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County commissioners supportive of injection well opponents, by David DeWitt, Athens News (10-31-12)

## ARTICLE SUMMARIES (WITH INTERNET LINKS)

**New York Further Delays High-Volume Fracturing for Gas, by Hannah Wisemen, Environmental Law Prof Blog (10-01-12)** = The natural gas industry has generally supported state regulation of fracturing, as I discussed in a post several weeks ago. Whether one views this as part of a broader "states' rights" approach grounded in federalism theory or a belief that state regulation is adequate and/or less burdensome than a federal approach, its repercussions are beginning to emerge. The New York Times reports that the Cuomo administration has ordered the initiation of a new environmental study of high-volume fracturing in the state, which the Times characterizes as restarting the regulatory process. This follows a lengthy environmental impact statement already prepared by the state's Department of Environmental Conservation. As the Times reports, this is an unusual display of the strength of grassroots action. While it appears that many New Yorkers oppose fracturing (also called fracing, fracking, or hydrofracking), some landowners in the state could make millions from leases. New York's actions, in short, are an unusual example of a state's willingness to fully consider the negative effects of an industrial process that could send large amounts of revenue into the state. Cuomo's action to further delay high-volume fracturing in the state follows an earlier proposal to allow fracturing only in economically-struggling counties near the Pennsylvania border that express support for shale gas development. // New York is not the only state that has taken a more cautious approach to shale gas development and fracturing. As that state looks to Pennsylvania--which has rushed ahead with this development--for potential pitfalls, Maryland and Delaware, too, have expressed concerns. In a letter, Delaware's Governor Jack Markell worried that fracturing regulations proposed by the Delaware River Basin Commission for gas development within its watershed were inadequate, and he indicated that he would vote against them. Maryland, in turn, formed an advisory commission to determine "whether and how gas production from the Marcellus shale in Maryland can be accomplished without unacceptable risks of adverse impacts to public health, safety, the environment and natural resources." // Despite New York's general ability to delay fracturing within its boundaries under its Environmental Quality Review Act, it faces other shale gas-related jurisdictional battles within its territory. A federal judge recently dismissed its complaint against federal members of the Delaware River Basin Commission and agencies associated with that Commission. New York had argued that a federal environmental review under the National Environmental Policy Act was required before the DRBC could finalize its draft regulations for gas development within the watershed. Although New York failed in its efforts to require further environmental study prior to the finalization of these regulations, it is not clear what will happen with the regulations, which require a vote of the Commission's state members (including Delaware, New Jersey, New York, and Pennsylvania) and its federal representative in order to be finalized. The proposed regional regulations rely substantially on the states for implementation, and New York could both oppose the passage of the regulations and, potentially, attempt to resist cooperation with the DRBC if the regulations are finalized. If New York sues the DRBC after its regulations are finalized--as the court suggested it may do--questions about whether to characterize this Commission as "federal" will continue to raise interesting issues regarding the Commission's powers over its member states and the extent to which it must comply with NEPA, if at all. // As shown by Pennsylvania's recent efforts to prevent municipalities from zoning out shale gas development and New York's latest delay of shale gas activity, important federalism issues will continue to dominate this field. These questions will require more careful thinking about state laboratories, a more complete analysis of whether regulatory experimentation in this area will lead to adequate control of the risks, and a better understanding of the boundaries of regional governance within the interstices of federal and state authority.

[http://lawprofessors.typepad.com/environmental\\_law/](http://lawprofessors.typepad.com/environmental_law/)

**Under Pressure, Cuomo Administration Punts On Fracking Rules, by Pete Brush, Law360 (10-01-12)** = The advent of high-volume hydraulic fracturing in New York, once said by Gov. Andrew Cuomo to be imminent, was pushed off Monday at least until next year by an administration increasingly wary of

potentially harmful health impacts, legal challenges and voter backlash.

<http://www.law360.com/environmental/articles/383170/under-pressure-cuomo-administration-punts-on-fracking-rules>

**Texas To Encourage Fracking Fluid Recycling With New Rules, by Jess Davis, Law360 (10-01-12)**

=Rules proposed by the Texas Railroad Commission for recycling fracking fluids and reusing water produced in drilling would remove a permitting bottleneck and add much-needed certainty to what has been a cumbersome process for the natural gas industry, experts said. / The rules, published Friday in the Texas Register, would allow companies engaged in hydraulic fracturing to recycle the water and so-called fracking flowback fluid on-site without a permit, and they also set out clear guidelines for off-site, commercial recycling.

