

**Tompkins County Council of Governments
Gas Drilling Task Force
MINUTES
October 20, 2011**

Land Use Analysis and Impact Assessment Project – Art Pearce

- After several unfortunate delays, GREENPLAN has received a signed contract and work has now begun on the Community Impact Assessment. This week Ted Fink is preparing an annotated outline for the report that will identify, for each topic to be covered, the available data and existing reports, and any gaps that need to be filled in. As part of his overall involvement in the hydrofracking issue, during the last month Ted has been reviewing the dsGEIS, proposed regulations, and various studies, including the CaRDI reports from Susan Christopherson, David Kay, Jeffrey Jacquet, and others.

Commenting on the sGEIS – PART I: gathering comments

-Lawrence created a google doc for all to view and use at https://docs.google.com/document/d/1wN9zpxrhM39qYco7wQsUMPXCMvHY9gJFPCBDgI3QFeM/mobilebasic?hl=en_US&pli=1. It is a collection of specific comments municipalities and others can draw from as they work to submit their own comments.

-In order for towns/the county/villages to submit comments from their boards, comments will need to be available to them early i.e. by the end of October to be passed at early November meetings. Remember, **many boards will not have a second meeting in November and their December meetings are likely to be too late to meet the December 12 deadline.** Municipal boards may want to consider sending their resolutions containing their comments to Governor Cuomo, and selected members of the state and federal governments to inform them of any concerns with the current version of the sGEIS.

-ACTION ITEM: If TCCOG or TANG is planning to submit comments:

- o TCCOG's November meeting is on the 17th. They will need to approve a resolution containing comments by that date meaning **comments would need to be provided to TCCOG by November 9 to go out with the agenda on November 10.**
- o TANG's next meeting would be on the 17th, but TCCOG is meeting then so the date was moved up to November 10. **If TANG wants to officially submit comments, we would need to have them complete by at ~ November 3 in order to pass them on the November 10 meeting.**

-TANG felt it would be useful to divide up the sGEIS and each cover specific areas.

Darby and Liz are going through the comments listed below to glean comments for municipalities to use but they have limited time. Others are encouraged to help.

Are there other municipalities/groups focusing on specific areas?

- The following are categories listed in the DEC online comment submission form (sorry some were unreadable at the end). **ACTION ITEM: If there are sections you plan to comment on, PLEASE send those intensions to the listserv tccog-drilling@googlegroups.com, Liz or Darby.**

1. General Comments on the 2011 revisions
2. New sections on socioeconomic conditions, impacts and mitigation – **JOE WILSON**
3. New sections on visual and noise impacts and mitigation
4. New sections on existing transportation conditions, impacts and mitigation -- **DANBY**
5. New sections on community character, impacts and mitigation
6. New local government notification and coordination requirements - **DANBY**
7. Requirements for mandatory disclosure of hydraulic fracturing additives and alternatives
8. Enhanced requirements for well construction and management of drill cuttings

9. Prohibition on well pads in NYC and Syracuse watersheds and 4000 foot buffer – WRC (Darby)
10. Prohibition on well pads in 2000 foot buffer around other public drinking supplies – WRC (Darby)
11. Prohibition on well pads in 500 foot buffer around private water wells - DANBY
12. Prohibition on well pads in primary aquifers and 500 foot buffer– WRC (Darby)
13. Prohibition on well pads in 100 year floodplains– WRC (Darby)
14. Prohibition on well pads on state-owned lands administered by DEC
15. Requirement for site-specific SEQRA determination for well pads in principal aquifers...
16. Requirement for site-specific SEQRA determination for certain water withdrawals
17. Passby flow: calculation methodology and well permit conditions
18. Requirements related to forest and grassland focus areas - DANBY
19. Requirements for invasive species management t plan and practices to reduce habitat ...
20. Air Permitting process and well permit conditions for avoiding or mitigating adverse ...
21. Air impact assessment, supplemental modeling, and assessment of regional emissions...
22. Air quality monitoring program
23. Greenhouse gas mitigation requirements
24. Comments on other revisions that are included in the 2011 dsGEIS
25. Additional changes you think should be reflected in the final Sgeis

Commenting specifics:

-Comments will only be accepted by mail or through the DEC online submission form which is broken down into 25 categories (see above). Comments must be submitted by category on the online form. A person can submit in one category and then later submit in a different category.

-Comments should be specific, not general statements. State what needs to be changed in the sGEIS. Refer to specific sections of the sGEIS if possible.

