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Politicians choose sides in Marcellus Shale drilling debate

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Gov. David Paterson postponed it.

State Assemblywoman Barbara Lifton wants to slow it down.

Sen. Thomas Libous is for speeding it up.

Assemblywoman Donna Lupardo is torn between extremes.

Elected officials taking a position on Marcellus Shale development are facing strident demands from stakeholders who could become rich, go broke or possibly abandon hope, depending on Albany's response.

As a Dec. 31 public comment deadline approaches, the polarizing debate shows no sign of easing. Stakeholders continue to hold town hall meetings, sign petitions and write elected officials in an attempt to make or break the multibillion-dollar gas industry's move to the Southern Tier.

"This is by far the most contentious issue that I've worked on since joining the state Assembly," said Lupardo, a third-term Democrat from Endwell. "I'm compelled to do everything possible to protect our environment, while recognizing the enormous economic potential of the Marcellus. I'm trying to be a moderating voice in this process."

How much influence do the people and their elected officials actually have in determining when and if Marcellus drilling will begin in the Southern Tier?

If your name is David Paterson, the answer is: a lot.

Sometime next year, the Paterson administration is expected to finalize a regulatory update that lays the groundwork for Marcellus development. This comes after he called a two-year timeout for issuing Marcellus permits in order to assess the effects from the type of water-intensive horizontal drilling used to capitalize on the lucrative natural gas field under the Southern Tier and throughout the Appalachian Basin.

The public has until Dec. 31 to submit comments on the document, called the Supplemental Generic Environmental Impact Statement (SGEIS). The 800-page tome is no easier to read than its name suggests, yet it is pivotal for those hoping to influence the outcome of the controversy for or against development.

Last week, about 6,000 parties, including Lifton, U.S. Rep. Eric Massa, the National Resources Defense Council, Common Cause, Earthjustice, Earthworks and the New York State Public Interest Research Group petitioned the governor to withdraw the newly drafted regulations, which they say are woefully insufficient.

Meanwhile, industry supporters and landowners locally and nationally are rallying their own support to move ahead with drilling.

George Phillips, challenging U.S. Rep. Maurice Hinchey, D-Hurley, for the 22nd District congressional seat, met with about 70 landowners and supporters at the Holiday Inn Arena in Binghamton last week to advocate the importance of Marcellus development and urge stakeholders to submit written

comments to the state. Phillips is against Hinchey's plan to federally regulate the industry under the Clean Drinking Water Act, from which drillers are now exempt.

The national pro-drilling advocacy group Energy In Depth, meanwhile, rallied members to "share (their) views on the important role that responsible natural gas development can play in lifting the local economy and putting New Yorkers back to work."

Advertisements for and against natural gas drilling are targeting audiences in various national and local media outlets, including this paper's Web site.

Voices in opposition

Walter Hang, of Ithaca, has emerged as a leading voice of drilling opposition. He is organizing a somewhat disjointed grassroots movement into one unified approach. While drilling opponents "did their best to comment on the shortcomings of the incredibly complex draft SGEIS," he said, "I believe they fundamentally failed to develop a concrete plan."

His plan goes like this:

The state Department of Environmental Conservation's Division of Mineral Resources maintains there have been no problems related to any gas development in the state, although more than 10,000 wells have been drilled. That claim is not only false, it's at the root of the DEC's flawed regulations, according to Hang, a database specialist who has uncovered hundreds of incidents involving oil and gas mishaps and complaints in the state's Hazardous Spills Data Base.

The problems, ranging from blow-outs to spills, illustrate that the state's old regulations are insufficient, Hang said. Because the new ones governing Marcellus developments are simply amendments to the old ones, it follows the whole regulatory process has to be redone.

While Hang is using a grassroots lobby in an attempt to sway the Paterson administration with that argument, other challengers anticipate turning to the courts.

Deborah Goldberg, an attorney with Earthjustice, an environmental law firm, said the final SGEIS must include substantial changes to account for the cumulative effect of drilling thousands and perhaps tens of thousands of Marcellus wells in New York. If not, the firm will help spearhead a legal challenge, most likely in state Supreme Court in Albany. That would involve filing an Article 78 Proceeding challenging the DEC's adherence to the State Environmental Quality Review Act.

To hold up Marcellus production, however, the burden of proof rests with the plaintiffs, who would have to show "immediate and irreparable harm" would come from allowing drilling in New York.

Economics and environment

Federal and state lawmakers also could determine whether Marcellus drilling firms begin full-scale production in New York anytime soon, but it would take some galvanizing political event that brings consensus on the issue to Albany, which seems as likely as making a cement truck fly.

"I think it would be a stretch," said Lupardo, commenting on the feasibility of a ban or moratorium enacted by lawmakers.

As a member of the Environmental Conservation Committee, a member of the majority party and representative of an area with some of the highest stakes in gas development, Lupardo is in the thick of the debate. She is hopeful the DEC will sufficiently address concerns about drilling's effect on water supplies as it updates its regulatory framework for the industry.

Most of those concerns center on fracking, a process that involves injecting large quantities of water and chemical solution to stimulate well production. It produces similar amounts of waste -- which local plants are unequipped to treat -- including metals, brine and low-level radioactivity.

"I have concerns about the wastewater issues and lack of infrastructure to handle them," she said.

"I've been waiting to see what the DEC does with the comments."

Even those who favor drilling share those concerns. Most of them, however, are convinced the revamped regulatory proposal and an enlightened citizenry holding sound leases with energy companies will prevent problems.

Moreover, they are growing frustrated with what they see as shortsighted "obstructionists" blocking a life-changing economic windfall for an area facing dire times.

Jim Worden, leader of a coalition in Windsor, said he knows landowners struggling to pay five-figure tax bills on their properties, who have lost their jobs and are unable to sustain themselves as farmers. Gas money would keep them from losing the farms as well as provide jobs and a rush of capital into the Southern Tier, he said.

Meanwhile, the profitability of farming continues to languish with the economy, said David Bradstreet, executive director of Cornell Cooperative Extension of Broome County.

"They are living off equity right now, and with the prices of milk, they are losing money every time they ship to market," he said.

Chris Denton, an attorney who represents large landowner groups looking to make lucrative deals with energy companies, put it this way: "Right now, we have the luxury of being able to have this discussion about what is the best way to regulate the Marcellus. But you don't worry about highfalutin intellectual matters when you are starving. There might be a time when we are in such economic distress, we just have to do it."

The national economic picture is not looking promising, he added: "Remember, we are at war."
