

PIKE COUNTY MARCELLUS SHALE TASK FORCE
PLANNING AND GOVERNMENT COMMITTEE

Subject: **Statement on State NG Impact Fee Legislation proposal**

Date: **July 20, 2011**

Committee Chair – Michael Zibrin

The Pike County Marcellus Shale Task Force Planning and Government Committee has been meeting on a regular basis since January 2011. Since the Committee has representation from all of Pike County's thirteen municipalities, the main focus of the Committee has been to bring municipal concerns and issues to the table for discussion and then develop action items which are a consensus of the municipalities represented.

The Committee most recently has been discussing Pennsylvania legislative proposals related to a natural gas impact fee. The Committee has reviewed several proposed legislative bills – including SB 1100 (May 16 and June 14 versions), HB 1650, and HB 1700 (June 17 version). Additionally, most Committee members have reviewed and discussed the various aspects of these proposed bills with members of their respective municipal governing boards.

The following statement from the Pike County MSTF Planning and Government Committee is a direct outcome of this research and review and these discussions.

- Pike County MSTF should support the implementation of a statewide impact fee (severance tax) on natural gas production. (Note: attached is a current list of states with current tax rates on natural gas production.) Pennsylvania is one of only three states of the listed 32 states without an impact fee (or tax).
- Pike County MSTF should support the statewide integration of local county conservation districts into the Erosion and Sediment Control Plan review and site inspection of all NG production and infrastructure project sites. Most Conservation Districts across the state currently accept the delegated responsibility from PA DEP on E & S plan review and site inspection for all other land development activities. Local county conservation district personnel are trained by the PA DEP for this responsibility; they are familiar with the natural resources and have a vested interest in protection of the county's resources. They can provide much more local oversight than the limited DEP personnel designated for this purpose who travel from across the state.

Impact Fee Revenue Allocations

- Distribution of any revenues derived from a legislated impact fee should include an allocation for counties and municipalities that have producing non-conventional NG wells within their boundaries as well as counties and municipalities that have NG auxiliary infrastructure construction projects – including interstate gas transmission line expansion projects or other similar large scale NG infrastructure projects.

- Distribution of revenues derived from a legislated impact fee should include an allocation for county conservation districts who accept responsibility for erosion and sediment control plan review and site inspection on non-conventional NG production sites as well as infrastructure construction sites.
- Revenue allocations distributed to municipal and county governments should include provision for funds to be used for community and land use planning as well as roadway, bridge, water, storm water, sewer infrastructure, emergency preparedness, and protection of water supplies.
- Pike County Marcellus Shale Task Force should support and encourage the allocation of impact fee revenues for the dedicated purpose of a long-term remediation fund. This fund would not be for the short-term reclamation of the landscape after NG site activities (this is the responsibility of the gas companies) but rather would be a dedicated fund for the potential remediation of groundwater (drinking water) in the long-term. Legislative and regulatory safeguards *should be* in place now for prevention of such occurrences and funds from the gas companies should be dedicated for this purpose. However, even with these safeguards, there is a great potential for future long-term issues and the need for remediation.

Municipal Zoning Powers and Model Ordinance Provisions

- Regulation of NG drilling and associated facilities must be founded on the goal of protecting the health, safety and welfare of all community residents including such things as protection from harmful side effects of drilling operations and safeguarding property values. Any proposed legislation should not further pre-empt the powers of our local municipal governments to safeguard its citizens. The PA Municipalities Planning Code authorizes local municipalities to enact land use zoning when based upon an adopted Community Comprehensive Plan. In the case of NG activities the PA Supreme Court and PA Commonwealth Court in decisions have affirmed the local municipal right to zone. Proposed impact fee legislation should avoid restriction of legitimate municipal zoning.
- The Pike County MSTF should oppose any statutory prohibitions on the use of zoning to manage all types of development and resource extraction through zoning districts and conditional and special exception approval mechanisms. The right to zone has been provided to the municipalities through authorizing legislation – PA Municipalities Planning Code.
- Any proposed Impact Fee legislation should not designate the PA Utility Commission as the entity to develop a model ordinance for local Pennsylvania municipalities. The development of Model Ordinance standards needs meaningful involvement by local government officials, professional planners and experts. Consultation on a model ordinance if included in any proposed legislation should include PA Planning Association, State Planning Board, PA State Association of Township Supervisors and State Association of Boroughs.
- If a model ordinance is drafted, there should be an opportunity provided for public review and comment prior to finalizing any model ordinance. We respectfully request no less than 90-day review and comment period.
- Once a model ordinance is finalized, the time period for local government enactment of standards to address that model ordinance should be no less than nine months to one year.