.79 seconds in  
18                  the County of Steuben, Allegany,  
19                  Cattaraugus, Chautauqua whose total depth  
20                  above the Tully, not have an oil  
21                  production, gas/oil ratio requirement.

22                  In addition, beginning oil spacing  
23                  requirements with such fields, setbacks are  
24                  maintained at least 80 feet from the lease

1 boundary, unless it continues, mineral  
2 owners/operators are the same.

3 If the mineral owners are the same  
4 parties, there will be no oil well lease  
5 setback.

6 Right at the present time mineral  
7 right owners are losing 45 million in the  
8 Town of Independence, over 20 years we're  
9 losing \$80 million of production. So  
10 hopefully we will get the variance through  
11 soon, Jack, get this behind us and to  
12 change the regulations. I'll leave this  
13 here. I'm leaving both Resolutions 25-08  
14 and 25-08 with you.

15 Just a comment about the Marcellus.  
16 There is a chart I will leave with you.  
17 You probably all got this stuff. This one  
18 shows the layout for Marcellus fields, it  
19 sits along the southern part of the county,  
20 the gray, from here down to Chautauqua,  
21 Lake Erie across to Binghamton. And  
22 several years ago there was no surprise  
23 there were wells drilled by NYSERDA through  
24 the -- West Virginia, they drilled several

1 Marcellus wells around the area, here in  
2 Portville and over at Houghton College and  
3 Alfred University and they showed the gas  
4 is here. The only one that was really good  
5 was Houghton because it was a natural  
6 fracture, but now by using hydraulic  
7 fractures, we can reach out there and get  
8 the gas out, it's here, no question, a  
9 thick base of it.

10 I did the studies on that part,  
11 VanTine and they contracted NYSERDA to do  
12 the study of the wells that were drilled.  
13 I have a degree in petroleum from Pitt and  
14 I did study geology study at Alfred  
15 University, so the gas is here, let's get  
16 busy and get it. So hopefully we will get  
17 this through very quickly and make some  
18 money for the state to get rid of that  
19 deficit and have fun doing it.

20 ALJ: Thank you.

21 PUBLIC SPEAKER: Thank you.

22 ALJ: Our next speaker is Larry  
23 Beahan.

24 PUBLIC SPEAKER: My name is Larry



1           Beahan, I'm representing the Sierra Club  
2           and the Adirondack Mountain Club. I'm the  
3           current forestry chair for the Niagara  
4           Frontier branch of the Adirondack Mountain  
5           Club and I'm the open space chair for the  
6           state Sierra Club.

7                     Our two organizations are  
8           particularly concerned with the effect of  
9           these new deep Marcellus wells on forests  
10          and particularly forests in parks. I've  
11          seen pictures of these wells say several  
12          years -- or a few years after they were put  
13          in farmland, and they kind of look like a  
14          park, that is a city park. But if you put  
15          that kind of a well into Allegany State  
16          Park and you use up a mile of forest and in  
17          the process you cut miles and miles of road  
18          through the forest, you really don't have a  
19          forest there anymore. And our parks like  
20          the parks in the Catskills, like Letchworth  
21          and particularly like nearby Allegany State  
22          Park are provided so that our citizens will  
23          have a place where they can go and be in a  
24          wild natural environment to hunt, fish,

1           camp, ski, and those parks provide millions  
2           of dollars' worth of recreation to us and  
3           actually bring it into the surrounding  
4           towns and counties, actual hard cash. And  
5           they are irreplaceable resources.

6                     Allegany State Park has forest in the  
7           middle of it of 350-year old Hemlocks, it's  
8           going to take a long time to grow another  
9           forest like that.

10                    The supplemental GEIS makes some  
11           special provisions for special kinds of  
12           places where they are to be particularly  
13           careful, for instance, wetlands,  
14           watersheds, there is no mention of park  
15           lands, there is no mention of forest and of  
16           the very special kind of destructive nature  
17           of these huge industrial wells. I think  
18           that this GEIS, it really needs to go back  
19           and look at what can happen to our forest.

