

From: Marc Gerstman
To: West, Thomas
CC: Leff, Eugene; Russo, Steven
Date: 8/22/2011 7:55:35 PM
Subject: Re: FW: SGEIS Schedule

Tom,
 Lets talk in the morning.
 Marc

>>> Thomas West <twest@westfirmlaw.com> 8/22/2011 12:29 PM >>>

Thomas S. West
 The West Firm, PLLC
 677 Broadway - 8th Floor
 Albany, NY 12207
 Direct Phone: 518-641-0501
 Direct Fax: 518-615-1501
 E-Mail: twest@westfirmlaw.com
 Website: www.westfirmlaw.com

*This transmittal is subject to our standard e-mail legend.

From: Thomas West
Sent: Monday, August 22, 2011 12:16 PM
To: 'Steven Russo'; Jennifer Maglienti; 'mgerstman@gw.dec.state.ny.us'
Cc: 'robert.rosenthal@exec.ny.gov'; 'thomas.congdon@exec.ny.gov'; 'Paul Hartman'; 'Brad R. Gill'; Jim Carr
Subject: SGEIS Schedule

Steve, please see the information below, which indicates that there will be 180 day comment period on the revised SGEIS. We need to know if this information is accurate and, if not, what the actual schedule is given the outstanding request from the Department for cost information on an expedited basis. We have a conference call with our group tomorrow. Given the far-reaching, but vague proposals from the Division of Water that we received on Friday, it remains uncertain whether we will be providing any detailed cost information on an expedited basis.

On a more substantive level, it appears that the administration is still pushing the home rule issue, which we continue to believe is inconsistent with New York law and the consistent position taken by the Department concerning that issue for many years. The combination of promoting home rule and the many far-reaching proposals from the Division of Water are likely to kill the play and any opportunity for jobs and economic development for many years to come.

Information from the opposition:

Martha Robertson of Tompkins County Council of Government and Marion Karl of Cooperstown organized some important meetings in Albany.

Martha could not make the trek, but Marion was joined by Dr. John Davis, Helen Slottje, Harry Levine and myself.

Marion arranged a meeting for an hour at the Capital Building with one of the Governor's top aides.

Separate meeting was arranged by Martha at the DEC with 4 staff members.

The upshot of these meetings can be summarized as follows:

**1. The DEC and Administration are amenable to Home Rule - but need a political push
 From a ministerial perspective - requiring the applicant to show evidence of compliance with local zoning
 And to clarify Home Rule in the legislature.**

Some towns will pass ordinances, many will not - up to them - as it should be - at a minimum. Just like out West.

**2. The local shale gas prohibitions are having a major impact politically - and need to be expanded
 They were all very interested to see which towns and cities have adopted prohibitions.**

**Would be helpful for more cities to pass measures - Syracuse and Utica are prime examples.
 Even though they might be on the edge of shale gas industrialization, an important political gesture**

3. The DEC has no idea how to pay for the impacts of enforcement, etc. - they asked for ideas

This was in fact the main topic of the DEC's Advisory Panel - 'how are they going to cope' ?

We suggested that a severance tax as overdue and would have to be in place prior to the issuance of permits

They are well aware that NYS is the odd-man-out (along with Pa.) on this nationally - and globally . . .

Simply because of a lack of leadership in Albany.

One person (unnamed) said that the ad valorem tax was the same as a severance tax (a notion created by a lobbyist ?)

We explained how they differed and the trade-off between increased ad valorem taxes and decreased property values

The proposed application permits should cover costs of increased staffing - this needs to be an response to the dSGEIS

The proposed plugging liability - \$5,000 shows how behind the times the DEC is.

4. The DEC/ Admin wants insightful responses to the SGEIS -

For instance, they asked for suggestions on how to address cumulative impacts

We gave them some suggestions, and will follow up.

Get your responses ready now for the comment period.

TinyURL.com/2011SGEISFlaws

The more substantive the better, with attributions, with empirical data, tied to an SGEIS section.

For towns without local ordinances, the DEC's regulations will be their de facto industrial land use plan.

5. The comment period is likely to be extended to 180 days with 4 public hearings - thanks to your responses

So keep those phone calls coming into the Administration . . .

Call

• DEC dept of Public Affairs and Communication: 518-402-8044