

Hannings File Copy

I am aware that The Independent Oil & Gas Association of New York (IOGA) has presented an oral statement at the hearing in Albany on June 6, 1988, and copies of this statement are available if anyone would like one. Lenape is in agreement with IOGA and has the following comments:

First, we feel strongly that the framework of existing laws and regulations, when coupled with existing permit conditions, are more than adequate to protect the environment and to regulate the oil and gas industry. We also support the DEC's desire for a more evenly administered uniform regulatory program. We also realize that any project the size of this GEIS is bound to have some discrepancies or oversights.

Second, we feel an honest effort has been made by the DEC to accurately depict New York State's oil and gas industry from its beginning to the present. We also disagree with the present GEIS format in its recommending future legislation, rules, regulations, permit conditions and mitigation measures. Lenape believes that the GEIS should only be a body of information with regard to present laws, regulations, rules and permit conditions.

Third, in agreement with IOGA's statement, we also feel there are ten general comments to the contents of the GEIS that we feel will need to be addressed differently. Such action will allow our industry to continue operating and providing taxes, jobs and royalties.

LEN-1

- 1) State actions in the form of regulations which prohibit the mineral owners recovering his or her oil and/or gas reserves should allow for financial compensation by the State of the unrecovered reserves at full market value.
- 2) Regulations or permit conditions should be consistent for both State owned and private land.
- 3) The DEC should not impose itself as a third party in landowner/operator contracts. This is an infringement of landowner rights.
- 4) Regulations for access roads should not apply because these roads are contractual matters between the landowner and the operator and are not regulated in other industries such as logging or farming.
- 5) Concerning safety matters, we believe the DEC should defer to the more than adequate standards and regulations already imposed on our industry by the New York State Department of Labor, the Federal Department of Labor, OSHA and MSHA.
- 6) We feel it necessary that the regulations of all well drillers (broadly defined as anyone penetrating an aquifer - this would include water well drillers) is needed to insure comprehensive and adequate protection of fresh water aquifers.

- 7) We feel that regulations of visual impacts of oil and gas operations are too subjective and discretionary to be applicable.
- 8) We feel that soil is not a commonly held natural resource requiring special protection by the DEC.
- 9) Even though we are in agreement with present casing and cementing guidelines, we feel that the use of grouting as referred to in the GEIS may not achieve the objective of protecting fresh water aquifers. In some cases, grouting may cause unforeseen problems.
- 10) The GEIS refers to changes that will occur in the future which in fact have already taken place. These sections should have been revised to show current conditions under which our industry operates.

In summary, I would like to say that 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.

Thank you for the opportunity to comment.

LEN-1

The commentator's support for the Independent Oil and Gas Association (IOGA) submission is noted. Please refer to the response to that submission.

CHAUTAUQUA COUNTY
DEPARTMENT OF PLANNING & DEVELOPMENT

GERACE OFFICE BUILDING
MAYVILLE, NEW YORK 14757
(716) 753-4296

JOHN R. LUENSMAN
Director

CR-128

POSITION PAPER
ON
DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT
ON THE GAS, OIL, AND SOLUTION MINING REGULATORY PROGRAM
BY
THE CHAUTAUQUA COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL
JUNE, 1988

We have reviewed the Draft Generic Environmental Impact Statement on the Gas and Oil and Solution Mining Regulatory Program, Volumes I through III dated January, 1988. After a detailed review, the following conclusions were reached.

CCD-1

The documents are at the least a decade late. The documents carry statements of recommendations but suggest no time table for changing the present rules and regulations.

If the schedule used for the GEIS is followed to change the regulations and rules as recommended, another boom and bust cycle of the gas and oil industry can pass over Chautauqua County before the regulations are in place. We need the regulations now. We need a commitment, a timetable, a schedule on how the rules and regulations will be changed. We need such a commitment as part of the GEIS process.

CCD-2

In several places in the GEIS there is comment about the unregulated water well drilling industry. Regardless of its unregulated condition, the gas and oil industry has no right to adversely alter the condition of the ground or surface waters of the State of New York.

CCD-3

Basically, the Chautauqua County Environmental Management Council agrees with all of the changes proposed or recommended concerning rules and regulations related to the gas and oil industry. Specifically, we have the following comments:

CCD-4

Page 3-3: There are two items dealing with the SEQR requirements as noted on page 3-3 of the "Draft." They are the conditions for requiring detailed site specific environmental assessment. They are item 4, Oil and Gas Drilling Permits less than 2,000 feet from a municipal water supply well. To use the word municipal to describe a water well is to leave all institutional wells and private wells that may serve hundreds of people, possibly over a thousand people, without the protection which the word municipal provides to 241 villages with fewer than 500 persons if they have a municipal well or 185 villages with under 250 persons, if per chance they have a municipal water supply well. All water supply systems serving over a particular population possibly as little as 200 persons should have the same level of protection. They should not be protected because the ownership of the well being that term "municipal."

CCD-5

The second item on the page is item 5 which relates to new major water flooding. What is major water flooding? We are unalterably opposed to any water flooding or any secondary or tertiary gas or oil recovery done under or near Chautauqua Lake waters or the Jamestown Aquifer without a specific Environmental Assessment.

CCD-1

As stated in the GEIS, most of the proposed regulations are already part of the regulatory program as guidelines and permit conditions. Environmental protection has not been compromised during the preparation of the GEIS. The average time for the promulgation of rules and regulations in New York State is approximately two years.

CCD-2

We agree that the oil and gas industry has no right to adversely impact ground and surface waters. The point being made in the GEIS is that unregulated and improperly constructed water wells also contribute to pollution of groundwater supplies. If a water well is improperly constructed, the DEC has a very difficult time proving that an improperly constructed oil or gas well is the exclusive contributing factor.