20                    Allegany State Park, a hundred years  
21           ago, was a moonscape with 200 oil wells in  
22           it. We could easily be put back there if  
23           we're not very careful with our regulation.  
24           Thank you very much.

1 ALJ: Thank you. Our next speaker is  
2 Eddie Grey.

3 PUBLIC SPEAKER: Good evening, my  
4 name is Eddie Grey and I am the director of  
5 Regulatory Compliance for Chesapeake Energy  
6 Corporation, Eastern Division.

7 Chesapeake is a leader in exploration  
8 and development of domestic unconventional  
9 natural gas reserves in this country and  
10 strongly focused on the development of the  
11 Marcellus Shale.

12 On a more personal note, I'm a  
13 registered and professional engineer  
14 licensed in the State of New York as well  
15 as Pennsylvania and West Virginia. And in  
16 addition to nearly 20 years working in the  
17 oil and gas ravine, my past has been very  
18 deeply routed in environmental stewardship.  
19 I'm actively involved in groups such as  
20 Ducks and Trout Unlimited. I also serve on  
21 the board of trustees for the Nature  
22 Conservancy and am the president of the  
23 Morris Creek Watershed Association in West  
24 Virginia.

1           Environmental stewardship has been  
2           and continues to be a very key element in  
3           my life. With this in mind, I, and we, at  
4           Chesapeake have reviewed the DEC's existing  
5           GEIS document as well as the draft scoping  
6           document on a very thorough basis.

7           This review was intended as an effort  
8           to determine whether or not Chesapeake  
9           agrees with the proposed draft scope and to  
10          identify any areas where Chesapeake --  
11          where Chesapeake's analysis may differ from  
12          that of the DEC.

13          Additionally, we offer our  
14          observations based on our own parallel  
15          experience in developing low-permeability  
16          gas reservoirs such as the Marcellus shale.

17          Through our review process,  
18          Chesapeake believes that the overall scope  
19          proposed by the DEC appears to be justified  
20          and reasonable based on the potential  
21          development of low-permeability geologic  
22          reservoirs within the state such as the  
23          Marcellus shale.

24          Chesapeake would like to commend the

1 DEC on the draft scope. That being said,  
2 we believe the DEC should further consider  
3 certain points that's outlined in attached  
4 comments that I will provide here this  
5 evening.

6 It should be noted that the  
7 supplemental GEIS specifically seeks to  
8 review low permeability and horizontally  
9 drilled gas reservoirs. However, none  
10 currently exist within the State of New  
11 York. We strongly urge the DEC to collect  
12 such information from similar employees in  
13 other states.

14 Chesapeake is committed to working  
15 with the DEC as well as the State of New  
16 York to provide necessary information so  
17 that this resource can be developed for the  
18 benefit of New York State and the citizens  
19 with great respect to the environment.

20 For your convenience we have provided  
21 a summarized version of our analysis in  
22 hard copy format to be used to assist in  
23 proposed scope and supplementing the GEIS  
24 until it's finalized. Thank you.

1                   ALJ: Our next speaker is Scott  
2                   Rotruck.

3                   PUBLIC SPEAKER: Good evening,  
4                   thanks, your Honor, and thanks to the DEC  
5                   for the opportunity to be here tonight.

6                   My name is Scott Rotruck, I'm the  
7                   vice president of corporate development for  
8                   Chesapeake Energy Corporation, Eastern  
9                   Division.

10                  Chesapeake is the largest producer of  
11                  clean burning natural gas in the country  
12                  and is responsible for more than 150  
13                  operating rigs drilling for new reservoirs  
14                  and production across our 18  
15                  state-operating area.

16                  We account for approximately four  
17                  percent of the natural gas produced in the  
18                  United States. We're also the largest  
19                  leaseholder in the Marcellus Shale which  
20                  stretches from New York to West Virginia,  
21                  as well as the number one developer of  
22                  shale gas in America.

23                  In the State of New York alone, we  
24                  have a million acres under lease which

1 includes the Marcellus Shale and other  
2 prospective formations.

