



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

**BEFORE THE
SENATE MAJORITY POLICY COMMITTEE**

ON

MARCELLUS SHALE EXPLORATION ISSUES

PRESENTED BY

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Chairman Corman and members of the Senate Republican Policy Committee:

Good afternoon. My name is Elam M. Herr, and I am the Assistant Executive Director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,455 townships in Pennsylvania represented by the Association. We appreciate this opportunity to participate on the local government panel regarding the Marcellus Shale drilling issue.

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.

The Marcellus Shale impacts a major portion of Pennsylvania, from Greene County to Wayne County and townships across the commonwealth are facing the impacts of oil and gas well drilling like never before. While oil and gas has the potential to economically benefit many communities, drilling is not without an impact on townships and their residents.

Over the past year, we've heard numerous concerns from our members about oil and gas well drilling. The Association has been working to educate township officials about how drillers are regulated and about what townships can and can't do to protect their communities. Below is a summary of the major concerns that we have heard from township officials:

Damage to roads/road bonding – By far, the number one concern of townships is damage to their roads from drillers. Gas well drilling requires transporting very heavy equipment and materials, including hundreds of tanker trucks filled with water. Most of the drilling is taking place in rural areas with roads that were simply not built to withstand the punishment from these vehicles.

PSATS encourages its members to post and bond its roads. Doing so ensures that the entity damaging the roads pays for the damage. The problem is that the maximum bonding rates have not been changes in 30 years and the cost of repairing damaged roads far exceeds the bond. When these roads are damaged, it is not simply surface damage. Instead, the very foundations of the road are damaged and total reconstruction is often required. While the maximum bond for a paved road is \$12,000 per linear mile, the cost to reconstruct a road can easily exceed \$100,000. While some haulers are more generous, residents are often left to foot a significant part of the cost to repair the damage.

While many haulers are now working with their communities to voluntarily provide additional funding for road repair, 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.

Lack of notice of permit approval – Under current law, townships are not notified by the state Department of Transportation when a permit is issued for a new gas well. Instead, the first notice many townships receive is when a caravan of heavy trucks suddenly appears in their township.

While DEP does provide eNotices through their Web site, these notices are only received if an individual registers for the notices. We have promoted the site to our members, but would encourage DEP to provide direct notice to the municipality and county in which the permit was issued.

Water well contamination/environmental damage – Township officials are concerned with the possible environmental damage from gas well drilling. In most rural areas, water is supplied through private wells. Residents are concerned about contamination from drilling and township officials are concerned about what happens if these private wells are destroyed. While we understand that the driller has a responsibility to provide water if they damage a well, we wonder what will happen if a water table is destroyed and water must be provided to residents over the long term.

Treatment of wastewater – Modern drilling techniques use very large quantities of water. Currently, wastewater treatment capacity for this waste product is insufficient. It is our understanding that few wastewater treatment plants hold the necessary permits to process this material. Capacity needs to be provided and other potential uses for gas well brine should be explored. We understand that this waste material may be used for dust suppression on dirt and gravel roads. However, are other uses available for this waste product, such as a possible winter maintenance use?

Emergency management – We know of one well fire that occurred in Clinton County. Clearly, counties and municipalities need to plan for this type of incident. However, most volunteer fire departments do not have the capacity or expertise to fight well fires. Will drillers be required to provide for specialized response for well fires? Or will volunteer fire departments and their communities be left to fight the fires on their own?

Exemption of oil and gas reserves from property tax assessment – As CCAP will explain, a recent court ruling determined that oil and gas reserves are not assessable for property tax. This is a special treatment that no other mineral right receives. We believe that these mineral rights should be taxable based upon the value of the lease. Otherwise, these rights, which have clear value, are unfairly exempted from local property taxes.

Exemption from zoning – Presently before the Pennsylvania Supreme Court are two 2007 Commonwealth Court decisions, which ruled that municipalities cannot regulate the location of a gas well through a conditional use permit or through the land development process. Unlike every other use that must go through local land use processes, oil and gas well drilling is exempted. Essentially, local governments have no control over where drills are located. Should these wells sites be placed in the middle of a

densely populated residential area? We believe that local government should have a reasonable oversight of the location of these wells.

PSATS is actively educating our members about what they can – and can't do – to protect their infrastructure and communities from the hazards of oil and gas well drilling. We've attached articles from the June and November 2008 issues of *The Pennsylvania Township News*, PSATS' monthly magazine. As you can see, we encourage our members to post and bond their roads and to establish channels of communication with drillers.

The General Assembly can take several actions to help communities better manage their infrastructure and face the influx of oil and gas well drilling in the Marcellus Shale region. We believe that the following actions would cost the Commonwealth little, if anything, but would create a major benefit for townships across the state. These changes include:

- ♦ Require DEP to provide notice to municipalities and counties when a permit has been issued. This does not have to be anything fancy, just an automatic notice in the mail would be beneficial. We realize that DEP does provide the eNotice service and have promoted this to our members, but many automatic e-mails end up in junk bins or are refused and there are municipalities in rural areas that do not have e-mail.
- ♦ Require PennDOT to increase the maximum road bonding amounts. Road bonding allows municipalities to protect their infrastructure from damage caused by overweight vehicles. However, the maximum bonding amounts of \$6,000 per mile for unpaved roads and \$12,000 per mile for paved roads have not increased in 30 years. These amounts do not begin to cover townships' costs when the rate to reconstruct a mile of two-lane highway is between \$85,000 and \$110,000.
- ♦ Increase the required advertising and bidding amount from \$10,000 to \$25,000 and include an annual cost of living increase. Anymore, few road-related purchases are less than \$10,000 and advertisements for these bids can cost hundreds of dollars. Also, many townships are buying more than \$10,000 in fuel for the first time thanks to escalating prices. Adjusting the bid limits will provide some much-needed financial relief for municipalities.
- ♦ Enact legislation to authorize the assessment of oil and gas deposits as taxable real estate, much like coal, limestone, and all other minerals. This change would allow municipalities, school districts, and counties to levy property taxes on the assessed value of these mineral rights and restore fairness to our property tax system.
- ♦ Adopt legislation to amend Section 602 of the Oil and Gas Act (*Act 223 of 1984, as amended*) to permit municipalities to adopt and enforce zoning regulations for oil and gas well locations and setbacks pursuant to the Pennsylvania Municipalities Planning Code (*Act 247 of 1968, as amended*). We are not asking to regulate drilling, which would duplicate state regulations, but to have oversight of well locations, like other uses.

Thank you for this opportunity today to speak about an issue that is affecting many of our members across the commonwealth. I would be happy to attempt to answer any questions that you may have at this time.