CCD-3

Support for the proposed regulatory changes is noted.

CCD-4

Water supply well owners should accept some share of the responsibility for protecting the quality of their water (e.g. by insisting on strict well construction standards and/or by owning the land in buffer zones surrounding their wells). The well safeguards, construction, and testing standards of non-municipal water systems are not as stringent as those for municipal systems and, in fact, water well drillers are unregulated.

The decision to require an EIS for any oil and gas well less than 2,000 feet from a municipal water supply well was a Commissioner's decision which was made as a result of public concern in the Jamestown area. This decision was not based on the number of people served, but consideration was given to the logistic feasibility of providing an alternate water supply for a municipality. The Commissioner's decision remains in effect until completion and approval of the final GEIS.

Reasonable additions to current regulations will be considered during the rulemaking process.

CCD-5

The word "major" could be removed from the text without changing the intent. Any new waterflood project will require an environmental assessment. The intent of the word "major" is to ensure that new waterflood operations are reviewed and assessed. Depending on the number of wells, extent, and history in that geographic and geologic area, a site-specific supplemental environmental impact statement may be required.

Rec'd At
Hearing
Jamestown - 7PM
15 June 88

CR-129

- CCD-6 Page 3-5. Under future SEQR compliance is the statement, "many of the current policies and permit conditions discussed in the GEIS are being proposed for incorporation into rules and regulations." What is the timetable for such action? Based upon the State's response in the creation of the GEIS, we could wait for another decade. We should have a timetable as part of this process.
- CCD-7 Page 3-5A. Based on our statement concerning items on page 3-3, we object to the use of the word municipal as used in Table 3.1 in items f and g.
- CCD-8 Page 4-7. The second full paragraph is a throwaway. If one were only dealing with the concept of brine, it might be all right. But to suggest that annual rainfall can dilute oil is news to us. The concept here needs complete rethinking and a rewrite. Since when is the taste of oil easily flushed out?
- CCD-9 Page 6-4. The last two sentences continued from the paragraph from page 6-3, "because of ground waters relative slow flow rates contamination introduced into an aquifer usually cannot be removed except over long periods of time. Hence proper management is essential." How do these two sentences on page 6-4 relate to page 4-7 as noted above?
- CCD-10 Page 7-3. Under Inspection. In the case of oil wells and their associated storage, we strongly recommend regular inspection of the storage facilities to assure that they are operated in an environmentally sound manner. At one oil well site very near or over the infiltration area to the Jamestown Aquifer, we saw many 50 gallon drums placed outside of a dike at a storage facility.
- CCD-11 Page 7-7. We object to the reference only to municipal water supplies. See our point at page 3-3.
- CCD-12 Page 8-3. We object to the reference only to municipal water supplies. See our point at page 3-3.
- CCD-13 Page 8-4 and 8-5. Given the number of leases that have been negotiated and that may hold for decades with the rest of the property rights changing hands many times, there is no ability to restrict the gas and oil industry any further on such leases. Most early and in place leases give blank checks to the oil and gas lessor. It is strongly recommended that the 150 foot siting restriction be made part of the siting regulations related to private dwellings.
- CCD-14 Page 8-6. The regulations should require each plot accompanying each permit to show location of pits, access roads, tanks, etc.
- CCD-15 Page 8-11. We have watched site reclamation lag for months and in the case of one company, well over a year. We strongly support a 45-day timetable for site restitution. What is the timetable for future regulations which would include this regulation?
- CCD-16 Page 8-15. We strongly support a 150 foot minimum distance from waterbodies for wells and associated production facilities. Where topo and other site features demand it, the distance required to protect the environment must be required to be much greater.
- CCD-6 See response to CCD-1.
- CCD-7 See response to CCD-4.
- CCD-8 Although rainfall will not dilute oil, the most toxic BTX fraction is water soluble and, exposure to the weather for an extended time period will decompose and disperse it.
- CCD-9 These sentences do not relate to each other; the sentence on page 4-7 is discussing surface spills while the sentences on pages 6-3 and 6-4 are discussing subsurface contamination of aquifers.
- CCD-10 Field staff do inspect the oil storage facilities anytime they are present on a lease, and drive by inspections are routine procedure for field inspection personnel.
- Oil in New York is not stored or transported in 55-gallon drums. The drums observed adjacent to the storage facility were probably paraffin treatment chemical drums. These 55-gallon drums are stored on site for pick-up and re-use by the service companies.
- CCD-11 See response to CCD-4.
- CCD-12 See response to CCD-4.
- CCD-13 Support for the proposed 150 foot siting restriction is noted.
- CCD-14 Support for this proposed requirement is noted.
- CCD-15 Pit fluids must be removed within 45 days under the current rules and regulations (6NYCRR Part 554.1(c)(3)). The Department has also observed site reclamation put off for extended periods of time because of reported delays in completing the wells to production.
- Industry commentators have pointed out to us that even prudently scheduled completion operations can be justifiably delayed by uncontrollable circumstances and events such as weather, road weight restrictions, etc. For this reason, a 60-90 day timetable for complete site reclamation after drilling or a 30-day timetable for site restoration after well completion, whichever is less, may be a more reasonable requirement. Partial site reclamation involving the removal of pit fluids will still be required within 45 days. Support for the originally proposed 45-day timetable is noted. Unjustified delays in site reclamation will be eliminated.
- CCD-16 Support for the proposed 150-foot setback from surface water bodies is noted. The Environmental Assessment Form is designed to identify circumstances where greater protection is required.

