

Section 2.0 Responses to Comments

Dated: May 4, 2012

	Name	Pg No.	Line No.	Comment	Response
1	Mr. Ferguson	26	14 – 22	"...There is no mention [in the DGEIS] of the amount of traffic that a well would bring to the towns.... This kind of information should be reflected in the DGEIS and its completely missing."	The Delta road protection plan addressed by the GEIS is not project specific. The program addresses potential road impacts due to any industrial activity, such as wind energy projects and other large scale projects as well as potential gas mining activity. Accordingly, it is not necessary or possible in the GEIS to predict traffic levels for all potential activity that may occur. Rather, the program establishes parameters to capture certain specific types of traffic and require specific analysis of such project related traffic when a project is proposed. The traffic associated with a proposed project is evaluated at that time and if it exceeds normal wear and tear thresholds of local roads the responsible party will be held liable for repairs in accordance with the law and road use agreement.
2	Mr. Ferguson	27	4-Feb	"There's no pieces [in the DGEIS] that give a sample list of what chemicals we're going to be dealing with."	Comment noted. This is not within the scope of the DGEIS for the road protection program as it is not relevant to protecting roadbed structures.
3	Mr. Ferguson	27	10-Aug	"There's no mention [in the DGEIS] of all the things that are known to happen when transient workers and an extractive industry comes to town."	Comment noted. This is not within the scope of the DGEIS for the road protection program as it is not relevant to protecting roadbed structures.
4	Mr. Ferguson	27	16 – 24	"Another concern is hazardous waste. There's no mention in the GEIS, the draft GEIS, that under New York State law hazardous waste from drilling is not considered hazardous waste. In other words, there's a loophole in ECL 23 that permits this industry alone in this state to transport hazardous waste that is considered industrialized merely on the basis of the industry that produces it. It has to be in the GEIS and has to be referenced in the mitigation plans..."	Comment noted. Hazardous materials and waste and the transportation of the substances are comprehensively regulated by State and Federal statutes and regulations. This program is focused on the protection of local/town roads, roadbed structures and related improvements and ensuring municipalities do not bear the cost of repairs due to traffic associated with industrial activity.
5	Ms. Roth	33	24 – 25	"And once you upgrade a road, that is not temporary, that is permanent; and upgrading these roads in our rural towns, basically, you're moving	The purpose of the Delta RPP, law, and RUA are to assess and mitigate the cost of roadbed structural impacts and hold a developer responsible for such costs. In the event such structures/road remain, each municipality can utilize its

	Name	Pg No.	Line No.	Comment	Response
				towards the industrialization of a rural area."	powers to enact zoning restrictions to preserve community character. Such zoning requires either public action to acquire additional ROW or agreements between private parties.
6	Ms. Roth	34	6-May	"It says "Widening roads in order to increase the setbacks between residences and the truck traffic." This isn't even going to be possible."	Changes to setback requirements to create wider separation is a land use/zoning decision for each town and is outside the scope of the Delta RPP, law, and RUA. Further, permitting of road widening outside the highway right of way occurs before the Delta RPP, law, and RUA are applied to a particular project.
7	Ms. Roth	34	24	"...There should be something that is just a little bit more realistic statement of this in the -- and I think probably the growth and character of the community..."	The Delta RPP, Law, and RUA will not directly impact community character and growth resulting from gas drilling or other such projects. Those are issues that, are regulated by town zoning and planning boards and addressed under SEQRA by the Lead Agency reviewing each project.
8	Mr. Johnston	40	9-Jun	"...why wouldn't there be a system if we're getting organized this way, where certain roads were documented that this is what they have to be used for regardless at certain times of the day?"	New York laws do not allow Towns to restrict public road use, other than in very limited circumstances set forth in Vehicle and Traffic law. Towns can designate truck routes among the many powers given to them in controlling and caring for its roads. The Delta RPP, law, and RUA follow the Vehicle and Traffic Law to allow for other additional means of control and protection.
9	Mr. Border	45	6-Apr	"The second thing I'd like to go on record is, in opposition to the use of processed water for dust control."	Comment noted. Dust control plans preferred by a municipality can be addressed with individual developers in Road Use Agreements.
10	Ms. Weiner	49	17 – 25	"I also have really deep concerns about... what will the cleanup procedures be for waste going in as opposed to waste coming out?"	Comment noted. Hazardous materials and waste and the transportation of the substances are comprehensively regulated by State and Federal statutes and regulations. This program is focused on the protection of local/town roads, roadbed structures and related improvements and ensuring municipalities do not bear the cost of repairs due to traffic associated with industrial activity.
11	Mr. Levy	52	23 -25	"I wonder if you considered not just how many trucks are probably going to be using the road, but if it's even possible for that kind -- or these drilling trucks to co-exist with these logging trucks."	Yes - the Delta plan has very detailed procedures for assessing project traffic due to any kind of project (gas drilling, wind farms, and other large-scale commercial development, etc.) relative to normal baseline traffic and the structural capacity of a given road. These procedures are based on pertinent engineering standards, widely recognized and used by professional engineers.

