



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
SENATE MAJORITY POLICY COMMITTEE**

ON

LOCAL IMPACT OF MARCELLUS SHALE DRILLING

PRESENTED BY

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Chairman Erickson and members of the Senate Majority Policy Committee:

Good afternoon. My name is David M. Sanko, executive director for the Pennsylvania State Association of Township Supervisors. We are a non-profit and non-partisan association appearing before you today on behalf of the 1,455 townships in Pennsylvania that we represent. Thank you for this opportunity to participate today on this issue that is so important to our members.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.4 million Pennsylvanians — nearly 42 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 70,000 residents.

Pennsylvania is sitting on the second largest energy field in the world with the addition of Marcellus and Utica Shale gas, which impacts 55 counties ranging from Greene to Wayne. Townships throughout this region are facing the impact of natural gas well drilling like never before. While the natural resource in this area is economically benefitting many communities, drilling comes with both positive and negative impacts on townships and their residents.

PSATS supports these economic opportunities, but they must be conducted in an environmentally responsible manner and the negative impacts, both environmental and community-based, must be mitigated to the maximum extent possible.

Growth and planning: The sudden growth of the industry across the Marcellus Shale region was not an activity that communities had planned for, even those with the best, most up-to-date comprehensive plans. As such, many areas of the state went from very little or even no growth to very rapid growth as the value of this resource was realized. The end result is that communities are playing catch-up in trying to figure out what needs to be done to plan for a future that few had envisioned just five years ago.

An additional challenge has been how to properly zone for the industry. While the Oil and Gas Act has long exempted the industry from local regulations on operations, townships do maintain the ability to regulate the location of gas wells through the land development process. Recently, the PA Supreme Court upheld a municipality's authority to impose reasonable zoning regulations upon oil and gas well exploration, drilling and development as authorized in the Municipalities Planning Code and the Flood Plain Management Act.

To help our members meet this challenge, PSATS has developed a model ordinance with commonsense regulations. The model is meant to allow the timely continuation of exploration while maintaining local control over reasonable health, safety, and quality of life in the community. Key issues include buffers, emergency preparedness, and noise and lighting guidance to decrease the impacts of the industry while staying within the constraints identified by the courts.

We have partnered with the other local government associations, the industry, and environmental groups to establish some commonsense baselines. As an example, the only place we suggest is not a “use by right” is in a residential area. We encourage our members to adopt commonsense as opposed to overly restrictive prohibitions that will result in costly, and ultimately futile, litigation at great cost to residents and taxpayers, as well as the industry and consumers.

A related issue is how to preserve a community’s character so that residents want to remain in the community with the rapid growth and changes that will occur as a result of the drilling activity.

Transportation: The most visible and immediate concern of township officials is damage to roads caused by heavy truck traffic. Prior to the current drilling activity, traffic on rural roads was light with little heavy hauling other than loggers and milk trucks and in some regions, coal. Today, drilling-related truck traffic has had, and will continue to have, a major impact on municipalities within this region. Truck traffic affects not only those municipalities hosting well sites, but also those that serve as an access route to the well drilling site. And pipeline construction activity is only just beginning.

Gas well drilling requires transporting significantly overweight and oversized equipment and materials, including hundreds of water-filled tanker trucks for fracking, stone trucks for site development, and pipe trucks for the actual drilling. Much of the drilling is taking place in mountainous and rural areas with access limited to low-volume roads that were not designed to withstand the punishment from the overweight and oversize vehicles now frequenting them. In many cases, these rural roads – both local and state – are significantly damaged with total reconstruction often required.

Please note that in many cases gas well companies are working closely with the municipality to promptly rebuild damaged or destroyed roads. However, in some cases, non-state certified materials are being used and it remains to be seen how these materials will wear. In addition, the speed at which the work is being done has not allowed for adequate drainage and stormwater planning, and that raises concerns.

PSATS encourages its members to post and bond its roads and to work closely with the industry. Doing so ensures that the entity damaging the roads pays for the damage, particularly if an excess maintenance agreement is used as the permit instrument. However, if the well driller or hauler fails to make repairs to the road, the township must pull the bond, which is limited by regulation to a maximum of \$12,500 for a paved road, while the cost to reconstruct a mile of road can easily approach \$100,000. While some in the industry are more generous and have been working with the townships, residents could be left to foot these costs.

While many in the industry are working with their communities to ensure that road repairs are made, we urge the state Department of Transportation to increase the bonding amounts now to bring these figures into line with current costs for road and bridge repair and reconstruction. It is worth noting that the drilling companies do have an

incentive to work with the municipalities to rebuild roads at this time: they need the roads to be in good condition so that supplies can be delivered and drilling can continue. However, what will our roads look like in the future, after a couple of Pennsylvania winters, and once drilling is complete and the companies no longer need our roads to be in good condition?

An additional transportation challenge continues to be communication between the industry and townships regarding when construction will begin on a new site and when the community can expect truck traffic to significantly increase. In some cases, the first notice that the township receives is to wake up to a caravan of water trucks barreling down a formerly quiet country road. Prior notification gives townships the ability to prepare for this influx.

Finally, township officials have also reported concerns over increased commuting times for residents and traffic accidents due to the additional traffic volume. Further, response times for public safety activities will be affected.