- CCD-17 | Page 8-15 and 8-16. As in the statement on Page 3-3, we object to the use of the word municipal. Ownership by municipal government should not be the criteria for the protection of a public or community water supply. There are many institutional wells and trailer park wells that are not "municipal" that deserve the same protection as a municipal well and they may serve many more people than a "municipal" well.
- CCD-18 | Page 8-18, line 12 from the top of the page. What does the word unlikely mean? In light of the Upstate Ground Water Plan and the new part 360 regulations dealing with solid waste, can this issue under gas and oil regulations be dismissed with the use of the word unlikely? Does it have the same risk implications and protection as the new part 360 regulations dealing with solid waste disposal? We do not believe that "unlikely" is an acceptable term to express risk. This section and any place else that the word unlikely is used needs to be rethought from beginning to end.
- CCD-19 | Page 8-19 through 8-21. The topic on these pages is Public (Community and Non-community) Supplies. These pages are very interesting in their explanation and discussion, but they do not provide any protection through the GEIS process to the systems mentioned and the systems mentioned may provide more water supply service to more people than do many of the municipal water supply systems which will require an EIS in the case of certain oil and gas well drilling. Therefore, this whole section without providing protection becomes a non sequiter. These supply systems demand more protection than just that provided to individual private water wells. Many deserve and need as much protection as any "municipal" well.
- CCD-20 | Page 8-22 at lines 13 through 17. We agree with a gas and oil well setback of 150 feet from any private water well as an absolute minimum.
- CCD-21 | Page 8-24. The page starts out talking about drainage systems and their importance, but it does not say that if the gas and oil well actions damage or destroy a drainage system that the industry must repair it. The regulations should demand such restoration of such a system. See our comments on faults with leasing later.
- CCD-22 | Page 8-25 through 8-26. Dealing with soil restoration we agree with the recommendations.
- CCD-23 | Page 8-27. The DEC concept of lease terms as treated on this page and the following page are written as if there were no leases in existence and all leases were to be negotiated. There are thousands upon thousands of leases in existence. Many of them will run for decades. The rest of the property rights may be held by many persons that cannot exercise any renegotiations of the terms of the original "giveaway" lease. There may have been a lease on a 100 acre parcel of land but it may become many lots of varying dimensions but the lease agreement still runs with them. The old lease agreement will not protect the new owners from the original "blank check" lease. This whole issue needs to be reexamined. There are thousands upon thousands of leases in existence that will last for decades. The treatment here is inappropriate for the future people that will occupy the space.
- CCD-24 | Page 8-28. "Under DEC permit conditions, most of the potential conflict...should be handled during leasing." This is the same faulty assumption as noted for page 8-27.
- CCD-17 | See response to CCD-4. Although private and institutional water wells do not receive the same protection afforded to municipal water wells, all water wells are protected by the drilling, casing and cementing guidelines, and the aquifer conditions on oil and gas wells. The Commissioner's decision was an interim protection measure.
- CCD-18 | The word "unlikely" does not occur on line 12 of page 8-18, but it does occur on lines 15 and 19. The possibility of subsurface leaks 2,000 feet below freshwater zones cannot be compared to the Part 360 regulations which deal with solid waste disposal on the surface immediately above freshwater zones. The probability of fluids from a subsurface corrosion leak reaching a USDW that is behind surface casing in a basin with low corrosion potential similar to that of the Appalachian Basin is estimated at less than 3×10^{-8} per well year or 1 in 300,000,000 (Mitchie, 1988, "Oil and Gas Industry Water Injection Well Corrosion Study" in UIPC Summer Meeting Proceedings). "Unlikely" in the context used means there is a very, very low probability of the event occurring.
- CCD-19 | "All water wells are protected by the drilling, casing and cementing guidelines and the aquifer drilling permit conditions" (GEIS, p. 8-21). Oil and gas drilling operations are much more stringently regulated than dozens of other activities which can negatively impact water supply wells.
- CCD-20 | Support for this proposed requirement is noted.
- CCD-21 | Whether an operator is responsible for repairing a damaged field drainage system would be determined by a court of law or by prior lease agreement between the landowner and operator.
- CCD-22 | Support for these proposed requirements is noted.
- CCD-23 | The Department cannot intervene in the landowner/mineral rights owner disagreements. Persons purchasing property are responsible for being aware of encumbrances. See Topical Response Number 6 on Surface/Mineral Owner Lease Conflicts.
- CCD-24 | This section is provided for public information. Anyone signing a legal contract is responsible for being informed on the matter. The DEC cannot intervene in third party contracts where there are no public resource management concerns.

- CCD-25 | Page 8-30. Concerning gathering lines: Why are not standards proposed as part of the regulatory system? They should be. They are needed.
- CCD-26 | Page 8-33 and 8-34. These pages address drinking water reservoirs and the protection of their watersheds. This issue of protection should not be based upon policy. There should be rules and regulations in place. Does this concept and discussion cover only "municipal" drinking water reservoirs or all such reservoirs. It should cover all drinking water reservoirs and the whole statement needs to be rewritten.
- CCD-27 | Page 8-41. This page has a discussion on brine and oil tanks. As one reads through the presentation, brine tanks are lost from the text. The final recommendation relates only to oil storage tank. Dikes should be required around brine and oil storage tanks regardless of their location.
- CCD-28 | Page 8-45, lines 6 through 9. There should be a time schedule placed upon management plans concerning oil and gas development on State lands. Too much has been allowed already.
- CCD-29 | Page 9-13 at line 16. What protection for the environment takes place when shallow gas is present under the terms of this item?
- CCD-30 | Page 9-23. Under Annular Pressure: The Chautauqua County Legislature has gone on record in Resolution 42-85.

