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**Congress of the United States**  
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JOINT ECONOMIC COMMITTEE

January 09, 2012

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

Dear Governor Cuomo:

I am writing to provide my formal comments on the revised draft Supplemental Generic Environmental Impact Statement (dSGEIS) on high-volume horizontal drilling and hydraulic fracturing in the Marcellus Shale and other areas of the state. As someone who has dedicated his career to protecting public health and the environment, first as Chairman of the New York State Assembly's Environmental Conservation Committee for 14 years and now as a senior member of the U.S. House of Representatives' Appropriations Subcommittee on Interior and Environment for the last 12 years, I have deep concerns about the dSGEIS and the state's ability to mitigate the serious risks posed by hydraulic fracturing.

Despite the hard work and sincere efforts by the New York State Department of Environmental Conservation (DEC) to update the dSGEIS, I believe this document falls far short of what is needed to protect local communities from the risks posed by shale gas drilling and does not fully mitigate potential threats, including those to public health, drinking water, air quality, and municipal infrastructure.

In addition, as you know, the U.S. Environmental Protection Agency (EPA) is currently conducting a comprehensive scientific study of hydraulic fracturing's risks to water resources. This study is analyzing the full lifecycle of water throughout the hydraulic fracturing process, providing the first comprehensive and independent examination of water acquisition, mixing of chemicals, well fracturing, and the management and disposal of flowback and produced water. The first results of this study are scheduled to be released by the end of 2012. New York must use sound science to guide its decisions on this critically important issue, and it would be irresponsible and premature for the state to approve the dSGEIS before the EPA releases its findings.

Two years ago, in response to the first draft SGEIS, I provided 11 detailed recommendations to mitigate the risks of shale gas drilling. These included a cumulative impact study; a ban on the use of toxic chemicals in fracking fluids; a requirement for full *public* disclosure of all chemicals used in the fracking process; a comprehensive wastewater plan for high-volume gas drilling in New York; significantly increased DEC staffing to oversee and inspect drilling operations; phased-in development of new well pads; and more. Unfortunately, these recommendations are not included in the new dSGEIS and others are only partially addressed.

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In addition, we have continued to learn much more about hydraulic fracturing since I submitted my recommendations in 2009. A recent study by researchers at Duke University found a statistically significant correlation between methane contamination of drinking water wells and their proximity to shale gas drilling sites. We have also learned shale gas drillers are still injecting diesel fuel into the ground during hydraulic fracturing, despite a specific industry promise not to do so. And we have learned of communities like DISH, Texas, that have had their air polluted by toxic emissions from gas drilling operations and related infrastructure. In Pennsylvania, *The New York Times* reported that radioactive materials brought up with drilling waste were dumped into public waterways. There is also new attention being placed on the potential links between hydraulic fracturing, as well as disposal of fracturing waste fluids in injection wells, to increased seismic activity. A 4.0 magnitude earthquake two weeks ago in Youngstown, Ohio, near an underground injection disposal site for gas drilling wastewater, forced officials to halt this risky procedure until scientists could examine this troubling phenomenon. Additionally, just last month, the EPA determined that hydraulic fracturing contaminated a water well in Pavillion, Wyoming. These incidents, along with others, raise serious new concerns that are not addressed by the revised SGEIS. It is vital that New York State avoid the problems that other states are now facing by addressing all concerns prior to any commencement of drilling rather than after groundwater or surface waters are contaminated.

Despite some improvements from the 2009 dSGEIS, additional analyses must be conducted and greater protections should be added in order to live up to the spirit and letter of the State Environmental Quality Review Act. These should include, but not be limited to, the following items:

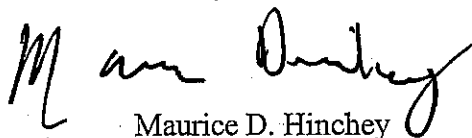
1. A cumulative impact analysis of natural gas drilling in the Marcellus formation to understand the full impact drilling could have on our water resources, air quality, local roads and other public infrastructure. This should also include a more thorough analysis of the potentially negative economic consequences of drilling, such as impacts on tourism and agriculture.
2. A full assessment of the public health impacts of gas drilling through an independent Health Impact Analysis, as called for by more than 250 health care professionals in an October 2011 letter to Governor Cuomo.
3. A comprehensive wastewater treatment plan that details where and how large amounts of flowback and produced water will be treated or disposed, including how toxic or radioactive contaminants will be removed. The state should thoroughly consider whether flowback or produced water deserves to be classified as a hazardous waste.
4. A prohibition on the use of toxic chemicals in all fracturing fluids in order to prevent groundwater and surface water contamination. The revised draft calls for operators to "consider" less toxic fracking additives. The State should mandate the use of non-toxic fracking additives and ban the use of carcinogenic and endocrine-disrupting compounds.

5. Public disclosure of all chemicals used in hydraulic fracturing fluid at each well site. Disclosure should include a proposed list of chemicals made public before drilling operations begin and the final list of chemicals used, and their quantities, made public no later than 30 days after drilling operations are completed.
6. Identification of New York areas prone to higher seismic activity and measures to prevent earthquakes potentially associated with horizontal hydraulic fracturing.
7. A dramatic increase in DEC resources and staffing devoted to the permitting and oversight activities related to high-volume hydraulic fracturing.
8. A complete ban on land spreading of shale gas drilling waste fluids and a prohibition on the use of reserve pits or centralized impoundments for fracking fluids and flowback water.
9. Alignment of DEC's gas drilling permit rules with the requirements of secondary lending institutions covering oil and gas activity on mortgaged properties. These include pre-approval from banks and other lenders before signing gas leases, minimum setback requirements from residential structures, prohibition on certain drilling and process equipment, title insurance requirements, property assessments, and more.
10. An enhanced role for local governments to prohibit gas development that is incompatible with local land-use and zoning regulations.

Thank you for the opportunity to provide these comments. Shale gas drilling has been proliferating rapidly across the country and, unfortunately, too many states have not taken the necessary steps to protect our communities, water resources, air quality, and public health. New York must not follow this path, and I urge you to withdraw the revised draft SGEIS and restart this process to ensure that end product fully addresses the scope of the challenges hydraulic fracturing presents.

Best regards.

Sincerely,



Maurice D. Hinchey