

Office of the Broome County Executive
Barbara J. Fiala, County Executive



June 4, 2010

<Insert Name of Representative>
<Insert Address of Municipality >
<Town/Village, NY, Zip>

RE: Marcellus Shale Gas Drilling in Broome County

Dear < >:

I am writing a follow up to my previous letters regarding natural gas development in Broome County.

As we all know, experience in other unconventional gas plays, including Pennsylvania, suggests that steps must be taken to protect our roads. While New York State regulates most aspects of gas drilling, it has reserved regulation of roads to the local municipalities. Broome and the local municipalities have been considering various approaches for care and management of roads.

My administration has researched this issue from various perspectives, including the following:

- Conducted engineering studies of County roads
- Considered the industry's suggestion of voluntary road maintenance agreements
- Drafted for consideration several types of local laws
- Worked with localities on a uniform approach
- Solicited and received comments from various industry groups

After all of the above, we have submitted a revised local law to the Broome County Legislature. We believe the proposal represents a reasonable balance between protecting our roads and encouraging economic development. A copy is enclosed for your review.

I would like to describe several highlights of the proposed local law.

Overweight and over dimension vehicles, as defined by New York State Department of Transportation (DOT), will require a permit to operate on County roads. The cost of the permit will be \$10 as set forth in New York State Vehicle & Traffic Law § 385. Every permitted vehicle will be required to prove that insurance has been obtained. The insurance requirement, however, will parallel the DOT requirements.

The law does not apply to municipal vehicles. It also specifically states that nothing in the ordinance is designed to interfere with Article 25-AA of the Agriculture and Markets Law.

Typically a truck owner would apply for a permit for every vehicle that meets the DOT thresholds. The owner that does not wish to deal with the administrative burden of obtaining a permit for every applicable vehicle may opt for a road maintenance agreement. Essentially the executed agreement would constitute a blanket permit for all vehicles in a fleet. This option would also be available for a developer that wishes to have a blanket permit for all vehicles used on a specific project, like a natural gas drill site. The road maintenance agreement will contain the minimum requirements of the local law, but it may also have some additional requirements as set forth by the Superintendent of Highways. For example when a designated haul route is used repeatedly, then it may be necessary to provide additional insurance, proof of road condition, etc.

Although the proposed law does not target any industry, the local debate on protecting roads was clearly sparked by potential development of the Marcellus Shale. Two of the criticisms of this local law during that debate are that it does not address damage caused by recurring use, and it fails to provide a good method for establishing liability. We disagree with both positions.

First, the natural gas developer may in fact use smaller tanker trucks that are not overweight. Certainly these vehicles also have an impact on the life span of a road. The natural gas developer, however, must comply with not just local laws, but also with New York State DEC permit conditions. The draft SGEIS specifically states that a developer should have a road maintenance agreement. That requirement together with the local law will regulate recurring use as well as overweight use.

Second, others have suggested that local laws contain requirements imposing various engineering surveys of designated haul routes before, during and after use. This would help establish liability for road damage. There is nothing in this local law which would prohibit a municipality from negotiating that requirement into a road maintenance agreement. We believe, however, it would be a mistake to impose the requirement by local law for all haul routes. That would simply add cost, delays and more bureaucracy.

In summary we are not suggesting that our approach contains the final answer. This is a dynamic situation that may require adjustments and amendments. At this point, we believe the enclosed local law is balanced and reasonable.

The attached Local Law has passed through the Broome County Legislative committee process. I do not know if it will be passed in its present version, but it is on the agenda for the June 17th meeting of the Broome County Legislature.

Thank you for your consideration.

Very truly yours,



Barbara Fiala,
Broome County Executive

cc: Broome County Legislators