



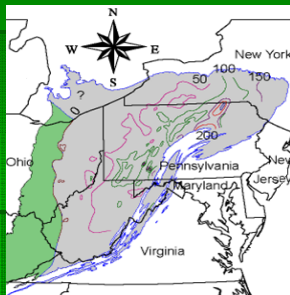
Natural Gas and New York Public Schools

Presented by Hogan, Sarzynski,
Lynch, Surowka, and DeWind, LLP

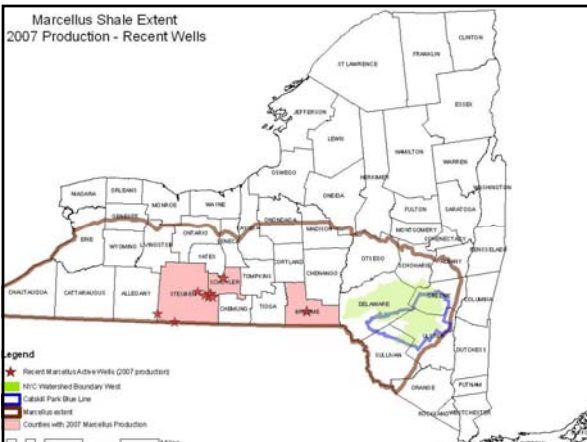
James A. Gregory, Esq.

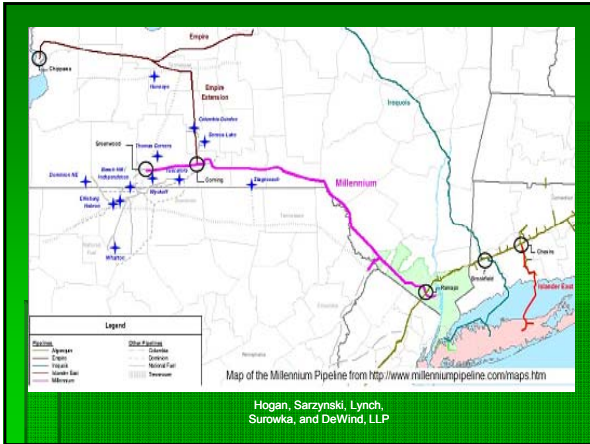
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Extent of Marcellus Shale In US with thickness



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Well permits Madison and Chenango Counties as of 8/2009



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Marcellus Shale –why the fuss now?

Named outcropping in Marcellus NY
Known gas containing formation for decades

2002 US Geological Survey est.: 1.9 tril cft.

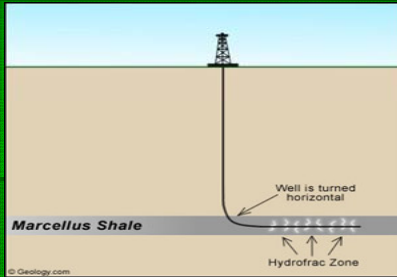
2008 Fredonia U. est. 500 tril. Cft.

1,500 to 8,000 ft deep.

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New Technology- Horizontal drilling and Fracing



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Real Property Tax Consequences

Operator/Owner of Well, not property owner pays tax based on Economic Unit.

Economic unit means land, pipes, wells and production equipment to point of sale.

Land owner assessments only rise as real property values rise due to speculation/lease value.

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Can Public Schools sell their gas?

General Municipal Law 368

Schools may explore, develop gas fields on district property

May construct, lease, purchase, operate "natural gas producing facility" located on District property for school district purposes.

Any excess gas produced by the district may be sold.

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Can Public Schools sell their gas?

Section 368 requirements:

- Must comply with education law regarding voter approval
- Must comply with contract, purchase and lease laws effecting school districts
- All provisions of Article 4 public service law
- All provisions of Article 23 Environmental conservation law
- May finance costs by levying taxes or pursuant to local finance law

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Can Public Schools sell their gas?

- Comptroller has stated that all municipalities have the inherent right to sell surplus personal property
- Natural gas extraction rights, without the right to put facilities on Municipal property (pooling rights) is considered personal property
- Comptroller has yet to respond to our letter seeking whether 368 excludes such pooling.

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Can Public Schools sell their gas?

Compulsory Integration:

- All land owners entitled to compensation for gas extracted from under their land, even if they haven't signed a contract.
- ROYALTY OWNER:** no costs, no liability, 12.5% net minimum royalty, no signing bonus
- NON PARTICIPATING OWNER:** No upfront costs, full liability, 100% net royalty after 300% costs
- PARTICIPATING OWNER:** owe proportional share of costs, full liability, 100% royalty as soon as production starts.

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WHAT ABOUT SEQR?

All municipal units must comply with State Environmental Quality Review where it takes action which affects the environment, including discretionary lease approval. (617.2(e)).

Draft GIES states Permitting an individual well is non-significant generally, except:

- In agricultural districts where > than 2 ½ acres disturbed.
- Near municipal water supplies.

Compulsory Integration: Not discretionary

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Revenue Streams from gas production

Upfront payments

Dollars per acre per year for primary term
 Usually paid in full upfront, i.e. one time payment
 Started at \$5.00/acre, now up to \$3,000/acre in NY.

Bonus for pad placement,

Free Gas many leases provide free gas

Royalties

Statutory minimum 12.5% net. Seeing up to 18% reported in NY.
 Can negotiate higher %, and gross %.

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Controlling Impact

Surface Damage

Roads, well pads, pipelines Education law requires mitigation and restoration at end of any lease.

Subsurface

Drilling and fracking may use 3 million gallons of water per well, where will it come from?
 fracking uses many chemicals from sand to anti-freeze

Brine and chemicals come out, Chesapeake estimates up to 35% water content in local gas extraction.

Get your water tested before, during, and after .

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Controlling Impact

Dumping and waste removal

- Open and closed pits
- brine injection wells

Sound

- Compressors can be loud

Trespass

- Fencing and possible lighting of pad and well on district property

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Gas Leases

It's all in the contract.

- Every clause is negotiable, negotiate for what's important to you.

Maximize revenue

Minimize disruption and impact to school

Limit time of primary lease, limit non-royalty paying extensions

Call your attorneys before signing any docs.

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