-Cite experts when possible. Joe said links to articles are insufficient. The actual citation must accompany the comment or be uploaded.

-Attachments can be uploaded.

-Some suggest it best to both submit comments electronically AND by mail.

-As soon as a municipality completes its comments, please forward them to other municipalities to build from.

-Anyone who has comments appropriate for municipalities should contact the following people who can add them to the TANG google doc that municipalities can draw from as they draft their own comments:

Darby Kiley ulysses.planner@gmail.com

Liz Thomas liz.graeper.thomas@gmail.com

Marie McCrae mmmcrae@juno.com

Lawrence McCann larsmccann@yahoo.com

-Darby and Liz have collected sources of comments (listed below). Anyone knowing other sets of comments is encouraged to let us know. They are also posted on the TCCOG site: http://www.tompkins-co.org/tccog/Gas_Drilling/Resources/dSGEIS_comments.html

Estimated release dates for comments from:

- Environmental Management Council—November 9
- PRI and Cornell via CaRDI—October 28
- TC Planning—November 18
- TC Water Resource Council - November 21
- NYS Water Environment Association – November 7

- **TCCOG-TANG**
https://docs.google.com/document/d/1wN9zpxrhM39qYco7wQsUMPXCMvHY9gJFPCBDgl3QFeM/mobilebasic?hl=en_US
- **Drilling and the DEC: Responding to Economic Impacts (meeting at the Women's Community Building Oct. 15):** <http://shaleshockmedia.org/2011/10/22/drilling-and-the-dec-responding-to-economic-impacts/>
- **Susan Christopherson:** [The Economic Consequences of Marcellus Shale Gas Extraction: Key Issues](#)
- **SourceWatch** http://www.sourcewatch.org/index.php?title=2011_SGEIS_Flaws%28NY%29
- **Dr. Janette Barth's preliminary comments on the Sept 2011 Economics Study:**
<http://tinyurl.com/DrBarthOnSep2011SGEISEconStudy>
- **James L. 'Chip' Northrup, energy industry:**
<http://www.scribd.com/doc/65100325/SGEIS-General>
- **The Ithaca Panel -- 7-25-11**
 - **Karen Edlestein, mapping consultant:**
 - **Helen Slottje, CEDC:**
 - **Tony Ingraffea, Cornell:**
 - **Lou Allstadt, former Executive Vice President of Mobil Oil Corporation:**
 - **Roger Downs, Sierra Club Atlantic Chapter**
 - **The audio from the 7-25-2011 panel in Ithaca is here:**
<http://www.archive.org/details/SgeisWcblthaca7-25-11>
 - **The presenters slides are here:**
<http://tinyurl.com/TCAGasMapSGEIS>
 - **The video is here:**
<http://www.youtube.com/playlist?list=PLA6647ADA1229FB37>
 - **Transcripts from the Ithaca panel are here:** <http://shaleshockmedia.org/transcripts-tompkins-county-forum-on-revised-draft-sgeis-july-25-2011/>
- **Catskill Mountain Keeper:**
<http://williamahuston.blogspot.com/2011/07/catskill-mountainkeeper-why-fracking.html>
- **National Wildlife Federation**
<http://www.eany.org/images/Reports/dsgeiscomments12312009.pdf>
- **Environmental Advocates**
<http://statepolitics.lohudblogs.com/2011/07/19/enviros-release-top-10-list-of-fracking-concerns/>
- **Kate Sinding, NRDC**
http://switchboard.nrdc.org/blogs/ksinding/revised_draft_environmental_re.html
- **ProPublica:**
<http://www.propublica.org/article/state-fracking-rules-could-allow-drilling-near-new-york-city-water-supply-t>
- **Radioactive Waste Management Associates**
<http://www.scribd.com/doc/64407403/Radioactive-Waste-Management>
- **Walter Hang, Toxics Targeting**
<http://www.toxicstargeting.com/MarcellusShale/documents/letters/2011/06/15/martens> and at <http://ToxicsTargeting.com>

Commenting on the sGEIS – PART II: Public Hearing

The TCCOG sponsored public hearing to collect public comment on the sGEIS in a more locally convenient location is **tentatively** scheduled for

December 1, 7-11:00pm

State Theater

Moderator – Don Barber? (need to confirm)

Sign-up will begin at 6:30pm. TANG discussed allowing elected officials and organizers to speak first but did not come to a definitive conclusion on this subject.

ACTION ITEM for TCCOG: should elected officials and organizers be allowed to speak first?

