

Selected Article Excerpts About Fracking (Feb/Mar 2012)

NY Court Decision Bolsters Anti-Fracking Movement, Dayton Daily News (02-12-12)

Are We Ready? Are Fracking Regulations in Place Locally, Statewide?, Marietta Times (02-25-12)

Pipeline jurisdiction at issue, Columbus Dispatch, (02-26-12)

Keep Feds out of Shale, Ohio Leader Says, UPI.com, (02-28-12)

Ohio Shale Drilling Could Boost Economy, Study Claims, Huffington Post (02-29-12)

WOUB Panel Explores Ins, Outs, Pros, Cons of Fracking, by Charlotte O'Malley (02-29-12)

The Big Fracking Bubble: The Scam Behind the Gas Boom, by Jeff Goodell, Rolling Stone Politics (03-01-12)

Fracking Divides GOP as Kasich Introduces Bold Policy, Julie Smyth and Dina Cappiello, Huffington Post (03-06-12)

Ohioans fractured on gas drilling, The Washington Post (03-07-12)

State Regulators Create Tougher Rules for 'Fracking' Wastewater Disposal Wells, Spencer Hunt, Columbus Dispatch (03-09-12)

'Fracking' Payoffs Luring Local Officials, Spencer Hunt, Columbus Dispatch (03-12-12)

Fracking's Next Big Move: \$900 Million Investment in Columbiana, by Paula Schleis, Akron Beacon Journal, (03-13-12)

Kasich Plan: Raise Drilling Tax, Lower Income Tax, Youngstown Vindicator, (03-15-12)

Shale Gas Lawyers in Big Demand in Ohio, March 17, 2012, by Alison Grant, the Plain Dealer (03-17-12)

ARTICLE SUMMARIES (WITH INTERNET LINKS)

NY Court Decision Bolsters Anti-Fracking Movement, Dayton Daily News, February 22, 2012 = A NY Supreme Court justice on Tuesday upheld the town of Dryden's August 2011 zoning amendment banning gas drilling. Denver-based Anschutz Exploration Corporation, which has spent \$5.1 million leasing and developing 22,000 acres in Dryden, about 40 miles southwest of Syracuse, had argued state law trumped the ban. More than 50 New York communities have enacted gas-drilling bans. Binghamton attorney Helen Slottje, who helps draft such laws, says the ruling should embolden towns considering local bans. ... Albany attorney Tom West, who represented Anschutz, said the trial-level state court decision is likely to be appealed to the mid-level Appellate Division and, if necessary, to the state Court of Appeals. ... Ordinances enacted by a handful of West Virginia communities to ban gas drilling were overturned last year by a circuit judge who concluded that the state has sole regulatory authority over oil and gas operations. In Pennsylvania, scores of municipalities have passed drilling regulations, prompting complaints from industry about a lack of uniformity. Gov. Tom Corbett recently signed legislation limiting the ability of local officials to keep drilling out of their towns. Ohio's roughly 1,300 townships were stripped of their regulatory authority over such drilling operations under a law passed in 2004, said Matt DeTemple, executive director of the Ohio Townships Association. A New York law passed in 1981 also stripped local governments of their authority to regulate the oil and gas industry, according to industry lawyers. ... The ruling from state Supreme Court Judge Phillip Rumsey said the state law supersedes local laws regulating drilling operations, but doesn't pre-empt local control over land use and zoning. In other words, towns can't regulate drilling, but they can ban it.

