



TO: Governor-Elect Corbett Transition Team

SUBJECT: Support for Natural Gas Impact Fee and Local Share

DATE: December 22, 2010

The exploration and development of the Marcellus shale natural gas resource has been an economic boon to local economies but, as with any form of development, it has also come with its own economic, infrastructure, and social costs. Unlike other forms of development, whether industrial, commercial, residential, or even other mineral resources, there is no direct revenue stream to county and municipal government (due to a 2002 Pennsylvania Supreme Court decision finding a lack of statutory authorization for property tax assessability) and there are a number of regulatory and environmental issues that are unaddressed.

At different times over the past several years, our Associations have supported either restoration of assessability or imposition of a state severance tax with a robust local share as a means to help us deal with all of the local impacts arising from Marcellus development. While the General Assembly was unable to finalize its promised severance tax before sine die adjournment this Fall, we understand that there could be consideration of an alternative natural gas impact fee upon reconvening in the new session.

While we do not know the detail of proposals under consideration, on a conceptual basis we understand that such a fee would be levied at the state level, would be keyed to production, could offset some Commonwealth environmental and regulatory general fund expenditures, and would return significant portions to county and municipal governments and to existing environmental programs in recognition of natural gas development impacts.

On this basis, our Associations jointly support the impact fee in concept, and support county and municipal shares of any fee proceeds.

As this fee is under consideration, we offer the following notes on a number of specific issues that have come up during the debate on severance tax, and have equal applicability to any deliberations of a state-wide impact fee.

Local Shares

Any state-wide levy should dedicate an appropriate local share to impacted local governments, with an equitable distribution from that local share for host counties, host municipalities and non-host

municipalities in host counties. All of our associations have worked together to lay out an equitable proposal to meet this objective.

Our joint proposal calls for 30% of the impact fee proceeds to be dedicated to a local government fund, with 36 percent of that fund appropriated to host counties, 36 percent to host municipalities, and 28 percent to host and non-host municipalities in host counties. We support the 36 percent host county and host municipality shares being distributed on the basis of relative number of wells, and the 28 percent host and non-host municipality share being distributed half on relative population and half on relative road mileage (comparable to the PennDOT liquid fuels formula).

Recognition of Broad Local Impacts

Natural gas exploration and development affects all levels of local government. While the impact of this industry on municipal services such as roads and bridges and land use planning is evident, less apparent are impacts such as emergency management and hazardous materials response planning, public safety and courts and corrections impacts, human services burdens, GIS impacts, effects on affordable housing, hotel and tourism impacts, and even impacts on core courthouse services such as the recorder's office.

Delayed or Phased Implementation

While some have suggested that in recognition of the Commonwealth's fiscal condition there should be some delay or phase in the local shares, we believe such a strategy to be inequitable. Counties and municipalities have already been dealing with the infrastructure, emergency management, social, and environmental issues, in some localities for a half dozen years or more. We have been expending local dollars to address these impacts, and do not believe a further delay in local shares is warranted or justifiable.

Administrative Overhead

We oppose any unnecessary administrative overhead on local government or limitations on allowable expenditures from the funds received. Any fee proceeds should be administered by the county or municipal governing body through the usual budget process, for purposes determined locally, recognizing that we are best suited to determine local impacts and needs. Existing local audit structures are adequate to deal with funds accountability, fiscal controls and legality of expenditures.

Anti-Windfall

We oppose any windfall caps on the revenues. While the receipts would be meaningful and are needed, we have data available that show few if any counties or municipalities will receive amounts that could be characterized as windfalls. Moreover, we do not have any comparable provision for any other tax or fee base expansion; for example, there is no provision that limits municipalities' revenues when a significant number of jobs come in and result in increased EIT collections, nor is there any limit on property tax revenues when there is a significant volume of new construction. Instead, there is generally an understanding that these increases in revenue reflect and offset in some parallel way an increased demand for services. And to the extent there is any excess revenue, the political instinct at the local level is to help the taxpayer first - early repayment of debt, reduction of tax rates.

We also need to set some funds aside. Initially, while some of our infrastructure such as roads and bridges might incur damage now, our first response is to stabilize, and only to do the full repair or restoration when exploration and development is complete in the area, perhaps several years later. We must also allow local governments to build rainy-day funds or community development funds against the day when these resources are depleted so that we can avoid the precipitous collapse of these same local economies that we saw 100 years ago when oil and timber were depleted.

Similarly, we need to remember the example of gaming revenues; gauging anti-windfall against pre-gaming budgets that did not contemplate the service demands post-gaming, particularly for many smaller municipalities, was at minimum unfair.

Non-Host County Allocations

We have not advocated direct allocations to non-host counties or to municipalities in non-host counties. However, we note our position in support of funding for conservation districts, which would be available statewide, and we would consider allocations to volunteer fire and emergency medical services, or to other environmental efforts such as growing greener, conservation easement purchase, or something similar that might drive funds statewide to local governments' environmental and land use efforts.

Industry Credits, Capital Recovery Allowance

Our only specific position on this issue is support of some threshold or some exemption for legacy or stripper wells. While we do not have a clear position on the other types of credits, thresholds or offsets that were suggested in the context of the severance tax, we would like to see careful and unbiased review of each proposal against the unusual production curve of this resource, so that we do not have a situation where most extraction escapes the fee.

Zoning/Subdivision Preemption

We flatly and completely oppose wholesale preemption of local land use controls. We are working with the industry on model ordinances intended to address their concerns regarding scope of regulation and uniformity from municipality to municipality, which will be released to and promoted among our memberships as a responsible course of action whether or not there is state legislative activity. We understand the need for more uniformity in application of zoning rules, and are not looking for new zoning or regulatory authority but are seeking only to protect existing authority to properly zone as authorized in the Oil and Gas act and other statutes such as the Flood Plain Management Act and the Storm Water Planning Act, and upheld by the PA Supreme Court.

Pooling

Our associations do not have an official position on industry pooling for "stranded" properties, noting that our memberships are divided on the issue. While many of our members share their constituents' concerns with the eminent domain-like nature of pooling, those on the other side might consider support if it leverages both a prohibition on drilling on the stranded property and requirements for well spacing.

Closing

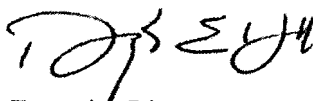
In closing, we thank you for your work on this important policy matter and your efforts to recognize local impacts and allow all taxpayers in our communities to share in the benefits of Marcellus and other natural gas development. And failure to enact an impact fee with a robust local share means that county and municipal government – and their taxpayers – will continue to bear the brunt of local gas exploration and development impacts through their property taxes. We also appreciate the willingness of the incoming Administration to seek and consider our position and the positions of our local government peers on this issue. We would be happy to discuss these comments further at your convenience.

Sincerely,



Executive Director
PSATS

Sincerely,



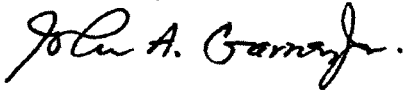
Executive Director
CCAP

Sincerely,



Executive Vice President
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Sincerely,



Executive Director
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Sincerely,



Executive Director
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