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## Broome gas lease review questioned

### Red flags raised by DEC about possible legal issues

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**BINGHAMTON** — A proposed plan for a state-mandated review of a Broome County natural gas lease drew concern from a Depart-

ment of Environmental Conservation official in September, according to internal correspondence.

Betty Ann Hughes, then the DEC's chief of State Environmental Quality Review (SEQR) and training, said in a pair of messages that without the county completing some

analysis of "the potential impacts of typical development activities" on land offered for lease, she would be "concerned that the lease action and supporting SEQR record could be vulnerable to challenge."

The e-mails, obtained by Ithaca-based activist Walter Hang and pro-

vided to this newspaper, were sent to a pair of county attorneys and Frank Evangelisti, acting commissioner of the Broome County Department of Planning and Economic Development. They were sent in response to a message from Evangelisti seeking an opinion on how

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the county should proceed with the SEQR process.

County administration has pushed a resolution that would set

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## LEASE

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the parameters of a "generic" gas lease to define terms and conditions to be included in any offer the county would consider, including a current \$7.8 million offer from Denver-based Inflection Energy. That resolution would also approve a completed Environmental Assessment Form for the state review process, and a separate resolution would declare signing a lease with the generic terms would not have an adverse impact on the environment.

The administration's position is the review should encompass the impact of signing a lease, while any potential drilling activity would be reviewed through the DEC's permitting process.

Hughes, who has since retired, wrote that the county could review a generic lease rather than a specific offer and defer some aspects of the evaluation, provided those deferments were specifically spelled out in the assessment form. She did, however, have concerns.

"However, whether constituents, potential opponents,

or even a court would consider it reasonable to entirely defer consideration of environmental concerns to the individual permitting state ... is, in my mind, subject to some question," Hughes wrote.

Evangelisti said Hughes' suggestions were taken into account as the environmental assessment was drawn up and is reflected in the resolution before the legislature. The review takes environmental concerns into account — such as increased truck traffic — and prohibits surface drilling activity on county parks, portions of the landfill and airport, he said.

Evangelisti and county attorney Joseph Sluzar contend reviewing actual drilling activities isn't possible because the county wouldn't know where a gas company would set up its operations. The DEC is currently reviewing a Supplemental Generic Environmental Impact Statement, which — when finalized — will guide the permitting process for drilling in the state's portion of the Marcellus Shale.

"This is the only way you can do this," Evangelisti said. "This really is the only practical way to execute a lease, because if you needed to look at all of the potential environ-

mental impacts of extraction and exploration now, you wouldn't be able to do it because the gas and oil companies don't know where they are putting things."

Legislature Chairman Daniel D. Reynolds, D-Vestal, disagreed. After reading the e-mails, he believes Hughes was suggesting the county take a broader approach with the review.

"I think that was the nature of DEC's advice: that we should take certain things into account, and at least with broad strokes identify some of the potential impacts of drilling and not just the act of signing a lease," Reynolds said. "With respect to the properties that are subject to be leased and to the (Environmental Assessment Form), I don't think we've really adequately addressed whether there could be any adverse impacts."

Helen Slottje, an Ithaca-based attorney for the Community Environmental Defense Council, said the county is "trying to parse out and not have to consider a whole number of factors."

"Our position is that the segmentation that Broome County is proposing completely violates both the ex-

press terms and the intent of the SEQR process," said Slottje. "They are trying to limit their analysis to the environmental impact of signing a piece of paper."

Sluzar said the administration's approach is cautious. At a committee meeting Wednesday, he pointed to Chemung County, which he said leased land a few years ago without any sort of SEQR review. Broome attorneys, however, interpreted the law and decided such a review is necessary if a local agency decides to lease at least 100 acres.

"I support the SEQR analysis done by the Planning Department," Sluzar said. "I think it's the correct approach. The law is complicated and complex, there's no doubt about that. But I think the county has taken a conservative approach and I think it's the correct approach."

The legislature will vote on three resolutions related to natural gas leases at its Nov. 18 session. In addition to the two regarding the environmental review, a third would approve the deal with Inflection, which would pay the county \$7.8 million up front with 20 percent royalty payments for the gas rights to 3,200 acres of county land.