PEF/encon

Division 169
NYS PUBLIC EMPLOYEES FEDERATION AFL-CIO

December 28, 2009

ATTN: dSGEIS Comments
Bureau of Oil and Gas Regulation
NYSDEC, Division of Mineral Resources
625 Broadway, Third Floor
Albany, NY 12233-6500

Re: Draft Supplemental Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program (dated 9/30/09)

We are writing on behalf of the Steward Council of Division 169 of the NYS Public Employees Federation (representing the nearly 2000 Professional, Scientific and Technical Staff working at NYSDEC) to request an extension of the public comment period for the Draft Supplemental Generic Environmental Impact Statement (dSGEIS) for at least another 30 days and to express our judgment that the expansion of gas well hydro-fracturing must not be allowed within the next calendar year, if not longer. Our reasons are as follows:

1. Although the Marcellus Shale natural gas formation is a valuable resource, public safety and the protection of all of our natural/environmental resources demand that NYSDEC take the time to do a complete evaluation and adequate planning before allowing its use. NYS's history is full of examples where better analysis and fact-gathering could have avoided damages to our fisheries, air quality, agricultural, wildlife and water resources.

2. The dSGEIS prepared by NYSDEC is a vast improvement over plans developed by other states. However, standards set by other states leave a great deal to be desired as public reports of environmental damages in other states clearly indicate. We believe NYS should set the highest possible standards and develop the best possible model for all other states. We should do so using the best possible available academic, scientific and engineering research and information.

3. NYS should not finalize any plans to authorize expansion of drilling opportunities in the Marcellus Shale Formation until after the United States Environmental Protection Agency finishes the recent Congressional legislative mandate to reevaluate the safety and environmental implications of extracting natural gas from the Marcellus Shale formation using this new technology and methodology.

4. The staffing and funding resources needed by the NYSDEC and other state agencies and municipalities that have oversight responsibilities for assuring that NYS's natural resources are fully protected have not been identified or planned for. Diverting existing staff from their present regulatory and statutory responsibilities to concentrate on gas

drilling permitting and enforcement is not an acceptable alternative and must be prohibited. State agencies and municipalities are already understaffed due to budgetary reasons and are unable to fully comply with their current responsibilities. Attempting to have them do even more with less is not possible.

5. The dSGEIS is inadequate as it is currently drafted because it does not require any assessment or evaluation of the cumulative environmental impacts once new wells are drilled requiring utilization of existing water resources for the proposed drilling technology. New York's water is one of its most valuable natural resources.

6. There should be cumulative impact studies of what to do with the recapture, treatment and disposal of the backflow water that may or will be contaminated with radiation, dissolved solids, and salts causing high conductivity. Sewage treatment plants must be identified and technologically modernized, where necessary, to handle contaminated backflow waters.

7. NYS should not allow hydro-fracking until a funding source has been identified (and implemented) to adequately staff state, county and municipal agencies to meet their oversight and regulatory responsibilities.

8 The dSGEIS and existing state regulations are not adequate for protecting our water resources from the huge amounts of water withdrawals necessary for hydro-fracking. New regulations should be developed and in place prior to the authorization of more drilling in order to prevent excessive withdrawals of water resources in geographic areas that have not had freshwater wetlands maps updated or had sensitive aquatic and other wildlife habitats identified that could suffer adverse impacts during seasonal low stream and river flows. Existing public municipal water supplies could also be negatively impacted as the NYCDEP has informed you in their public comments on this matter..

9 Portions of the dSGEIS need to be better developed to eliminate internal inconsistencies. For example: in Section 7.1.3.2 – "Drilling Fluids" it is proposed to use centralized impoundments and surface containment pits and in another section (Section 7.1.3.4) the dSGEIS says backflow water should be contained in steel tanks or treated on site. We also have concerns that Chapter 8 seems to assign all review responsibilities to the Division of Mineral Resources and doesn't adequately involve other NYSDEC Divisions like the Division of Water and Division of Fish and Wildlife to more adequately address the potential negative effects of drilling (along with potential mitigation measures).

10. The dSGEIS fails to fully assess the substantial negative impacts to air quality, traffic and noise associated with widespread industrial gas drilling. It is risky to completely rely on the earlier 1992 GEIS, that has been criticized for being incomplete.

11. The dSGEIS ignores any discussion of the significant industrialization of rural and semi-rural areas. It also avoids an analysis of the environmental impacts of gathering lines, pipelines, and compressor stations. While, the dSGEIS does note that natural gas transmission is regulated by the Public Service Commission (PSC) it fails to mention that

the PSC has done no evaluation of the environmental impacts of the amount of transmission lines and infrastructure that will be needed to bring the gas to market. An important component of accessing this natural gas is being entirely overlooked, placing our waters, wildlife habitat, and air quality at risk.

12. The dSGEIS does not include any mechanism to declare hydro-fracking unfit for an area because of ecological sensitivity or community importance.

13. The dSGEIS does not include any hydro-geological study that would identify sensitive pathways for contamination, propose additional mitigation measures, or propose provisions to adequately protect Primary and Principal Aquifers and private drinking water wells.

14. There has not been any cost benefit analysis performed, nor are any planned, to develop a full accounting of actual costs and opportunity costs such as the costs of municipal treatment plant upgrades, new road construction, increased road maintenance on existing roads or community emergency response costs such as spill response, emergency preparedness, or remediation expenses associated with allowing this type of drilling.

For all the above reasons, we believe the public comment period must be extended for a minimum of another 30 days. We also believe it unwise to proceed with any significant expansion of hydro-fracking in the Marcellus Shale formation until the concerns and issues we have enumerated are adequately addressed. A moratorium on natural gas drilling of at least a year in light of the above is not unreasonable.

Sincerely yours,

Wayne Bayer

Wayne Bayer, PEF Executive Board Representative for PEF/encon, Division 169

Karl Berger

Karl Berger, Chief Steward and PEF Executive Board Representative for PEF/encon, Division 169

On behalf of the Steward Council of Division 169, NYS Public Employees Federation

Cc Governor David A. Paterson
NYSDEC Commissioner Alexander "Pete" Grannis
Speaker of the Assembly, Sheldon Silver
Democratic Conference Leader, John L. Sampson
Senator Antoine M. Thompson
Assemblyman, Robert K. Sweeney