S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 16, 2010

Introduced by M. of A. SWEENEY, BRENNAN, LIFTON, JAFFEE, ZEBROWSKI, KAVANAGH, ESPAILLAT, TITONE, CYMBROWITZ, JOHN, MAGNARELLI, REILLY, SPANO, PAULIN, CASTRO, N. RIVERA, P. RIVERA, ROSENTHAL, HYER-SPENCER, MAISEL, PERRY, ORTIZ, COOK, WEISENBERG, SCHIMEL, FIELDS -- Multi-Sponsored by -- M. of A. DESTITO, GOTTFRIED, MAGEE, MARKEY, McENENY, THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to permits to drill oil and gas wells

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 13 of section 23-0101 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, is amended to read as follows:

13. "Plug and abandon" means the plugging, replugging if necessary, and abandonment of a well bore including the placing of all bridges, plugs, and fluids therein and the restoration and reclamation of the surface in the immediate vicinity [to a reasonable condition consistent with the adjacent terrain] IN A MANNER CONSISTENT WITH THE RECLAMATION PROVISIONS OF THE APPROVED DRILLING USE PLAN SUBMITTED PURSUANT TO SUBDIVISION FOUR OF SECTION 23-0501 OF THIS ARTICLE.

S 2. Subdivision 8 of section 23-0305 of the environmental conservation law is amended by adding a new paragraph l to read as follows:

L. EXCEPT AS TO PRODUCTION OF GAS FROM LANDS UNDER THE WATERS OF LAKE ERIE, IN ORDER TO SATISFY THE FINANCIAL SECURITY REQUIREMENTS FOR WHICH THE DEPARTMENT EITHER SHALL HAVE ISSUED OR SHALL ISSUE PERMITS TO DRILL SUCH WELLS OR, ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, SHALL HAVE ISSUED ACKNOWLEDGMENTS OF NOTICES OF INTENTION TO DRILL SUCH WELLS, WITHOUT IN ANY WAY AFFECTING ANY OBLIGATIONS TO PLUG SUCH WELLS, THE OPERATOR SHALL PROVIDE A BOND OR OTHER FINANCIAL SECURITY ACCEPTABLE TO THE DEPARTMENT IN THE FOLLOWING AMOUNT:

(1) FOR WELLS LESS THAN TWO THOUSAND FIVE HUNDRED FEET IN DEPTH, A MINIMUM OF FIVE THOUSAND FIVE HUNDRED DOLLARS PER WELL;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(2) FOR WELLS BETWEEN TWO THOUSAND FIVE HUNDRED FEET AND SIX THOUSAND FEET IN DEPTH, TEN THOUSAND FIVE HUNDRED DOLLARS PER WELL;

(3) FOR WELLS GREATER THAN SIX THOUSAND FEET IN DEPTH AND FOR WHICH HYDRAULIC FRACTURING FLUID SHALL BE USED, THE OPERATOR SHALL PROVIDE ADDITIONAL FINANCIAL SECURITY OF TWO HUNDRED FIFTY THOUSAND DOLLARS, PROVIDED HOWEVER THE DEPARTMENT MAY REQUIRE AN ADDITIONAL BOND OR FINANCIAL SECURITY IN AN AMOUNT SUFFICIENT TO COVER POTENTIAL REMEDIATION COSTS ASSOCIATED WITH CONTAMINATION OF THE ENVIRONMENT, INCLUDING, BUT NOT LIMITED TO, SOIL AND WATER AND PUBLIC AND PRIVATE DRINKING WATER SUPPLIES.

S 3. Section 23-0501 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. A. EVERY PERSON WHO APPLIES FOR A PERMIT TO DRILL AN OIL OR GAS WELL OR DEEPEN OR PLUG BACK A WELL TO A DIFFERENT POOL AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL SUBMIT AN APPROVED DRILLING USE PLAN.

B. ALL DRILLING ACTIVITIES ON THE AFFECTED LAND SHALL BE CONDUCTED IN ACCORDANCE WITH AN APPROVED DRILLING USE PLAN.

C. THE APPROVED DRILLING USE PLAN SHALL INCLUDE EXPECTED WATER USAGE, INCLUDING POTENTIAL PEAK WATER WITHDRAWALS AND TOTAL PROJECTED ASSIMILATION CAPACITY AT THE HEIGHT OF PRODUCTION, POTENTIAL WATER CONSERVATION MEASURES, TRUCK TRIPS, FLUID STORAGE AND DISPOSAL MEASURES, INCLUDING A SIGNED CONTRACT WITH A DISPOSAL FACILITY, STEPS TO BE TAKEN TO MINIMIZE DIESEL POLLUTION FROM TRUCKS AND EQUIPMENT, EXPECTED VENTING ACTIVITIES, SITE SPECIFIC BIOLOGICAL AND WATER QUALITY DATA, CUTTING DISPOSAL PLANS AND ACTIONS TO BE TAKEN TO MITIGATE NOISE.

D. THE APPROVED DRILLING USE PLAN SHALL ALSO CONSIST OF A RECLAMATION PLAN CONSISTING OF A GRAPHIC AND WRITTEN DESCRIPTION OF THE PROPOSED RECLAMATION AND AT A MINIMUM, MEASURES TO MITIGATE THE IMPACTS TO EXISTING HABITAT, INCLUDING THE PREVENTION OF HABITAT FRAGMENTATION, IDENTIFICATION OF INVASIVE PLANT SPECIES PRESENT AT THE SITE AS WELL AS PLANS FOR THE REMOVAL OF SUCH INVASIVE PLANT SPECIES.

E. THE GRAPHIC DESCRIPTION SHALL INCLUDE MAPS AND CROSS SECTIONS WHICH ILLUSTRATE THE FINAL PHYSICAL STATE OF THE RECLAIMED LAND.

F. THE WRITTEN DESCRIPTION SHALL INCLUDE A SCHEDULE AND DESCRIPTION. THE RECLAMATION OF ALL AFFECTED LAND SHALL BE COMPLETED IN ACCORDANCE WITH THE SCHEDULE CONTAINED IN THE APPROVED DRILLING USE PLAN PERTAINING THERETO. THE SCHEDULE, WHERE POSSIBLE, SHALL PROVIDE FOR ORDERLY, CONTINUING RECLAMATION CONCURRENT WITH DRILLING.

G. THE PERMIT HOLDER SHALL SUBMIT TO THE DEPARTMENT A NOTICE OF TERMINATION OF DRILLING NO LATER THAN THIRTY DAYS AFTER SUCH TERMINATION.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.