	Name	Pg No.	Line No.	Comment	Response
12	Ms. Dyrska	54	9-May	"My concern is that the public health issue hasn't been addressed adequately and I thought part of the SEQRA process if you look at public health impacts and I was wondering if the Department of Health was consulted, whether the County Health Department was consulted?"	The purpose of the Delta RPP, law, and RUA are to assess and mitigate the cost of roadbed structural impacts and ensure municipalities are not forced to pay for such damages of permitted projects that occur within a town and has nothing to do with potential public health impacts due to gas drilling or other development activity. Public health concerns related to gas drilling are being investigated by NYSDEC and the NYS Department of Health.
13	Mr. Allison	3	Written Comments	All efforts to describe and consider the cumulative impacts of drilling in a community should be added to the DGEIS.	Comment noted. The purpose of the Delta RPP, Law, and RUA is to assess and mitigate the cost of road impacts caused by any project and ensuring these costs are not borne by a Town. Such impacts are specific to gas drilling and are outside the scope of this DGEIS. The NYSDEC is addressing these issues in its review of gas drilling.
14	Mr. Allison	3	Written Comments	The mitigation described while useful in some areas does not address the permanent impact of upgrading rural roads.	The purpose of the Delta RPP, law, and RUA are to assess and mitigate the cost of roadbed structural impacts and hold a developer responsible for such costs. In the event such structures/road remain, each municipality can utilize its powers to enact zoning restrictions to preserve community character. Such zoning requires either public action to acquire additional ROW or agreements between private parties. The program also allows for a town to require removal of improvements once they are no longer needed.
15	Mr. Allison	3	Written Comments	There will be a negative impact on agriculture and tourism as a result of the heavy industrialization. References to these studies are attached, and these impacts should be incorporated into this report.	This DGEIS does not address the impacts of gas drilling. The purpose of the Delta RPP, law, and RUA are to assess and mitigate the cost of roadbed structural impacts and hold a developer responsible for such costs. In the event such structures/road remain, each municipality can utilize its powers to enact zoning restrictions to preserve community character. Such zoning requires either public action to acquire additional ROW or agreements between private parties.
16	Mr. Allison	3	Written Comments	Currently there is no statement that waste from drilling will include toxic chemicals or radioactive materials or solid wastes. Since all are documented aspects of drilling wastes I recommend adding a section on this subject.	Comment noted. Hazardous materials and waste and the transportation of the substances are comprehensively regulated by State and Federal statutes and regulations. This program is focused on the protection of local/town roads, roadbed structures and related improvements and ensuring municipalities do not bear the cost of repairs due to traffic associated with industrial activity.
17	Mr. Allison	4	Written Comments	Full disclosure of the potential impacts on public health should be included in this report and a	Comment noted. The purpose of the Delta RPP, Law, and RUA is to assess and mitigate the cost of road impacts caused by any project and ensuring these

	Name	Pg No.	Line No.	Comment	Response
				statement as to whether these impacts can be addressed adequately in a road use agreement and town resolution is possible. If local zoning ordinances are more appropriate to address these concerns then this document should make such a statement.	costs are not borne by a Town. Such impacts relate to gas drilling activities and are outside the scope of the DGEIS.
18	MMTF	7	Written Comments	What process will be in place for citizens to bring a suit for damages [vehicle damage, bodily harm, etc.]?	Comment noted. The purpose of the Delta RPP, Law, and RUA is to assess and mitigate the cost of road impacts caused by any project and ensuring these costs are not borne by a Town. Such impacts are outside the scope of the DGEIS and this program. The program does not limit any rights of citizens to take any necessary or appropriate legal action related to personal injury, death or property damage.
19	MMTF	8	Written Comments	Will truck traffic be prohibited at certain times due to excess noise? How will the noise be measured?	The Delta Plan provides specific provisions to incorporate town highway safety measures into project haul route approvals. Towns may mitigate noise as recommended in the Draft GEIS by instituting local laws or ordinances regulating decibel limits as does NYSDOT.
20	MMTF	8	Written Comments	Can we mitigate noise, odor, emissions, pollution, fugitive dust, etc. through this agreement or do we do that strictly through zoning?	Comment noted. Section 1.5 of the Standard RUA (need to confirm that it's the same section in Sullivan RUA) indicates that developers are expected to control fugitive dust and debris. Noise, odor, emissions and pollution considerations are outside the scope of the DGEIS but may be acted upon through the use of zoning powers.
21	MMTF	8	Written Comments	Can the road use agreement limit the days and hours of operation of concentrated traffic, increase setbacks from buildings, require use of electric or natural gas powered vehicles and the other mitigation strategies? Would the recommended mitigation strategies in a road use agreement be in conflict with ECL 23-0303(2) regarding DEC control of gas drilling operations?	The Delta Plan has specific provisions for municipalities to address safety concerns with developers. However, broader issues extending outside the highway right-of-way (setbacks, etc.) and requirements regarding the types of vehicles to be used are outside the scope of the DGEIS. (Need to answer the second question) – The NYSDEC SDGEIS acknowledges local governments' jurisdiction over impacts of hydro fracking traffic on local roads. While the NYSDEC would be responsible for addressing environmental impacts and appropriate mitigation for a proposed gas drilling project, the road use agreement would address specific mitigation measures to upgrade and / or repair local roads.
22	MMTF	9	Written	This document should be expanded to include a	The Delta plan has very detailed procedures for assessing project traffic due to

