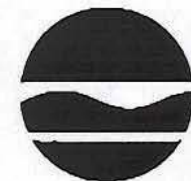


New York State Department of Environmental Conservation
Office of the Executive Deputy Commissioner, 14th Floor
625 Broadway, Albany, New York 12233-1010
Phone: (518) 402-8560 - FAX: (518) 402-9016
Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

JUL 15 2008

Mr. Mark Lanaghan
New York City Department of
Environmental Protection
59-17 Junction Boulevard
19th Floor
Flushing, New York 11373

Re: S.8169-A/A.10526-A - Oil and Gas Spacing bill

Dear Mr. Lanaghan:

On Friday, Senate bill 8169-A, which is a Department of Environmental Conservation (DEC) departmental bill, was delivered to the Governor for his consideration. You have advised us that your office has received a number of inquiries about the potential impact this legislation, if enacted, would have on the New York City watershed and asked us to address that question.

Much of the concern surrounding this bill is based on a misunderstanding of the bill and what it does and doesn't do. This legislation updates the statutory statewide spacing units set in 2005 to include:

- Horizontal wells in gas formations;
- Vertical and horizontal shale gas wells; and
- Oil wells in all other pools.

This bill does not provide a new authorization for horizontal drilling. Horizontal drilling is authorized under current statute and, in fact, has been taking place in New York State for decades. Lately, alarm has been raised in many watershed communities about horizontal gas drilling in the Marcellus shale formation and the significant leasing activity in the area. Notwithstanding the presence of a lease agreement with a landowner, no well may be drilled without the necessary permits from DEC. This bill does not speed up the permitting process for a well; it only provides a more administratively and substantively efficient process to determine the appropriate size of the spacing unit from which a well will recover natural gas. This bill addresses landowner rights—it does not in any way address environmental protection.

Specifically, the bill does not limit or change in any way the environmental and technical reviews required for drilling operations. Every drilling permit application will continue to undergo a thorough technical review for compliance with state law and regulations, and every

proposed drilling project will continue to go through the State Environmental Quality Review Act (SERQRA) process to ensure a full environmental review.

Therefore, enactment of this bill would not adversely impact the New York City watershed or the millions of New York City residents that depend on the watershed for their drinking water. The bill will not in any way diminish or dilute the environmental protection already applicable to activities in the watershed.

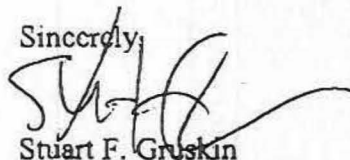
Not only will the bill result in no detrimental impact on the New York City watershed, New York's oil and gas regulatory program—one of the most stringent in the nation—will ensure that permitted well drilling operations do not impact the watershed. Under DEC's strict environmental oversight, thousands of oil and gas wells have been safely drilled in New York in just the last few years.

Wells drilled in New York must meet rigorous well construction standards to ensure protection of surface and groundwaters, and all containment pits must be lined and sized to fully contain all drilling, cementing and stimulation fluids plus any natural precipitation. Any construction activity related to drilling operations must comply with State Pollutant Discharge Elimination System (SPDES) stormwater requirements. These regulatory requirements, enforced through DEC on-site inspection, will continue to ensure that the decades-old hydraulic fracturing technique used in New York is carried out safely, protecting public health and the environment.

DEC will be carefully reviewing any proposal from a natural gas company to use larger volumes of water to hydrofracture new horizontal shale wells, and is already requiring operators to submit extensive information about water sources, as well as the handling of fluids and their safe disposition. In addition, DEC is working with the Susquehanna and Delaware River Basin Commissions in relation to their water withdrawal permits, which will be required for this activity, and have alerted well operators to this requirement. DEC has also been meeting with municipal officials in the counties where we anticipate new drilling may occur to educate them about potential impacts in their communities.

Please call me at (518) 402-8560 if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart F. Gruskin", is written over the typed name. The signature is stylized and cursive.

Stuart F. Gruskin