



March 12, 2018

Senator Vincent Hughes, Minority Chairman
Senate Appropriations Committee
545 Main Capitol Building
Harrisburg, PA 17120

Dear Senator Hughes:

I witnessed your exchange with the Department of Revenue at the recent Senate Appropriations Committee hearing, and I am compelled to correct the blatant inaccuracies and set the record straight.

First, the claim that unconventional natural gas development and production “took off” around 2005 quite simply is inaccurate. While the first unconventional test well was drilled in 2004, readily available data on permitting, production and drilling activity from the Department of Environmental Protection clearly demonstrates that the industry began to ramp-up meaningful activity around 2008-2009. At this point in time, of course, every company operating in the Commonwealth immediately was subjected to the entire slate of existing Pennsylvania business taxes – a tax climate which many, including then-Governor Rendell, recognized as unwelcoming to job creators and capital investors. **The bottom line is the industry paid every tax required by law and did so without hesitation from day-one.**

In addition to paying every other tax imposed upon Pennsylvania businesses, **Act 13 of 2012, which you supported, established the Impact Fee on every unconventional operator drilling wells in the state. Make no mistake, this is a tax on doing business in the Commonwealth that no other state levies**, and, by the way, it was contemplated in lieu of a production-based tax. In fact, the Act you supported dissolves the impact tax should a severance tax ever be adopted. Yet this guarantee, enunciated in the law and which many companies relied upon in their capital investment decisions, is disregarded.

Furthermore, contrary to your statement and Department of Revenue’s erroneous agreement at the hearing, **Act 13 “reaches back” and requires the impact tax to be paid on every well, including those drilled and put into production prior to 2012.** So indeed, the industry HAS been paying taxes in Pennsylvania since the onset of development, including every business tax required AND the industry-targeted impact tax. Any conclusion otherwise is just wrong.

I also note for your edification that **the impact tax is imposed on wells that do not even produce natural gas.** If a well is drilled but not put into production for up to three years, for example, the impact tax is still assessed. This provision of Act 13 in-and-of-itself makes the impact tax highly unique and more effective in revenue generation compared to other states with taxes on mineral development.

The impact tax, by all intents and purposes, has been a tremendous success to the Commonwealth. **Through 2017, it will have generated nearly \$1.5 Billion in new tax revenue since its enactment.** This should be celebrated and not dismissed or devalued, as it so deliberately is in today's discussion of the industry.

As you should be aware, revenues from the impact tax have helped to fund numerous environmental, conservation and recreation projects across the state, including within your own senatorial district. Indeed, impact tax revenues have benefitted the Commonwealth and its communities since 2012, in addition to the over \$3 Billion in other business and corporate taxes paid by the natural gas industry. A small sampling of Philadelphia projects funded by the impact tax, some of which benefit your district, include the following:

- East Park Leadership & Conservation Center
- Kelly Drive/Fairmount Park Rehabilitation Project
- Mantua Greenway
- African Plains Trail Stormwater Management Project
- Pat Restoration at Mount Pleasant Estate in Fairmount Park
- Various Schuylkill River Trail projects

Next, your claim that the natural gas is “ours” reflects a socialistic concept of property rights and mineral ownership that thankfully is non-existent in the United States. In short, your assertion is both wrong on the facts and wrong on the law. **Unlike most other countries, from Russia to Saudi Arabia and Venezuela to Mexico, the coal, oil, natural gas, aggregates and other mineral rights in the United States do not belong to the State. Rather, the minerals in Pennsylvania belong to private citizens who hold title to it.** Most often, though not exclusively, this is the surface landowner.

To be sure, the Commonwealth does own some mineral rights to which it has legal title – most often underlying publicly-owned surface lands such as state parks and state forests – but the Commonwealth owns these rights in the same manner as a private citizen owns similar property rights. In fact, **the Commonwealth's leasing of these development rights generated \$413 Million in new revenues from lease bonus payments from 2008-2010 and continues to generate over \$100 Million annually** for the Commonwealth in royalty payments.

Unfortunately, the full potential of the revenue that could be generated from “our” gas cannot be fully realized because the Governor has banned future development of “our” gas. For example, it was estimated that approximately \$90 million annually could be generated from leasing of minerals under state lands *with no surface impacts*. These would be wells drilled from private land and then horizontally bored thousands of feet under state lands, with absolutely no surface disturbance from state lands. This is a huge missed revenue generating opportunity for the Commonwealth that is conveniently overlooked in the feigned hue and cry.

To be clear, no natural gas developer in Pennsylvania has ever claimed, as you suggested, that they “own” this resource. Unless an operator already holds title to their mineral rights, such property rights can only be developed if legal right has been secured through a voluntarily negotiated lease agreement. Simply put, **the only reason there is significant natural gas**



development and extraction in the Commonwealth is because private landowners – the constituents of you and your colleagues – agreed to lease them for development.

Another key fact that demonstrates further value of this industry that should be celebrated is that **your constituents have saved nearly \$1,500/year on average through lower energy costs due to industry’s investment, as evidenced by PECO’s purchased gas costs falling 69% between 2008 and 2016.** Logic would dictate that these consumer benefits should instill caution against raising the cost to produce natural gas in the Commonwealth, which even the Governor recognizes would have a negative impact on consumers of gas and electric.

While there is a clear and disturbing narrative from the Governor and the public-sector unions to denigrate “Big Oil & Gas,” such hyperbole merely impugns the women and men who go to work each day with jobs directly in or supported by this industry. Thousands of these Pennsylvanians are members of the building trades, including those men and women working at the Marcus Hook refinery which has served as a shining example of how the natural gas industry presents infinite opportunities. It is the tens of thousands of employees, and the hundreds of thousands of family members who rely on those jobs, that you insult with such unabashed rhetoric.

We need honest discussions driven by real facts, not false narratives and grandstanding that many, such as yourself, have chosen to pursue. Then, and only then, will Pennsylvania capitalize on this generational opportunity to re-emerge as an economic engine in this country. And only then will Pennsylvania truly realize the enormous value of this industry, to both its citizens and the Commonwealth as a whole.

Sincerely,



David J. Spigelmyer
President
Marcellus Shale Coalition

cc: The Honorable C. Daniel Hassell, Secretary – PA Department of Revenue
Senate Appropriations Committee