	Name	Pg No.	Line No.	Comment	Response
			Comments	detailed explanation of the 2000 diesel truck trips to require to service one well. An effort should be made to estimate the cumulative impact of all such trips for all potential wells in the townships.	any kind of project (gas drilling, wind farms, or other large-scale commercial development, etc.) relative to normal baseline traffic and the structural capacity of a given road. These procedures are based on pertinent engineering standards, widely recognized and used by professional engineers. Potential impacts from these gas drilling activities are outside the scope of the DGEIS.
23	MMTF	9	Written Comments	How is medical waste disposed of? Is it equivalent with hazardous waste disposal?	Comment noted. These concerns are outside the scope of the DGEIS as these areas are comprehensively regulated by the State and Federal government.
24	MMTF	10	Written Comments	We strongly object to the use of "captured well water, ground water flowback, production brine from drilling operations" as a means of fugitive dust reduction by applying it to gravel roads. Drilling fluids contain toxic chemicals and may be radioactive and contain dissolved solids from the drilling process.	Comment noted. Hazardous materials and waste and the transportation of the substances are comprehensively regulated by State and Federal statutes and regulations. These impacts relate to gas drilling activities which are regulated by NYS and subject of the NYSDEC's SGEIS. This program is focused on the protection of local/town roads, roadbed structures and related improvements and ensuring municipalities do not bear the cost of repairs due to traffic associated with industrial activity.
25	Karen London	13	Written Comments	I am most concerned that the Proposed Road Use Law does not adequately and fully capture the various circumstances that could lead to significant road use damage.	The Delta Plan incorporates very detailed processes for identifying, and evaluating numerous circumstances that lead to road damages. These are discussed in detail in the proposed law, RUA, and supporting manuals.
26	Karen London	13	Written Comments	It is unclear what provisions in the Proposed Road Use Law and Proposed Road Use Agreement have addressed these [disruption in quality of life, emergency services response and general traffic congestion] significant concerns for the Town and its residents.	Comment noted. The purpose of the Delta RPP, Law, and RUA is to assess and mitigate the cost of road impacts caused by any project and ensuring these costs are not borne by a Town. Such impacts are related to gas drilling activities and are outside the scope of the DGEIS. NYSDEC is addressing such issues in its SGEIS.
27	Karen London	14	Written Comments	Many of the recommended or suggested mitigation measures that are cited in the DGEIS do not seem to be incorporated into either the proposed Road Use Law or the proposed Road Use Agreement. This is of significant concern.	The purpose of the Delta RPP GEIS is to address issues specifically related to road protection, not to duplicate the efforts of the NYSDEC GEIS for Marcellus Shale gas drilling. The NYSDEC has exclusive jurisdiction to address the impacts of gas drilling as lead agency under SEQRA and will be set forth in its FGEIS and regulations.
28	Karen London	16	Written Comments	The stated purpose of the proposed law is too narrow in focus, being limited only to assuring that the expense of any road use damage is borne by	Comment noted. These concerns are addressed by the NYSDEC in the SGEIS and to the extent permitted by law may be addressed by each town through the use of laws of general applicability to protect a town's natural resources.

	Name	Pg No.	Line No.	Comment	Response
				the developer. The purpose of the proposed law should be expanded to ensure, to the maximum extent possible, the safety and welfare of the town's residents...	
29	Bruce Ferguson	44	Written Comments	While the proposed road use law cannot target a specific industry, it's obvious that the MMTF came into being simply because shale gas extraction may take place in our area, and the Draft GEIS could do a better job of reflecting that fact.	Comment noted.
30	Bruce Ferguson	44	Written Comments	There is another alternative-excluding high-impact industrial traffic from certain roads. There are a number of reasons to exclude traffic from certain roads, including narrow width, steep grades, sharp curves, and the proximity of homes to the roadside.	Under the Delta RPP, haul routes are identified and evaluated to ensure that haul routes that do not meet adequate highway design standards for geometry (curves, grades, width), are evaluated, quantifies costs of addressing deficiencies and, when available and appropriate, provides alternatives for developer consideration. Alternative route discussions must be consistent with the provisions of the NY Vehicle and Traffic Law and other laws that prohibit Towns from restricting use of public highways.
31	Bruce Ferguson	45	Written Comments	Section VII appears to concern itself only with the environmental impacts of shale gas extraction that pertain to transportation.	The Delta RPP, law, and RUA are not limited to Marcellus shale gas mining related activity. The program applies to projects that proposes traffic which exceeds the normal wear and tear threshold of a municipal road.
32	Jill Wiener	48	Written Comments	In general the DGEIS is an inadequate description of the impacts of concentrated truck traffic of @2000 truck trips (4000 drive bys) required to support one well and the measures needed to mitigate the impact of that type of traffic volume.	Using nationally recognized engineering standards, the Delta RPP, law and RUA provide very detailed procedures for evaluating the traffic of any jurisdictional project. It is not an evaluation of potential traffic relative to gas drilling. The program evaluates specific haul routes and the traffic that is proposed for the routes and seeks to mitigate damages at the developer's cost.
33	Jill Wiener	49	Written Comments	The law is also a one size fits all and does not prohibit certain roads from being used or expanded and industrialized, - it basically opens up all the roads if the gas company's pay. There should be provisions in this law package that remove from consideration roads with steep grades, low shoulders, no shoulders and sharp/hairpin turns as haul routes.	The program requires evaluation of each proposed haul route for projects that exceed normal traffic wear and tear thresholds using site, seasonal, and materials specific parameters on a case-by-case basis. Only after detailed road specific evaluation against the criteria established to determine each roads suitability for use and necessary mitigation. The program provides very detailed procedures for evaluation of grades, curves, and road width using nationally recognized engineering standards and general professional engineering practice which determine whether certain roads are suitable. Issues relating to the