<http://www.daytondailynews.com/news/ohio-news/ny-court-decision-bolsters-anti-fracking-movement-1332776.html>

Are We Ready? Are Fracking Regulations in Place Locally, Statewide?, Marietta Times, February 25, 2012 = ... According to the Ohio Department of Natural Resources, Utica and Marcellus shale wells have been drilled in Monroe and Noble counties, and permits have been obtained for several others. ... Passed in 2010, **Ohio's Senate Bill 165** lays out guidelines for the locations of wells, tank batteries and other surface facilities; the application process for drilling a well; various fees associated with drilling production wells and injection disposal wells; and more. Under regulations established that year, companies drilling in Ohio are required to notify ODNR's Division of Mineral Resources Management at three points in the process: well construction, to ensure the casing is properly placed according to the permit; well control, the testing of blow-out prevention devices; and fluid control, to monitor the company's handling of the fluid. According to the ODNR website, "division inspectors place a high priority on witnessing these critical phases." ... Ohio requested a review of its hydraulic fracturing program in 2010 by the nonprofit organization STRONGER (State Review of Oil and Natural Gas Environmental Regulations) Inc. The review team described the state's program as "well-managed, professional and meeting its program objectives," and also made recommendations for improvements. ... SB 165 clearly places responsibility for the majority of drilling-related duties with the Division of Mineral Resource Management. ... A 2004 law removed from Ohio's roughly 1,300 townships of their authority to regulate such operations. Ohio Environmental Protection Agency handles some permitting with regard to air and water impacts, but otherwise, SB 165 says the only exception to the Division of Mineral Resource Management's authority is the use of local roads by trucks carrying heavy equipment and fracking byproducts. ...

<http://www.mariettatimes.com/page/content.detail/id/542349/Are-We-Ready--Are-fracking-regulations-in-place-locally--statewide-.html?nav=5249>

Pipeline jurisdiction at issue, Columbus Dispatch, February 26, 2012 = Ohio regulators want to weigh in on a proposed pipeline that would shuttle millions of barrels of ethane from Pennsylvania shale wells to Texas processing plants. ... Federal law gives states and the Federal Energy Regulatory Commission power to review, demand changes or deny plans to build natural-gas pipelines. That authority, however, doesn't extend to liquid pipelines. The commission doesn't think it has jurisdiction over "natural gas liquid" pipelines, said Tamara Young-Allen, a regulatory commission spokeswoman. She said the agency regulates liquid lines after they're built. But the Power Siting Board says that ethane is a liquid only when it's under pressure. It turns into a gas in the atmosphere, Butler said. That would mean the board could regulate these lines before they're built. ...

<http://www.dispatch.com/content/stories/local/2012/02/26/pipeline-jurisdiction-at-issue.html>

Keep Feds out of Shale, Ohio Leader Says, UPI.com, Feb. 28, 2012 = U.S. Rep. Bill Johnson, R-Ohio, told a House committee that state law has governed the shale natural gas sector for more than 60 years and there was no reason to transfer that authority to the federal government. ...

http://www.upi.com/Business_News/Energy-Resources/2012/02/28/Keep-feds-out-of-shale-Ohio-leader-says/UPI-84171330433150/?spt=hs&or=er

Ohio Shale Drilling Could Boost Economy, Study Claims, Huffington Post, 02/29/2012 = COLUMBUS, Ohio (AP) — An academic team enlisted by Ohio's business sector released a study Tuesday that finds oil and gas drilling will mean more than 65,000 jobs and an almost \$4.9 billion investment in the state's economy by 2014. ... A team of economics, energy and geology experts from Cleveland State University, Ohio State University and Marietta College's Department of Petroleum put together the report. It found that by 2014, about \$4.9 billion would be invested in Ohio's economy by the industry; almost 66,000 jobs would be created or "supported" by industry growth; \$433 million in local and state taxes would be generated; and energy companies would be paying wages and benefits totaling \$3.3 billion. Altogether, the industry will generate \$1.7 billion for Ohio's economy this year, \$5.8 billion next year, and nearly \$10 billion in 2014, the research found. ... Ohio Department of Natural Resources spokesman Carlo LoParo said the state is tripling the budget of its oil and gas division this year, due to increased drilling activity. "We will have more than 110 inspectors and field staff in our oil and gas division to make sure all laws and environmental regulations are observed and enforced," he said. Money for that endeavor comes from fees assessed on the oil and gas industry, he said. ...

http://www.huffingtonpost.com/2012/02/29/ohio-fracking-shale-drilling_n_1309971.html

WOUB Panel Explores Ins, Outs, Pros, Cons of Fracking, by Charlotte O'malley, 02-29-12 = WOUB's live panel discussion on fracking, "Newswatch In-Depth: Fracking Frenzy," aired Tuesday evening, providing a forum for southeast Ohio to ask questions or join the discussion via phone calls, emails, tweets, or Facebook messages. ... To watch an archive video copy of the program, visit WOUB's website at <http://woub.org/fracking>.

