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44TH LEGISLATIVE DISTRICT**

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House of Representatives
Commonwealth of Pennsylvania
Harrisburg

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January 18, 2012

The Hon. Sam Smith
Speaker
Pennsylvania House of Representatives
Room 139 Main Capitol
Harrisburg, PA 17120

The Hon. Mike Turzai
Majority Leader
Republican Caucus
Room 110 Main Capitol
Harrisburg, PA 17120

Dear Speaker Smith and Leader Turzai:

During the past month's holiday recess, I took an opportunity to meet with local elected officials and managers of my legislative district to discuss the Marcellus Shale legislation. I also met with elected officials from communities bordering my legislative district. I refer to those communities I represent and the surrounding areas as transitional communities.

Approximately 40 years ago, most of these communities were primarily farm land. Today, these areas would primarily be considered as suburbs, but some have retained significant rural aspects. Over the past 40 years, these municipalities have utilized comprehensive planning and zoning to create communities that have become very desirable in which to live. Evidence of this is the fact that, in the recent redistricting, I had to reduce my district by 8000 in population because of the growth in these very desirable communities.

It is my opinion after having these discussions and taking into consideration the significant planning that has been done over the years that the Marcellus Shale/Fracking Gas Extraction was not contemplated at all over these decades of planning.

It has been said that this Marcellus Shale Industry is a game changer in US Energy Policy and Pennsylvania jobs. Marcellus can also be a game changer

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for municipalities that have invested millions in planning and zoning over these past decades. Unfortunately, that game changer might have a negative impact. I equate this to a personnel situation in my business. An employee that 99% of the time does a good job but that 1% was so bad that it negated the other 99% and forced me to terminate the individual.

I have attached a list of concerns and comments that I feel need to be addressed in this legislation. It is apparent to me that the chance of drilling near a home or school in Tioga County is less because the drilling company has much more open land to put the well pad. That same scenario does not exist in my district and thus has created a significant impact on these communities.

With that being said, I would like to encourage the final legislation to address the concerns of my constituents and thus enable me to vote yes for a compromise.

Sincerely,



Mark Mustio
44th Legislative District

MM:jmm

Enclosures

Issues that need addressed by any Gas legislation

1. **Well Pad Density**
 - a. Maximum of 2 well pads per 1600 acres
 - b. Distance of 5000' between pads
2. **Set Backs**
 - a. Distance from occupied structures to the well head of 2000'
 - b. Limits of disturbance 1000' from occupied structure to 500' from property line.
 - c. Distance requirements can be waived by the structure owner.
 - d. Set back from property line of any non-leased parcel of 500' for horizontal drilling activity.
3. Increase presumed liability for water well contamination or loss to 4000' and require a permanent water replacement.
4. **Split Estates**
 - a. Maximum surface disturbance when split estate is involved 10% of surface area unless waived by the surface owner.
 - b. After drilling operations are complete, maximum 5% surface area for completed well heads and tanks.
 - c. Surface area of a split estate cannot be used to drill or access adjoining parcels unless waived by the surface owner
5. **Well and Drilling Features**
 - a. Well pads should be allowed to remain in place for future use provided property owner grants permission. All storm water, grading, stabilization requirement and local requirements are met.
 - b. Fresh water ponds that use a synthetic liner must be removed when drilling is complete and liner must be removed and disposed of in an approved landfill.
 - c. No frac ponds should be permitted at any time. All flow-back must be captured and stored in sealed containers for disposal by using best available practices.
 - d. Additional requirements on vapor control during fracking and flaring can be patterned after Fort Worth, Texas regulations.
 - e. There should be no emissions from completed well sites. All condensate tanks should incorporate vapor recovery units or best available technology and be updated bi-annually.
6. **Midstream Facilities**
 - a. Whenever possible, public right-of ways must be used for transportation of gas (pipeline) to compressors and processing facilities. When it is not possible to use public easements, private easements can be used, location to be approved by local and/or county government and must conform to the regional comprehensive plan.
 - b. Industry must share infrastructure and easements and limit duplication of transmission lines, compressors and processing facilities.

- c. Compressors and compressor stations are not permitted to be used to process, separate, or treat natural gas only to move natural gas along transmission lines. Setbacks – 2000' from occupied structures; 1000' from occupied structures in commercial areas; 500' from occupied structures in industrial areas; 500' from any property line. A property or protected structure owner may waive the setback requirements.

