

Gas extraction in Groningen temporarily limited to 27 billion cubic metres

NAM is temporarily limited to extracting a maximum of 27 billion cubic metres of gas from the Groningen field. This may be raised to a total maximum of 33 billion cubic metres only if the 2015-2016 gas year proves to be relatively cold. In addition, the temporary suspension of gas extraction in and around Loppersum will remain in force. This was the ruling given by the Council of State's Administrative Jurisdiction Division today (18 November 2015).

Minister's decisions set aside

The Administrative Jurisdiction Division has set aside the Minister of Economic Affairs' decision of January 2015 approving extraction and his amendment decision of June 2015. The Minister will now have to make a new decision on whether gas extraction will be limited to less than the 33 billion cubic metres he permitted in June 2015. More than 40 of those who had lodged objections to the decisions – including the Groningen provincial executive, various municipalities in Groningen, two water authorities, the Groningen safety region and a number of private individuals – filed applications for judicial review. The Administrative Jurisdiction Division's ruling in the judicial review proceedings cannot be appealed.

Studies

The Minister based his decision of June 2015 on the many studies into the seismic threat as a result of gas extraction and the risks associated with it. The Administrative Jurisdiction Division has ruled that the Minister was entitled to make the decision he did on the basis of the studies available to him at that time. There is no indication that the Minister was biased in making his decision, or that he allowed himself to be influenced by personal interests or preferences, the highest administrative court said.

Risks

However, in view of all the information available, the Minister should have explained more clearly why the limitation on gas extraction could not be set at less than 33 billion cubic metres. After all, the studies on which his decision was based concluded that less gas extraction would mean a lower seismic risk. And, although fundamental rights do not require that activities entailing risks be ruled out entirely, when weighing the interests involved the Minister must show that 'necessary precautions' have been taken, given the seriousness and nature of the consequences of gas extraction. When weighing the interests, the Minister incorrectly assumed that the risks in the area affected by earthquakes were comparable to the risks in parts of the river delta; whereas the risk calculations suggested that the risks in the area affected by earthquakes were greater. And, although the Minister was entitled to attach great importance to the security of supply, he permitted a higher level of extraction

than the average that is required. The Minister should have explained more clearly why he based the maximum level of extraction on a relatively cold year. This meant that, in less cold years, more gas would be extracted than was necessary for the security of supply.

New decision

The setting aside of the Minister's decisions could allow NAM to extract unrestricted amounts of gas with no time limit, putting the objectors in a worse position than they would have been in had the decisions continued to apply. Accordingly, in its ruling the Administrative Jurisdiction Division has taken some 'interim relief' measures, which will apply until six weeks after the Minister has taken a new decision. They include limiting maximum gas extraction to 27 billion cubic metres, since the Minister's studies showed that this would be sufficient in an average year in terms of temperature. Should it turn out to be a relatively cold year, the maximum gas extraction can be raised to 33 billion cubic metres.

Finally, the Administrative Jurisdiction Division has determined that the temporary ban on gas extraction in and around Loppersum will continue, unless extraction is deemed necessary for the security of supply.

Gas extraction

NAM has been extracting gas from the Groningen field since 1963. Gas extraction takes place in four regions – Loppersum, South West, Eemskanaal and East – almost all of which incorporate multiple production locations. In January 2015 the Minister of Economic Affairs decided that total gas extraction from the Groningen field would be reduced from 42.5 billion cubic metres (in 2014) to 39.4 billion cubic metres in 2015. In June 2015 he decided that a maximum of 33 billion cubic metres of gas could be extracted in the 2015-2016 gas year.