<http://www.athensnews.com/ohio/article-36264-woub-panel-explores-ins-outs-pros-cons-of-fracking.html>

The Big Fracking Bubble: The Scam Behind the Gas Boom, by Jeff Goodell, Rolling Stone Politics, March 1, 2012 = [Long article about Aubrey McClendon of Chesapeake Energy. Article notes that in 2011 scientists at Duke University, who examined 60 well-sites in New York and Pennsylvania, found "systematic evidence for methane contamination" in household drinking water.]

<http://www.rollingstone.com/politics/news/the-big-fracking-bubble-the-scam-behind-the-gas-boom-20120301>

Fracking Divides GOP as Kasich Introduces Bold Policy, Julie Carr Smyth and Dina Cappiello 03/6/12, Huffington Post =... Republican Gov. John Kasich plans to introduce a new energy policy next week that would place a new tax on hydraulic fracturing to reduce personal income taxes for the state's residents. Many Republicans in Congress and on the presidential campaign trail oppose any new taxes or the elimination of tax breaks for oil and gas companies. Kasich has also placed a moratorium on the deep injection of drilling wastes for disposal within five miles of a well site, a process that is being studied for possible links to an unusual series of earthquakes in Ohio. ... In addition, the state's Republican attorney general, Mike DeWine, has called for steeper fines on the growing industry and for drillers to disclose the chemicals they're injecting, actions that would bring Ohio in line with the toughest regulations in the nation. ... Texas, a Republican stronghold, has issued rules requiring companies to disclose the chemicals they use in fracking. New Jersey Gov. Chris Christie, who has endorsed Romney for president, has recommended a one-year ban on hydraulic fracturing. ...
http://www.huffingtonpost.com/2012/03/06/fracking-ohio-kasich-energy-policy-_n_1323388.html?ref=email_share

Ohioans fractured on gas drilling, The Washington Post, March 7, 2012 = ... A Quinnipiac University opinion poll in January showed that 85 percent of Ohio voters believed that natural gas drilling would create jobs and that by a 64-to-29 percent margin they believed that the economic benefits of drilling for natural gas outweigh the environmental concerns. At the same time, voters said by a 72-to-23 percent margin that hydraulic fracturing should be suspended until there are further studies about its impact. They said by a 43-to-16 percent margin that fracking would damage the environment. ...
<http://www.google.com/gwt/x?q=fracking+ohio&ei=sv5YT6CHCKeQ2gXJ6QE&start=5&hl=en&source=news&ned=us&u=http://www.dailymail.com/News/NationandWorld/201203070290>

STATE REGULATORS CREATE TOUGHER RULES FOR 'FRACKING' WASTEWATER DISPOSAL WELLS, SPENCER HUNT, THE COLUMBUS DISPATCH FRIDAY MARCH 9, 2012
== State regulators unveiled this morning a series of tougher safeguards for gas-drilling wastewater wells intended to prevent earthquakes, including the ones that shook Youngstown. Proposed regulations would prohibit new wells from being drilled into a deep "pre-Cambrian basement rock formation" and make disposal well operators submit extensive geological data before drilling. The state also will require that waste haulers install electronic devices to ensure "cradle to grave" monitoring of all waste shipments. ... There are 176 additional such wells in Ohio that inject wastewater from oil and gas wells underground. The wastewater comes out of the ground from working oil and gas wells, including shale wells that have been fracked. The fracking process injects millions of gallons of water, sand and chemicals into wells to shatter shale and release trapped oil and gas. Nearly 60 percent of the wastewater injected into Ohio disposal wells comes from Marcellus shale wells in Pennsylvania. Ohio officials expect shale drilling and fracking to pick up in this state as energy companies tap the Utica shale here.
<http://www.dispatch.com/content/stories/local/2012/03/09/State-creates-tough-fracking-wastewater-rules.html>

