

To: Edward Hanlon/DC/USEPA/US@EPA

Cc:

Date: 04/05/2010 04:01 PM

Subject: April 7 & 8 Meeting and Scope of Augmented Review of Hydro Fracking

Joseph M. Wilson

April 5, 2010

Environmental Engineering Committee for Augmented Hydraulic Fracturing Review
The St. Regis
923 18th Street, NW
Washington DC 20006
Via Email and c/o Edward Hanlon:
Hanlon.edward@epa.gov

Re: Augmented Hydraulic Fracturing Review

Dear Ladies and Gentlemen:

I am a private citizen concerned about the health and environmental effects of Hydraulic Fracturing (“HF”) on water, air, and community health. I am also concerned about its social and economic costs, and I am concerned about the greenhouse gas effects of emissions generated by the extraction and use of natural gas and oil.

I have read the “Scoping Materials for Initial Design of EPA Hydraulic Fracturing Research Study” position paper to be discussed at your April 7 and 8 meeting.

I believe the scope of investigation that you propose is too narrow. I especially believe that you need to review and comment upon the applicable laws and regulations which apply to this activity at the state and federal level. The comments should be made in light of the risks that you find that HF poses to air, water, health, and environments. As I and thousands of others have said to the State of New York, the current State system of laws and regulations, formulated before HF became a viable means for extracting fossil fuels, were inadequate to address the current practices and problems arising from HF around the country. [1]

Similarly, Congress has created a special exemption HF from many of the federal laws that would otherwise apply thereby eliminating some important protection to the citizenry. In addition, as HF has developed, a list of best practices have emerged that would provide some protection from the known and likely hazards, but individual exploiters have neither incentive nor mandate to follow them. As a result, your study would have limited impact unless it connects the hazards you investigate with appropriate regulations to prevent their effects.

The scope of your study should be broadened along another dimension. The public has been told, apparently accurately by many scholars, practitioners, appointed and elected leaders in recent years that the costs of using fossil fuels, including oil and natural gas, have not been properly calculated. Moreover, they say if the costs in social and environmental terms as well as the effects of greenhouse gas emissions were added into the cost equation, we would be generating energy and using energy differently. In order for your study to be a competent basis for the creation of policy, then, your study must include these matters.

I look forward to following your decisions and learning that your study will be expanded to include each of these matters. Thank you for your attention and service.

Sincerely,

Joseph M. Wilson

[1] I attach a copy of my comments to the New York State Department of Environmental Control.

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Regards,

Joe Wilson

[attachment "frack dSEGIS comments.doc" deleted by Edward Hanlon/DC/USEPA/US]

Joseph M. Wilson

November 11, 2009

Bureau of Oil & Gas
NYSDEC Division of Mineral Resources
625 Broadway, Third Floor
Albany, NY 12233-6500

RE: Marcellus Shale dSGEIS Comments

My Background and Reasons for Involvement:

I have served as an elected and appointed public official in the local governments of San Jose, CA, Ithaca, New York, and the state government of Delaware. I have practiced law, taught in and led schools at the secondary, post-secondary, and graduate levels.

I have earned law, public administration, education, and history degrees from the University of Southern California, Harvard University, the University of Pennsylvania, and Amherst College, respectively.

I live in Ithaca, New York in the “Ellis Hollow” area. My Wife, I, all of our neighbors for miles around draw all of our water from wells that are several hundreds of feet deep.

Summary:

The proposed hydro-fracturing drilling in the Marcellus Shale in and around New York State will have a substantial and significant adverse effect on the environment in the area in which I live as well as elsewhere in the state.

The dSGEIS and its predecessor are inadequate to minimize the negative environmental effects in our environment because of the proposed hydro-fracturing drilling in the Marcellus Shale.

Primary reasons are that the practices known by DEC to be likely to mitigate the known and suspected negative effects of the proposed drilling are not required of those who will do and support the drilling, because there are too little or no resources to support testing and monitoring of drilling practices, and because there is no attempt to determine the cumulative effects of the many individually detrimental practices of drillers and their support on the environment.

Actions to be Taken:

DEC should continue to prohibit drilling until regulations are drawn and approved that will make good/best practices mandatory, until there are adequate resources in place to enable regulatory bodies and local entities to conduct appropriate testing and monitoring, until an appropriate and adequate calculation of the cumulative effects of “hydro-fracking” has been made, and until adequate mitigation measures have been required of the entities and person who will conduct and support the “fracking” of the New York State portion of the Marcellus Shale.