<http://www.law360.com/energy/articles/383226/texas-to-encourage-fracking-fluid-recycling-with-new-rules>

**Binghamton, New York Fracking Moratorium Struck Down By State Judge, by Michael Hill, Huffington Post (10-03-12)**

= ALBANY, N.Y. (AP) — A state judge invalidated Binghamton's two-year moratorium on natural gas drilling, marking the first time a local law that would ban or delay hydraulic fracturing in New York has been struck down. // State Supreme Court Justice Ferris D. Lebovitz became the latest New York judge to weigh in on local bans or moratoriums Tuesday, ruling that the city law approved December 2011 failed to meet the standards of a properly enacted moratorium. Lebovitz said the city never established that there was a "dire emergency" regarding a practice that is still not allowed in New York. // "There can be no showing of dire need since the New York state Department of Environmental Conservation has not published the new regulations that are required before any natural gas exploration or drilling can occur in this state," Lebovitz wrote. // Gov. Andrew Cuomo's administration is considering whether to allow natural gas drilling using hydraulic fracturing, or fracking, a process involving the injection of wells with chemically treated water that is denounced by many environmentalists. // As the DEC review continues, more than 30 upstate municipalities have passed bans on gas drilling and more than 80 have enacted moratoriums. The laws enacted by towns sitting atop the gas-rich Marcellus Shale formation are typically in response to fears that fracking could contaminate water supplies, though the energy industry says the process has been used safely for years. // Local bans in Dryden and Middlefield have already passed muster with state courts. Lebovitz referred to those two previous court decisions as "well-reasoned" and focused his decision on Binghamton's actions. Despite the loss for Binghamton, about 130 miles southwest of Albany, environmentalists said the ruling reaffirms the legal right for local bans. Lawyers for environmental groups said they don't believe this ruling would imperil the other local bans. // "Almost all of the decision is very fact specific and limited to Binghamton, which had a very unique law," said Helen Slottje, an attorney with the Community Environmental Defense Council, which represented the city. // Binghamton Mayor Matthew Ryan said Wednesday an appeal is likely. He said the city could try to pass a similar law that would not run afoul of the court. // City officials had argued the law was not a moratorium but an emergency action to protect its water. But Lebovitz ruled it was a moratorium and held the city to that strict legal standard. // The lawsuit was bought by a group of plaintiffs who claimed the law could harm their business or prevent them from obtaining natural gas leases. // "You've got to follow the letter of the law," said Kenneth S. Kamlet, a lawyer for the plaintiffs. "The city of Binghamton didn't play by the rules, and they had to pay the piper."

[http://www.huffingtonpost.com/2012/10/03/binghamton-new-york-fracking-moratorium\\_n\\_1936605.html](http://www.huffingtonpost.com/2012/10/03/binghamton-new-york-fracking-moratorium_n_1936605.html)

**USGS Releases First Assessment of Shale Gas Resources in the Utica Shale: 38 trillion cubic feet (10-04-12)**

= Utica Shale contains about 38 trillion cubic feet of undiscovered, technically recoverable natural gas (at the mean estimate) according to the first assessment of this continuous (unconventional) natural gas accumulation by the U. S. Geological Survey. The Utica Shale has a mean of 940 million barrels of unconventional oil resources and a mean of 208 million barrels of unconventional natural gas liquids. // The

