

2 May 2012

Natural gas storage facility in Bergermeer can go ahead

In a judgment delivered today (2 May 2012), the Administrative Jurisdiction Division of the Council of State upheld the central government's land-use plan for a natural gas storage facility in the Bergermeer area. The Minister of Economic Affairs, Agriculture and Innovation and the Minister of Infrastructure and the Environment adopted the plan, which would enable gas to be stored at the location (west of Alkmaar), at the end of April 2011. A large number of permits were then issued to implement the plan. The non-profit bodies Stichting Gasalarm2, Stichting Ondergrondse Opslag Bergermeer and Friends of the Earth Netherlands, the municipality of Bergen and a number of private parties had asked the Council of State to set aside the land-use plan and associated permits. No appeal lies from a Council of State ruling.

The opponents of the storage facility argued that not enough research had been done into the risk of earthquakes occurring as a result of underground gas storage. They asserted that the various studies done differed on this point and underestimated the damage likely to be caused by an earthquake. In addition, these parties feared noise nuisance and questioned the safety of the wells. The Council of State declared all the objections to the plan and the permits unfounded.

The Council of State held that the issue of underground gas storage remains unclear and uncertain in some respects, but that this does not mean that the ministers should have decided not to go ahead with the land-use plan. Although experts could not give a realistic estimate of the risk of an earthquake, the chance was in any event considered no greater than that already incurred by extracting gas at the same location. Experts believe that the magnitude of an earthquake would not exceed 3.9 on the Richter scale; moreover, the chance of a quake of that magnitude is extremely small. On the basis of this research, the ministers could reasonably have concluded that storing gas at the Bergermeer location was an acceptable option. In view of the interests involved in the project, this also applies to any damage that might result from an earthquake.

The Council of State also declared inadmissible an application for review lodged by the municipality of Bergen. The project falls under the Crisis and Recovery Act, which states that authorities may not engage in legal proceedings against each other's decisions. The municipality could not therefore lodge an application for review of the land-use plan and associated permits.

The plan makes it possible to store gas in the empty gas field at Bergermeer. For this purpose a new gas treatment and compression facility will be built, 14 new natural gas wells drilled and pipelines laid. The storage plan (which forms part of the land-use plan) stipulates that maximum pressure in the gas reservoir will be limited to 133 bar. Taqa Energy B.V. wants to store gas underground at the Bergermeer location for delivery at a later date. Gas extraction at the location ended in 2003.

NOTE FOR EDITORS

The full text of the judgment (case number 201105967/1) can be found on the Council of State's website: www.raadvanstate.nl.

See also case number 201012602/1 which concerns the decision of the then Minister of Economic Affairs in July 2010 to allow the pressure at the Bergermeer location to be raised from 35 bar to a maximum of 80 bar. The Minister agreed to this measure pending the implementation of the central government land-use plan.

For more information about the judgment and/or the proceedings, please contact Wendy van der Sluijs, press officer for the Council of State, on +31 (0)70 426 4812 or +31 (0)6 23 31 75 06.

The Administrative Jurisdiction Division of the Council of State is the highest general administrative court of the Netherlands. Part of its remit is to adjudicate in disputes under the Spatial Planning Act.