RESOLUTION NO. 42-85
Recommendation to State of New York on Gas & Oil Drilling

By Environmental Committee:
At the Request of Leg. Crandall:

WHEREAS, it is well-known that gas and oil are valuable natural resources of Chautauqua County actively being extracted, and

WHEREAS, there is evidence to suggest that the extraction of these resources if not properly handled will adversely impact the County's water resources, and

WHEREAS, the State of New York is charged with responsibility for the control and regulation of the gas and oil industry (see Chapter 946 laws of 1961), and

WHEREAS, based upon several hearings and numerous citizen contacts it is evident that there are a growing number of conflicts and a potential for more conflicts, and that the State of New York must review its regulation and permitting process, therefore be it

RESOLVED, That the Clerk of the Legislature send the following recommendations to the Commissioner of the New York State Department of Conservation, Henry Williams, with copies to local Assemblymen and State Senators:

a. That the State divide the County into areas of critical concern and lesser concern, with areas of critical concern being all those areas above known groundwater resources of the county, all inland lakes, all watershed areas tributary to municipal reservoirs, and all areas within one-half mile thereof. In those critical areas the State should decide if it is appropriate to allow drilling for gas, gas and oil, or oil. If it is appropriate to drill, special regulations to protect the noted water resources should be established.

b. That to protect the County's water resources, State regulations should prohibit drilling in any part of the County unless the system of drilling, well operation and/or plugging is conducted in such a manner as not to allow any vertical transfer between the various strata or underground units outside of the production system. State regulations should also require that an cemented well be plugged in such a manner to maintain at least the same impedance to the vertical movement on any gas or fluid as the existing underground unit or strata, and that the materials used shall have the same life expectancy or life duration as the material that has been drilled through, and be it further

RESOLVED, That the Environmental Management Council investigate all reasonable means by which the County, through local law or otherwise, could protect the water resources within the County.

Signed: Wilson, Gillerbury, Olson, Getno, Stanley, Crandall, Harts

Unanimously Approved, February 13, 1985.

- CCD-25 | See Appendix 6 for Public Service Commission (PSC) guidelines on gathering lines.
- CCD-26 | It is the legal responsibility of local municipalities to establish drinking water reservoir watershed rules and regulations.
- CCD-27 | Earthen dikes around brine tanks would not contain brine spills as effectively as they do oil spills, unless they were lined with an impermeable material. Requiring lined diked areas around brine holding tanks is an expensive burden on oil and gas operators. Lined dikes would also collect rain water, snow and ice and greatly decrease the effectiveness of this containment measure.
- CCD-28 | We assume this comment refers to page 8-54, not page 8-45 which is a discussion of wetlands. The management plans referred to on page 8-54 will be for all activities on State lands, not just oil and gas drilling. State lands are chosen for leasing only after extensive review by DEC's Division of Fish and Wildlife and other regional DEC staff with respect to environmental implications. Detailed lease provisions afford environmental protection when drilling and production occurs on State lands. Notice of the proposed lease sales are also published in the Environmental Notice Bulletin (ENB) to elicit public comment. The Supervisor of the appropriate town is also notified.
- CCD-29 | If shallow gas is present, it is not advisable to place it behind the same casing string as the freshwater zone; thus two casing strings may be required.

Why shouldn't all wells be so cemented? Why only in primary and principal aquifer areas? If DEC holds only to aquifer areas, the following question arises. If a well is 5 feet outside of such an aquifer, it doesn't need cement? This requirement should reach out beyond the edge of an aquifer boundary for some given distance, possibly thousands of feet.

CCD-31

Page 9-33. We agree that there should be minimum standards for pit liners associated with gas and oil wells.

This brings to an end our point-by-point comment. Items become more repetitive as we go further through the document. There are also parts of the document that are opinion, propaganda, and unrelated to the needs of Chautauqua County.

CCD-32

Through a number of local hearings held by NYSDEC, the representatives of Chautauqua County have spoken about the innocent third party that is damaged by the activity of the gas and oil industry--this damage may include water wells with gas or taste. It may mean a building with gas buildup in it.

In a number of instances in Chautauqua County, property owners have been given different responses when calling in reports of difficulties. In the case of Tim Short, tens of thousands of dollars were spent trying to prove the industry did not cause his problems--the house still stands empty. In the case of Rhodes in Ellington, New York, people from NYSDEC agreed with the property owners that their problems were related to gas and oil drilling but the State could not tell which well was causing the problem.

These and other people have had problems. NONE OF THESE PEOPLE LEASED THEIR LAND FOR GAS AND OIL DRILLING. They received no direct benefit and only very limited indirect benefit.

The NYSDEC has stated these people can get relief in the courts by private action. If the State cannot identify the offending well with all of its skills and resources, how can a small home owner take on the task?

These third party innocent damaged people should be protected. They deserve relief from the acts of the industry. It is a fact that people are harmed by the actions of the industry and there is no mechanism in the GEIS to propose a mitigation of their problem other than the responses we have been given that they may go to court with a private action.

CCD-30

The DEC drilling, casing, and cementing guidelines and aquifer conditions which are being recommended in the GEIS for adoption as formal rules and regulations are adequate for meeting the goals stated by this resolution. Because of geologic conditions, the non-aquifer areas do not require the same protection as aquifer areas. The areas mapped as aquifer areas actually extend a considerable distance beyond the aquifers to include the adjacent environmentally sensitive recharge areas.

CCD-31

Support for this proposed requirement is noted.

CCD-32

First, the Department spent significant resources to determine the cause of the problems Tim Short and others have had in Levant. Under no circumstances were there any preconceived notions that the industry was not responsible. The interim report dealt with a number of hypotheses based on available data and additional testing. A final report was issued in June of 1989 which details our findings.

Second, it is true that the DEC suspects that oil and gas wells are responsible for the problems in Ellington, but have been unable to pinpoint the exact well or wells responsible.