	Name	Pg No.	Line No.	Comment	Response
					community character caused by a particular project can be addressed during the review of that project under SEQRA or through the adoption of zoning restrictions to limit or avoid unwanted changes in community character.
34	Jill Wiener	49	Written Comments	The Road Use Agreement recognizes truck noise as a right of use. Mitigation suggestions to widen roads will actually decrease setbacks, move the truck traffic and noise closer to residential structures and increase noise to the residents on those roads.	The DGEIS recommends that towns mitigate noise impacts using established standards and procedures already in use by NYSDOT. Broader issues of setbacks etc. are matters to be addressed by municipal boards using planning and zoning measures to address such issues.
35	Jill Wiener	52	Written Comments	The impact statement regarding increased emissions must recognize ground level ozone as a tremendous threat to public health.	Comment noted.
36	Jill Wiener	52	Written Comments	In any case the proposed mitigation measures are woefully inadequate in the face of the volume and scale of truck volume related to shale gas drilling.	The Delta RPP, law, RUA, and supporting documents establish detailed procedures for evaluating the traffic such as that anticipated for gas drilling and uses projects nationally recognized engineering standards. Further, the MMTF submitted these mitigation measures to NYSDEC which were incorporated into the SGEIS published in September 2011.
37	Jill Wiener	53	Written Comments	The DGEIS description minimizes any impact; describes it more as an annoyance than a health and safety concern.	The purpose of the Delta RPP, law, and RUA are to assess and mitigate the cost of roadbed structural damages of permitted projects that occur within a town. Specific impacts resulting from non-road related activity are outside the scope of the DGEIS.
38	Mr. Ferguson	28	7-June	"...We don't get a complete picture of who's paying for the cost."	The member Towns in the MMTF have paid for the SEQRA review of the Local Road Protection Program.
39	Mr. Ferguson	28	13 – 15	"I think there may have to be costs associated with education for these people. I think we should recoup the cost for this Task Force itself..."	Comment noted.
40	Mr. Ferguson	28	19 – 20	"The other areas where costs comes in is in mitigation and enforcement."	Comment noted. An operator or developer will be responsible for the costs of all mitigation measures and professional fees of the Towns' independent engineer to evaluate and monitor the project and will provide security to ensure all required work is completed.

	Name	Pg No.	Line No.	Comment	Response
41	Mr. Allison	29	14-Dec	"...What would be the annual cost to each town for this kind of process to be administered?"	See response to Comment 40.
42	Mr. Allison	30	2-Jan	"...As staff are needed to manage the process, who's going to pay for them?"	Additional municipal employees are not required. Operators or developers will pay for the costs of the Towns' independent engineer and counsel.
43	Ms. McFadden	33	6-Mar	"I'm also asking who monitors? Is that also the town and is that a cost? Does there have to be more people? And what is monitoring involved and what is the standard of monitoring?"	The municipality will designate appropriate monitors given the nature of each project. The need for monitoring will be case-specific to take into account the scope and nature of road use.
44	Ms. Weiner	50	13 - 17	"I'm also really concerned about the burden that's going to be put, the financial burdens that are going to be put on the town by having to monitor and fix and put money out up front and hire new personnel and train personnel."	See response to Comment 40.
45	MMTF	8	Written Comments	Who will bear the cost of personnel and equipment for enforcement? Would this include additional resources to manage the road use agreement?	Each Town may establish its own means of management of the program. The program does not require the addition of any municipal staff or employees but relies upon highway superintendents and the independent engineer to act on its behalf.
46	MMTF	8	Written Comments	Do the towns have the resources currently to manage the road use agreements? If additional resources are needed to manage drilling can the driller be required to pay for them?	See response to Comment 42.
47	MMTF	8	Written Comments	Can we use the "application fee" to cover the additional resource costs? Can we initiate a "local impact" fee to cover these additional resource costs?	The amount of the application fees must be limited to that to cover the Town's reasonable expenses for its review of the application. (Please explain – can fees cover admin needs?)
48	Jill Wiener	53	Written Comments	The DGEIS identifies increased costs to the towns but not in their totality.	See response to Comments 42 and 45.
49	Karen London	15	Written Comments	The entire applicability of the Proposed Local Road Use Law (as well as the Proposed Road Use Agreement) turns on the pivotal definition of "Construction Activity" and its incorporation into	The key jurisdictional trigger is the nature of the traffic related to the Construction Activity not the location of the Construction Activity. All traffic that comes within the scope of the program must meet its requirements. This is a change to the law that the MMTF adopted during its review of the program.

	Name	Pg No.	Line No.	Comment	Response
				the definition of "Concentrated Traffic." First, the definition's inclusion of the words "in the Town" means that the town's roads can be damaged or destroyed by heavy traffic that travels through the town but is traveling to an ultimate destination outside the town. More difficult is the fact that "Construction Activity" is defined as "any activity that results in land disturbance or the improvement of a parcel."	
50	Mr. Allison	29	18 – 22	"What would happen if the activity happened in another town? Yet they were using our roads to come and go, and the way the road use agreement reads to me, a layman, and I could be misreading it, is that the construction activity has to occur in the town.	See response to Comment 49.
51	Mr. Allison	30	7-Jun	"Article 6 of the Resolution says that the applicant shall have the option of entering into a road use agreement with the town. Why would it ever be optional?"	The standards in the proposed law apply to all projects. The RUA is only one means of ensuring the developer fulfills the legal requirements. An agreement may be the preferred option for a developer or operator who elects to undertake repairs and other mitigation in accordance with the criteria set forth in the program. In the event an agreement cannot be reached or such an option is declined, the regulated entity shall remain financially responsible for impacts to Town roads as determined by the law, and independently documented by the municipality.
52	Mr. Allison	30	14-Dec	"In Article 9 of the Resolution it talks about 'exempting a business form the local law'? Why would we exempt anyone from the local law?"	This is a change to the program the MMTF has adopted. There will be no exemptions from the local law.
53	MMTF	8	Written Comments	Article 6 of the resolution says that "an applicant shall have the option of entering into a road use agreement with the town." Why is this optional and why is this at the applicant's option. Why doesn't it say that it's "required" to have a road use agreement 01' even that it's "generally required"?	See response to Comment 51.