'Fracking' payoffs luring local officials. Spencer Hunt, The Columbus Dispatch, March 12, 2012 = The lure of big money created by Ohio's growing shale energy boom has enticed thousands of landowners to sign leases with oil and gas companies. With offers surpassing \$5,000 an acre, many government and school officials are considering doing the same. "It doesn't take a whole lot of acres to come up with \$1 million pretty quickly," said Thomas Gentile, a Jefferson County commissioner. The engineer's office there is poring over records to compile a list of county-owned properties that might fit the bill. "We want to see where the lands are, how big they are and what the interest might be," Gentile said. ... Back in Jefferson County,

Steubenville council members have approved a deal with Hess Oil that opens a 110-acre site west of town for drilling. At \$5,400 an acre, the city will receive more than \$590,000 in a one-time bonus, said city manager Cathy Davison. The city will receive a 19 percent royalty on the value of gas or oil that comes up at the site. Davison called the agreement an opportunity to start cleaning up an old city landfill on the property. She said an Ohio Environmental Protection Agency order to eliminate groundwater pollution and cap the old dump, which closed in 1983, would cost about \$10 million. "Steubenville has had one of the highest unemployment rates in the country. Our residents can't afford \$10 million," Davison said. "This is a down payment toward starting this project."

<http://www.dispatch.com/content/stories/local/2012/03/12/fracking-payoffs-luring-local-officials.html>

Fracking's Next Big Move: \$900 Million Investment in Columbiana – Chesapeake, Two Others Plan \$900 Million Natural Gas Project in Eastern Ohio, By Paula Schleis, Akron Beacon Journal, March 13, 2012 = ... Chesapeake Energy Corp. ... announced it is teaming up with two other energy companies on a \$900 million project to build natural gas and natural gas liquid processing plants in eastern Ohio. Chesapeake's subsidiary, Chesapeake Midstream Development (CMD), M3 Midstream (Momentum), and EV Energy Partners are ... planning a state-of-the-art cryogenic processing facility for natural gas in Columbiana County, with an initial capacity of 600 million cubic feet per day. Meanwhile, natural gas liquid will be delivered to a central hub in Harrison County, with capacity to store 870,000 42-gallon barrels and process 90,000 barrels a day. ... Chesapeake ran up more than \$1 billion in long-term debt last year to acquire new properties and has since been pushing to get access to more oil, which has become much more profitable to produce. ... Ohio had 33 wells drilled in 2011, of which only four were placed in production. ... According to most estimates, more than 1,000 wells will be drilled by energy companies in the next two years.

<http://www.ohio.com/news/local/fracking-s-next-big-move-900-million-investment-in-columbiana-1.273048>

Kasich Plan: Raise Drilling Tax, Lower Income Tax, Youngstown Vindicator, March 15, 2012 = Gov. John Kasich is proposing a tax increase on fracking, along with a corresponding income tax cut directly tied to how much the state collects from new oil and gas production. ... Severance taxes levied on oil and gas production from horizontal hydraulic fracturing will increase, with build-in breaks during the first year or two of operation to allow drillers to recoup their upfront costs. ... The bill also outlines a number of energy policy changes, including many related to fracking. The legislation splits regulatory duties for oil and gas production from shale among a half dozen state agencies. The Ohio Department of Natural Resources, for example, will oversee well construction and related regulations, including requiring companies to disclose chemicals used in fracking. Oil and gas companies will be required to prepay taxes to local governments, at a cost of \$25,000 per well, to cover road repair and costs from increased truck traffic and other impacts from increased oil and gas production. Those funds would be recouped by companies over time through tax credits. Kasich said the budget bill includes \$90 million in cost savings.

