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Paterson's decisions on gas drilling during tenure get mixed reviews

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As he's set to leave office in less than two weeks, talk of Gov. David Paterson's legacy has centered on his rise to office, budget battles with the legislature and pesky scandals he couldn't quite seem to shake.

If there's a separate discussion of the mark he will leave on the Southern Tier, it would revolve around two words that have become part of the region's lexicon around the same time the governor's name did: Marcellus Shale.

Much like the overall effectiveness of his nearly three-year term, Paterson's decision making when it comes to the vast natural gas reserve a mile below the surface of the Southern Tier and Catskills Region has received mixed reviews, even among usually like-minded stakeholders.

"I think he was walking a very tight rope when it comes to the Marcellus," said John Holko, president of Genesee County-based Lenape Resources and a member of the Independent Oil & Gas Association of New York's board of directors. "To move on in government life you have to understand that nothing is all good and nothing is all bad, and I think he really did understand that."

Calling a timeout

No one had more of an affect on the battle to drill in New York's portion of the Marcellus than Paterson. In July 2008, just four months after he abruptly took office amid former Gov. Eliot Spitzer's prostitution scandal, the debate about drilling and hydraulic fracturing hit Albany, when the legislature passed a bill that would revamp the state's laws for oil and gas well spacing.

Critics feared it could jumpstart high-volume, horizontal hydrofracking – a gas stimulation technique involving the high-pressure injection of water, sand and chemicals deep underground to break the shale - in New York. Paterson signed the measure into law, but simultaneously ordered the state Department of Environmental Conservation to construct a Supplemental Generic Environmental Impact Statement, a document that will guide the permitting process for that technique.

Paterson effectively put that type of hydrofracking on hold until the document is finalized.

Assemblywoman Donna Lupardo, D-Endwell, said that was the right move. Many agreed.

"There were a number of us about two-and-a-half years ago who approached the governor about taking a look at how drilling was going to be done in the Marcellus," she said. "I found his approach to be not only responsible, but responsive. He listened to the concerns that we had, and he asked DEC to revise their approach to drilling in the Marcellus as a result of that."

Meanwhile, the DEC's commissioner at the time, Pete Grannis, said there was almost immediate pressure from the governor's office to move the SGEIS review process along. Grannis was fired by Paterson's office in October after an internal memo blasting staff cuts at the DEC was leaked to an Albany newspaper in October of this year.

"There was huge pushback in the beginning," Grannis said in a recent interview. "They wanted a 30-day comment period (on a draft SGEIS), despite our warnings that this was completely unacceptable to all of the stakeholders. By the time we put out the 30-day comment period and it got blasted as too short, the governor very reluctantly agreed to a longer one. We were under intense pressure to move along and get this document finished."

Review continues

Two-and-a-half years later, the SGEIS is still far from being finalized. A recent move by Paterson ensures that it won't be for at least another six months, and likely longer.

This month, Paterson vetoed a bill that would have declared a moratorium on nearly all new hydrofracking permits, including vertical fracking, which uses far less water and chemicals and has been permitted in New York since 1982. But as a compromise, he issued an Executive Order instructing the DEC to unveil a second draft of the SGEIS "on or about June 1, 2011" with at least a 30-day public comment period to follow.

The move seemed to generally please both the pro-drilling and environmentalist factions of New York, a rare occurrence.

"That bill would have put a stop to drilling as we know it in New York state, and he recognized that and he vetoed it," said Holko, the IOGA-NY board member.

Still, though, both sides say there is room to criticize. Sen. Thomas W. Libous, R-Binghamton, said ordering the SGEIS in 2008 was the right move, but Paterson's latest Executive Order was "horrible" and "disappointing."

"I think it really sets us back," Libous said. "It almost said that all of the public comment we had on the first draft and all of the work the DEC has done so far to come to some sort of conclusion on permitting is wasted. I think it's a tremendous move backward in the whole process."

And there's still the issue of staffing. Paterson put funds in his 2010-11 executive budget proposal – the final of his term – for additional drilling inspectors at the DEC, but it was nixed by the legislature.

Later in the year, he ordered a massive round of state layoffs, which Grannis criticized as unfairly targeting the DEC.

"I do have one major critique of the Paterson Administration regarding environmental matters," Lupardo said. "The staff cuts to DEC have been devastating (and) disproportionate to other state agencies. This must be addressed going forward."

Mixed grades

Katherine Nadeau, water and natural resources project manager for Environmental Advocates of New York, was one of several Albany-based environmentalists who pushed the legislature and governor's office on the issue for the better part of Paterson's term.

"He's made good decisions, but he's made significant missteps," Nadeau said. "We're starting to get the protections we need, but it took so long and it was such a fight. We need to put water protection first; it's something that should have been a no-brainer."

Holko said the slow pace of the SGEIS review is simply how business is done in New York.

"In a way, we could say from the industry's perspective that it has been slow," Holko said. "But we all understand how New York works, and we felt that he was looking at the science of it, and that's where we feel like we have a strong case."

And while he hasn't minced words about Paterson's environmental record, Grannis said the governor has

generally made the right decisions when it comes to tapping the Marcellus.

"Leaving out staffing issues, the governor's public statements suggest the right thing: that it should be done properly and safely, and should not proceed until we have assurances that will happen," Grannis said. "Other people in his administration were trying to push this faster than the agency could conceivably move, but the governor was right on about this."