	Name	Pg No.	Line No.	Comment	Response
54	Karen London	17	Written Comments	With respect to the second paragraph of subsection (K), entering into a road use agreement should not be optional.	See response to Comment 51.
55	Karen London	18	Written Comments	Section 9: Why should there be any exceptions to adherence to the proposed Road Use Law? This is a troublesome provision and triggered by only a Board resolution to that effect. If this provision is required, it should at least be subject to the vote of a supermajority of the full Board. In addition, language should be added that damage will be adequately repaired "at no cost to the Town or its taxpayers" by virtue of any other law.	See response to Comment 52.
56	Mr. Allison	30	21 – 22	"Can we have an agreement where they [responsible users] pay up front [for necessary pre-use upgrades] rather than the town? Cash flow is the problem."	Towns are not required to make or pay for any improvements to accommodate project related traffic. If haul route evaluation concludes that a road must be upgraded prior to use by the developer or operator, the cost and construction must be undertaken or paid for and undertaken by others by the developer or operator before it can be used for project related traffic.
57	Ms. McFadden	31- 32	23 – 25, 1 -2	"The other question I had was about the term upgrading the road; that if a road is not sufficiently robust for this activity, that it will be upgraded, and my question is, can it be upgraded by the industry by right or can a town say that that road cannot be used?"	The program requires that if a local road is inadequate for proposed development traffic, it must be upgraded prior to use as a haul route. However, whether the developer agrees to upgrade a road, as opposed to selecting an alternate route is a matter to be resolved on a case-by-case basis.
58	MMTF	7	Written Comments	What does the term "upgrade" mean? What if the residents do not want the particular upgrade being asked for?	Upgrades refer to the improvement of any structural or geometric aspect of a road to accommodate proposed traffic use. This includes roadbed materials, road width, grades, and curves. The proposed law requires that structural details of such upgrades must be approved by the Town. The question, of refusing to make such upgrades or prohibiting the activity requesting the upgrades must be resolved by town planning and zoning boards.
59	MMTF	7	Written Comments	In the resolution it talks about if the road is upgraded at the driller's expense then they don't have to repair the road. Does that mean if the	Upgrades are designed and constructed to adequately provide for the planned traffic's use so that the roadway will not be destroyed during use. If the project's traffic is greater than planned for and that results in the upgraded road

	Name	Pg No.	Line No.	Comment	Response
				driller upgrades the road, then they destroy it to worse than it was before the upgrade then they don't have to pay for repairs to bring it back up to where it was before the drilling?	being destroyed, then the developer would be responsible for repairs.
60	MMTF	7	Written Comments	By adding additional impervious surface (pavements) it may be necessary to acquire additional lands to construct storm water controls to offset the runoff increase caused by the addition of impervious surface. Also, wetlands may be impacted by construction, and it may also be necessary to acquire additional land for construction of wetland impact mitigation treatments as may be required by NYSDEC, US Army Corp. etc. Who pays to acquire this land? Impact on land section does not adequately describe impact on rural roads which may be the only route developer may have, especially gas drillers; widening roads & paving roads not temporary in nature. The upgrading of rural roads is the foundation for industrializing a rural area	In the event additional permits or right-of-way are required, it is the responsibility of the developer or operator to secure such permits or easements to accommodate project traffic. In the event such permits or rights cannot be obtained, an alternative haul route will be required.
61	MMTF	7	Written Comments	Upgrade and/or repair costs for the portion of damage caused by regulated traffic will be the responsibility of the permit holder. (page 7) Are the towns' personnel able to make this determination? How much oversight will this require?	The procedures for determine the apportionment of damage costs to various developers are discussed in detail in the proposed law and supporting documentation. No permits are required to use the roads as such would be in violation of the NYS V&T Law. The program calls for training of Town personnel including the Highway Superintendent. This training is provided by Delta. Once an application is received, Delta will act as the Town's engineer for this purpose.
62	MMTF	9	Written Comments	What if a bridge is falling down--not an unlikely scenario--will the drillers rebuild it even though its current condition is due to lack of maintenance by the state or local authorities?	All such structures on a designated haul route will be evaluated before the haul route is approved. The proposed law will prohibit the use of any road containing a bridge not rated for the proposed development traffic. If the developer cannot find an alternate route, necessary upgrades to the bridge must be made at the cost of developer or operator. Such upgrade or repair would have to meet engineering standards imposed by local and state

	Name	Pg No.	Line No.	Comment	Response
					government. This is no different than when a turning radius or slope or width issue is encountered.
63	MMTF	9	Written Comments	How will the town determine appropriate mitigation measures to the locally managed roads that are required as a result of the construction of "additional impervious surfaces" created on the leased land?	The proposed law has no jurisdiction outside highway right of way boundaries. Any developer activity outside the highway right-of-way, falls under the jurisdiction of local, state, and federal law with respect to storm water management requirements for new impervious areas and/or the review of the development activity.
64	Ms. McFadden	31	19 – 20	"...What I'm requesting is the definition of a safety issue."	The proposed law does not define specific safety requirements. Rather, the proposed law requires that safety requirements identified by the town be enforced.
65	Mr. Johnston	36	14 – 16	"The first thing is in the definition of Section 3 of "What is construction activity?" That's an extremely vague description of who might be implicated on this".	The process by which an activity is held accountable to the law is much broader than interpretations of the term 'construction activity" and is ultimately linked very specifically to the magnitude of an activity's proposed traffic, as determined by nationally recognized engineering standards.
66	Mr. Chojnicki	46	15 – 20	"...Upgrade of road to avoid catastrophic failure... I didn't quite understand that when that would be done."	See response to Comment 57.
67	Mr. Chojnicki	46	20 – 21	"...There wasn't anything about bridges. I mean, how are they figured into the whole road use agreement that's going on?"	The program contains detailed procedures for the evaluation and approval of bridges on proposed haul routes.
68	Mr. Chojnicki	47	4-Mar	"...What about school bus routes during when they're pickup and drop off?"	See response to Comment 64.
69	Mr. London	50	22 – 23	"I was wondering if the document addresses upgrading emergency responders to cover the additional traffic?"	Municipal planning of community emergency response services is not related to the analysis of road bed structures to ensure safe passage. Such larger issues related to the activity such as wind turbine deliveries or gas drilling traffic must be analyzed as part of the local, State or Federal permitting process.
70	Bruce Ferguson	45	Written Comments	...The inventory of town roads should be expanded to include the designation of roads that, for one reason or another, should not be "improved" to accommodate high-impact industrial traffic.	Whether or not the town elects to permit or prohibit upgrades of public roads is a legal matter that falls within the purview of municipal planning and zoning boards, and is not addressed by the proposed road protection law.
71	Jill Wiener	49	Written	The Road Use Plan falsely describes Impact on Land	The proposed law is limited in its scope to temporary road repair and upgrade

