

The Marcellus ShaleBy Steven Franckhauser

There is no topic in PA besides the budget that commands more attention than the Marcellus Shale. SMC member Steve Franckhauser shares his knowledge and points the way to several valuable resources.

If a penny were dropped in the Ohio River with every seminar on the Marcellus and Utica Shale's and their impacts on southwestern Pennsylvania, one could walk from Pittsburgh to Cincinnati without getting wet. Southwestern Pennsylvania sits at the epicenter of the natural gas rich Marcellus Shale and the deeper deposit known as the Utica Shale. Many believe these deposits will deliver the region from the near collapse of the domestic steel industry. Is this realistic and what will our governmental bodies do?

While Drake drilled the first well in Pennsylvania, the laws on the subject never fully developed. That legal vacuum is where most of the action will be in 2011. The lack of laws, nervous municipalities, cash starved Commonwealth and a judiciary with little legal precedent to guide it provide the element for vigorous and current debate. Notably, one of Governor Corbett's first acts was to repeal the short lived state policy designed to minimize the environmental impact of Marcellus Shale natural gas well drilling in Pennsylvania's state parks

The general public mostly hears about excise taxes and municipal efforts to ban drilling. And the possibility of radiated water is certainly front-page news. But beyond these front page stories rest a host of crucial issues that will have as much, if not greater, impact than any tax on extraction.

The new General Assembly has a tall task before it and a procedural bottleneck with which to contend. The bottleneck is caused by the rule requiring the General Assembly to "shut down" at years' end, so bills introduced in the last session are gone forever and new bills must be introduced. This lengthens an already tedious process.

Apart from the extraction tax, topics such as mandated pooling, the "fracturing" process, and the power of municipalities to effectively restrict exploration will take center stage. The DEP is on record as seeking greater authority and keep a close eye on the horizon to see whether gas pipelines will come under the authority of the Public Utility Commission. The PUC has jurisdiction over pipelines used by utilities to deliver gas to customers, but not over those used to transport Marcellus Shale gas.

To alleviate this infrastructure vacuum, installation of pipelines across the Commonwealth now requires securing a parcel-by-parcel easement from the landowners. This is expensive and time consuming, but since transportation pipelines are not subject to eminent domain, these steps are an absolute necessity.

How does one make sense of all of this? I suggest a couple of websites. While almost every website on the topic carries some bias, in this writer's opinion, Penn State University's Cooperative Extension and the Pennsylvania Department of Environmental Protection offer the most informative, verifiable and relevant web based information available.

You can peruse these sites at:

<http://extension.psu.edu/naturalgas>
and www.dep.state.pa.us/dep/deputate/minres/oilgas

Check them frequently and sign up for PSU's e-mail alerts. The landscape is changing so quickly, it is easy to get left behind.

© 2011 Steven Franckhauser

Steve Franckhauser is a Pittsburgh based corporate attorney serving PA, WV and NJ. He represents various landowners in their dealings with oil & gas developers.