Marcellus Shale Update: Pacific Dreams & Nightmares

June 3, 2019

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By a vote of 17-11, the Oregon State Senate last week passed a five-year moratorium on fracking in that State. The Senate bill cut in half a 10-year moratorium passed in March by the Oregon House of Representatives, but the House is expected to quickly agree to the Senate version. Then the bill will be passed along to Governor Kate Brown, who is likely to sign it.

The fracking moratorium comes on the heels of the Oregon Department of Environmental Quality's rejection of Section 401 Clean Water Certifications for the Jordan Cove Pipeline, which would have transported gas and oil to a terminus on Coos Bay in economically depressed Southwestern Oregon. Currently there are no fracking operations in Oregon. The proposed moratorium and the DEQ decision, however, put Oregon clearly in the camp of states that stake out an environmentalist position, with future consequences to be seen.

North of Oregon, across the Canadian border, the province of British Columbia lost a ruling issued by the Provincial Court of Appeals where the Court said that the BC government could not stop the Mountain West Pipeline from Edmonton, Alberta to Burnaby, BC, north of Vancouver. Long time readers of this blog will remember that last year two Canadian provinces, Alberta and British Columbia, almost had a trade war over BC's attempts to stop the pipeline.

What BC did accomplish was forcing out the pipeline developer, Kinder Morgan, and requiring the Canadian Federal Government to take over the project. That Canadian Federal involvement was the main reason the BC Court of Appeals rejected BC's latest attempt to stop Trans Mountain. The Court ruled that the Province did not have the power to stop what now is a Federal enterprise.

Given the Section 401 Certification situation in Oregon, which we have seen repeated elsewhere in the United States, such as New York's recent rejection of the Northeast Supply Enhancement Pipeline, it bears asking the question of whether this will be the model that we will have to follow in this country to get interstate pipelines built at all? Will the US Government actually have to build the pipelines itself and fight out Federal-State constitutional issues every time we need to build a pipeline somewhere?

All along the North American West Coast, states and provinces are moving against what they perceive as "dirty" energy. But as they move against oil and natural gas (although don't ask BC about coal, which the Province still hypocritically produces and exports in massive quantities), the West Coast needs viable energy sources to replace them. That part of the equation remains lacking.

What the West has now is large quantities of wishful thinking and good intentions, but no sensible, practical or economically viable energy policy. This is true especially in the short term, as Westerners assume that, eventually, so-called green energy will be sufficiently widespread to actually fill projected needs.

Left Coast residents should take heed. Laws that appear good in the abstract can be devastating when put into actual practice. Good intentions are never sufficient to make up for lost services that are essential to human life and economic well-being.

If Oregon goes ahead with its fracking moratorium and bans Jordan Cove, it will need to ensure that it has energy sources ten years in the future. Does it have a plan for this? If so, the Oregon public has a right to know what it is. If that plan calls for large amounts of "renewables", the public should ask itself how that power gets stored and transmitted. Will Oregon need massive new investment in huge batteries to store solar energy that cannot be produced at night or power lines to move wind power from the wilderness (where it is typically generated) to populated areas where it is most needed? If that's the case, what type of power lines will Oregon need? Are they the same type that just was shown to have caused California's deadly and destructive wild fires last year? If large batteries are needed, does this battery storage technology even exist to handle all that would be needed if there were no fossil fuels? Technologically, can any of this actually be done – at least in 2019 - 2029? If not, what official in Kate Brown's Administration gets to tell the good citizens of Portland, Eugene and Medford that there will be no heat during the winter?

ATTORNEYS MENTIONED

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