

The Environmental Conservation Committee of The New York State Assembly

New York State Capitol
Room 306 — Assembly Parlor
ALBANY, NEW YORK

Thursday, October 15, 2009, 9:00 a.m.

SUBJECT: Draft Supplemental Generic Environmental Impact Statement governing natural gas drilling.

PURPOSE: Hearing to solicit public input on the New York State Department of Environmental Conservation's draft Supplemental Generic Environmental Impact Statement governing natural gas drilling.

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Good afternoon.

I am Michael Lebron of New Yorkers for Sustainable Energy Solutions Statewide. I thank Chairman Robert K. Sweeney and members of the Committee for this opportunity to speak today.

Most of the material I am presenting this afternoon has been developed by my partner, Dr. Scobie. Due to the volume of the Draft SGEIS and the short notice, we have not been able to fully develop this material and we will submit a final version on Monday as a pdf via e-mail.

I.

We wish to review the relation of pipelines and compressors to gas wells and production.

First, the wells and the pipelines and compressors are joined at the hip — as has been very clearly recognized in both the NY Energy Plan (Aug., 2009) and in the current Environmental Impact Statement (E.I.S.). It is artificial, inappropriate, and probably, under SEQRA, illegal to segment wells to DEC, and pipelines and compressors to the Park Service Commission (PSC). There are numerous examples in Chapter 6 of the dSGEIS where the DEC makes very clear why they must be treated together. This may require legislation to move some of the authorization under PSL, Article VII to ECL 23, so the DEC can reunite these bedfellows.

Second, in both the NY Energy Plan and the dSGEIS, the argument is made that pipelines probably should be in place before or at the time of drilling. The reasons this is desirable:

1. Profitability - the quicker gas flows, the sooner the money flows.
2. Green completion - gas directly into pipelines reduces flaring and release of greenhouse gasses.
3. Clay in the shale - the only reason given in the Energy Plan. Early flowing reduces the likelihood of clogging.
4. ECL 23 asserts that State resources should not be wasted.



Third, permitting of pipelines and compressors can involve eminent domain processes considerably more potent than those in ECL 23 - compulsory integration. The dSCEIS is silent about this issue of major importance to citizens in any decisions about gas wells. As a small example: we understand that pipelines shorter than 10 miles do not require even any public notice.

We support treating pipelines and wells as an inseparable entity. We also assert that they must be treated together to satisfy SEQRA, avoid segmentation, and address cumulative impacts as the dSCEIS begins to do with regard to multiple-well pads.

Fourth, there is the suggestion in the Energy Plan that pipeline infrastructure should be supported and facilitated. However, the issue is clear in the appended comments from "The Energy Association of New York State." "Support will be needed to develop the pipeline infrastructure to gather supplies from the wellhead as well as expand the transmission infrastructure to transport supplies to market (pg 4). And, "...critical that all funds currently available...be put to use...by utilities..."

Pipelines will be organized as utilities. They will use eminent domain. We believe 'support' is code for subsidize. We interpret 'subsidize' as inappropriate corporate welfare. The energy companies have asserted, time and time again "...we ask for no tax breaks, no incentives, we come in and leave money on the table, and create lots of good-paying jobs."

We hope that the Legislature is up to the job of holding their feet to the fire, and holding their actions to what is fair and reasonable.

II.

We wish to draw to your attention to a specific potential impact of natural gas leasing on residential real estate value.

In the U. S. Department of Housing and Urban Development HANDBOOK 4150.2: Valuation Analysis for Home Mortgage Insurance for Single Family One- to Four-Unit Dwellings, July 1, 1999, page 20-21, 2-2 SPECIAL NEIGHBORHOOD HAZARDS AND NUISANCES:

A. UNACCEPTABLE SITES

FHA guidelines require that a site be rejected if the property being appraised is subject to hazards, environmental contaminants, noxious odors, offensive sights or excessive noises to the point of endangering the physical improvements or affecting the livability of the property, its marketability or the health and safety of its occupants. Rejection may also be appropriate if the future economic life of the property is shortened by obvious and compelling pressure to a higher use, making a long-term mortgage impractical.

D. OPERATING AND ABANDONED OIL OR GAS WELLS

Operating and abandoned oil and gas wells pose potential hazards to housing, including potential fire, explosion, spray and other pollution.

1. Existing Construction

No existing dwelling may be located closer than 300 feet from an active or planned drilling site. Note that this applies to the site boundary, not to the actual well site.

I have been placing calls to mortgage officers in Broome and Sullivan County in New York, Wayne County in Pennsylvania, and Sussex County in New Jersey who are experienced in FHA loans, and Fannie Mae and Freddie Mac. Of the ones I have



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been able to speak to, half were familiar with the language in the HUD Handbook and interpreted it to mean that residential structures for sale that are within 300 feet of the boundary of any property that is leased for natural gas drilling is not eligible for insurance for FHA financing.

I have also been placing calls to real estate brokers in each of these counties to get a sense of what percentage of the market relies on FHA financing. So far, it is a little all over the map: for homes in the middle of the market that go for anywhere between \$110K to \$210K the responses have been between 20% and 70%. Even if we accept only the lower figure, it is clear that this greatly reduces the pool of eligible buyers for these homes with a pursuant reduction in value of no small significance for the seller.

This becomes problematic in the context of an energy regulatory agenda that involves compulsory integration with horizontal wells running beneath people's properties. And in case you don't think drilling does not occur in urban or suburban areas, I simply direct your attention to the Dallas/Ft. Worth area and Dish, Texas.

Thank you.

Michael Lebron

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