

## Towns Must Take Action Before Drilling Begins

Neighboring Town Officials, Residents Work to Safeguard Community Interests

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“Take action now to protect your roads, your bridges and your citizens,” Kimberlea Rea told the Tompkins County Council of Governments recently. Municipal officials and residents of Tioga and Chemung Counties were among the 60 people who filled Ithaca Town Hall for the special meeting on March 30.

Rea, an environmental and municipal attorney working with Bosworth Gray & Fuller in Bronxville, NY, joined Mark Millspaugh, president of Sterling Environmental Engineering in Latham, NY, in a presentation about actions towns can take in order to protect their infrastructure and aquifers during gas exploration and drilling activities.

“Towns located in or near Marcellus shale wells can expect substantially increased truck traffic,” Rea said, noting the resulting road and bridge stress from multiple trips of heavy trucks. With increased traffic there will be an increase in traffic accidents, Rea pointed out. The increased industrial activity brings with it the potential for more spills, injuries and an increased need for emergency responses.

In addition to road and traffic issues, Rea raised the possibility that industrial gas activities may deplete and contaminate the aquifer, adversely impact wildlife habitat, impair tourism and recreation, and contribute to noise, light and dust pollution. Towns will also need to consider potential waste disposal issues including wastewater treatment plants and underground injection wells.

“Towns also need to consider how they will respond to residents caught up in the compulsory integration as their land is included in drilling units,” Rea said.

### **Actions Towns Can Take**

Rea suggested that towns begin by reevaluating their road ordinances and, at the same time, evaluate the conditions of the town roads and road infrastructure. “Do not wait for notice of a well permit application,” Rea advised town officials. “Look over your current codes now to see what weight ordinances or road preservation laws you already have on the books.”

Not only should towns consider establishing weight limits, but they can tailor traffic rules to anticipate truck traffic and routes, Rea explained. For example, a town may want to exclude certain heavy vehicles, either temporarily or permanently, from specific town roads during periods of wet weather if they believe that traffic will injure the road.

Towns should become permitting agencies, Rea said, adding that they should require permits from natural gas operators whose operations will result in increased traffic. Permits should include mandatory road maintenance agreements, with adequate insurance

and performance bonds, and include traffic studies for safe ingress and egress, mandatory training of emergency personnel, and payment of fees for professional consultations and inspections required to oversee road maintenance and safety.

“The citizens of a town should not have to subsidize the road damage caused by a private business,” Rea said.

Towns should also require disclosure of any and all chemicals and chemical constituents used in gas activities. This is crucial for emergency response teams responding to accidents at the well site or a traffic accident involving a truck hauling fracking fluid.

“You can’t target a single industry, but you can regulate industrial activities,” Rea said. In addition to permits, towns may choose to regulate storm water management, wetlands protection, setbacks, tree removal and regulation of noise and dust pollution.

Rea pointed out that by instituting a road permit system as part of a comprehensive road protection ordinance, towns can become “involved” agencies under the State Environmental Quality Review Act (SEQRA) and thereby become part of coordinated review with the Department of Environmental Conservation (DEC).

### **One Town’s Experience**

Tompkins County officials may not have had much experience with the truck traffic that accompanies well drilling, but Van Etten has seen plenty. Van Etten Town Councilman Joseph St. Angelo addressed some of the issues that have come up in his town.

The trucks bringing in the drilling equipment are heavy tri-axle trucks with trailers, St. Angelo said. The traffic was intense, with 20 trucks driving up the roads in a matter of three to four hours.

“One road was torn up so bad that you couldn’t drive a four-wheel-drive pickup truck up it afterwards,” St. Angelo said. He also reported that people had been driven off the roads by the drilling trucks.

“We haven’t had a good experience,” St. Angelo said. He then related the lack of communication regarding the proposed testing of the Mallula Well for use as an underground injection (disposal) well. St. Angelo pointed out that Van Etten learned about the well testing only after DEC had issued the permit. Millspaugh replied that while DEC issues permits for the injection wells, he believes the towns might be able to exercise some control over road use.

“If the brine to be injected is being trucked over town roads, updating the road statutes and adopting a permit program would be a good first step,” Millspaugh said. Responding to a question about protecting aquifers, he suggested that towns do everything in their power to protect the resource.

“Towns can begin by identifying all sensitive aquifers, drinking water supply aquifers, and other potable water sources,” Millspaugh said. “The town can also require drilling permits and establish setback requirements.”

St. Angelo asked how towns should deal with apparent conflicts of interest. “We have five people on our town board,” he explained. “Three of them have leases. Is this a conflict of interest?” There was a unanimous outcry of “yes” from the assembled municipal officials, with most suggesting that those board members abstain from voting on issues dealing with gas activities.

“I think it is important that an authority having jurisdiction, such as town board members or anyone else involved with setting rules governing the gas industry, should not be a beneficiary,” St. Angelo told *Broader View* after the meeting. He feels that having a gas lease gives a person a vested interest in any and all decisions involving gas development in their town. “That makes their vote questionable,” he added.

This week St. Angelo will bring the recommendations for town actions to the Van Etten Town Board. You may read these recommendations online at <[www.tompkins-co.org/legislature/tccog/Gas\\_Drilling/representation.pdf](http://www.tompkins-co.org/legislature/tccog/Gas_Drilling/representation.pdf)>