3 Tonight we will address industries  
4 overall and portions of the draft scope.  
5 The socio-economic impacts of drilling and  
6 the need for this process to proceed as  
7 expeditiously as possible.

8 I will speak first with respect to  
9 the socio-economic impacts. With respect  
10 to the draft scope, we think that the  
11 Department did a very commendable job  
12 finding the issues to be evaluated as part  
13 of the supplement to the GEIS. In  
14 particular, we support the Department's  
15 decision to limit the supplemental review  
16 to a narrow set of issues and not to reopen  
17 the entire GEIS process.

18 We welcome the opportunity to work  
19 with the State of New York in providing a  
20 resource scope for the Supplemental Generic  
21 Environmental Impact Statement, as well as  
22 information in completing the review and  
23 supplementation process.

24 Governor Patterson happily stated

1           that the review should be done quickly and  
2           efficiently so as to ensure timely  
3           development of a natural resource locked  
4           within low-permeability geological  
5           formations and to infuse New York with new  
6           jobs and economic prosperity.

7           Having said that, we believe such  
8           development can and must be done in an  
9           environmentally responsible way, as has  
10          been done in Pennsylvania, which is New  
11          York's Marcellus Shale neighbor.

12          Chesapeake and other explore  
13          industries stand ready and willing to join  
14          with you to develop the Marcellus Shale  
15          resources in New York State. Unfortunately  
16          we will not be able to do this until well  
17          permits are issued by the New York  
18          Department of Environmental Conservation.

19          To do so will require your support to  
20          process the supplement to the GEIS as  
21          expeditiously as possible and allow this  
22          clean-burning resource to be selectively  
23          developed. That is the obstacle that we  
24          face together, to develop a full economic



1 potential of natural gas in the State of  
2 New York and realize the extraordinary  
3 economic benefit and job creation from that  
4 effort.

5 While we understand and appreciate  
6 and agree with the necessary attention paid  
7 to the environmental aspects of natural gas  
8 exploration, we also believe we must  
9 address the need to see this process  
10 proceed in a timely and expeditious manner  
11 so that the State of New York does not miss  
12 out on an incredible amount of capital  
13 investment, state and local revenues and  
14 significant job creation.

15 Created in 1992, the existing GEIS  
16 actively describes drilling activities  
17 including hydrofracking and its assessment  
18 of potential environmental impacts and its  
19 discussion of appropriate mitigation.

20 In short, thousands of wells have  
21 been drilled and fracked under the guidance  
22 of the existing GEIS without environmental  
23 incident. A recent study by Navigant, an  
24 independent engineering and consultant

1 firm, shows that the shale place, such as  
2 the Marcellus Shale, are prolific enough to  
3 significantly reduce our country's reliance  
4 on foreign oil to reduce home heating  
5 prices and to reduce pollution caused by  
6 automobiles by up to 50 percent.

7 During this time of great economic  
8 uncertainty, companies across the country  
9 will be forced to make difficult decisions  
10 regarding the placement of their  
11 investments, understanding that it must go  
12 where it has the best opportunity to earn a  
13 positive return.

14 Together we can develop the Marcellus  
15 Shale to the benefit of local communities  
16 in New York State and our economically-  
17 challenged nation while absolutely  
18 protecting our water resources and other  
19 environmental resources.

20 New York is now uniquely positioned  
21 to help America and itself reduce its  
22 reliance on foreign energy and to stimulate  
23 the state's economy at the same time.

24 As has been done in Pennsylvania, New

1 Mexico, Texas, Louisiana and Arkansas, we  
2 believe that we can work together to  
3 address the questions and the concerns  
4 regarding the technological capability of  
5 our industry and our track record for  
6 protecting the rights of the stakeholders  
7 and the environment.

8 Development of the New York Marcellus  
9 Shale will provide a potential springboard  
10 for economic prosperity for communities  
11 across the majority of New York Southern  
12 Tier, including thousands of new  
13 high-paying jobs with significant fiscal  
14 impact to increase tax revenues and  
15 providing New Yorkers with producing well  
16 royalty income that could amount to  
17 millions of dollars each month.