Title: *Tompkins County Council of Government Public Hearing on the revised supplemental Generic Environmental Impact Statement and regulations for high volume hydraulic fracturing for shale gas.* (For short: *TCCOG Public Hearing on sGEIS*).

ACTION ITEM: TCCOG approval of title.

We need TCCOG to give final approval before the Public Hearing can be official. Action from TCCOG is expected on October 27th.

ACTION ITEM: We'll need volunteers to help coordinate this hearing. Please contact Lawrence McCann if you can help larsmccann@yahoo.com.

The cost of the State Theater (~\$2000) and stenographer (\$1,500) is more than the \$1000 contributed by TCCOG. Several donors have come forward, each with several hundred dollars, but we'll need several thousand more (specific numbers coming soon). The Town of Ulysses has committed \$300. If other municipalities would do the same, we will be able to cover the costs.

ACTION ITEM: request funding donation from municipal boards or other donors to cover costs for the local public hearing on the sGEIS. Checks should be made out to *Tompkins County* with *DEC Hearing* in the subject line. Send to

David Squires at
Tompkins County Finance Department
125 East Court Street, 2nd Floor
Ithaca, New York 14850

ACTION ITEM: Richard Driscoll and Ric Dietrich will contact the State Theater director, Doug Levine, to negotiate the contract prior to the October 27 TCCOG meeting.

Lawrence and Sara Hess are working on a press release.

Maintaining a neutral venue is important and in that light the following mission and vision statements were drafted:

Mission: to provide a local venue for a public hearing to allow citizens to voice their opinions about the Department of Environmental Conservation's 2011 revised supplemental Generic Environmental Impact Statement (sGEIS) as it pertains to high volume hydraulic fracturing for natural gas in the Marcellus and Utica shales.

Vision: The Tompkins County Council of Governments supports open and transparent government processes and as such is sponsoring a local public hearing for citizens to respond to the 2011 revised sGEIS. The relatively new process of high-volume hydraulic fracturing has the potential to create significant environmental and community impacts, and while the DEC has scheduled public hearings in other parts of the State, there are none within the Finger Lakes Region. To facilitate participation in the commenting process, TCCOG is sponsoring an additional public hearing for citizens within Tompkins County and the Finger Lakes Region to make comments on the sGEIS.

IOGA Questions:

Questions were submitted in advance of the meeting of TCCOG representatives with IOGA on November 17th. Those who are interested in participating should contact Don Barber (some wondered how long the session would last and who was invited). The following submitted questions were not prioritized.

QUESTIONS FOR THE INDEPENDENT OIL AND GAS ASSOCIATION (IOGA)

Can IOGA arrange meetings with real and potential gas extraction firms with County and affected municipalities to work on the details in questions below?

- Who will pay for the extra administrative costs borne by local governments for additional costs for attorneys, additional staff, monitoring, etc? How do we fund these extra people without extra funds via taxation.
- It seems from past history that a fast ramp up of drilling activity creates a boom economy which is always followed by a bust. How can we work out a plan that has a slower pace of build out in a certain region so the boom effects are mitigated?
- How will you insure that EMS personnel are adequately trained to address the increased activity caused by drilling? How will you insure that EMS vehicles can move quickly down roads with increased traffic, especially large trucks on our road system? How can we insure that roads have adequate shoulders so heavy trucks can pull over to allow EMS vehicles pass?
- How will IOGA members work with local governments to develop a Road Use Agreement template
- Tompkins County has a shortage of affordable housing and we suspect our County may be a destination point for gas workers due to college town activity. How can IOGA work with its member to insure at a minimum no reduction in affordable housing and at best an increase?
- Tompkins County is a tourism destination and hosts 20,000 students and their families. How can drill pads and their ancillary/ support businesses be shielded visually from State highways, State land (parks and forests) and Cornell and IC?
- What kind of increase in population can a municipality expect based on experiences in PA? What are the percentage of workers that bring family with them? Do most gas companies provide health insurance for their workers?
- Tompkins County has and desires to maintain and grow its sustainable, small business economy. We have seen in Towanda PA and other PA cities that the gas industry and associated businesses overwhelm the existing business activity. What can your industry do to be a partner in economic development?
- We recognize that only the southern portion of Tompkins County has Marcellus shale at a depth allowed for gas extraction, yet we expect that all of the above impacts will be felt in our County even if no drilling occurs in our County but is allowed in NYS. How will IOGA work with local governments to mitigate these impacts?
- What is IOGA's opinion about using production water as a de-icing material for roads?
- We hear discussion about the potential for using propane in the fracking process. What is the likelihood of this? What are the pros and cons?
- Given that the water supplies for the City of Ithaca, Cornell University and Bolton Point (Towns of Ithaca, Dryden and Lansing and Villages of Lansing and Cayuga Heights) are all surface waters (Six Mile Creek, Fall Creek and Cayuga Lake respectively) are gas companies willing to voluntarily prohibit gas drilling in the watersheds of these drinking water supplies?
- The DEC has no record of many abandoned gas wells which are suspected of being an avenue for fracking liquid to migrate into unexpected areas. What steps do gas companies take to find these wells prior to drilling and who shoulders the cost of plugging them if found?
- Explain how local municipalities benefit from gas development under the current taxation structure in NY given that any additional income tax benefits the State not local governments. How will our extra costs for additional staff be funded?
- Can IOGA highlight how any flowback or produced water will be disposed of safely? Where would this happen? How much more truck traffic might we expect from the disposal process? Will there be a chain of