Third, the problems of proving a cause and effect relationship are significant particularly when dealing with improperly constructed water wells. The Department has worked under very difficult legal and technical constraints to find solutions to these problems.

Finally, the DEC has explored the need for water testing before any drilling in an area, but found the cost/effectiveness of such a program to be prohibitive. In fact, such a program could not be established that would provide the necessary legal support for a claim. Third party compensation is beyond the DEC's authority and the existing authority under Article 23. Complaints are encouraged to both the DEC and the State Attorney General's Office.



**Monroe County
Soil and Water Conservation District**

249 Highland Avenue • Rochester, N. Y. 14620 • 473-2120

June 7, 1988

RECEIVED

JUN 20 1988

OFFICE OF HEARINGS

Mr. Robert S. Drew
Chief Admin. Law Judge
New York State Department
of Environmental Conservation
Office of Hearings
Room 409, 50 Wolf Road
Albany, NY 12233

Re: Draft Generic EIS Oil, Gas and Solution Mining Regulatory Program

Dear Mr. Drew:

In reviewing the above draft document we would like to offer the following comments for your consideration in preparing the final GEIS.

- MCSW-1** 1). Table 3.1, pages 3-5e - Current Proposal is to require permits in Agriculture Districts on projects involving 2.5 acres or greater.
- We feel that there has been enough stress placed upon agricultural soils and would like the acre limitation to be set at 1 acre or greater to be considered Type I action requiring additional determination of significant impact.
- MCSW-2** 2). Re: Oil and Gas Location, access roads and pertinent underground lines locations. Consideration should be made in final GEIS on requiring a full assessment of the impact a well, road or feeder line may have on agricultural areas whether in an agricultural district or not. Too often, access roads, wells and lines are placed in such a location or depth that restrict full use of cropland acres or prevent the landowner from installing or maintaining needed drainage or erosion control practices. A generic EIS should mandate that SWCD or appropriate agency review project proposals prior to permit issuance to avoid detrimental effects to viable agricultural soils. Minimum depth requirements should also be considered when traversing agricultural lands because of the safety hazard involved.

It appears that all other considerations we have, concerning effects upon agricultural lands, have been adequately expressed. We hope you take points 1 and 2 into consideration before the final GEIS is completed.

If you have any questions regarding our comments, please contact Mr. Robert J. Hertrick - SCS

District Conservationist at (716) 473-2120.

Thank You.

Regards,

Floyd Rothfuss

Floyd Rothfuss
Chairman-Monroe County SWCD

cc: John Lacey, NY Agriculture and Markets
Paul Dodd, STC, SCS Syracuse
D. Pendergast, NYS SWCC
J. Wildeman, NYS SWCC
J. O'Neil, NYS NACD

MCSW-1 The decision to increase the SEQR threshold in Agricultural Districts from one to two and one-half acres was made by the Division of Regulatory Affairs after Statewide Public Hearings. This is not our proposal; it is a decision that has already been made. In spite of the change in Type I threshold for Agricultural Districts, oil and gas operators will still be required to submit the EAF addressing agricultural concerns for all wells.

MCSW-2 The DEC protects agricultural concerns to the extent possible under the Environmental Conservation Law. Landowners and farmers should take responsibility for protection of their resources, and have the means to do so through lease provisions. In addition, some of the commentators concerns, such as underground pipelines are under the jurisdiction of the Public Service Commission (PSC), not the DEC. If the minimum 40 inches of soil cover required by PSC in actively cultivated farmland is insufficient, the PSC should be notified.

The oil, gas, and solution mining regulatory program provides for comprehensive assessment of the impacts of any well, regardless of location. There is no need for review of our permit applications by Soil and Water Conservation Districts or any other outside organizations. It would be more appropriate for such organizations to provide counseling and education to farmers and landowners regarding ways they can protect themselves through lease provisions.



June 27, 1988

RECEIVED

JUN 30 1988

OFFICE OF HEARINGS

Honorable Robert S. Drew
NYS DEC
50 Wolf Road, Room 409
Albany, NY 12233

Honorable Robert S. Drew,

QS-1

As an active member of the Independent Oil and Gas Association of New York (IOGA), Quaker State helped to compile the Association's comments on the GEIS. Since all of Quaker State's comments and concerns were noted in IOGA's submission, Quaker State felt it was not necessary to submit repetitious comments. We hope that you will seriously review IOGA's comments and consider incorporating our proposed changes into the final GEIS.

Sincerely,

QUAKER STATE CORPORATION


Paul R. Rodgers

PRR:jcs

cc: Dave A. Lind

QS-1

The commentator's support for the Independent Oil and Gas Association (IOGA) submission is noted. Please refer to the response to that submission.



New York State Department of Environmental Conservation

MEMORANDUM

TO: Laura Snell
FROM: Gail Bowers
SUBJECT: Oil and Gas GEIS
DATE: May 3, 1988

DRAL-1

The GEIS needs a summary, either separate or included as part of this document 617.14(e). Also, it might be helpful, at some point, to put together a list of the groups who were contacting during scoping (p.3).

DRAL-2

p.2-2 - SAPA mistake - typo

DRAL-3

p.3-7 - definition of a project may result in segmentation unless restricted; first and second paragraphs sound inconsistent (multi-well projects). This separation sounds logical for gas wells where they are 40 acres apart, but is this true of all wells?

DRAL-4

p.16-1 - references in parens to numbers are not clear - what do they refer to?

I must confess I did not read the whole document, nor can I comment on it with any technical expertise, but it is pretty impressive.