	Name	Pg No.	Line No.	Comment	Response
			Comments	as temporary.	activity within roadway boundaries and property lines. Approval and permitting of the resulting permanent changes in the materials, and/or geometry and drainage that results from such activity must be approved and permitted in accordance with all pertinent local, state, and federal regulations prior to being undertaken.
72	Jill Wiener	50	Written Comments	The statement on page 14, "the oil and gas industry typically transport water, brine and other materials and equipment" is at best misleading.	Comment noted. The program does not regulate what an operator or developer transports. Existing State and Federal laws and regulations will apply.
73	Jill Wiener	52	Written Comments	The emission from truck traffic should not be separated from the whole of impacts of emissions for the industry.	Comment noted. See response to Comment 69.
74	Jill Wiener	52	Written Comments	It is noted that "frack fluid is typically not permitted due to presence of chemicals etc." therefore there is no reason to include any of these mitigation measures and they should be removed from the document in their entirety.	Comment noted. See response to Comment 72.
75	Ms. McFadden	32	16 – 19	"Are they [the town] required to redo this inventory every time a new activity is begun, which would be an incredible, you know, cost to the town unless it's the permitted users that are going to pay for it."	The Phase I Baseline Survey only needs to be done once.
76	Ms. McFadden	32	20 – 22	"Are they going to be held jointly and severally liable for this and damage meted out on a prorated usage?"	Multiple developers will be held severally liable for the damage caused. The Municipality's engineer will determine the proration based on declared traffic and time of application. Appropriate bonding should eliminate the need for litigation.
77	Jill Wiener	54	Written Comments	The measure for compensation for road damage will with little doubt result in litigation between the towns and the companies. How will the towns know and prove which company is responsible for what damage when more than one company may be sharing the roads? How will the towns be able to litigate when corporate headquarters of the gas	The Delta RPP provides a procedure to apportion responsibility for damages in a fair manner to multiple developers. Having procedures in place that are fair and known in advance of construction should minimize the need for litigation.

	Name	Pg No.	Line No.	Comment	Response
				companies may be out of state and they may be forced to litigate outside of local courts?	
78	Mr. Johnston	36	19 – 23	"...There's really no specified number of minimal uses on an interim basis on a road where a person, for example, who is doing some timber harvesting for a landowner, would he be required to then go to the town immediately?"	The law and supporting documents provide a detailed process for identification of the minimum project traffic conditions which trigger application of the law.
79	Mr. Johnston	37	13 – 15	"...I'm really concerned about the other side of it where you're gonna have small contractors who live in these towns who occasionally may want to haul heavy equipment..."	Occasional heavy equipment hauling associated with small contractors will not be impacted by the proposed law.
80	Mr. Johnston	38	22 – 23	"The school buses, the milk trucks and everybody else on the roads, they get destroyed... [because they will be forced off the road during spring thaw?]"	School buses, milk trucks, delivery trucks, small independent businesses that live and work in town and normal day-to-day baseline traffic do not fall within the definition of Concentrated Traffic and are, therefore, not regulated by the proposed law.
81	Mr. Johnston	39	14 – 16	"It becomes a problem, though, for the small independent who may be having any kind of business in the area, how he's going to be able to access that and do business."	See response to Comment 80.
82	Mr. Johnston	39	20 - 23	"Small contractors don't have the time or money in this kind of economy to address all the criteria that's going to be coming down through the guys that really have to have it with the gas companies."	See response to Comment 80.
83	Mr. Pavese, Jr.	43	23 – 24	"...a really strong concern needs to be initiating as to the industries that are going to be impacted..."	The proposed law employs procedures using accepted engineering principles to identify the level of project traffic which must be generated to fall under the regulatory requirements of the program. All baseline traffic, which is normal day-to-day recurrent traffic of residents and businesses of a given municipality are completely exempt from the proposed law. The law only applies to temporary, heavy, concentrated traffic which exceeds the normal wear and tear threshold for which a road is built and maintained. These thresholds are determined by procedures which are based on nationally recognized highway design standards.