custody to prevent illegal discharging of materials? Are there any water treatment plants in NY suitable for disposal of flowback or produced water?

- How can homeowners determine what chemicals to test for in their water wells? How much does that cost? Is there any discussion of funding water tests for low income or working poor families?
- What level of engagement should local governments expect from the gas industry as time progresses? How has IOGA communicated with local governments in areas where drilling is now underway and what services can local governments expect from the industry?

ACTION ITEMS:

- any additional questions should be submitted to Don Barber by November 1.
- If you plan to attend, contact Don.

TANG Coordinator - Progress Report

Darby and Art have now given the mapping presentation to all municipalities with good attendance and engagement. Between 500-600 people overall heard the presentation.

The *Tools* document is being wrapped up and will be housed on the TC Planning Department's website with a link from TCCOG. Ed is finalizing and it should be available soon.

TANG Plans for 2012

TANG can be extremely proud of the many accomplishments its members have made for nearly 2 years. A huge amount of effort and time has been donated by members. We've made headway in the areas of mapping, road protection, emergency management, land use regulation, air quality, land values, taxation issues, toolkits and more. A **huge thanks** to all (and their families) who have brought us so far.

What's in stake for 2012?

TANG brainstormed the following list of issues:

- How will air and water quality be monitored? Who will do this work? Who pays?
- What strategies can we use to influence legislation at the State and Federal levels?
- What is the burden on the Health Department and how will they proceed? How can TANG help?
- Pipelines – what is the jurisdiction of local governments, how can we influence their oversight, when can we expect activity on pipelines, how is eminent domain used, what are the rules governing “laydowns”.
- Zoning trucking facilities to influence trucking levels.
- Public safety and emergency services – who does the training, how will it be coordinated, will ambulance service be affected by increased truck traffic? Are we ready?
- Is there a checklist for towns to make sure they are ready?
- How will the taxation issue be decided and how can local governments have a say in the process?

How will this work be done?

TANG has been running strong for a long time, but the group discussed reorganization. Committees that have finished their work need to be officially concluded and future work needs to be retargeted to the new set of challenges. TANG felt that with the level of active members, TANG can only handle taking on one or two focused topics at a time from this point forward unless new active members join. They felt an appeal for new members would be worthwhile. It's important for TCCOG and the County Legislature to understand that TANG does not have the resources to address all the issues confronting governments and encourages TCCOG, the County, the EMC and WRC to work in unison with TANG to tackle the topics. Liz announced she will be stepping down as chair of TANG in January although will remain on as a member.

ACTION ITEMS:

- TCCOG and TANG should discuss how to address drilling issues in 2012 with new leadership and a reorganization of committees.
- Notify TCCOG, the County, EMC and WRC of these changes.

Association of Towns meeting on sGEIS, legislation and litigation

Handouts from the Association of Towns meeting in Corning on the sGEIS, legislation and litigation are attached except for the powerpoint from DEC Commissioner Gene Leff which gave a brief overview of the sGEIS (that file is huge and causes trouble with email programs but was sent to TANG members on October 19). The handouts included:

- The Town of Dickenson road preservation law by Cheryl Sacco from Coughlin and Gerhart
- A presentation on bans and related lawsuits by David Everett from Whiteman, Osterman, and Hanna
- Selected topics on municipal powers and regulation by Guy Krough.