GB:nw
cc: Charlie Lockrow
Bill Little

DRAL-1 Chapter 3, "Major Conclusions on the Application of the State Environmental Quality Review Act to the Oil, Gas, and Solution Mining Law" is the summary chapter for the Draft GEIS. The final GEIS will contain a summary of the sort suggested.

DRAL-2 Correction noted.

DRAL-3 Spacing is not the primary criteria for the distinction of a multi-well project. In multi-well projects, several wells are drilled within a limited time and area, and the wells are operated as a unit or group for an extended period of time.

DRAL-4 The numbers in parentheses are cross-references to chapters.

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MAY 4 1988

BUREAU OF RESOURCE
MANAGEMENT & DEVELOPMENT

CR-136

Bot/Tou

M

MEMORANDUM

MAY 25 1988

TO: Greg Sovas
FROM: Robert H. Bathrick
SUBJECT: Draft Generic EIS Statement - Oil, Gas
& Solution Mining Regulatory Program

I have only a couple of comments regarding the Draft Generic EIS:

DLF-1

1. In 6.6 D Public Lands, the paragraph referencing Reforestation Areas could be expanded to include the ECL authorization language permitting the leasing of these lands for mining purposes. This inclusion might allay comments that the quotation does not authorize exploration, etc.

DLF-2

2. The impact of the area used by well siting and access is significant in the removal of the forest resource from any one Reforestation Area. It is especially significant if several sites are developed. Mitigating measures to alleviate the removal of the forest resource should be explained. These could be: several well sites served by one access road, limiting well site area, concentrating several well heads at one site and other similar measures.

Other problems or actions necessary to an individual site or sites covered by a single lease may be referenced specifically in the stipulations of the lease.



Director of Lands and Forests

RECEIVED
MAY 26 1988
DIVISION OF
MINERAL RESOURCES

CR-137

DLF-1 This document does not apply to mining activities.

DLF-2 For many types of land resources, mitigation measures such as common access roads for several wells sites are similar and are detailed throughout the GEIS. We agree that a centralized drilling site is appropriate in environmentally sensitive areas (e.g. offshore wetland, old growth forests, and urban areas). Centralized drilling sites (well heads) would require directionally drilled wells which are much more expensive.

New York State Department of Environmental Conservation

MEMORANDUM

TO: James Close, DHSR Regulatory Coordinator
FROM: John E. Iannotti, Director, Bureau of Hazardous Waste Program Development
SUBJECT: Draft GEIS on the Oil, Gas and Solution Mining Regulatory Program
DATE: JUL 11 1988

John E. Iannotti

DHSR-1

My staff has reviewed the Draft Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program. Our only comment is that this Impact Statement should explain how Parts 360 and 370 - 373 affect waste generated as a result of oil, gas and solution mining.

If you have any questions, please call Howard S. Brezner, of my staff at 7-3273.

DHSR-1 Oil, gas, and geothermal drilling and production wastes are excluded from Parts 360 and 370-373 regulations for solid and hazardous wastes. Regulation of drilling pits has been deferred to the Division of Mineral Resources.

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CR-138

MEMORANDUM

June 30, 1988

TO: Gregory Sovas
FROM: Steve Browne
SUBJECT: Oil, Gas and Solution Mining DGEIS

Attached are Division of Fish and Wildlife comments on the Oil, Gas and Solution Mining DGEIS. Each of the three Bureaus, Wildlife, Fisheries and Environmental Protection, reviewed the document and prepared separate comments.

Please direct any questions or comments to me. Thank you for the opportunity to review and comment on this draft.

Steve Browne
Supervising Wildlife Biologist

Attachment
SB:msk

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Bureau of Environmental Protection on the
January 1988 Draft Environmental Impact Statement
on the Oil, Gas and Solution Mining Regulatory Program

Overall this is a very good job. The recommendations for changes in policy and regulations are sound and should go a long way in eliminating environmental degradation and loss.

- DFWE-1 The Division of Fish and Wildlife particularly endorses the 150 foot setbacks from streams and feels that a similar provision for wetlands, regulated under Art. 24 and others, is equally appropriate.
- DFWE-2 Page 3-10: Something is missing. The last partial sentence on page 3-10 does not match up with the first partial sentence on page 3-11.
- DFWE-3 Page 5-35: The location of the Cayuga County Anomaly is not accurately described. It cannot be in Cayuga County near Cayuga Lake and also be between Penn Yan and Rochester.
- DFWE-4 Page 8-2: The last paragraph-on the Medina formation-does not belong in this section on Spacing and should be deleted.
- DFWE-5 Page 8-12: The reference to "State Game Refuges" in c.4 should be changed to "State Wildlife Management Areas." And, the last paragraph errs because there are several Wildlife Management Areas in the region; in fact, some have gas/oil leases and wells on them.
- DFWE-6 Page 8-45: In the last paragraph, change the word "functions" to "benefits" then quote the benefits listed in Art. 24-0105.7. The present list is merely a quote anyhow except for minor paraphrasing the addition of "habitat for some of the rare plants..." and the deletion of "sources of nutrients..."
- DFWE-7 Page 8-45: The statement "The Department allows oil and gas drilling activities in wetlands only when alternative locations are not available" should be emphasized by underlining, making it a lead sentence, or setting it apart as a separate paragraph. Wetlands, regulated or not, should be treated like agricultural lands with every effort being made to avoid them, make as small a pad or road as possible, and then only when alternative sites cannot be found.
- DFWE-8 Page 8-46a: Table 8.1 is not wetland classification. It is a part of the standards for wetland permit issuance from Part 665.7e. If you really want to include wetlands classification it is found at Part 664.5. If it is really the standard for permit issuance you intended to use, then you should include all of 665.7e to avoid misleading readers. Don't forget the reference to the table on page 8-46.
- DFWE-1 Support for the proposed 150-foot setback from public water bodies is noted. Protected wetlands already have a provision for a 100-foot buffer zone. We do not think it is appropriate for the oil and gas industry to be regulated to a greater extent than other industry activities which may impact resources to a greater degree.
- DFWE-2 The missing line is "on the road. Major changes in land use patterns, traffic, and the need for . . ."
- DFWE-3 Correction noted. The anomaly peak is centered near the north end of Canandaigua Lake.
- DFWE-4 Subsurface well spacing is one of the major criteria for siting a well which is the subject of this chapter. Mention of the subsurface characteristics of the State's most common producing formation is appropriate.
- DFWE-5 "State Game Refuges" are more important from a visual viewpoint than "State Wildlife Management Areas" because they include things such as vantage points for viewing migrating waterfowl. There are no State Game Refuges in western New York. This information is from the Department's Division of Regulatory Affairs.
- DFWE-6 The suggested change in wording does not significantly alter the intent of the sentence.
- DFWE-7 Additional emphasis of the point made by this entire section - that wetlands are given special consideration - is not necessary.
- DFWE-8 Correction noted.

