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Lawmakers Push For Drilling Rules

Delegate introduces bill to restrict water use in drilling

January 14, 2011 - By CASEY JUNKINS Staff Writer

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WHEELING - Fueled by concerns about water and air safety, West Virginia Delegate Barbara Evans Fleischauer hopes Northern Panhandle legislators will help her pass new Marcellus Shale drilling rules.

Natural gas industry leaders say they are not opposed to all new laws regulating their activities but call the bill advanced from the Legislature's joint Judiciary Committee this week "extreme." Legislators have not yet formally introduced this bill to the regular session.

The joint Judiciary Committee forwarded its legislation - which calls for increasing the fee for drilling a single gas well from about \$600 to \$15,000 to allow state regulators to hire more inspectors, among other significant changes - from the interim session to the regular session for consideration in committee this week.

Another bill dealing with water usage during gas drilling, HB 2403, was formally introduced on the House floor Wednesday, though Fleischauer, D-Monongalia, said this is mostly a formality. She hopes to see the more comprehensive joint Judiciary Committee bill - or the yet to be introduced bill crafted by the West Virginia Department of Environmental Protection - take the place of HB 2403.

"I was determined to see something passed last year," said Fleischauer, who sponsored HB 2403. She said the measure had the votes to pass in the House last year but could not go anywhere in the Senate.

"This will be the third year for us to work on this," said Fleischauer, who noted she has served in the House for 15 years. "There is always such a huge push back from the industry."

Indeed, Charlie Burd, executive director of the West Virginia



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File photo by Casey J

Independent Oil & Gas Association, called the portion of the Joint Judiciary Committee bill prohibiting wells from being drilled within 1,000 feet of any building or water well, without permission from the respective owners, "extreme."

"That 1,000-foot limit is just too much. There are all kinds of precautions taken to protect water," he said. "If legislation like this is introduced, it is unrealistic to think it will pass word-for-word."

Each of West Virginia's 12 natural gas inspectors is now responsible for overseeing an average of 4,917 wells. Burd said he does not know if this is reasonable.

"I don't know how they deploy their resources," he said of the DEP. "But as the number of horizontal wells is going up, the number of vertical wells is going down."

Corky DeMarco, executive director of the West Virginia Oil and Natural Gas Association, is not opposed to seeing additional regulations for horizontal Marcellus wells.

"States did not have regulations in place to deal with the horizontal wells," he said, admitting some supplemental measures are necessary.

Both Burd and DeMarco also pointed out West Virginia applies a 5 percent severance tax for gas production, while operators in neighboring Pennsylvania pay no such tax.

Fleischauer, however, is determined to see some new regulations pass this year and believes Sen. Orphy Klempa, D-Ohio, will help promote the measure in the upper chamber.

"People in the southern part of the state are not as familiar with the problems we are facing in the north, with fires and traffic accidents," she said, noting Klempa would be able to convey this message to fellow senators.

For his part, whether the final bill looks more like the joint Judiciary Committee's version or the DEP's version, Klempa is confident some new drilling rules will make their way to acting Gov. Earl Ray Tomblin's desk by the end of the regular legislative session.

"I think the industry understands there are new concerns with this practice. We have to get something done to make sure that our water and air are protected," he said.

However, Klempa also wants to ensure the growing gas industry can continue to thrive in West Virginia.

"I truly believe there is enough energy in there for us to have huge opportunities for growth," he said. "We need to educate them (legislators) so they understand how much this can mean for the state."

Ohio County Delegates Erika Storch and Ryan Ferns are also ready to vote for new regulations.

"I was very glad to hear the governor speak about the Marcellus Shale. That gives me confidence that people down here realize how important this is," said Republican Storch. "Our state is very rich in



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resources, but the citizens must not be taken advantage of."

Storch also said one key aspect would be to provide more protection for surface owners who do not own the mineral rights beneath their property. Currently, those who own the mineral rights are allowed to do anything "fairly necessary" to get the gas out of the ground.

Ferns, a Democrat, said Marcellus Shale is "a topic on everyone's mind."

"This is a very new technology that requires very specific regulations. Many of the current rules are just inadequate for the Marcellus Shale drilling," he said.

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