http://www.google.com/gwt/x?q=fracking+ohio&hl=en&scoring=n&ei=_UpiT8ijFsGWyG4Ag&start=20&source=news&u=http://www.vindy.com/news/2012/mar/15/kasich-plan-raise-drilling-tax-lower-inc/

Shale Gas Lawyers in Big Demand in Ohio, March 17, 2012, by Alison Grant, the Plain Dealer = Small-town lawyer Lawrence Piergallini has no cell phone, no computer. Nor does he belong to a country club. In his spare time, you'll find him on a tractor. The family livestock farm is 10 minutes from the Jefferson County office where he's practiced law for 31 years. With his unwired business, Piergallini seems a throwback to an earlier era. But in fact he's positioned at the legal and geographic epicenter of a modern phenomenon: the roaring "shale play" sweeping eastern Ohio. Shale exploration that some predict could become a multi-billion dollar bonanza has law firms across the state scrambling to handle its legal complexities. Firms that already had oil and gas practices are now expanding them. Industry veterans from

Texas and Oklahoma are partnering with Ohio lawyers to grab business. Small firms and solo practitioners like Piergallini are representing landowners, while big firms are courting the gas companies. And in Cleveland, law schools are scheduling courses that deal with shale exploration. Leasing and title quandaries are just the opening volley in what will be years of legal work -- and probably thousands of lawsuits -- tied to exploration, drilling, production and pipeline construction. "I wouldn't be surprised if there wasn't tens of thousands of disputes already," said Roger Proper Jr. at Critchfield, Critchfield & Johnston in Wooster, adding that many may not have reached the courtroom. For Piergallini, shale work now consumes 100 percent of his law practice in Tiltonsville, a short drive south of Steubenville along the Ohio River. In two 12-hour shifts last August, Piergallini, 56, helped 550 families in Harrison and Jefferson counties execute leases with oil and gas companies covering 32,000 acres. "My practice was real estate and probate, and coal was a big part of that," said the grandson of Italian immigrants who moved to southeast Ohio in the 1920s to work in bituminous coal mining. "It only made sense that it would transition into oil and gas." The rush by energy companies to get at eastern Ohio's resources has Lee Plakas working long weeks, too. The managing partner of Tzangas, Plakas, Mannos & Raies in Canton helps property owners form associations that combine their land into bigger chunks that are more attractive to developers. "In numbers there is strength, and because of the dramatically different technology of the horizontal drilling, all of the procedures and customs have been thrown out the window," Plakas said. Harvesting oil and gas from shale uses techniques for drilling horizontal wells and then fracturing, or "fracking," the rock. Wells go down about 8,000 feet before they branch into horizontal sections that can extend a mile or more from the vertical shaft. A mixture of water, sand and chemicals is pumped under pressure into the horizontal borings. Plakas said it's a world different from the time when farmers would lease land for \$10 or \$15 an acre, with operators setting up see-saw natural gas "grasshoppers" that almost blended into the landscape like rusty farm equipment. Today's horizontal drilling rigs tower up to 90 feet, surrounded by rock and gravel well pads stretching 5 to 15 acres.

Columbus attorney Richard Emens, with 60 years of experience in oil and gas contract law, represents nine landowner groups that have more than 350,000 acres up and down the eastern side of Ohio. "Because the equipment is bigger and it makes more of a mark on the land, it's very important that landowners have provisions in their leases that protect them," he said. Lease signing bonuses have soared as high as \$6,000 an acre in some of the choicest shale territory, and royalties on the extracted oil and gas -- which used to be 12.5 percent -- today can reach 21 percent, Emens said. Local government regulations, deal-making on joint business ventures to mine the resources, litigation from landowners who don't like noise and emissions from drilling take not just the roughnecks at the rigs but also plenty of lawyers. "I would guess there will be a sharp trajectory upward in terms of increased legal services for a while, and then it will level out and flatten as people become comfortable with the process," said Michael Hardy. He heads a 25-attorney "shale team" that combines lawyers in Thompson Hine offices in Cleveland, Columbus, Cincinnati, Dayton, Washington and New York.

