



Position of West Virginia
Surface Owners' Rights Organization
On the Governor's Marcellus Shale Bill

12/12/2011

- We had several problems with the bill recommended by the Select Committee on Marcellus Shale.
- The Governor's bill is MUCH worse and has way too many problems to begin to fix in a special session!

The Governor's bill **applies ONLY to horizontal wells** (and not all of those). It does NOT apply to vertical Marcellus wells that disturb 3 to 5 acres and use 1,000,000 gallons of water. Its notice and other provisions do NOT apply to the drilling of the many conventional wells that cause problems for surface owners.

The Governor's bill makes the surface owner "servient" to the "dominant" driller/mineral for horizontal wells. In 1981, the Legislature passed a surface damage compensation Act that said the rights of mineral owners and surface owners were equal. (Prior to that, common law was in effect that said the surface estate was "servient" and the mineral estate "dominant".) But this language was not carried over to the Governor's bill so the old common law of servience and dominance would be in effect for horizontal wells.

Surface owners want some **incentives for the drillers to recognize the surface owner's common law rights and to work with them** on the location of well sites and access roads. The Select Committee had an incentive we had concerns about. The Governor's bill took out ALL the incentives, and only leaves in new requirements for the driller to notify us before coming onto our land to survey or begin the bulldozer work.

The Governor's bill allows the center of a well pad to be **625 feet from a residence** – so close the residents will not be able to sleep at night for months and months due to the noise – and allows the driller to get a variance to be even closer.

The Governor's bill took out the Select Committee's provisions that required **notice of permit applications** to public in the news paper (for citizens concerned about the traffic and other problems these wells cause), and the notice and right to comment to neighboring surface owners (who could be only 625 feet from a well).

The Governor's bill **waters down the existing presumption** that drilling activity caused contamination of a water well by limiting the presumption to pollution that occurs within 6 months, and by saying the presumption cannot be used in court unless the Secretary agrees there was contamination. The Select Committee expanded the presumption from 1,000 feet to 2,500 feet. The Governor's bill reduces it to 1,500 feet.

The Governor's bill has studies of air emissions and pit burials, **but does not fund** them.

The State's revenue from the oil and gas severance tax has gone from \$20 Million in 2000 to \$60 Million in 2011. While we support the fee increases in the bill, there is plenty of money to provide the increased inspectors that are needed now without this bill. There is not time to fix this bill in a special session. **This bill should die** and this issue should be dealt with in the regular session.

And that's not all. If you want more details about these and other problems call 304-610-9094 or e-mail julie@wvsoro.org. Also talk to the WV E Council and other citizen groups about their issues and concern!.