Water Issues:

- The dSGEIS must be revised to recognize the fact that many of us living on the Marcellus Shale have no reasonable alternative to relying on private wells and springs. Therefore, the

revisions should also include protections for all water that can be affected by the drilling to be protected to the degree and in the manner that New York City drinking water is protected.

- Regulations that affect our water should be statewide and mandatory—there should NOT be any site-specific agreements or permits. Those needing site-specific variances should have to justify waivers from statewide regulations and pay a fee sufficient to cover the costs of investigating and determining the appropriateness of any waiver requested.
- Applicants for wells should be required to post a bond or pay fees sufficient to pay the cost of baseline and frequent, periodic testing of drinking water supplies, adjacent aquifers, and a wide sampling of private springs and wells before, during, and after the beginning of fracking. The bond can be drawn on by legitimate representatives of those whose water could be affected by fracking for testing, etc.
- Methane and radioactivity should be included in the testing described above.
- Applicants for wells should also be required to post bonds to cover potential claims against them for negative effects on water they cause, AND the presumption should be that the driller's actions have caused any negative effects on the water. Those suffering the damage should not be required to prove fracking was the cause of the quality of water changed after the fracking began.
- Drilling should be delayed until DEC has tested drilling waste, flow back, waste water, and water/waste—following the processes drilling applicants disclose they will use—public health outweighs any company's claim of a proprietary interest in their processes or the composition of their waste products. Drilling should be delayed until there are competent estimates of the potential volumes of the various waste products.
- The funds from the testing/monitoring bonds posted by drilling applicants should be made available to water treatment plant representatives so that they can staff and then determine the kinds of wastes they will receive.
- A tax should be placed on drilling applicants to cover the additional costs of treating the wastewaters generated and "given" to the water treatment plants by the drillers. Local citizenry should NOT be taxed directly or indirectly to cover any of the public costs generated by the drillers of this unusually profitable activity.
- "Road spreading" of "produced water" should be prohibited. No local governmental entity should be required directly or indirectly to bear the costs of dealing with "produced water."
- Motor fuel storage including diesel fuel should be required to be under permit following local laws and practices or state laws and practices whichever one is more strict. Drillers should pay the costs of the permitting and monitoring processes. This includes the cost of additional staff needed to do the processes.
- The dSGEIS must address the extraordinarily large water withdrawals that are anticipated to be part of the drilling process. Statewide regulations/laws need to be developed to protect the volume and quality of traditional sources of water for all locales where drilling is proposed. No drilling should be allowed until such laws/regulations are in place.
- Regulations/laws need to be developed to govern the creation and use of toxic waste "centralized impoundments." Mandatory storage in above ground tanks designed to prevent groundwater contamination must be included.

Chemicals:

- The effects of chemicals used in the fracking process interacting with one another need to be completed by DEC and addressed in the dSGEIS with mandatory, state-wide regulations/laws to mitigate their effects before drilling begins.
- Full compositional disclosure needs to be required of all drillers at each of their sites and the drillers should pay the cost of testing and monitoring the fluids and the storage facilities. Local citizenry should NOT bear any of the costs of these activities.

Air Pollution:

- dSGEIS must address mitigation of the air pollution from vehicle exhausts, well emissions, pipeline emissions, and flaring. Mitigation should reflect best current practice and science. All mitigation requirements must be in the form of statewide law or regulation. Costs of testing, monitoring, and staffing should be paid through fees by the drilling entities with none borne by the local citizenry.
- Participation in the STAR program must be mandatory.

Pipelines:

- Before drilling begins, the dSGEIS must include consideration of and mandatory approaches reflecting best practices to the effects on the environment of pipelines, compressors including loss of habitat, topsoil, setbacks, inspections, shutoff's and emissions.
- Where emissions are involved, see "Air Pollution" immediately above.

Cumulative Effects:

- There must be a competent and serious effort by DEC and those charged with preparing the final version of the dSGEIS to describe and prescribe mitigation for the cumulative effects of drilling before drilling can begin.

Visual Impact:

- Drillers need to be required to mitigate the visual impact of their sites. Models should be sought and prescribed the competent statewide authorities. Costs must be borne by the drillers.