



**Providing a voice for fellow landholders who leased mineral rights before we knew that shale gas exploitation threatened our land, air, water, and communities.**

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### **FleasEd Comments Regarding the SGEIS**

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These comments pertain both to the draft Supplemental Generic Environmental Impact Statement and the draft regulations. They are addressed to the NYS Department of Conservation and copied to Governor Cuomo.

I am here today representing FleasEd, an organization that advocates for people who signed gas leases before we knew that shale gas exploitation threatened our land, water, air and communities.

Many of us are ashamed that we signed leases. But we were lied to by the landmen who came to our door. It's time for us to stop hiding our heads and get angry.

We are here to let the DEC and politicians know that most people who signed leases are against drilling.

We who have leased our land have the most to lose if fracking goes forward in NYS.

When we signed leases we had no idea that:

- We could no longer get mortgages on our property
- We could no longer get homeowner's insurance;
- The gas company could take any of our land that they wanted
- We could be liable for damages;
- Our wells were in jeopardy;
- Toxic chemicals would be released into the air;
- Thousands of gallons of hazardous chemicals would be injected into our property;
- We would be subjecting our neighbors to these risks or to the increased crime, skyrocketing rents, broken roads and higher municipal costs.

Specific provisions particularly relevant to Fleased include:

### **1. Notification** (*8.1.1.3 Local Government Notification*)

#### **Notification of permit application**

Property owners will not be notified when a gas company applies for a permit that includes their land under the proposed SGEIS. This is outrageous. The revised SGEIS says that the DEC “would notify local governments of all applications”. The applicant – the gas company and not the DEC - should be required to notify not only the local government but also each of the people whose properties are included in the spacing unit that is proposed. We have a right to know what is proposed by the gas company. We have a responsibility and right to review permit applications to ensure their accuracy. We are more likely to know about abandoned old wells, can verify locations of our structures and water wells, etc.

#### **Notification of operations**

Currently the law (ECL §23-0305(13) requires that the permittee notify the local government and the surface owner where activity is to take place prior to commencing operations. This notice should be extended to all property owners within the spacing unit and should extend beyond that to properties within the area where water testing is to be required (1000 feet in this draft of the SGEIS).

### **2. Pits**

Open pits for storage of wastes should be prohibited. These pits allow chemicals to volatilize putting pollutants into the air we breathe. They also have the potential to leak and to overflow, contaminating soil and water.

The SGEIS outlines the advantages of enclosed containment systems (*5.2.5.2 Closed-Loop Tank Systems*). And the SGEIS says that the operators have told the DEC that they would not routinely use pits. Since enclosed systems are feasible and environmentally preferable, they should be required and no open pits should be allowed.

### **3. Green completion**

#### **Venting, Flaring and Gas Capture**

The draft SGEIS allows for flaring and venting of gas. This practice puts pollutants into the air including chemicals with health impacts as well as green house gases. It also is a nightmare for those living near the well due to loud noise and bright light. This pollution is not necessary and should be prohibited. The U.S. EPA estimated 70% capture of formerly released gases with green completions. In green well completions, the gas is immediately put into a sales line. These reduced emission completions will require cooperation between the Public Service Commission which regulates transmission lines and DEC. This should not be too much to ask. Transmission lines need to be in place before wells are drilled.

## **4. Chemical additives**

### **Disclosure**

The SGEIS is gravely inadequate in regard to disclosure of chemicals injected into our properties. Disclosure to the DEC does not provide the public with the information we need. Disclosure linked to MSDS (material safety data sheets) is in no way sufficient. Few of the chemicals used are covered by MSDS. We tout NY as more “progressive” environmentally than Arkansas, yet New York’s proposal for disclosure is far weaker what Arkansas proposes.

We have a right to know what is being used. How can we monitor our water and air or provide appropriate emergency services if we don’t even know what is being discharged? Hiding behind “proprietary” secrets should not trump our health.

### **Green chemicals**

Chemical additions to fracking fluid should be restricted to those that are neither toxic, persistent nor endocrine disrupting. Of course industry will claim that this is not possible, but time and again we find that what is impossible can be achieved when necessary. Allowing the discharge of millions of gallons of such chemicals into the ground is a time bomb and the handling of these chemicals subject to surface spills and leaks

## **5. Monitoring**

The SGEIS proposes that the gas company test water wells within 1000 feet (or to 2000 feet in some instances) prior to drilling and periodically after drilling. There is significant distrust of the gas companies (for good reason given the misleading statements and downright lies we were told by the landmen) and many well owners may decline to allow the company to be in the driver’s seat regarding testing their well. The gas company should be required to pay the local health department to collect samples and to have them analyzed at certified labs and cover the costs for the local health department to communicate with the well owners and to review the data.

## **6. Liability and Bonds**

Gas companies should be required to post a bond sufficient to cover environmental damages. This includes replacement of water supplies that might be contaminated, clean up and restoration of the site and remediation of spills. It should also cover plugging of wells. These bonds should be held long enough to ensure that plugs hold up over time.

Homeowner’s liability insurance is no longer valid on properties that are used for gas exploitation. Most lessors do not know this. Most leases do not address indemnification. The state rules must ensure that the gas companies pay for damages.

Holding a bond will also provide an incentive for the gas companies to be more careful. Bonds should be held long enough to ensure that plugs are effective and lasting.