

Can Municipalities Control Where, When or If It Happens?

To date, many dozens of local New Brunswick jurisdictions have passed, or called for, bans, moratoriums or other local protections from shale gas extraction. The provincial government has also made various vague assurances of protection to municipalities. To date in Canada, **municipal legislation seeking to prohibit, restrict, or otherwise**

regulate the shale gas industry has not been tested in court. What is the situation elsewhere?

As of August 2013, US Municipalities had passed 62 bans on shale gas, 111 moratoria, and 86 movements are now calling for prohibitions (bans or moratoria). Dozens of similar government actions against shale gas have also been taken in countries, provinces regions and municipalities worldwide.)

In the U.S., state governments maintain that only they have the power to regulate the petroleum industry, and so bans on 'fracking', which are a type of regulation, are invalid. American courts have generally agreed, so local jurisdictions have turned to home rule, municipal authority to control land use, zoning codes and usage restrictions. The Pennsylvania legislature responded by disallowing local zoning to ban shale gas, thus robbing towns of that defense.

Some places have passed ordinances placing restrictions on town roads, light, and noise, that don't aim directly at shale gas, but would effectively prohibit it.

Other places, including New Brunswick, have framed the issue as an "environmental bill of rights" issue based on the UN Convention on Rights of the Child, and a Canadian Supreme Court decision.

"To achieve sustainable development, policies must be based on the precautionary principle. Environmental measures must anticipate, prevent and attach the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation."

Supreme Court of Canada; Spray-Tech vs. Hudson, Quebec

Only **in New York** has a local ordinance been upheld. **A town banned all heavy industry, including shale gas, as being incompatible with the town's comprehensive planning goals. The court agreed.**



Fort Worth, Texas

Much of the support for banning shale gas comes from places that have had shale gas for years.

The Pennsylvania Democratic Party now includes a moratorium in its official platform. In Colorado, five cities have passed or are considering moratoria. The state promises to sue them if they do. Citizens have responded with a statewide referendum drive.

In Texas, "Texans pride themselves on being the heart of the nation's oil and gas business. But even here, public concern about natural gas drilling is growing...

A few communities have declared a temporary moratorium on drilling permits, and Dallas set up a task force last week to examine drilling regulations within its city limits.”

Source: www.texastribune.org/texas-energy/energy/even-in-texas-concerns-grow-about-gas-

Shale Gas Moving to the Cities

After years of enduring shale gas, the **growing evidence of all the problems associated with the industry is prompting local governments to act.** As well, such actions are being taken because **shale is moving close to, and into, the cities.**

- Shale gas has a very high depletion rate – meaning that **individual wells only produce for a short time then you have to drill more.**
- Shale gas, like all other fossil fuels, is concentrated in ‘sweet spots’. When they run dry the **drillers move to lesser quality areas.**
- Shale wells only drain very small areas, so you must drill wherever the shale is

Therefore, **if you live anywhere in a shale lease area, sooner or later the drilling rigs will probably come to your neighborhood,** whether in a city or not. People who had always assumed that shale gas was a rural issue are now facing this reality.

Municipalities can no longer depend on provincial and federal regulations to protect wetlands, rivers and watersheds. In the last two years these protections have been withdrawn or weakened at both the federal and provincial level. The lesson is clear: **municipalities will have to protect themselves!**



Calgary, Alberta (left), allows drillings in residential areas as does Baldwin Hills (below), a residential area near Los Angeles



It is important to pass municipal legislation to give your constituents as much protection as possible.

It is equally important to push for a provincial ban or moratorium to guarantee that protection.