	Name	Pg No.	Line No.	Comment	Response
84	Mr. Pavese, Jr.	44	3-Feb	"...The towns don't become too overzealous as to who they're going to apply this to, so very strong non gray area type grading rule book should be implemented..."	See Response to Comment 83.
85	Ms. Weiner	50	11-Jun	"...If we're looking from the towns to now the gas companies or the individual trucker to come in and remediate the town and let's say they're going to look to their insurance companies and the insurance companies are not going to be paying, so I think we may have a problem there."	The proposed law requires that the developer whose project causes road damages is the entity who will pay for those damages, not the municipality or truckers hauling for the developer. The developer will be required to present the town with financial security, such as bonding, or bank letter of credit as a pre-requisite to haul route approval.
86	MMTF	6	Written Comments	Under what circumstances do you envision "exempting" any business from this resolution? See Sec. 9 of the agreement. If the company seeking a permit exceeds the baseline and the normal deviation from the baseline, why would they be exempted even if the company is not a gas drilling company?	See Response to Comment 52.
87	Mr. Johnston	37, 38	18 – 19, 3 – 4	"What in God's name do you need the NEPA Act in a town law for? The NEPA Act, then, definitely should be removed."	Comment noted.
88	Mr. Johnston	38	7-May	"I'm a little confused about the open-endedness of the statement that the consultants have no time limit to act on any decision."	The program ensures that the municipalities retain decision-making control over necessary repairs and the urgency or project specific schedules of developers will not preclude or impair consultants from recommending appropriate action. This does not allow or promote delay as it is in interests of all parties to have roads improved, maintained and repaired to allow safe passage.
89	Mr. Johnston	39	24 – 25	"...Is there a way to get a hold of which the company's program and tech manual is, to have it evaluated and how the system works or is that just something you're going to do as you go after the law is adopted? Why wouldn't it be made part of the law, frankly, and before the towns are going to vote on it? Is it in there?"	The Program Manual and Technical Manual have been made available to the public and have been placed with each Town's Clerk and/or Highway Superintendent.

	Name	Pg No.	Line No.	Comment	Response
90	Mr. Pavese, Jr.	44	15-Jul	"It shouldn't be left to individual highway superintendents who don't have engineering background or a lengthy background as highway goes, sometimes that they get their elected officials, that they should be strongly guided by your document, by your laws as to how those roads should be restored and that should not be to any minimum standard; that they should be restored to, you know, the before guidelines, but that they should be restored to, you know, an above average restoration..."	According to Vehicle and Traffic Law, the Town Highway Superintendent is responsible for the safe maintenance and repair of municipal roadways. The proposed law requires that damages due to regulated traffic be repaired in approval with all applicable State and local requirements. In addition if the town board, or town planning board has enacted laws on the specifications to which town roads are to be built and maintained it is the responsibility of the Highway Superintendent to comply with those requirements. The town may also elect to hire or retain the services of a professional engineer to assist the Highway Department.
91	MMTF	8	Written Comments	Will all 8 towns need to pass identical regulations?	No. Each town may modify the law so long as it is consistent with this FGEIS.
92	Mr. Allison	2	Written Comments	What is the proposed timeframe for implementation of the town resolutions and road use agreement process?	Once the SEQRA process is completed, each town will undertake the necessary steps to enact a local law establishing the program in accordance with the NY Municipal Home Rule Law, NY Town Law and other applicable statutes. The timeframe for passing and enacting the law is matter for each Town's Board to determine.
93	Mr. Allison	2	Written Comments	Will the MMTF report take into consideration the recently released NYS DEC SGEIS?	On September 7, the NYSDEC issued revisions to its Draft Supplemental GEIS for Horizontal Drilling and Hydraulic Fracturing in the Marcellus Shale. The MMTF reviewed the provisions relating to road protection. Notably, the NYSDEC encourages local governments to adopt a road protection approach that is very similar to the permitting system described in the DGEIS.
94	Mr. Allison	3	Written Comments	Specifically, it should be made clear that towns do not have to permit upgrading of roads to provide sufficient capacity for high intensity industrial activity whether this prohibition is accomplished by a town road use ordinance or by zoning changes. This law as it stands is a missed opportunity if it does not make this clear.	Whether a high intensity industrial activity is permitted in a municipality outside the scope of this program. Consistent with State laws, each municipality/Town Board shall determine whether such activity shall be permitted in any given Town through the use of zoning laws and powers.
95	MMTF	6	Written Comments	Will roads constructed on leased land be subject to this agreement?	No. The law applies only to municipally owned roads.

	Name	Pg No.	Line No.	Comment	Response
96	MMTF	9	Written Comments	The penalties under sec 10 of the resolution seem to be excessively small and ineffective in causing someone in violation of the resolution to take corrective action. Why so small? If it isn't the penalties what is the main "stick" that we are holding to enforce action? Bonds? Commercial Liability Insurance? letters of Credits?	The penalties under Section 10 only pertain to moving violations of trucks operating for a regulated project but not traveling on an approved haul route. The developer utilizing and causing damage to local roads in connection with a regulated activity associated with such unauthorized use will be responsible for any such damage. Actual road damages will be charged to the developer for whom the trucker is hauling, NOT the trucker. The proposed law requires that the Developer provide accessible securities which may be used by the town to mitigate damages.
97	Karen London	14	Written Comments	Where are there any legal requirements imposed on the Developer for the use of the Town's highways that address these [disruption in quality of life, emergency services response and general traffic congestion] safety and quality of life impacts?	This comprehensive program addresses these issues as safety and other factors that must be considered when evaluating a haul route. Many of the other traffic impacts, apart from road bed structure impacts, should be considered as part of the SEQRA review of the regulated activity by the appropriate State, Federal or local agency.
98	Karen London	15	Written Comments	Another general concern with the proposed documents is that the DGEIS refers to the "permit holder" but the Proposed Local Law does not contain any section on the granting of a "permit" subject to compliance with the provisions of the Proposed Local Law.	Comment noted. The proposed law has been modified to remove the granting of road use permits. The law only seeks to approve haul route use, provided road and structural damages are mitigated and paid for by the party causing such damage.
99	Karen London	16	Written Comments	Section 3: The listing of State permits and approvals should specify any water withdrawal permits (under the new water withdrawal law) and DEC permits for hydraulic fracturing.	Comment noted. The NYSDEC SGEIS addresses this issue and is outside the scope of this program.
100	Karen London	16	Written Comments	Section 4: To clarify the scope of the proposed law, the words "regardless of whether such Construction Activity is sited in the Town" should be added to the end of this section.	Comment noted. This is a change that MMTF adopted to confirm the jurisdiction of this program is not limited only to construction activity within the Town but to the concentrated traffic resulting from such activity.
101	Karen London	16	Written Comments	Section 5: It is unclear which "Person" has the obligation to submit the haul route application form and project traffic worksheet as specified in subsection A.	Comment noted. The party responsible for submitting the application and worksheet is the party seeking to undertake the regulated activity.

