

## Two approaches to drilling

*N.Y. has moratorium, while Pa. lets drillers work while it writes regs*

**Sean D. Hamill, Pittsburgh Post-Gazette, 12-26-10**

When Dan Fitzsimmons drives just across the border into Pennsylvania, he looks longingly at the Marcellus Shale natural gas wells drilled there.

"You know how frustrating it is?" said Mr. Fitzsimmons, 55, a disabled former roofer who lives on his family's 185-acre farm in Conklin, a southern New York community. "My son lives in Dimock [Pa.] where you see people redoing their homes, farmers buying new tractors, all because of money they're making from gas leases. And here, where it's such a destitute area, we're being penalized for the state's inaction."

While New York has had an effective moratorium on Marcellus Shale drilling for the past two years while it studied the industry and developed new permitting procedures, Pennsylvania has allowed it to continue while it tried to update its regulations as it went.

"Pennsylvania has done it piecemeal, and New York is trying to do it with one big rifle shot," said Chris Tucker, a spokesman for the industry group Energy In Depth, based in Washington, D.C.

But as different as the methods have been as both states attempt to figure out how to regulate this new gold rush a mile below the surface, the states have shared more than just a 300-mile-long border.

New York decided how to proceed, in part, by its view of what has happened just over the border in Pennsylvania, said Peter Grannis, New York's Department of Environmental Conservation commissioner until October, when he was fired after complaining about deep cuts to his department.

"Theirs was a work in progress," Mr. Grannis said of Pennsylvania's decision to allow Marcellus Shale drilling while the Pennsylvania Department of Environmental Protection drew up new regulations, "while ours was intended to be a final product."

Pennsylvania DEP instituted new drilling regulations earlier this year that it insisted were among the best in the country, and is still working on one more major set of changes concerning the construction of well sites.

But in the two years that New York has been reviewing its permitting procedures, Mr. Grannis said the various drilling accidents and problems that occurred in Pennsylvania -- most significantly the methane gas migration troubles in Dimock -- made his department's job that much harder.

"The missteps in Pennsylvania had repercussions for the process we were going through," said Mr. Grannis, who now works for an environmental advocacy group, Environmental Advocates of New York. "The assumption was that the problems they were having in Pennsylvania were going to be the norm up here."

Southern New York state is the northern edge of the "sweet spot" of the massive and valuable Marcellus Shale formation. The biggest part of the sweet spot of the formation stretches across Pennsylvania, located about a mile below ground, but not as deep -- perhaps 4,000 to 5,000 feet -- in New York.

The hydraulic fracturing process, or fracking, uses the relatively new horizontal drilling technique and the old fracking technology of water mixed with sand and chemicals to break apart the shale, freeing up the abundant natural gas trapped in the rock.

A year ago Mr. Grannis' department issued an 800-page draft report of proposed changes to the state's permitting process for such drilling. It was obvious to those in the industry that what was happening with incidents in Pennsylvania was altering how New York's draft was written.

"You could tell New York was looking at Pennsylvania trying to take away any contentious issues -- like with open pits," said John Holko, president of Lenape Resources, an oil and gas operator in New York that works in both states.

Part of New York's proposed permitting requirements include one that the recovered fracking water be kept in tanks, not open pits as Pennsylvania allows, which have been the subject of numerous violations.

New York said then that a final report, with additional changes, would come only after it reviewed comments from more than 14,000 people or organizations from public hearings and written submissions.

Officially, said New York DEC spokesman Yancey Roy, "we're on no timeline to finish this; it will be done when it's ready."

Two weeks ago, outgoing-Gov. David Paterson issued a moratorium on the horizontal hydraulic fracturing process used in Marcellus Shale drilling until June.

It's not clear if Andrew Cuomo, the governor-elect who will replace Mr. Paterson, will uphold the moratorium when he assumes office in January. There has been heavy lobbying on Mr. Cuomo since his election to either scrap the entire review process and start over, or let it run its course.

If Mr. Cuomo allows it to continue, and upholds the moratorium, that could mean the new permitting process will be completed sometime over the summer, which would allow drilling in New York to finally begin -- a heartening possibility to New York landowners like Mr. Fitzsimmons.

Whenever that happens, many experts expect the policies New York puts in place to have an impact on Pennsylvania regulations.

"If New York does it right and shows that it works, and Pennsylvania continues to experience a wide range of environmental problems as it has, you'd think Pennsylvania would adopt some of what New York has done," said Kate Sinding, a senior attorney at the Natural Resources Defense Council, an environmental group based in New York City that has studied both state's policies.

Pennsylvania DEP spokesman Michael Smith said while he doesn't know what the new administration under Gov.-elect Tom Corbett will do, the plan was to always keep an eye out for how to improve the state's regulations.

"We're constantly evaluating our regulations to make sure it keeps pace with improvements in new technology," he said.

At this point, Mr. Fitzsimmons just wants to see something in place soon that won't scare away the gas companies.

He harbors hopes of leasing out his mineral rights for a nice upfront payment and annual royalties he expects will add up to the millions of dollars and will help him turn the old family farm into a winery. He already has a name in mind: Merry Meadows Winery.

As for the plans?

"It's all in my mind, along with the [wine] recipes," he said. "People just don't realize what all of this gas development could bring."