

PA Environment Digest

An Update On Environmental Issues In PA

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Court Strikes Down Drilling Law Limit On Local Zoning, Corbett Appeals

[Commonwealth Court Thursday](#) struck down provisions of the Marcellus Shale Drilling law enacted in February which would have further restricted the application of local zoning to drilling operations and a provision requiring DEP to issue waivers to setback requirements of the state Oil and Gas Act.

The decision leaves in tact stricter environmental standards for drilling operations and the county-adopted drilling impact fee.

One day later, Gov. Corbett announced his Administration was appealing the ruling, saying--

"The provisions struck down by the Commonwealth Court are critically important for job creators who are employing more than 240,000 Pennsylvanians, for landowners seeking to exercise their property rights, and for local governments looking for guidance on how they may reasonably regulate oil and gas operations," Corbett said. "The provisions are also integral to the enhanced environmental standards and impact fee revenue portions of the Act. Indeed, there would be no Act without each of these crucial pieces."

"It is important to note that the provisions casually set aside by the court were the result of months of compromise and negotiation, with significant input and support from Pennsylvania's local government associations," Corbett said. "Both the County Commissioners Association of Pennsylvania and the Pennsylvania State Association of Township Supervisors, which represents 1,455 municipalities, urged passage of the law. This decision endangers the jobs of tens of thousands of Pennsylvanians and deprives citizens of their property rights.

"It is the General Assembly and Governor's prerogative to establish policy; it is the court's job to pass judgment on the constitutionality of this policy, not its merits. Act 13 clearly meets the constitutionality test, and I am confident the Supreme Court will adhere to its responsibility in a prompt and timely manner."

The legal challenge to the Chapter of Act 13 that took over municipal zoning of oil and gas operations was challenged by Delaware Riverkeeper Network and seven municipalities: Township of Robinson, Washington County; Township of Nockamixon, Bucks County; Township of South Fayette, Allegheny County; Peters Township, Washington County; Township

of Cecil, Washington County; Mount Pleasant Township, Washington County; and the Borough of Yardley Bucks County. A doctor from southwestern Pennsylvania also was a plaintiff, Dr. Mehernosh Khan. Unfortunately the Court did not reach the physician gag rule issue, finding the doctor did not have standing. Counsel for Petitioners are John M. Smith, Esq., Jonathan M. Kamin, Esq., Jordan B. Yeager, Esq., William A. Johnson, Esq., and Susan Kraham of the Environmental Law Clinic, Columbia University School of Law.

A copy of the decision [is available online](#).