A recent pair of lawsuits highlights some of the legal snarls: (1) Thirty-three angry residents in Columbiana County sued Chesapeake Energy Corp. in February, saying they got less than 1 percent of what they should have received in up-front bonus payments when they signed leases. (2) Amarado Oil Co. of Austin, Texas, sued a Wayne County property owner on Tuesday, seeking a refund of \$2.6 million that Amarado paid for oil and gas lease rights on land it says had defective titles.

"It's mind-numbing at times, the amount of work that's been created by this," Proper said. His 39-attorney firm has hired six lawyers since May for shale legal work, plus shifted others internally. It now has 15 lawyers in oil and gas, up from four in 2010. Critchfield lawyers held a meeting in February at the Mt. Hope

Auction Barn in Millersburg that drew 500 people to hear about an offer to lease their mineral rights from Endeavor Ohio, a producer out of Midland, Texas. By last week, landowners holding 17,000 acres, many of them Amish farmers, agreed to accept the deal. In Zanesville, attorney William Taylor is concentrating on other gas and oil companies chasing mineral rights in the ancient Utica shale. "Every lease is different," said the partner at Kincaid, Taylor & Geyer. "Every one of those transactions or conveyances of interest depends on language in the documents." Columbus law firm Bricker & Eckler went from having one oil and gas attorney, Glenn Krassen, to five. Krassen, working out of Cleveland, has never been busier in 32 years as a lawyer. He said the field was somewhat sleepy in Ohio until the shale boom came along. "We would expect as the land rush phase becomes replaced with the drilling and development phases, there will be a substantial amount of litigation," said Krassen, whose firm posts the ShaleOhio.com blog. Kendra Sherman at Squire Sanders calls herself the "air traffic controller" for a shale gas group that has biweekly conference calls with 10 to 20 lawyers, an in-house shale gas email list and blog, and webinars to keep everyone current on the fast-moving industry.

Law schools, too, are seeing a boost from the shale play. Cleveland-Marshall College of Law already has a course on oil and gas law and will add more energy law classes, school spokeswoman Elaine Terman said. Case Western Reserve University School of Law looks at shale exploration in its environmental and land use courses. "There is considerable student interest in the topic," said Case adjunct Professor Catherine LaCroix.

As legal needs shift from lease negotiations to drilling, clients will be dealing with permitting, regulatory compliance, supply chain, pipeline, utility, manufacturing, project finance and employee safety law. Christopher Schraff, a partner at the Columbus office of Porter Wright Morris & Arthur, anticipates third-party mineral rights to pop up -- owners of valuable coal or limestone formations who want to remove deposits where a drill rig is erected. The Ohio State Bar Association is stepping in to help educate lawyers. Kristin Watt, chair of the energy and environmental group at Vorys, Sater, Seymour and Pease, will give a session on fracking at a bar seminar in April. "I want to explain to people how broad and diverse the issues are, including economic incentives, road repair, real estate," Watt said. "You've got industries bringing, according to some, between 40,000 and 200,000 employees into the state. Who's going to handle all the workers' comp on that?" Vorys, Sater has 30 lawyers servicing shale clients, a fourfold increase in 18 months. Watt said she is a "niche player" focused on the impact on water quality, erosion control and wetlands. Hardy, the Thompson Hine lawyer, anticipates work tied to federal rules on tougher testing of fracking chemicals, complaints from landowners who claim drilling has contaminated private water wells, and new rules from regulators after an investigation concluded that shale operations induced 12 earthquakes near Youngstown last year. Many in the legal community are engaged in a huge learning curve, said Dale Arnold, the Ohio Farm Bureau Federation's energy specialist. "Things have changed dramatically," Arnold said. "The need for good legal counsel and having legal counsel up to speed is paramount right now." http://www.cleveland.com/business/index.ssf/2012/03/shale_play_lawyers_in_big_dema.html