7. Additional Issues for Discussion

- a. County and local government must identify and develop a regional comprehensive plan to provide for reasonable drilling areas, infrastructure routes, compressor site locations and processing facility locations within the comprehensive plan area. Plan should represent a logical use of surface areas with minimal surface disturbance and consideration of future land development.
- b. Forced industry pooling should be required at the state level-i.e. minimum amount of surface areas for drilling activity.
- c. Local governments can retain control over features of drilling, midstream, and processing which are not pre-empted by legislation. Such as noise, odor or location of facilities.
- d. Conditional use application cannot from the date of application to the decision date be longer than 100 days.

The following requirements have come from information the industry has provided. Most of the density requirements have been increased to further accommodate the industry.

1. Well pad density – 1 pad per 1600 acres -- proposed 2 pads per 1600 acres.
2. Distance between pads 10,000 feet – proposed 5000 feet between pads.

A waiver could be incorporated into legislation allowing local or county government to waive density requirements under certain conditions. Example – In an urban or suburban community an operator could concentrate gas production in a certain accessible area and have no surface activity in other leased areas. This would allow local governments to use comprehensive land development planning to concentrate drilling activity in certain areas while still allowing drillers to reach (through horizontal drilling) the entire community.

The setbacks are typically what we have seen in our township. Property owners are free to waive the setbacks. With industry being able to drill 7000-8000 feet horizontally, increased setbacks should not be an issue. Given the scope of the drilling process, if the state forces reduced setbacks on property owners, it could significantly erode commercial and residential land values and inhibit future development.

Split estate issue – most of our communities have large areas where the owners of gas rights and surface rights are not the same. With the advances in horizontal drilling and the size of drilling operations, the split estate issue must be addressed. Surface owners could suffer significant financial loss and future development areas in communities could be jeopardized unless this issue is addressed. Gas and Oil Act should be updated to include split estate legislation for all gas & oil extraction, conventional wells also.

Well drilling features – Frac ponds are unneeded and we currently have drilling taking place with no frac ponds. Frac ponds are the primary source of water and air contamination. By eliminating frac ponds, the state would eliminate a significant portion of the problems associated with fracking.

Currently the DEP allows liners to be buried on site creating brown fields.

Texas has regulations that we can use as a model for well operations.

Seismic testing has to be regulated at the local level because of extensive mining in Western PA. Only local government should be able to permit seismic testing in certain areas.

By requiring local and county governments on a regional scale to adopt a comprehensive plan to allow drilling, midstream facilities and infrastructure, zoning at the state level becomes unnecessary. If the state sets the density requirements, setbacks, and use of public easements, the local governments will have to work out the details of how to accommodate the industry.

The impact fee should be a separate issue and addressed separately. One good use of the impact fee is regional planning for shale activity.

There are many government officials in Western PA willing to discuss and work on the issue of a reasonable impact fee and what it should be used for and how it should be distributed.

Local governments are willing to work with and assist our state government with crafting good workable legislation to accommodate the industry and protect Pennsylvania communities.

Township	Residential	Non-Residential	Special Use
Aleppo	600 ft from a building or structure, at least 200 feet from property line where owners are not party to the oil and gas development	600ft from building or structure, at least 200 feet from property line where owners are not party to the oil and gas development	At least 150ft from watercourse or wetland
Collier	300 feet	1000ft of School/day care center, 100 feet from a cemetery, 100 feet outside the right of way of a public street.	No mineral removal permitted within 300ft of panhandle trail
Findlay	1000 feet from protected structure	1000 feet from protected structure	
North Fayette	wells cannot be drilled within 200 ft measured horizontally from and existing building or existing water well without written consent.	wells cannot be drilled within 200 ft measured horizontally from and existing building or existing water well without written consent.	no well site ma be within 100 ft measured horizontally from any stream, spring, or body of water as identified on the most current 7.5 minute topographic quadrangle map or USGS or within 100 ft of wetlands greater than 1 acre in size.
Moon T wp	No building or enclosed structure shall be located within 200 ft of operating oil or gas well.	No building or enclosed structure shall be located within 200 ft of operating oil or gas well.	
Ohio Twp	1500 feet from protected structures	1500 feet from protected structures	
HB1950	500ft from an existing structure or water well		500 ft from an unconventional well, 300 ft for a body of water or spring

South Fayette Twp Ordinance		Non-residential Uses	
	Residential Uses		
R-1	1500	R-1	500
R-2	1250	R-2	500
R-3	1000	R-3	500
R-4	1000	R-4	500
C-1	1000	C-1	500
C-2	1000	C-2	500
B-1	1000	B-1	500
PED	1000	PED	500
I	1000	I	300
I-P	1000	I-P	300
CD-1	1000	CD-1	500

School =2500 Ft Wetland >5 acres , Pond, Lakes = 1500 ft Mobile Home Park =1000ft Nursing Home= 1250 Ft

Stream= 1500 Ft Gas Station =1500 ft Hospital= 2500 Ft Day Care =1500 Ft