Recent Legislative Actions in Tompkins County

Danby – aquifer protection and water sources – working on this with USGS

Road preservation – nearly complete

Newfield – possible moratorium

County – resolution to ban drilling in the Finger Lakes – introduced by Jim Dennis

Passed a resolution requesting a the drilling regulations be rescinded until the sGEIS is complete.

City of Ithaca – drilling prohibition both inside the city and in their watershed.

Town of Ulysses - Passed a resolution requesting a the drilling regulations be rescinded until the sGEIS is complete.

Taxation – Carol Chock

Carol briefly talked about her committee’s work. They are focused on 4 areas: lease info should be public, tax rolls must stay fair, real estate industry, and taxation. Her report is at the end of these notes.

She will give a more detailed report in the future. Her committee was instrumental in the most recent New York Times article http://www.nytimes.com/2011/10/20/us/rush-to-drill-for-gas-creates-mortgage-conflicts.html?_r=2&pagewanted=all. **Congratulations to Carol and her committee** for their excellent and dogged work on this subject.

Next Meeting

The next TANG meeting would normally be on Nov. 17 but due to Thanksgiving, TCCOG has moved its November meeting to that date. TANG decided to move their meeting to Thursday, November 10. Liz will be out of town from November 9-21—Darby will chair the 11/10 meeting. The main topic will be finalizing comments and the organization of the public hearing.

ACTION ITEM: Next meeting – November 10 at 3:00pm

Notes from the Land Value/Assesment/Taxation committee

Tompkins County Council of Governments (TCCOG) Gas Drilling Task Force Assessment and Land Valuation Subcommittee

Two Page Summary of Taxation Issues 10-19-11

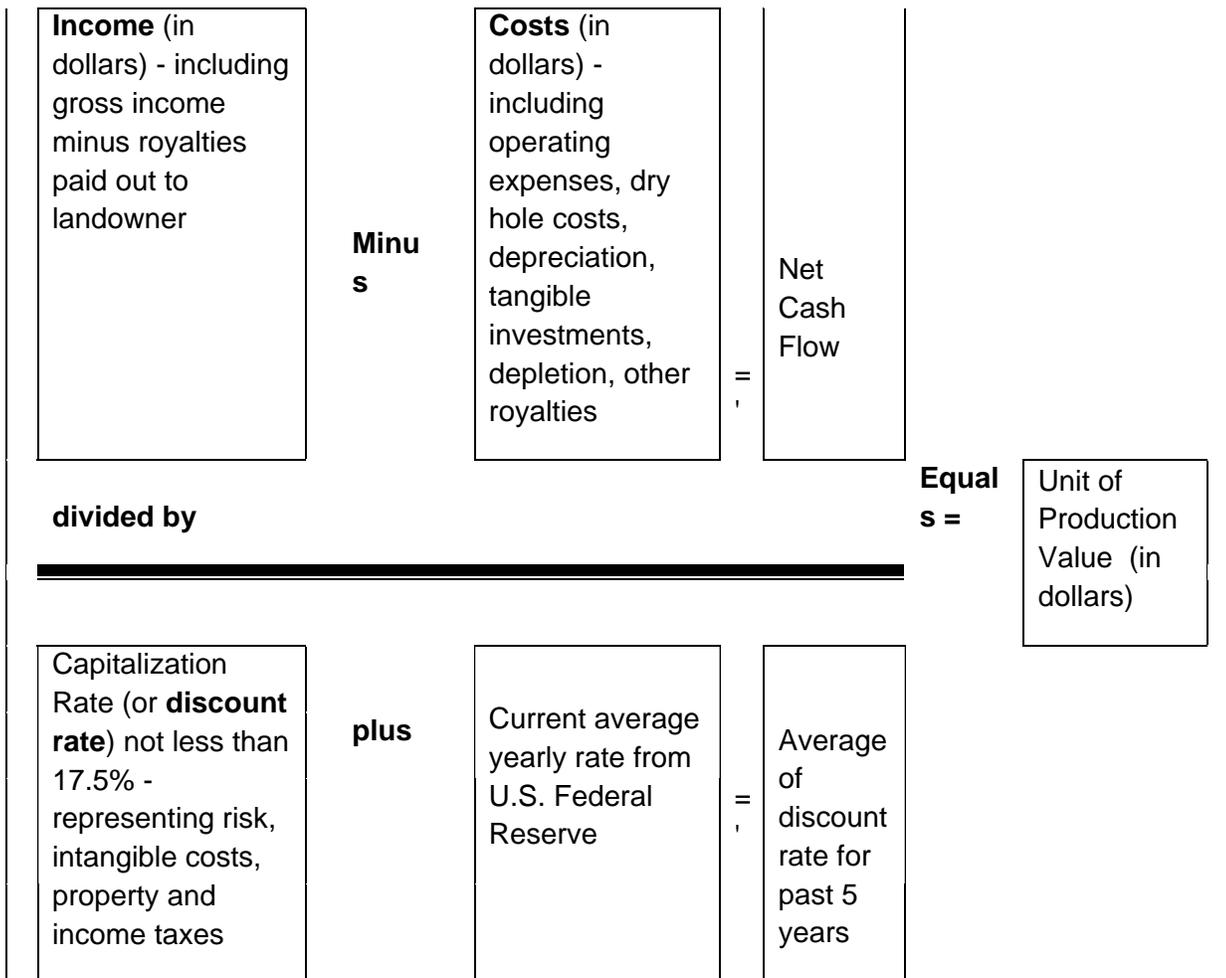
NYS should not issue permits for high volume, slick water hydrofracking until it is ready to capture the value of gas through taxation