	Name	Pg No.	Line No.	Comment	Response
102	Karen London	16	Written Comments	Section 6(B): The proposed law needs to expressly authorize the Town to adjust or revise the applicant's haul route declaration to facilitate mitigation of adverse impacts. This section should be revised to also enable the Town's Engineering Consultant to revise the haul route set forth in the applicant's declaration or to propose an alternate haul route due to design, geometric, or health and safety deficiencies (i.e. the full litany of deficiencies cited in (i) rather than just "design"). Furthermore, it would seem that the residents along a proposed route should have some available recourse to challenge a proposed route or the upgrading of a proposed route.	Comment noted. The proposed law provides for the Town to propose alternative haul routes for the reasons discussed in the comment.
103	Karen London	17	Written Comments	Section 6(C): How does this section work if there are multiple applicants for the same haul route who submit applications at different points in time? What if unaffiliated applicants each would not individually trigger the definition of "Concentrated Traffic" but, collectively, using the same haul route and overlapping the same time period, constitute "Concentrated Traffic"? How would this scenario be captured by Section 5 and made subject to Section 6?	The proposed law requires developers to submit information about the timing, magnitude, and proposed routes for their intended traffic. If multiple developers are involved, the proposed law details specific procedures for the combining of multiple developer traffic and apportionment of liabilities for damage repairs.
104	Karen London	17	Written Comments	Section (K): Where is any recourse to a decision by residents on the Town Highway to be affected?	Comment noted. The law does not impair the rights of property owners to recover for damage to property or otherwise.
105	Karen London	18	Written Comments	Section 8: This sentence should replace the word "may" with the word "shall" (not sure why this should be optional) and also add at the end "which fees shall be adequate to ensure the enforcement of this local law." Will there be engineering/legal assistance given to the Towns to help establish a	Comment noted. These fees are generally covered via an escrow agreement with the developer.

	Name	Pg No.	Line No.	Comment	Response
				fee schedule clearly adequate to cover the expanded enforcement and services that will be needed?	
106	Karen London	18	Written Comments	Section 10: The fines specified are totally inadequate to encourage compliance and will be more likely deemed a minor expense of "doing business".	Comment noted. See response to Comment No. 96. Note that each week a violation continues is a separate, additional violation/fine. Further, the RUA contains provisions allowing for the enforcement of standards to ensure compliance by developers.
107	MMTF	6	Written Comments	Why isn't "concentrated traffic" included in the road use agreement? Shouldn't the road use agreement also take such activity into consideration?	Comment noted. See Section 9.18 of the RUA.
108	MMTF	7	Written Comments	Do drilling companies HAVE to sign a road use agreement if there won't be drilling in that town?	No. See Section 6 of the law. RUAs are optional. To the extent the comment relates to pass through traffic, see response to Comment No. 100.
109	MMTF	8	Written Comments	Does a "stop work" order in the road use agreement include "stop driving through my town" if that town zoning doesn't allow drilling?	No. If concentrated traffic related to drilling in another Town occurs, it will be subject to the law. A stop work order can only be issued if and when a developer violates the law and/or terms of the RUA. Alternatively, a town may use its powers under the NYS V&T Law to post roads or prohibit such traffic.
110	MMTF	9	Written Comments	Through the road use agreement process can we undertake any specific acts that will protect the unique character of our communities?	The program allows haul routes to be developed to minimize or avoid such impacts.
111	MMTF	9	Written Comments	The major impact will be increased traffic accidents involving tanker trucks will be the largest impact of drilling. Can we prepare for this circumstance through the road use agreement, i.e., ensuring payment for additional services by the permit holder?	The program ensures all repairs and upgrades be done in accordance with applicable town road design and general engineering standards as well as for insurance and indemnification of the Towns by the developers.
112	MMTF	9	Written Comments	If there isn't a haul route that meets the requirements of the planning documents does that mean that drilling Will NOT take place on the leased land?	Comment noted. If no acceptable haul route can be found, those roads may not be used by concentrated traffic associated with such activity. It does not make such use illegal. It is incumbent upon the developer to find a suitable means of access to its site.

	Name	Pg No.	Line No.	Comment	Response
113	Karen London	14	Written Comments	...It was difficult to understand the interface between the town being urged to conduct a haul route ranking in advance of any permitting (even taking into account aesthetic resources! see DGEIS page 34) and the acceptance of the Developer's specified haul route in the Road Use Law and Road Use Agreement.	Comment noted. The program does not dictate a specific haul route to a developer. Haul route ranking provides substantial information in advance of a project, enabling the municipality to better evaluate requested haul routes and suggest alternatives, if necessary.
114	MMTF	6	Written Comments	How will we know that the drilling company plans on using our roads for wells in another town?	At the municipal staff training, public education and awareness will be discussed. Once the Municipality is notified of the pass-through activity, the developer should be approached by the Municipality.
115	MMTF	6	Written Comments	What will be the ability of towns to enforce this agreement?	Each municipality will receive training on the implementation of the program. The resources and efforts devoted by each Town will impact the success of each to enforce the program, laws and agreements.
116	MMTF	7	Written Comments	Will there be a bond to ensure compliance with the agreement? Will the bond be at a sufficient level to encourage performance by the permit holder?	Yes, the developer will be required to bond the amount estimated by the Municipality's engineer before access to municipal roads is granted.