18 Using the Barnett Shale, a 5,000  
19 square mile, 18 rural and urban county  
20 natural gas -- in North Central Texas as a  
21 model of future investment. A multitude of  
22 companies have combined to create 99,700  
23 new Texas jobs with an annual economic  
24 impact alone of \$8.2 billion per year.

1                   It should be noted that the  
2                   Commonwealth of Pennsylvania is taking a  
3                   proactive, yet responsible, environmental  
4                   conservative approach towards the  
5                   development of the Marcellus Shale through  
6                   balancing environmental concerns with  
7                   economic opportunity.

8                   We need every level of employment  
9                   from good traditional blue collar jobs,  
10                  such as well tenders and drillers to high  
11                  tech jobs such as seismic analyst,  
12                  geographic information system analyst and  
13                  geophysicist. The industry will benefit a  
14                  multitude of Americans and American  
15                  industries from American soil. Right now  
16                  these jobs are waiting to be created in the  
17                  Southern Tier of New York where economic  
18                  development is badly needed.

19                  Thank you all very much.

20                  ALJ: Our next speaker is Joe Evans.

21                  PUBLIC SPEAKER: My name is Joe  
22                  Evans. I live in the Town of Genesee in  
23                  Allegany County. I'm representing Upper  
24                  Genesee Chapter of Trout Unlimited in

1 Wellsville.

2 Two concerns that we have are  
3 environmental in nature. One is the  
4 concern over water removal from small  
5 streams, especially those that may have  
6 wild trout in them. One of our members in  
7 August observed a truck, obviously one that  
8 is not associated with the Marcellus  
9 drilling right now, but whatever drilling  
10 is going on in Southern Allegany, but they  
11 came into a small brook trout stream and  
12 had a 5,000 gallon tank, an empty tank on a  
13 truck and they filled up from this brook  
14 trout stream that has a flow of less than 1  
15 CFS. What that means, I don't know about  
16 the size of the pump or the pipes, but if  
17 they filled a 5,000 gallon tank in  
18 10 minutes, that would dewater the stream  
19 at least for a small period of time.

20 If we're talking three million  
21 gallons per well for the Marcellus Shale  
22 drilling, we just don't want them taking  
23 water from a small stream, there are nearby  
24 larger streams that are probably better

1 choices. So somewhere in the permitting we  
2 should probably limit streams under a  
3 certain flow for finding the water because  
4 we do know we need the water. Oil and gas  
5 drilling are economically important in our  
6 area, we have a need for it, we have a need  
7 for the water, we just need a control over  
8 where the water comes from.

9 On a similar note, we have a concern  
10 for the trash for invasive species from one  
11 water to another. For example, in the last  
12 10 or 20 years, New York State now has VHS,  
13 a virus that kills many kinds of fish, a  
14 flowing disease, a protozoan that kills  
15 trout, zebra mussels, non-native mussels  
16 that displaces native mussels and didymo,  
17 an algae also commonly known as rock-snot  
18 which is in the Catskills right now. Any  
19 type of moving water from an infected  
20 watershed using that water and then  
21 depending on how it's released or where it  
22 goes, you can spread one of these invasive  
23 species to the detriment of that ecosystem.

24 Again, this can be controlled by some

1 type of permitting for sterilizing or  
2 somehow treating the pumps and pipes of  
3 these trucks that are moving the water and  
4 we just want to make a comment on that,  
5 thanks.

6 ALJ: Thank you. Our next speaker is  
7 Brian Smith.

8 PUBLIC SPEAKER: Hello, my name is  
9 Brian Smith and I'm the Western New York  
10 program director for Citizens Campaign For  
11 the Environment or CCE. Thank you for the  
12 opportunity to comment.

13 CCE commends the Department for  
14 addressing new technology in the creation  
15 of the draft scope supplemental GEIS. We  
16 also commend the Department for its  
17 proactive approach for soliciting public  
18 comment and review and for recognizing the  
19 increasing interest in drilling in areas  
20 not covered by the GEIS.

