January 11, 2011

dSGEIS Comments
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-6510

Re: Comments on the Draft Supplemental Generic Environmental Impact Statement for High Volume Hydraulic Fracturing in New York State

These comments are filed on behalf of the Marcellus Shale Coalition (MSC), a regional trade association with a national membership. The MSC was formed in 2008 and is currently comprised of more than 250 producing and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, transmission, and gathering in the country, as well as the suppliers and contractors who service the industry.

The MSC actively participated in the work done by the Independent Oil and Gas Association of New York (IOGA NY) in responding to the draft Supplemental Generic Environmental Impact Statement (dSGEIS) and fully supports their position. In addition to IOGA NY's well-informed and detailed comments, the MSC would like to provide a regional perspective on the future of shale gas development in New York.

Our members are committed to environmentally responsible shale gas development, and they demonstrate this through their active and tightly-regulated drilling programs in shale plays throughout North America. The MSC has carefully reviewed the proposed dSGEIS and determined that significant barriers to entry would discourage both operating and service companies from establishing significant operations in New York state. These barriers are created through increased regulatory burdens, uncertainty on the timing of permits and increased capital costs. With so much economic opportunity at stake, it would be tragic for New York to not realize its share of the benefits that derive from responsible shale gas development. If the opportunity is missed, we estimate that from just four counties, $21 billion could go unrealized by mineral rights owners ($19 billion in royalties and $2 billion in lease bonus payments) and $5.8 billion could go unrealized in state taxes ($4.4 billion in ad valorem taxes and $1.4 billion in personal income tax from royalties only).

Unfortunately, extremely conservative scenarios were used to develop the proposed regulations resulting in unworkable setbacks and unnecessary prohibitions and rendering approximately half of the acreage unavailable to development. Regulatory requirements and mitigation measures have been included that are overly conservative, costly and time consuming, adding costs ranging from several hundred thousand dollars per well to more than $1 million per well. Also, significant uncertainty remains on the timing of permits as numerous and sometimes duplicative intra-departmental reviews would be conducted in sequential fashion with no clear guidelines for expeditious review of permit applications.

Companies have choices concerning their deployment of capital and human resources. Based on the regulatory proposals under consideration, it appears that New York is not “open for business” and as such, it is unlikely to attract the investment deserved by the people of New York and the state’s troubled economy.

Our fundamental concern with the dSGEIS is its use of unrealistic scenarios as the basis for the draft regulations. The use of more realistic scenarios could result in a regulatory regime that would be both reasonable and affordable for industry while providing strong protections for health, safety and the environment. Many other states have achieved this critical balance - notably Pennsylvania, which is now seeing the economic benefits of a vibrant shale gas industry, including more than 200,000 new hires supported by the industry, according to the state Department of Labor and Industry; more than $1 billion in taxes paid to the state by the natural gas industry since 2006, according to the state Department of Revenue; and $1.6 billion to local landowners in 2010 alone and consumer savings of more than $633 million on electricity and natural gas bills last year, according to researchers at Penn State University.

With these benefits taking hold in Pennsylvania, coupled with some of the nation’s most forward-leaning environmental regulations and technologies, the MSC remains committed to promoting clean burning natural gas as game changer for New York state. Shale gas development will allow New Yorkers to realize the economic benefits, use clean-burning natural gas in all aspects of daily life, and at the same time, contribute to American energy security. New York workers, families, small business owners, farmers, and landowners deserve to share in this opportunity.

Very truly yours,

Kathryn Z. Klaber
President