- DFWE-9 | Page 16-8: "Impacts...waste fluid" please add "and clearing and filling for well pads and access roads."
- DFWE-10 | Page 17-4: Add to list of location checks: "...within 100 feet of a regulated wetland."
- DFWE-11 | Page 17-16: The proposed mitigation for the well completion, and production phase is good; a big improvement in erosion and spill prevention.

DFWE-9 The suggested addition is more technically correct. Add "and clearing and filling for well pads and access roads" at the end of the cited sentence.

DFWE-10 Correction noted. Add "within 100 feet of a regulated wetland" under "Well Location Restrictions".

DFWE-11 Support for the proposed requirements is noted.


New York State Department of Environmental Conservation

MEMORANDUM

TO: Eric Fried
FROM: Larry Brown
SUBJECT: GEIS on Oil, Gas and Solution Mining
DATE: June 6, 1988

I have reviewed the sections of the GEIS pertaining to Significant and Coastal Areas, and my comments (referenced by page number) are as follows:

- DFWW-1 | 6-14. Add the following sentence to the first paragraph under K. 1 Significant Habitats: "Included also are rare animals, plants and natural communities as listed in the New York Natural Heritage database; as well as Significant Coastal Fish and Wildlife Habitats as described on p. 8-56".
- DFWW-2 | 6-15. Line 4, change as follows: Approximately 3,000 Significant Habitats have been identified to date, including some 1,200 deer winter concentration areas. In addition, the New York Natural Heritage database now has between 3,000 and 4,000 records.
- DFWW-3 | 8-37. J. Significant Habitats, Line 6: Change 1,000 to 3,000. Line 12: Reference should be Division of Fish and Wildlife.
- DFWW-4 | 8-38. I. Heronries, Line 5: Change "only" to "mainly".
- DFWW-5 | 8-39. 3. Uncommon, etc. Plants. Line 12: Suggest deletion of sentence starting--- "Designation on the list, ---". It is incorrect as stated. Designation on the list protects plants on all lands only insofar as it prohibits disturbance without permission of the landowner.
- DFWW-6 | 8-56. 2. Significant Coastal F & W Habitats, Line 11: Change to read: "DEC has completed an evaluation---. (NYS DOS, 1986). All of the recommended areas except for those in New York City and along the St. Lawrence River have now been officially designated by DOS."
- DFWW-7 | 16-6,7. Significant Habitats. Add a sentence to read: "Also, for this reason it is important to check with the DEC Regional or Central office for the most up-to-date significant habitat information at a proposed oil or gas site."



Supervising Wildlife Biologist
Significant Habitat Unit

LPB:jp
cc: D. Odell
J. Moser

- DFWW-1 Add "Included also are rare animals, plants and natural communities as listed in the New York Natural Heritage database; as well as Significant Coastal Fish and Wildlife Habitats as described on p. 8-56."
- DFWW-2 Update noted.
- DFWW-3 Update and correction noted.
- DFWW-4 Change "only" to "mainly".
- DFWW-5 Correction noted.
- DFWW-6 Update noted.
- DFWW-7 It would be more appropriate to add this information to Chapter 8. Chapter 16 summarizes adverse environmental impacts.

Bureau of Fisheries Comments on the Draft Generic Environmental
Impact Statement On The Oil, Gas and Solution
Mining Regulatory Program

The documents are extremely comprehensive and well written. Overall, the known and potential impacts to fisheries resources are recognized and sufficiently considered. Recommendations for regulatory changes are presented clearly and appear reasonable and necessary for adequate environmental protection. The Bureau of Fisheries is particularly supportive of recommendations extending surface water set-backs and requiring partial reclamation. Following are comments on specific elements of the GEIS.

DFWF-1

Historic Environmental Problems, page 4-7: A recent example of environmental problems associated with salt solution mining/underground gas storage is the 1979 brine spill from an Atlantic Richfield storage basin into the East Branch Oswego Creek at Harford. This spill resulted in a major fish kill in over 3 miles of stream involving the loss of an estimated 9,000 wild brown trout and brook trout. Restoration of this fishery took over three years and included a substantial investment of DEC staff time to reintroduce suitable wild trout stocks.

In recent years, there have also been chronic brine spills, resulting in fish kills, associated with the Allied Chemical Corporation salt mining operations in Onondaga County. The frequency of these spills prevented establishment of a trout fishery in Onondaga Creek despite the presence of otherwise excellent water quality and habitat.

We believe it is important to include these (and other?) recent examples of environmental disturbances for proper perspective on the continuing necessity of environmental safeguards. As is, the "Historic Problems" section leaves the impression that serious industry related impacts are a pre WWII phenomena.