21 The proposed drilling in  
22 environmentally sensitive and important  
23 watersheds including the Susquehanna River  
24 Basin, Great Lakes Basin, Delaware River

1 Basin, New York City's watershed and the  
2 Catskills Park will require effective  
3 inner-agency cooperation and collaboration.

4 In that regard we recommend the DEC  
5 Division of Mineral Resources engage in  
6 work with the Division of Water, as it has  
7 promised to do, specifically with the  
8 Susquehanna and Delaware River Basins.  
9 Protecting these watersheds is essential to  
10 public health and the public's right to  
11 clean water.

12 The Division of Mineral Resources  
13 draft scope does not recognize the passage  
14 of the Great Lakes St. Lawrence River Basin  
15 water resources compact which sets limits  
16 on water withdrawals, prohibits water  
17 reverse outside the Great Lakes Basin and  
18 requires the return of water to its storage  
19 watershed.

20 This summation underscores the fact  
21 the public and the Great Lakes needs an  
22 inner-agency collaboration to protect our  
23 water resources.

24 CCE further recommends that careful



1 consideration be made when drilling occurs  
2 near class A water bodies, 303(d) listed  
3 water bodies and aquifers.

4 The amount of water to be used for  
5 high-volume hydraulic fracturing in a  
6 previously mentioned watershed is of course  
7 the subject of great debate. Regardless of  
8 whether or not the effective watershed has  
9 regulations guiding water withdrawal and  
10 consumptive use, CCE firmly assist the  
11 department, make a policy of returning  
12 water to its source watershed. This  
13 practice will create uniformity across the  
14 basin lines and provide a uniform  
15 regulation that does not conflict with any  
16 of the other major watersheds mentioned.

17 CCE agrees that the water withdrawal  
18 should include impacts that public water  
19 supply, potential degradation of the  
20 streams, potential impacts to wetlands,  
21 fish and wildlife and strong preventive  
22 measures to guide against the transfer of  
23 invasive species.

24 In regard to transporting water

1 outside of the source basin, this should  
2 not be the practice nor the policy of the  
3 New York State Department of Environmental  
4 Conservation.

5 All steps should be taken to use the  
6 water within the watersheds and return to  
7 that watershed. Transporting waste water  
8 either through a to or from well drilling  
9 site should finally result in that water  
10 being returned to its source watershed.

11 On the issue of waste water and  
12 fracturing fluid, CCE believes that the  
13 Department should implement stringent  
14 requirements for treating and returning  
15 water to the source watershed.

16 The Department has solicited comments  
17 on fluid handling and removal of the well  
18 site. CCE agrees that the pit line  
19 specifications should be detailed and  
20 believes that steel tanks should be  
21 required for drill pads near class A and  
22 303(d) listed water bodies, as well as sole  
23 source aquifers.

24 We commend the Department for

1           ensuring all waste fluids that are removed  
2           before pits are reclaimed. We adamantly  
3           disagree with the underground injection  
4           control upon treated waste water fluids as  
5           this does not address treatment of this  
6           contaminated waste and return of the water.

7                   CCE supports the Department's  
8           decision to collect the information from  
9           operators regarding volume and consumption  
10          of the spent fracturing fluid.

11                   CCE advocates the Department also  
12          disclose its information to the public. We  
13          are opposed to the position that the  
14          Department should allow the confidential  
15          and proprietary information to keep the  
16          Department from publicly disclosing what  
17          chemicals they use for hydraulic  
18          fracturing. The public has a right to know  
19          what is being used in its soil and its  
20          water as well as empowering the public  
21          proactively protect themselves by testing  
22          for these chemicals. We also support  
23          feasibility study for requiring reuse and  
24          recycling of fracturing flowback fluid.

1 CCE supports the Department's  
2 decision to determine this normal recurring  
3 radioactive materials are norm, are  
4 contained in cutting, spent fracturing  
5 fluids or production of water. We believe  
6 the Department should go further and  
7 disclose what norms they've found along the  
8 well sites and what quantities to allow the  
9 public to finally be fully informed.