Utica Shale lies beneath the Marcellus Shale, and both are part of the Appalachian Basin, which is the longest-producing petroleum province in the United States. The Marcellus Shale, at 84 TCF of natural gas, is the largest unconventional gas basin USGS has assessed. This is followed closely by the Greater Green River Basin in southwestern Wyoming, which has 84 TCF of undiscovered natural gas, of which 82 TCF is continuous (tight gas). // "Understanding our domestic oil and gas resource potential is important, which is why we assess emerging plays like the Utica, as well as areas that have been in production for some time" said Brenda Pierce, USGS Energy Resources Program Coordinator. "Publicly available information about undiscovered oil and gas resources can aid policy makers and resource managers, and inform the debate about resource development." // The Utica Shale assessment covered areas in Maryland, New York, Ohio, Pennsylvania, Virginia, and West Virginia. // Some shale rock formations, like the Utica and Marcellus, can be source rocks – those formations from which hydrocarbons, such as oil and gas, originate. Conventional oil and gas resources gradually migrate away from the source rock into other formations and traps, whereas continuous resources, such as shale oil and shale gas, remain trapped within the original source rock. // These new estimates are for technically recoverable oil and gas resources, which are those quantities of oil and gas producible using currently available technology and industry practices, regardless of economic or accessibility considerations. // This USGS assessment is an estimate of continuous oil, gas, and natural gas liquid accumulations in the Upper Ordovician Utica Shale of the Appalachian Basin. The estimate of undiscovered oil ranges from 590 million barrels to 1.39 billion barrels (95 percent to 5 percent probability, respectively), natural gas ranges from 21 to 61 TCF (95 percent to 5 percent probability, respectively), and the estimate of natural gas liquids ranges from 4 to 16 million barrels (95 percent to 5 percent probability, respectively). // USGS is the only provider of publicly available estimates of undiscovered technically recoverable oil and gas resources of onshore lands and offshore state waters. The USGS Utica Shale assessment was undertaken as part of a nationwide project assessing domestic petroleum basins using standardized methodology and protocol. // The new assessment of the Utica Shale may be found online.

[http://www.usgs.gov/newsroom/article.asp?ID=3419#.UG8n\\_fWxiUk](http://www.usgs.gov/newsroom/article.asp?ID=3419#.UG8n_fWxiUk)

**Court Strikes Down Binghamton Fracking Ban, by Matthew Cabral, Shale Watch (10-04-12)** = On October 3, 2012 Broome County Supreme Court Justice Ferris D. Lebous struck down the city of Binghamton's recently enacted ban on natural gas drilling, including fracking activities, finding that the city failed to demonstrate how drilling would harm the community. The court acknowledged that the city has a right to ban gas drilling, exploration, and storage within the municipality, but before doing so it must follow mandatory referral requirements or show a dire necessity or crisis justifying the immediate moratorium. According to Judge Lebous, Binghamton did not do either. // The Binghamton City Council passed Local Law No. 6 last December, which banned gas and petroleum exploration and extraction activities for 24 months. The city took the position that Broome County Department of Planning and Economic Development approval was not necessary to implement the ban because the law was a general police action intended to "guard against pollution and protect the safety, health and well-being of its residents." However, according to Judge Lebous, Binghamton "failed to provide any evidentiary proof that would provide a justification, based upon the health and safety of the community, for the banning of gas exploration, storage and extraction." // Justice Lebous determined that Binghamton had done nothing to investigate the ramifications of drilling within the municipality and seemed simply to be acting to appease drilling opponents. "This activity cannot be so detrimental that it must be banned, but only for two years, particularly when it is clear that the city is not engaging in any investigation, studies or other activities in the interim in order to determine if there is any way to alleviate any harm to the people of the city from this future activity," the court's Order reads.

<http://shalewatchblog.com/2012/10/04/court-strikes-down-binghamton-fracking-ban/>

**Okey seeking tighter regulations for oil, gas leases, by Jon Baker, Dover-New Philadelphia Times Reporter (10-04-12)** = CARROLLTON — State Rep. Mark Okey, D-Carrollton, believes Ohio needs tighter