- **Current NYS taxation procedures are Insufficient to measure and tax gas production**
- NYS currently taxes gas extraction through an *ad valorem* property tax on production at the local level, but has no severance tax
- Gas production tax uses a *production value formula*, set in 1978
- Office of Real Property Tax Services (ORPTS) and local Assessment Departments administer the tax
- *Production Value Formula* was set for a different type of gas production decline curve (set for the 5-10 year cycle of traditional drilling, not the quick high and then steep drop-off of shale gas output)
- Values in the formula may allow loopholes for industry
- Discount rate at 17%, while ad valorem rates for competing activities at 8-10%
- Production numbers are self-reported by gas companies
- Meters that measure the units of production are unverified
- Timing of production reports are not in sync with local tax cycle
- NYS unprepared to tax or track where to send bills in situations where there is severance of subsurface rights.
- Any additional permit fees or severance taxes must cover additional local as well as state costs
- ORPTS staff was recently reduced from 220 to 150 people.

NY State ORTPS Formula to determine Assessed Value of Gas (called "Unit of Production Value")

**Unit of Production Value
Formula:**

| | | | |
|------------|--|------------|--|
| Production | | Production | |
|------------|--|------------|--|



Note: The dollar value of the gas is currently determined by the NYS ORPTS office using a complex net value formula including royalties, operating expenses, depletion rate, discount rate, sale price, etc. This formula was established in 1978 for production decline curves of sandstone and limestone formation wells that maintained fairly consistent production for approximately 5 years, rather than the 1-2 year drop-off of hydrofracking, in which the greatest amount of gas comes out at the beginning and very sharply and immediately falls off

Chair, Carol Chock, Tompkins County Legislator

carolchock@gmail.com

http://www.tompkins-co.org/tccog/Gas_Drilling/Focus_Groups/LandValues_Assessment.html

EVENTS:

- **November 29 WSKG Community Conversation** on the revised draft sGEIS, 7:00-9:00 p.m.
TENTATIVE DATE
- **Fuel for Thought: A Community Conversation** – sponsored by IOGA of NY, Thurs, October 27, 7pm, County Building Auditorium, 60 Central Ave, Cortland
- **Marcellus Shale revised Draft sGEIS Webinar** Nov 9 4-5:30
Presenters: Amy Galford, Extension Associate, College of Human Ecology; Brian Rahm, Post Doctoral Associate, Water Resources Institute; David Kay, Senior Extension Associate, Community and Regional Development Institute and possibly one or two additional presenters from the Cornell Community. This will augment the two presentations that will be ready soon highlighting the differences between the draft

and the revised draft. The discussion will include water, community and economic perspectives on the revised DEC draft supplemental generic environmental impact statement

Register:

<https://docs.google.com/spreadsheet/viewform?formkey=dFlvd1duSElkQXRRcUltTDRUN2lvbIE6MQ>

RESOURCES:

- **Natural Gas Drilling Effects on Municipal Governments Throughout Pennsylvania's Marcellus Shale Region, Part 1, Part 2, Part 3, and Part 4**- by the Marcellus Shale Education and Training Center (MSETC) (9/25/11, 10/2/11, 10/9/11, and 10/16/11)
- The Economic Consequences of Marcellus Shale Gas Extraction: Key Issuesdrilling
<http://www.greenchoices.cornell.edu/development/marcellus/policy.cfm>