10 Furthermore, the CCE believes that  
11 the Department should take a more proactive  
12 approach in testing around drill sites and  
13 recommends regular testing of water and  
14 soil for norms and other chemicals  
15 associated with the drilling process and  
16 disclose these results to the public.

17 We believe that it would be prudent  
18 and good public policy for your New York  
19 State to establish a community for water  
20 protection fund, funded by the oil and gas  
21 drillers. This new fund should be  
22 explicitly used to offer the price of land  
23 reclamation and ensure that any unforeseen  
24 hazards from oil and gas drilling could be

1 used expediently to remedy this event  
2 effectively on behalf of the public.  
3 Again, I thank you for your time.

4 ALJ: Our next speaker is Michael  
5 Joy.

6 PUBLIC SPEAKER: I would like to  
7 pass.

8 ALJ: That was my last card. Was  
9 there anyone else out here in the audience  
10 that would like to make a comment?

11 If anyone else would like to make a  
12 comment before we close the hearing, again,  
13 there are cards available outside that  
14 hallway, just fill out a card and bring  
15 them down to us.

16 Ross Scott.

17 PUBLIC SPEAKER: Good evening, folks.  
18 I'm a lawyer in Allegany County and I'm  
19 also a landowner. And I also don't have my  
20 mineral rights. I have a 250-acre farm in  
21 the Town of Independence. I would like to  
22 make a comment about some experiences that  
23 I've had on my own property with oil and  
24 gas operations. And I'd like to first

1 start by rebutting the gentleman who  
2 earlier testified that fracking has never  
3 caused any harm in New York State, that may  
4 be true for that which he is aware of, but  
5 I know that on my own farm, and there's a  
6 stream that crosses it which had nice long  
7 trout about a foot long in it, there was  
8 fracking going on upstream that wound up  
9 putting a foam, it looked like somebody had  
10 dumped a couple hundred gallons of some  
11 dish detergent or something upstream and  
12 all the fish died, and they still haven't  
13 come back. That was some 20 years ago, so  
14 the statement that there's never been any  
15 harm from fracking in New York State is  
16 false. And it was irresponsible of whoever  
17 said it to make that claim.

18 And that gets down to how these kinds  
19 of things happen. Companies like  
20 Chesapeake may well have professional  
21 engineers, professional ecologists and  
22 others, and I don't just say that about  
23 Chesapeake, National Fuel and the other big  
24 producers, they often don't have their own

1 rigs. Maybe Chesapeake does, but companies  
2 generally hire drillers to go out, and I  
3 can tell you from experience that the  
4 drillers themselves could care less about  
5 the environment. They do just what they  
6 can barely get away with without getting in  
7 trouble with their client which is the big  
8 company.

9 And the actual drillers out there  
10 will take barrels of biocide, dump it into  
11 creeks, leave partially empty barrels on  
12 the sides of creeks with the open end at  
13 the top, I've seen it on my own property.  
14 Complaints have resulted in very little  
15 being taken care of. And that's one of the  
16 real problems, in my view, is that the  
17 companies that are out there doing these  
18 big drilling projects kind of distance  
19 themselves from the little contractors that  
20 actually drill the wells and I think they  
21 need, and DEC needs to in its, in looking  
22 at the environmental impact of the  
23 hydraulic fracturing, look at the  
24 contractual relationship and the kind of

1           oversite that Chesapeake have over the  
2           little companies and sometimes the  
3           companies that do the drilling. I don't  
4           see anything in the scoping document, and  
5           maybe I've missed it, that addressed how  
6           the companies that actually do the work  
7           will be monitored by the companies that are  
8           retaining them.

9                        So that's all I've got to say this  
10           afternoon.

11                      ALJ: Thank you. Is there anyone  
12           else that would like to make a comment  
13           while the record's open? If there is no  
14           one else, I would like to thank you on  
15           behalf of the Department for coming out and  
16           drive safely.

17  
18  
19  
20  
21  
22  
23  
24



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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.

---

DANIELLE R. GEORGE