

alternative is reasonable within the meaning of SEQRA in that it could still allow DEC to advance its programmatic objectives of shale gas development in less sensitive portions of the state. Accordingly, in addition to the other reasonable alternatives outlined below, DEC should include an analysis of a “Special Places Off-Limits” in a revised version of its RDSGEIS.

## 2) The “Demonstration Project” Alternative<sup>14</sup>

A second reasonable alternative that the RDSGEIS fails to analyze is an alternative that envisions implementation of a comprehensive HVHF drilling demonstration project in New York before any final decisions are made to authorize large-scale HVHF drilling operations here. This alternative would help the state to establish whether in fact HVHF drilling could be accomplished in a manner consistent with Governor Andrew Cuomo’s pledge that “if and when the Shale’s natural gas is obtained, it does not come at the expense of human health or have adverse environmental impacts.”

Pursuant to such an alternative, the state would implement a three year demonstration of HVHF drilling in several geographically limited areas. DEC would issue permits for a limited number of wells, say not more than 100 annually in total, and would closely monitor and supervise drilling operations in two or three selected test jurisdictions. Adoption of comprehensive regulatory safeguards would be a prerequisite for such a demonstration and such safeguards would be fully applicable to the pilot projects. In addition, sufficient resources for pre-drilling water quality monitoring, as well as adequate staffing for enforcement and oversight at the state and local level, full bonding assurances to cover possible spills, etc., would also be put in place in advance, so as to maximize protection for the local community, its residents and environmental quality during and after the three-year test. Finally, pursuant to this alternative, DEC would defer a decision on whether to advance further a broader HVHF drilling program in New York State until after the three-year pilot project has been completed and analyzed.

The RDSGEIS does not, however, analyze such a “Demonstration Project” alternative. The closest it gets to considering such an approach is a brief discussion and dismissal of a “phased permitting approach.”<sup>15</sup> The two pages of text here do not examine the need for, or benefits of, a demonstration project to determine whether it is possible to develop a set of regulatory safeguards that could assure that HVHF drilling would advance safely in New York. Instead, the document first claims that the state is partially implementing a phased program since it is proposing some restrictions on drilling, such as in the New York City and Syracuse watersheds. But such restrictions, while welcome (and despite their gaps, discussed in Section III, below), are no substitute for a true demonstration project that would test the protective abilities of a comprehensive regulatory regime before authorizing a potentially much larger, statewide HVHF drilling program.

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<sup>14</sup> Please note that the discussion of alternatives involving less intensive development does not presuppose that a legally sufficient revised DSGEIS will provide the basis for any new drilling in the state.

<sup>15</sup> See RDSGEIS at 9-3, 9-4.

The RDSGEIS' discussion of a "phased approach" also asserts that "any such annual limit on permits issued would be arbitrary" without explaining a rationale for its conclusion. And the document's final point -- that formal phasing is not practical "because of the inherent difficulties in predicting gas well development rates and patterns" -- also fails to provide sufficient justification for rejecting a demonstration project alternative. Meanwhile, HVHF drilling-related water and air pollution problems have been documented on multiple occasions.<sup>16</sup>

Therefore, to satisfy the SEQRA mandate, DEC should analyze an alternative that would provide the opportunity for a three-year demonstration project -- limited to two or three jurisdictions and with all necessary safeguards -- to assess whether a comprehensive set of new regulatory requirements could fully protect New York's water, air and communities from the multiple risks of HVHF drilling. Such an alternative is reasonable in that it could still allow for additional HVHF drilling operations after three years (and for New York to obtain HVHF drilling's purported economic and energy benefits), provided that the demonstration project itself established that HVHF drilling with the highest level of oversight could in fact be safely advanced in New York State. DEC should include an analysis of a "Demonstration Project" alternative in a revised version of the DSGEIS.

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