

October 5, 2011

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

Cc:

Joe Martens, Commissioner, NYS Department of Environmental Conservation
Dr. Nirav R. Shah, Commissioner, NYS Department of Health
Dr. Howard A. Freed, Director of the DOH Center for Environmental Health
Senate Majority Leader Dean Skelos
Assembly Speaker Sheldon Silver
Senator Greg Ball
Assemblyman Robert Sweeney
Assemblyman Richard Gottfried

Dear Governor Cuomo,

On behalf of the undersigned organizations and health professionals, we are writing with regard to the revised draft of the Supplemental Generic Environmental Impact Statement (SGEIS) on the Oil, Gas, and Solution Mining Program issued in full in September 2011. We are greatly concerned about the omission of a critical issue related to the development of natural gas using high-volume hydraulic fracturing, or "fracking": human health impacts.

For the reasons detailed below, we believe that the Department of Environmental Conservation (DEC) must correct this oversight in the continued stages of the State Environmental Quality Review Act (SEQRA) process.

Specifically, we request that the draft SGEIS be supplemented to include a full assessment of the public health impacts of gas exploration and production. This should include analysis of the existing documentation of the baseline health status of the New York State population; systematic identification and analysis of direct and indirect health effects; a cumulative health impacts analysis that includes a reasonable "worst case" assessment; and any potential measures to eliminate these impacts.

Notably, a comprehensive assessment of health impacts is likely to include information—such as mounting costs for health care and air and water pollution mitigation—that could inform how DEC and other agencies, such as the Department of Health (DOH), evaluate and assess cumulative impacts and how DEC reviews any proposed gas development permit applications. A comprehensive Health Impact Assessment (HIA) would be the most appropriate mechanism for this work, conducted by an independent entity such as a school of public health. This request is based in part on the fact that the New York DOH is unwilling to perform this function. Please refer to attached communication from Dr. Howard A. Freed, director of the DOH Center for Environmental Health, stating that "another methodology such as Health Impact Assessment would not provide significant additional information that is not already being covered" in the SGEIS. The undersigned disagree with this conclusion because the SGEIS does not, in fact, consider health impacts.

Next, we believe that a comment period of less than 180 days is not acceptable, for either the medical profession or the public. The medical profession was not adequately consulted during the scoping of the SGEIS and had little input into the draft SGEIS. A minimum of 180 days is necessary for health

professionals to review and comment on the current draft SGEIS which must be reviewed in its entirety since there is no chapter dedicated to human health. The 96 day comment period which DEC has now proposed is also not enough to afford the public an adequate opportunity to express its concerns about potential health impacts given that DEC is also asking the public to comment on draft regulations during that same time period, and that potentially drill-impacted communities are now facing significant post-Irene challenges.

Finally, we strongly request that an independent health professional be appointed to the High Volume Hydraulic Fracturing Advisory Panel, such as a medical doctor with public health experience.

Our requests are based on the following considerations:

- According to SEQRA, the DEC has the authority to consider a wide range of impacts related to environmental actions, including public health. In the current situation, the environmental impacts of gas development include air and water pollution and soil contamination, which are clearly established pathways for health impacts.
- There is established precedent for the inclusion of an HIA in the Environmental Impact Statement process. In 2008, an HIA was completed for the U.S. Bureau of Land Management regarding an oil and gas development proposal in Alaska's North Slope, and a multi-stage HIA for natural gas development and production has been done in Garfield County, Colorado. New York has the opportunity to set the bar equally high as these other states when it comes to the health of its residents.
- Former Governor David Paterson's Executive Order #41 (2010) directing the DEC to undertake further review of high-volume hydraulic fracturing and horizontal drilling specifically cited the need "to ensure that all environmental and public health impacts are mitigated or avoided".
- In December 2009, U.S. Environmental Protection Agency Region 2 submitted its comments on the first draft SGEIS. The agency called for "a greater emphasis...on the potential health impacts that may be associated with gas drilling and hydrofracturing." With this in mind, the agency also suggested that NY's DOH join DEC as co-lead on the SEQRA process and SGEIS document, which was not done. (See attached letter.)
- In February 2011, hundreds of physicians, scientists, and organizations representing thousands of health professionals sent a letter to DOH Commissioner Dr. Nirav R. Shah detailing the risks to human health from various stages of the gas development process and urging co-lead status for the DOH in the SGEIS process. (See attached letter.)
- On May 26, 2011, the NYS Assembly Environmental Conservation and Health Committees jointly held a public hearing on the connection between natural gas development and public health. Testimony by medical professionals and scientists indicated the need for thorough public health investigation before permits for high volume hydraulic fracturing and horizontal drilling are issued. (See attached testimony and letter to you from Committee Chairs Robert Sweeney and Richard Gottfried.)
- There is a growing body of evidence on health impacts from industrial gas development. In Texas, Wyoming, Louisiana, North Dakota, Pennsylvania, and other states, cases have been documented of worsening health among residents living in proximity to gas wells and infrastructure such as compressor stations and waste pits. Symptoms are wide-ranging, but are typical for exposure to the toxic chemicals and air and water pollutants used in oil and gas development and can often be traced to the onset of such

operations. (See attached documents.)

Thank you for your consideration of this information and our requests. We look forward to speaking with you and working together to ensure changes to the SGEIS process that will protect the long-term health and well-being of all New Yorkers.

Sincerely,

(List of signatories attached)

ATTACHMENTS:

1. Letter to NY DOH Commissioner Dr. Nirav Shah from health professionals (February 5, 2011) with CD of footnoted articles.
2. DVD of NY State Assembly public hearing on potential health effects of gas drilling (May 26, 2011).
3. Letter to Governor Cuomo from Assemblymen Robert Sweeney and Richard Gottfried (June 14, 2011).
4. Letter from EPA Region 2 with comments on the first draft SGEIS (December 30, 2009).
5. Theo Colborn, Carol Kwiatkowski, Kim Schultz, and Mary Bachran. "Natural Gas Operations from a Public Health Perspective." International Journal of Human and Ecological Risk Assessment. Accepted for publication; forthcoming 2011.
6. Earthworks Oil & Gas Accountability Project. Flowback: How the Texas Natural Gas Boom Affects Health and Safety. April 2011.
7. Dr. Conrad Daniel Volz, DrPH, MPH. Testimony to the U.S. Senate Committee on Environment and Public Works and the Subcommittee on Water and Wildlife, Joint Hearing on "Natural Gas Drilling, Public Health and Environmental Impacts." April 12, 2011.

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