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THE SENATE
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JAMES L. SEWARD
SENATOR, 51ST DISTRICT

May 17, 2011

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Commissioner Joseph Martens
Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233

RE: Home Rule – Natural Gas Exploration

Dear Commissioner Martens:

As you know, the issue of natural gas drilling has prompted concerns relative to its safety and its environmental side effects. The department is in the process of completing revisions to the supplemental generic environmental impact statement (sGEIS), and I understand the complexity of issues that must be considered.

Several towns within my district have already acted to rule out natural gas drilling under their home rule authority through zoning and land use regulation.

It seems to me that one basic issue that the state should address in the sGEIS, if not legislatively, is the self-determination of local governments; that is, allowing people to decide for their communities whether gas drilling should be permitted, through the voice of duly elected municipal officials. The state certainly has an interest in the proper recovery of mineral, oil and gas resources, but it has also accorded to local governments the right to determine, through zoning and planning mechanisms, the appropriate places and conditions of economic activity, from farming to retail to manufacturing.

While the legislature reviews its role in permitting home rule decisions in the arena of gas exploration, I take this opportunity to urge the department as well to recognize the prerogatives of local governments, the varied opinions on the merits and drawbacks of natural gas exploration, and provide for local 'opt-out' provisions in the new regulations. This could be as simple as the department not considering applications where local law prohibits drilling. Doing so empowers local governments to establish their own timetables, rules, criteria – or to decide that an industry is not compatible with their



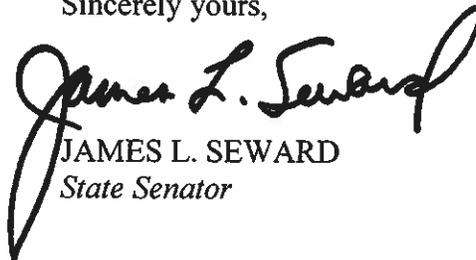
master plans – and to continuously evaluate the experiences of other communities within the state that may choose to approve drilling under enacted local laws.

I would urge you to include a ‘home rule’ provision within the new regulations.

Please do not hesitate to contact me if I can address this concern further.

With best wishes, I remain

Sincerely yours,



JAMES L. SEWARD
State Senator

JLS/ddak