

Gas fund gives cover to Cuomo

FRED LeBRUN Commentary

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In terms of an enduring legacy, what Andrew Cuomo has to be concerned about is the possibility of being remembered as the governor who brought upstate New York hot and cold running methane out of its water pipes.

I'm sure this is not the legacy he has in mind. But it's a fair bet that a measure of how he will be remembered, even in the short run as he advances politically, will be tied to how safely natural gas exploration proceeds in the Marcellus Shale. Cuomo is betting on a nervous horse here.

At the same time, look at the opinion polls. New Yorkers are pretty evenly divided on whether we should go forward with controversial hydrofracking for natural gas. Emotions run high among those who oppose it. No one with a vested interest is likely to forget what side of the fence a politician was on when and if problems arise.

The polls show that even among supporters of natural gas exploration, many are quite leery of industry claims of how safe hydrofracking is.

Another way to look at those same poll figures is that given the level of public skepticism, there will no place for Andrew Cuomo to hide if anything goes wrong.

To some extent, this makes Cuomo's chilly reception of state Comptroller Tom DiNapoli's excellent plan for an industry-supported natural gas production remediation fund, similar to the existing Oil Spill Fund and others, a little surprising. Such a fund could help Cuomo cover his bet.

It's predictable enough that the governor would never wholeheartedly embrace anything the comptroller proposes, right up to and including a sure-fire plan to save the world. They are political rivals. In addition, like the Oil Spill Fund and the others, the proposed fund would be administered by the comptroller, working with the state Department of Environmental Conservation and the state attorney general. The governor is not included. That would make any governor testy.

Generally, the idea behind this fund is excellent. It would give the public a sense of badly needed assurance and real-time insurance. The governor at least could have supported the concept of having the industry pay into a pot that is standing by in case -- that is to say when -- something goes awry a la Pennsylvania. Like a well exploding, or a spill of toxic wastewater, or methane coming out of a water tap.

The response to the situation, after a determination by the DEC and the AG's office, would be immediate. What affected private citizens now have is slow and expensive litigation.

One important change needed in DiNapoli's proposal would remove the liability of owners who lease the rights to drill on their property. In the proposed legislation, they could share in the liability. But those gas drilling leases do not give the landowner any say in the quality of the drilling operation, or how responsibly it's being done, or even where and at what angle the drilling might happen.

Now, it's unlikely that DiNapoli's legislation will go anywhere because it would have to pass both houses of the state Legislature and then pass muster with a reluctant governor. The state Senate has been a persistent backer of the gas industry. The industry sees this proposed fund as just another burden, another cross the bear. So this goes nowhere in the Senate.

Which still doesn't make an industry-financed remediation fund a bad idea, only one that in its present form and with its present sponsor, is not likely to happen. The governor could still come up with his own idea for a similar fund as we approach the witching hour at the end of the year.

That's when the rules and regulations will finally be approved by the Cuomo administration and drill permitting is in sight.

So far, the governor has been carefully balanced and cautious in all his public comments about hydrofracking, and the pending environmental assessment process. And still ahead is DEC's all-important analysis of the socio-economic impact hydrofracking will have on the state, including the directly affected communities.

That assessment will be explosive. Claims and assumptions will have to be made about the regulating process and the machinery working as the DEC and industry claim it will. The skeptics are likely to rip it apart, and there are many skeptics.

For a cynical public that doesn't have much faith generally in government doing what it says it will do, this may require a leap of faith to accept. I'm not sure we're to up it, or should be.

I don't believe that at this jaded stage of governance in New York we will take the word of any supposed authority to just plain trust it on this one. Not the DEC, as much as I love those guys, or a popular governor.

So, in light of where we're heading, a big, easy-to-tap remediation fund is going to look better and better, no matter how much of a burden it is to industry.

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