

October 28, 2011

Dear Members of the Pennsylvania State Senate:

We are writing concerning Senator Scarnati's bill to address Marcellus Shale issues, SB 1100, which was recently amended and voted out of Appropriations Committee. Our organizations have two concerns we would like to draw to your attention.

First, the signed organizations of the attached letter (sent to all members of the legislature on June 3, 2011) are writing you to reaffirm our position that we strongly **OPPOSE** any efforts to limit a municipality's ability to protect itself, to weaken or standardize municipal zoning authority, to punish communities that choose to exercise their rights, or to give the Attorney General the power to circumvent a traditional court process and determine the fate of municipal zoning laws.

Municipalities all across Pennsylvania are working to enact or have enacted measures designed to protect the environment and health, safety, and welfare of their communities and its residents in light of the rush to drill for natural gas in the Marcellus Shale. In addition, Pennsylvania Supreme Court rulings have made it clear that the state Oil and Gas Act does not prevent municipalities from applying zoning codes to gas wells.

Our previous letter referred specifically to a provision in the original version where the receipt of revenue from an impact fee was tied to adoption of a model zoning ordinance. Recently, efforts have begun to amend this legislation. Whether negotiations result in the preservation of this "one size fits all" provision or produces new language that would attempt to weaken a municipality's ability to protect its residents, the result is still the undermining of the central purpose of local ordinances: to address the particular needs and concerns of municipalities, which vary greatly with regard to natural resources, population location and density, commercial sectors, and other aspects.

We request that you stand with us and your municipality in this cause and encourage your leadership to do the same. It is essential that we preserve a municipality's ability to determine what is best for their community and its' residents and we hope you will call for the strongest decision-making powers possible for local communities.

Second, we are concerned that the current language in the amended version of SB 1100 does not provide enough protection for Pennsylvania's drinking water supplies. Both the recently released Center for Rural Pennsylvania study and the previously published Duke University study found that drinking water wells had increased contamination when Marcellus Shale gas wells were drilled within 3,000 feet of the water supply. Unfortunately, the current language only increases private well setbacks to 500 feet and public water supply setbacks to 1,000 feet.

While SB 1100 does increase the zone of presumed contamination to 3,000 feet, a setback of at least that distance, and ideally 5,000 feet, would provide real protection to residents. Increasing the zone of presumed contamination provides landowners with greater legal rights; however, in practice many residents are unaware of their rights and as a result cannot benefit from this

change. While it is positive that more residents would receive replacement water supplies under this change, it would be far more beneficial to simply prevent the contamination from taking place through a setback provision. Replacement water supplies are a burden on residents and often result in a loss of property value.

We would urge you to support a greater setback for private and public drinking water supplies, with 3,000 feet being a minimum distance that is scientifically backed and 5,000 feet as an even more protective setback.

Thank you for your attention to this issue.

Myron Arnowitt
Pennsylvania State Director
Clean Water Action

Tracy Carluccio
Deputy Director
Delaware Riverkeeper Network

Nadia Steinzor
Marcellus Shale Regional Organizer
Earthworks

Jeff Schmidt
Chapter Director
Sierra Club, Pennsylvania Chapter

Erika Staaf
Clean Water Advocate
PennEnvironment