There are many other sections of the GEIS where examples of environmental disturbances would provide perspective and credibility to the regulatory program.

DFWF-2

Waterways/Waterbodies page 6-2 p .2: The discussion of water quality classifications needs clarification and reworking. Suggest a tabular format as follows:

DFWF-1 Support for the proposed requirements is noted. The commentator's point that environmental impacts continue to occur is valid. The specific examples cited were not known to the Division of Mineral Resources staff when the Draft GEIS went to press.

"Waters in New York State are classified based on their designated best use in the interest of the public as required by Title 3 of Article 17 of the Environmental Conservation Law. Part 700 of Title 6 NYCRR identifies fresh surface water classifications in New York State as follows:

<u>Classification</u>	<u>Best Usage</u>
AA	Source of water supply for drinking, culinary or food processing purposes and any other usages.
A	
B	Primary contact recreation and any other uses except as a source of water supply for drinking, culinary or food processing purposes.
C	The waters are suitable for fishing and fish propagation. The water quality shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
D	The waters are suitable for fishing. The water quality shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose. Due to such natural conditions at intermittency of flow, water conditions not conducive to propagation of game fishery or stream bed conditions, the waters will not support fish propagation.

A "T" in parenthesis after the AA, A, B or C classification indicates best usage includes the maintenance and growth of trout populations. A "TS" indicated use for trout spawning. The trout use classifications require higher dissolved oxygen concentrations. Each classification carries a specific set of standards for various water quality parameters. There are also standards for turbidity, color, suspended solids, oil and floating substances, taste and odor-producing substances, toxic wastes and deleterious substances that apply to all New York fresh waters."

DFWF-3

Water quality, page 8-15: We strongly support the recommendation to increase the minimum siting restriction to 150 feet from permanent surface bodies of water. This should serve to reduce stream siltation impacts and provide additional protection from spills.

DFWF-4

Water quality, Springs, page 8-16: Spring flows and seepages are frequently critical to the maintenance of surface water temperatures suitable for trout production. We strongly support the recommendation for set back restrictions and request that this be extended to springs with identified fisheries habitat value.

- DFWF-2 The text refers the reader to the proper citations for more information on the subject.
- DFWF-3 Support for the proposed requirement is noted.
- DFWF-4 Support for the proposed requirement is noted. If a spring with identified fisheries habitat value is part of or adjacent to a public body of water, it would be protected by existing setbacks.

DFWF-5

Stream Disturbance, page 8-29: Suggest adding: "undesirable siltation to downstream fish spawning and feeding areas", and "obstruction to fish passage" to list of deleterious affects.

DFWF-6

Brine and Oil Tanks, page 8-41, 42: Brine spills can result in serious environmental problems. This topic seems to be treated too lightly in this section. Diking requirement would be appropriate where brine tanks are situated so that spillage can reach important fisheries habitat. This would be especially true where smaller streams with low flow volumes relative to storage capacity are involved. Perhaps this is best addressed via site specific permit conditions but it should be considered in the GEIS.

DFWF-7

Production, page 10-1: We strongly support the recommendation requiring partial surface restoration upon cessation of drilling operations. This would serve to minimize erosion and stream siltation impacts and duration. In some situations, this could yield substantial fisheries benefits.

Volume II

DFWF-8

Environmental Considerations, page 12-37: Reference to "A Pennsylvania Study" needs elaboration regarding the "4 barrel" impact. Specifically, duration of 90% reduction in bottom fauna and length of stream section affected.

DFWF-9

Salt Production Operations, page 13-15: Strongly support recommendation that operators be required to have a spill contingency plan emphasizing protection of freshwaters.

DFWF-10

Road Spreading, page 15-11: Is there a need for DEC regulation regarding road spreading practices? This section implies that current operations are rather loosely controlled. Any recognized environmental problems should be elaborated and recommended changes in DEC involvement noted.

DFWF-11

Adverse Impacts on Surface Waters, page 16-12: Under "Siting Impacts", omit first sentence. "Generally minor" is a relative term and siltation of fish spawning habitat can result in fishery losses affecting miles of stream for extended periods of time. From our perspective, this is a substantial impact.

DFWF-12

Adverse Impacts on Surface Waters, page 16-14: Improper culvert size or installation can also create obstacles to or prevent fish passage to critical spawning or feeding areas.

DFWF-5 These deleterious effects are covered under "loss of fish and aquatic wildlife habitat."

DFWF-6 An earthen dike around brine tanks such as is being proposed for oil tanks would not serve the same physical function of containing spills. The requiring of a cement lined diked area around small isolated brine tanks would be an excessive regulatory and maintenance burden. Diking could and would be imposed as a special permit condition when appropriate (e.g. brine tanks located where spillage could reach an important fisheries habitat or principal aquifer).

DFWF-7 Support for the proposed requirement is noted. However, industry commentators have pointed out to us that because of the possibility of unforeseen delays caused by weather and other uncontrollable circumstances and events, a 60-90 day timetable might be more reasonable. Removal of pit fluids would still be required within 45 days.

DFWF-8 The cited reference is listed in the bibliography.

DFWF-9 Support for the proposed requirement is noted.

DFWF-10 This section does not imply loose control; it states that several entities are involved in policing road spreading, with local governments having primary responsibility. Local government regulation of certain activities is a desirable goal. The task of detailing in the GEIS the environmental impacts of the activities regulated by the Division of Mineral Resources is large enough, without also detailing the impacts of activities outside of DMN's regulatory program.

DFWF-11 The siting impacts on surface waters are minor because the siting setbacks from surface waters preclude siltation in most situations.

DFWF-12 Comment noted.

5/10/88 PJP