

MARCELLUS SHALE

# PSATS Voices Townships' Gas-Drilling Concerns, Proposes Legislative Solutions

Many townships are well-versed in the pitfalls that can accompany natural gas drilling operations, from road damage to emergency management issues. In recent testimony before state legislators, PSATS pointed out several areas of concern but also suggested low- or no-cost legislative solutions that could help townships maintain their infrastructure and protect residents when the big rigs start rolling in.

BY JENNIFER L. HAWBAKER /  
ASSISTANT EDITOR

It's no secret that Pennsylvania is home to vast natural gas reserves, and drilling companies are flocking to the state with hopes of freeing this underground energy source. It's also no secret that with this great opportunity comes great concern. Recognizing that fact, the state's Senate Majority Policy Committee held a hearing in November to get a better grasp on the opportunities and challenges this new industry poses for the commonwealth.

PSATS was among a panel of state, local government, and industry officials, along with energy experts, who spoke at the hearing in Luzerne County. They addressed the history and status of Pennsylvania's Marcellus Shale formation, which houses the gas reserves, as well as the environmental

and other impacts that drilling operations could bring. PSATS Assistant Executive Director Elam Herr discussed townships' concerns and offered potential solutions for many of the issues PSATS is raising.

"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," Herr said. "While oil and gas have the potential to economically benefit many communities, drilling is not without an impact on townships and their residents."

Herr noted that township officials have voiced the following concerns about gas drilling operations and offered potential solutions where possible:

- **Road damage/road bonding** —

Townships' No. 1 concern, Herr said, is road damage caused by heavy truck traffic, including hundreds of tanker trucks loaded with water. "Most of the drilling is taking place in rural areas,"

"We are not asking to **regulate** drilling but to have **oversight** of well locations."

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Herr said, “with roads that were simply not built to withstand the punishment from these vehicles.”

Herr told legislators that PSATS encourages townships to post weight limits and bond their roads, which ensures that the entity causing the damage pays for the repairs. That’s not a complete solution, though.

“The problem is that the maximum bonding rates have not been changed in 30 years, and the cost of repairing damaged roads far exceeds the bond,” Herr said. “While some haulers are more generous, residents are often left to foot a significant part of the cost to repair the damage.”

**Solution** — Herr noted that PSATS is urging the state Department of Transportation to increase the road bonding limits to reflect today’s costs. Current limits are \$6,000 per mile for unpaved roads and \$12,000 per mile for paved roads, the same as they were in 1978. However, reconstructing a single mile of a two-lane highway now costs between \$85,000 and \$110,000.

PSATS is also asking legislators to increase the dollar amount of goods and services that townships must advertise for bid from \$10,000 to \$25,000, Herr

said, and to provide for an annual cost-of-living increase to that amount. “Few road-related purchases are less than \$10,000, and advertisements for these bids can cost hundreds of dollars,” he added. “Adjusting the bid limits will provide some much-needed financial relief for municipalities.”

• **Permit approval** — Under current law, Herr said, townships are not notified when a permit is issued for a new gas well. “The first notice many townships receive,” he said, “is when a caravan of heavy trucks suddenly appears.”

And while PSATS encourages townships to sign up for electronic notification through the state Department of Environmental Protection’s e-Notice Web site, Herr said, not all townships have Internet access.

**Solution** — Herr suggested that DEP be required to notify a municipality by mail when a drilling permit has been issued in that community.

• **Water well contamination** — In most rural areas, Herr said, where much of the drilling occurs, water is supplied through private wells. “While we understand that the driller has a responsibility to provide water if they damage a well,” Herr said, “we wonder what will

happen if a water table is destroyed and water must be provided to residents over the long term.”

• **Wastewater treatment** — Herr noted that modern drilling techniques use very large quantities of water to extract gas from the shale. Wastewater treatment capacity for the resulting product is insufficient, he said, and few treatment plants seem to hold the permits needed to process this material.

**Solution** — “Capacity needs to be provided, and other potential uses for gas well brine should be explored,” Herr said. Dust suppression on dirt and gravel roads and winter road maintenance could be two options, he said.

• **Emergency management** — Fire fighting is an issue that must be addressed as more drilling companies set up operations in Pennsylvania, Herr said. One well fire has occurred in Clinton County, and while counties and municipalities need to plan for such incidents, he pointed out that 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,” Herr asked, “or will volunteer fire departments and their communities be left to fight the fires on their own?”

• **Property tax exemption** — A recent court ruling determined that oil and gas reserves are not subject to



PHOTO COURTESY OF CEDAR RUN ENVIRONMENTAL SERVICES, INC.

**With gas drilling comes the risk of well fires like the one at left. That’s why emergency management was among the issues that PSATS raised before state legislators during a recent hearing on natural gas exploration. “Will drillers be required to provide for specialized response for well fires,” PSATS Assistant Executive Director Elam Herr asked, “or will volunteer fire departments and their communities be left to fight the fires on their own?”**

## TESTIMONY

the property tax, Herr said, noting that this is a special treatment that no other mineral right receives. "We believe these mineral rights should be taxable based on the value of the lease," he said. "Otherwise, these rights, which have clear value, are unfairly exempted from local property taxes."

**Solution** — PSATS supports legislation to authorize the assessment of oil and gas deposits as taxable real estate, much like coal, limestone, and all other minerals, Herr said. "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," he added.

• **Zoning exemption** — Herr said that two cases are pending before the state Supreme Court that address whether municipalities can regulate the

location of a gas well through a conditional use permit or the land development process. "Essentially, local governments have no control over where wells are located," Herr said. "Unlike every other use that must go through local land use processes, oil and gas well drilling is exempted."

**Solution** — PSATS suggests amending Section 602 of the Oil and Gas Act to permit municipalities to adopt and enforce zoning regulations for oil and gas well locations and setbacks pursuant to the Municipalities Planning Code. "We are not asking to regulate drilling, which would duplicate state regulations," Herr said, "but to have oversight of well locations, like other uses."

### Big benefit, little cost

Herr noted that the suggested actions would help communities better manage their infrastructure and face the influx of oil and gas well drilling at little or no cost to the commonwealth. The benefits, however, would be substantial. ♦

## GAS-DRILLING GRIEVANCES

### PSATS Proposes Solutions to Protect Townships, Residents

When PSATS Assistant Executive Director Elam Herr testified about natural gas drilling before state legislators, he didn't just focus on the negative. He also offered the Association's suggestions for legislative action that would help townships protect their residents and their infrastructure from any detrimental effects of drilling.

Here are some of those suggestions:

- 1) Increase the 30-year-old road bonding limits to reflect current construction and maintenance costs.
- 2) Increase the dollar amount of goods and services that townships must advertise for bid from \$10,000 to \$25,000 and provide for an annual cost-of-living increase to this limit.
- 3) Require the state Department of Environmental Protection to notify municipalities by mail when a drilling permit has been approved.
- 4) Ensure that water treatment plants have the capacity to handle wastewater generated in the drilling process.
- 5) Explore potential uses for gas well brine, including dust suppression on dirt and gravel roads and winter road maintenance.
- 6) Address who is to respond to well fires since the capacity and training of local fire departments may not allow for an appropriate response.
- 7) Authorize the assessment of oil and gas deposits as taxable real estate.
- 8) Amend Section 602 of the Oil and Gas Act to permit municipalities to adopt and enforce zoning regulations for oil and gas well locations and setbacks pursuant to the Municipalities Planning Code.

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