

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 8

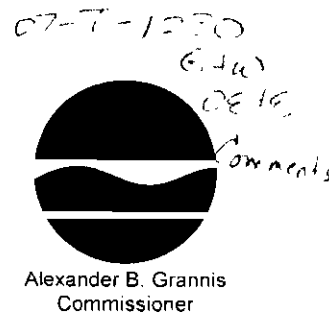
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EXECUTIVE

2007 OCT 18 PM 2:25



October 15, 2007

Honorable Jaclyn A. Brillong
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Attention: Mr. John Strub

Re: Article 7 Project Review

Notice of Intent to Construct a Natural Gas Pipeline

Construct 3,780 ft of 4-inch steel coated pipeline to gather natural gas from the Cotton-Hanlon #2 Well (API #31-015-23987-00) and connect to Columbia A5 12-inch pipeline

Fortuna Energy Inc.

(T) Van Etten, Chemung Co. & (T) Spencer & (T) Barton, Tioga Co.

Dear Mr. Strub:

On October 11, 2007, the Region 8 office of the NYS Department of Environmental Conservation (DEC) received a copy of Fortuna Energy Inc.'s Notice of Intent to Construct a Natural Gas Pipeline for the above-referenced project.

The following includes our office's review comments on this project:

1. The project will not affect any NYS protected streams [Stream Classifications of C(T) or above] or regulated NYS Freshwater Wetlands or their regulated adjacent areas. Therefore there will be no requirement for the project to comply with the intent of the regulatory requirements found at Article 15 of the Environmental Conservation Law (ECL) / 6NYCRR Part 608 (Protection of Waters) and at Article 24 of the ECL / 6NYCRR Part 663 (Freshwater Wetlands).
2. The information provided with the Notice of Intent indicates that the proposed pipeline will cross one un-named creek. This creek has a stream classification of Class C in the New York State Stream Classification.

The Notice of Intent indicates that pipe construction across this water channel will be open cut per Environmental Management and Construction Standards and Practices Plan (EM&CS&P) specifications.

Measures should be employed which will ensure that disturbed areas are returned to original grade and that a well-developed vegetation cover becomes established on disturbed soil areas.

Erosion and sediment control techniques must be employed so that pipeline construction activities located in or near the stream channel will not result in a violation of the NYS water quality standards for Class C waterbodies.

3. We have reviewed the available information in the New York Natural Heritage Program databases on known occurrences of rare or state-listed animals and plants, of significant natural communities, and other significant habitats. No occurrences were found in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the results reported here only include records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

The NYS Natural Heritage Program databases do not include Federally-listed or proposed endangered or threatened species. For this information, we suggest that you contact the U.S. Department of the Interior's Fish and Wildlife Service, located at 3817 Luker Road, Cortland NY 13045 (607) 753-9334.

4. As this is a natural gas production related project, coverage under DEC's SPDES General Permit for Stormwater Discharges from Construction Activities (GP 02-01) will need to be obtained if the project will result in disturbance of more than 5 acres of soil. To obtain coverage under the General Permit, all conditions of the permit must be met, including the preparation and implementation of an appropriate Stormwater Pollution Prevention Plan (SWPPP), which will be implemented for the project and the filing of a Notice of Intent (NOI) with DEC. The General Permit, information on filing the NOI and other stormwater related information, such as technical assistance tools, can be accessed through the DEC's stormwater webpage at <http://www.dec.ny.gov/chemical/8468.html>.
5. Based on information available on DEC's GIS database from the NYS Archaeological Site Map maintained by the State Historic Preservation Office of the NYS Office of Parks, Recreation, & Historic Preservation (NYS OPRHP), the project location is not located within an archaeologically sensitive area.
6. The Notice of Intent indicates that in addition to no State regulated wetlands, no other wetland areas were identified during a field review on October 4, 2007. If a Corps permit is required, the Corps may request a determination (Water Quality Certification, pursuant to Section 401 of the federal Clean Water Act) that discharges from the proposed activities, for which an applicant is seeking a Corps permit approval, will comply with the applicable effluent limitations, water quality standards, and any other applicable conditions of New York State law. The New York State Public Service Commission has the jurisdiction to issue or deny a Section 401 Water

Cotton-Hanlon # 2 Well - Gathering Pipeline
Fortuna Energy Inc.

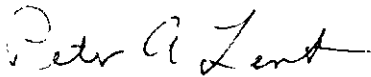
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October 15, 2007

Quality Certification for projects that are subject to Article VII of the Public Service Law.
Fortuna Energy Inc. has included a request for a Water Quality Certification, if one is required,
from the New York State Public Service Commission in their Notice of Intent submission.

If you have any questions regarding these comments, please contact me at 585-226-5390.

Sincerely,



Peter A. Lent
Regional Permit Administrator

cc: Mr. Eric Haskins, Fortuna Energy, Inc.
Mr. John Feltman, NYSDEC- Region 7, Regional Permit Administrator
U.S. Army Corps of Engineers, Buffalo District Office