Environmental issues: In western Pennsylvania in particular, we can see the scars that remain from the extraction or harvesting of our natural resources, including coal and wood. Once a healthy environment is damaged, it can take decades, if not centuries, to recover.

Contamination of local water supplies is a major concern because most of the residents in these rural areas rely on well water. We have already seen a situation in Dimock Township, Susquehanna County where the driller was fined by DEP for polluting local wells with methane that escaped from natural gas wells. While the drilling company is liable for providing clean water in this situation, ultimately the municipality will bear the responsibility for permanently operating a new water treatment plant.

Affected communities are concerned because modern drilling techniques use very large quantities of water, which is treated with industrial chemicals. The resulting wastewater is difficult to treat and highly toxic to aquatic life due to its high salinity. In fact, current wastewater treatment capacity for this waste product is insufficient as few specialized wastewater treatment plants hold the necessary permits to treat millions of gallons of industrial wastewater. Without treatment, these water withdrawals may not be returned to our aquifers, which could impede an adequate water supply for our residents.

We commend the companies that are reducing their need for water withdrawals by recycling water in their drilling process. These are responsible actions that will reduce negative impacts on the community.

Public safety: Townships in the Marcellus Shale region have reported increased minor crime in their communities, specifically DUI citations and altercations. Municipalities that did not have their own police department or a need for one are now contracting with neighboring communities to provide police service and others are looking to for ways to fund their own department. Other townships that provide police

protection have had to increase the size of their departments. Keep in mind that police services are a major expense for townships.

Emergency services: We know of a well fire that occurred in Clinton County and that a major blowout took place last summer in Clearfield County. Clearly, counties and municipalities need to plan for gas well fires and incidents involving hazardous materials that are part of the drilling process. Most volunteer fire departments do not have the capacity or expertise to fight well fires and coordination with the industry is needed so that first responders have the appropriate emergency contacts and can be prepared to properly respond to gas well incidents. We understand that drillers will provide the specialized response for well fires, but the first responders need to know what to do, and what not to do, until the specialists arrive.

There are also increased costs as additional equipment and gear may be needed to properly respond to gas well and line incidents, as well as training costs for first responders.

Pipelines: Over the last year, we have had increasing reports of planned gathering lines needed to transport natural gas to market. In many cases, the industry would like to place the gathering lines along township roads rather than try to secure the necessary easements through private property and usually the owner is willing to pay something for the ability to place these non-utility lines within the right-of-way. To avoid future problems, we believe that there is a need for oversight of these lines by either the Pennsylvania Public Utility Commission or the U.S. Department of Transportation to ensure that they are installed according to best practices, including burying lines at a depth sufficient to avoid damage from routine maintenance activities.

Similar to utility gas lines and transmission lines, owners of gathering lines should be required to communicate the location and depth of their pipelines with local officials and emergency responders, for both planning and emergency response purposes, as well as to help assure that emergency responders have the necessary training and equipment to properly respond to emergencies.

Housing: Townships in areas where a significant amount of drilling is underway have reported an increase in housing prices, specifically the costs to rent apartments and homes. In some cases, long-time Pennsylvania residents are having a difficult time affording the new rents. Some communities have reported housing shortages as a majority of rental properties are occupied by out-of-town workers, leaving few properties available for residents.

Economic development: In some areas, vacant commercial and industrial sites, even brownfields, have been put to use by the industry or the many businesses providing support for it. This secondary economic development provides jobs as well as tax dollars for the community.

Taxes: What has changed little since the Marcellus play began is the tax revenue received in the communities affected by natural gas drilling. Other than the local services tax for employees primarily employed in a particular municipality and property taxes on any physical support facilities, the industry is contributing next to nothing to the host communities. In fact, many industry employees are out-of-state residents and therefore are not subject to the local earned income tax.

While other natural resources in Pennsylvania are assessed as real estate and subject to the property tax, including coal deposits, natural gas and coal bed methane reserves have been exempt since 2002, when the Pennsylvania Supreme Court ruled in *Independent Oil and Gas Association of Pennsylvania v. the Board of Assessment Appeals of Fayette County* that assessing and levying property taxes on oil and gas wells was not explicitly authorized under the law. As such, municipalities are not receiving any property tax revenues from these reserves nor from the value of the extracted gas.

As noted in a 2009 analysis by Professor Timothy Kelsey with Penn State Cooperative Extension, both lease and royalty income are exempt from the local income tax in Pennsylvania. In addition, except for Allegheny County and Philadelphia, Pennsylvania's local governments do not receive any revenues from the sales tax. Unless a local government directly leases land for a gas well or receives some payment for gathering lines placed in its right-of-way, it will see little, if any, revenue from the industry.

As such, the Association supports a severance tax or fee structure on natural gas, provided that at least 30 percent of this revenue comes back to the local governments that are affected by the activity. We believe that a natural gas severance tax is not a tax *on* Pennsylvanians, but rather a tax *for* Pennsylvanians that will result in property tax relief. In fact, such a tax would not increase the cost of gas to consumers in Pennsylvania, because we are already paying such taxes on gas imported from other states. Instead, a severance tax would make sure that out-of-state customers are paying the tax to benefit the communities in Pennsylvania where the extraction is taking place. A severance tax, properly levied, is simply a responsible way to do business in the commonwealth and levels the playing field for Pennsylvania consumers.

Thank you for the opportunity to comment today on this issue that is of such importance to townships across the state.