regulation of “landmen” — individuals who solicit leases for oil and gas companies. “They’re outside the regulation of the law, and they get to do pretty much anything they want,” Okey said. “Only a licensed real estate agent or a practicing attorney is allowed to negotiate leases, because it deals with real estate. Landmen are, for the most part, neither.” He said he has received complaints about them from his constituents in Carroll County, which has seen the greatest amount of activity in the oil and gas boom that has hit eastern Ohio in the last couple of years. Okey has heard stories of landmen yelling at people when they didn’t sign a lease promptly. Landmen have told property owners something, and later the property owners find out it wasn’t true, according to Okey. In other cases, landmen have told residents that something was in their lease, when it wasn’t. Both Okey and Paul Feezel, chairman of Carroll Concerned Citizens, were recently interviewed for a Reuters video report on the practices of Chesapeake Energy landmen in Ohio. In the report, Okey said constituents have labeled Chesapeake landmen as the most aggressive — and most deceptive — in securing leases. // A Chesapeake spokesman declined comment on the report Wednesday. // Feezel has had a similar experience with landmen in Carroll County. “I personally have seen and heard tactics from benign, to not very well informed, to flat out lying,” he said. Some landmen Feezel has dealt with have been very professional and understanding, he added. “Unfortunately, there are a lot of less than scrupulous landmen out there,” Feezel said. // To regulate the activities of landmen, Okey has introduced House Bill 493, known as the “Truth in Leasing Act,” which would guarantee basic leasing protections and a minimum royalty to Ohio’s landowners, similar to those found in neighboring states. Among its provisions is one that would not allow landmen to operate in Ohio unless they registered and obtained a registration certificate from the chief of the Division of Oil and Gas Resources Management. The bill has been assigned to the House Agriculture & Natural Resources Committee, where Okey said it is stalled. “They won’t give me an initial hearing,” he said. “They may be working on a bill of their own that may be incorporating concerns I have. If that does happen, I hope it goes far enough that I can support it. It doesn’t have to be my bill, just as long as it gets done.” // Dennis Ginty, spokesman for the Ohio Department of Commerce, said his department has had conversations with Okey about his bill. “There are some things we agree with him about the bill,” Ginty said. “We are having ongoing discussions with him.” // Regardless of whether the bill is passed, Okey said landowners should always consult an attorney before signing any lease. “A lot of times, consultations with lawyers will illuminate issues they thought didn’t exist,” he said. // Feezel noted that leasing of land in Carroll County is “pretty much done,” with about 95 percent of the property leased. “It’s come and gone for the most part,” he said. “Now it’s kind of the second and third go-round.” Landowners in the county are now being approached to lease their land for pipelines. “We’re hoping the landowners are more knowledgeable about the tricks of the trade this go-round,” he said. They also are receiving solicitations from companies that want to buy a portion of their royalty rights. “They give you a one-time payment for the right to a long-term revenue stream,” Feezel said, noting that he has gotten two dozen requests to buy his royalties, though he hasn’t sold his mineral rights yet.

His group hopes to educate landowners in other counties that are now going through the leasing process. “Just because 95 percent of Carroll County land is leased doesn’t mean that other folks can’t learn from us,” Feezel said. “We hope people won’t sign a lease because a stranger knocks on their door with a checkbook and a two-page lease. I think most landowners are becoming more aware now.”

[http://www.timesreporter.com/newsnow/x541588682/Okey-seeking-tighter-regulations-for-oil-gas-leases?zc\\_p=0](http://www.timesreporter.com/newsnow/x541588682/Okey-seeking-tighter-regulations-for-oil-gas-leases?zc_p=0)

**Mansfield voters will decide city's rules for fracking wastes, by Linda Martz, Mansfield News Journal, (10-09-12)** = MANSFIELD -- Law Director John Spon says Mansfield's proposed environmental bill of rights, if approved by voters, would represent "the true voice of the people." The measure would declare a residential right to require increased monitoring of fracking fluids disposed down any injection wells built in Mansfield. Voters who live inside city boundaries will have a chance to consider the question Nov. 6. Additional language for the city's charter was proposed after Preferred Fluids Management, a Texas company, obtained permits from the Ohio Department of Natural Resources to drill two 5,000-foot-deep

wells off in the industrial park. // Owner Steve Mobley told the News Journal he planned to have hydraulic fracturing waste from Pennsylvania shipped to Mansfield by rail for disposal in the wells. // Preferred Fluids filed a federal lawsuit that contends Ohio alone may regulate injection wells, and the city has no say in the matter. The city charter commission last spring recommended voters consider an environmental "bill of rights." Spon says that language would help bolster Mansfield's legal right to protect itself against potential pollution. // The proposed charter amendment says: » Property rights in groundwater underlying privately owned land shall not be held in trust by government, except with the landowner's consent. » Mansfield residents have a right to self-government, sustainable water and clean air. » No person or corporation may inject or store fracking water, brine or other materials from shale energy development in Mansfield without obtaining council's written consent. // The city plans to require the drilling industry to disclose the contents of anything injected into an underground Mansfield well. The city has a right to require disclosure on specific contaminants being poured down any injection wells built here, beyond the level of information ODNR seeks, Spon said. "The bill of rights declares fundamentally that our city has a right to protect itself, with reasonable regulations," Spon said. "Does a single owner of an injection well have a right to override the voice of nearly 50,000 people?" "Local government is the foundation of democracy. If it fails, democracy will fail." // But an industry spokesman said the proposed charter amendment could damage the lead Ohio has taken in shale energy development. "This charter highlights a citizen's right to a sustainable energy future, but seeks to deny that future in its efforts to eliminate oil and natural gas development," said Daniel Alfaro, communications director for Energy in Depth -- Ohio. "Safe, responsible development of our nation's energy resources is the driving force in what has been a goal of every president since the Nixon administration -- energy security." // Ohio is emerging as a leader in domestic energy production "and now has the most stringent, transparent and robust regulatory system in the country -- a fact we can all be proud of," Alfaro said. // U.S. Environmental Protection Agency Administrator Lisa P. Jackson has repeatedly highlighted Ohio's role in regulation, and the safe practices involved in oil and natural gas extraction, he said. "While this (charter amendment) is being marketed as a homegrown, organic movement coming from local concerned citizens, it is, in fact, a well-funded, coordinated effort being directed from a national organization opposed to the development of fossil fuels at every turn," Alfaro said. "This proposal ... promotes a well-documented agenda under the guise of a local charter." // Spon said he expected such a response. "What we're requiring is for them (the drilling industry) to act in a responsible manner which can be verified," he said. Without evidence that directly ties specific contaminants to a specific company delivering fracking fluid to the disposal site, the city and nearby landowners could never prove who was responsible for any pollution, Spon said.

<http://www.mansfieldnewsjournal.com/article/20121009/NEWS03/210090310/1002/rss01>

**Number of shale permits sought slowed in Ohio, but not Pennsylvania, by Kristy Foster, Farm and Dairy (10-10-12)** = SALEM, Ohio — The number of wells waiting to be fracked outnumbered the number of permits issued by the Ohio Department of Natural Resources during September. There are 57 Utica shale wells in Ohio waiting to be fracked, according to the most current report. Hydraulic fracturing, or fracking, is a process commonly used in oil development. It is a technique that cracks open rock layers to free natural gas. There were a total of 23 permits issued during September by the ODNR. // **Carroll County** – Carroll County remains a hot spot of activity, leading the number of Utica shale permits issued again. There were five permits issued for Carroll County sites in September: four in Loudon Township on what appears to be separate properties, and one in Harrison Township. All of the permits were issued to Chesapeake Exploration, LLC. // **Guernsey County** - In Guernsey County, four permits were issued. In Center Township, one was issued to Devon Energy Production Co. Two permits were issued in Oxford Township to Hess Ohio Development, and one was issued in Spencer Township to EQT Production Company. // Single permits - Single permits were issued in Belmont, Holmes, Mahoning and Monroe counties. Gulfport Energy Corporation was issued a permit in Somerset Township in Belmont County. The permit issued in Holmes

County was issued for a site in Salt Creek Township to Devon Energy Production. In Mahoning County, the permit was issued in Jackson Township to CNX Gas Company, LLC. And in Monroe County, a permit was issued in Franklin Township to Hall Drilling, LLC. Three permits were issued each in Portage and Harrison counties. // **Portage County** – In Portage County, permits were issued in Garrettsville Township to Mountaineer Keystone LLC on the same property. // **Harrison County** – And in Harrison County, two permits were issued in Nottingham Township to Gulfport Energy Corporation and one in Franklin Township to Hess Ohio Development LLC. // Two permits were issued in both Columbiana and Coshocton counties. // **Columbiana** – In Columbiana County, there were permits issued in Center and Salem townships, both to Chesapeake Exploration, LLC. // **Coshocton** – In Coshocton County, the permits were issued to Oxford and Mill Creek townships. Both permits were issued to Devon Energy Production Co. // There are now a total of 382 permits issued in Ohio and 144 Utica shale wells drilled. // **Pa. permits issued** – In Pennsylvania, there were a total of 198 permits issued, according to the Department of Environmental Protection. Of those, 186 were issued for new wells and 12 were issued granting permission to drill deeper. In Westmoreland County, 17 permits were issued; Washington County, 29; Tioga, 15; Wyoming 7; Susquehanna, 28; Sullivan, 1; Potter, 1; McKean, 2; Lycoming, 31; Greene, 7; Forest, 2; Fayette, 3; Elk, 2; Clearfield, 1; Cameron, 4; Butler, 4; Bradford, 32; Beaver, 2; and Armstrong, 4. // The SPUD report, released by the Department of Environmental Protection, states there were 144 wells actually drilled during September. // SPUD, according to the definition in the oil and gas industry, means the process of beginning to drill a well. // **Drillers in Pennsylvania** – According to the report, only seven wells drilled had permits issued to Chesapeake Exploration or Chesapeake Appalachia. Other drillers included Chevron Appalachia, LLC, Anadarko E&P Co., SWEPI LP ( a division of Shell), Atlas Resources, Range Resources, Catalyst Energy Inc. Duhring Resources Co., CNX Energy, Carrizon (Marcellus)LLC, Autumn Ridge LLC., Southwestern Energy Production Co. and a host of independent drilling companies. // Since 2005, when the Marcellus boom began, a total of 5,933 wells have been drilled in Pennsylvania. In 2012, a total of 1,043 have been drilled. // **USGS report** – Meanwhile, the United States Geological Survey issued its first assessment of shale gas resources in the Utica shale. The report estimates that there is 38 trillion cubic feet of undiscovered recoverable natural gas. This may seem like a lot of natural gas, but the Utica appears to have smaller deposits than other formations. According to the report, the Marcellus shale, which runs through a large portion of Pennsylvania and New York, is estimated to have 84 trillion cubic feet of natural gas. However, the Utica shale appears to have 940 million barrels of unconventional oil and 208 million barrels of unconventional natural gas liquids. According to its website, USGS is the only provider of publicly available estimates of undiscovered technically recoverable oil and gas resources of onshore lands and offshore state waters. // Make sure to click the graphic below to view it full-size. // For more shale-gas news, visit the Shale Gas Reporter. <http://www.farmanddairy.com/news/shale-gas-permits-slowed-in-ohio-but-not-pennsylvania/42999.html>

**Chesapeake Settles Fracking Row With Pa. Landowners, by Dan Packel, Law360 (10-11-12) --** Chesapeake Energy Corp. reached a settlement with 17 Pennsylvania landowners in two suits over Marcellus shale gas leases on their properties, a federal judge announced Wednesday. // U.S. District Court Judge David Cercone’s order noting that the parties had reached an amicable resolution to both disputes provided no details on the terms of the settlement. // The landowners had contended that after the energy company acquired a set of invalid leases to their land, it shirked its duty to develop the land for drilling, thus preventing them from receiving royalties and other compensation. // Chesapeake, in a separate suit, claimed that six of the landowners denied its workers access to their property, in violation of the leases. // Both of the lawsuits in question were initiated on March 27, 2012, with the landowners filing in the Court of Common Pleas of Beaver County, and Chesapeake filing in the U.S. District Court for the Western District of Pennsylvania. // In the landowners’ suit, which was later removed to federal court, they claimed that in 2005, a representative from O & G Investment Holdings LLC directed them to sign incomplete leases allowing drilling on their properties, claiming that if they did not sign, O & G or its agents would drill on

neighboring lands and extract their natural gas without any compensation. The representative, Jason Henthorne, then finalized and recorded the leases, without giving the landowners a chance to review them. // After a series of transfers, the leases landed in the hands of Chesapeake, according to the landowners' suit, and until 2012, none of the leaseholders had made any effort to begin drilling on the properties. // "All of the plaintiffs' reliance on covenants and fraudulent misrepresentations made by O & G and Jason F. Henthorne proximately caused the plaintiffs to suffer significant economic losses since they were prevented from obtaining royalties or other just compensation as required by their respective lease for approximately seven years," said the landowners' complaint. // But in Chesapeake's suit against six of the landowners, it alleged that on the day of filing — March 27 — its contractors arrived at one of the properties in question, prepared to begin clearing land for drilling, but were denied access to the land. // The company claimed that it needed to be on the land by the next day to be able to clear all the trees on the property by March 31, after which a U.S. Fish and Wildlife Service restriction on tree clearing was slated to go into effect for the next seven months. // Chesapeake thus sought injunctions to allow it to begin operations on the land. // Attorneys for the landowners declined to comment on the terms of the settlement Thursday. // Representatives for Chesapeake could not be reached for comment. // The landowners are represented by James Brink of the Brink Law Offices PC and Steven Townsend of Eddy Deluca Gravina & Townsend. // Chesapeake is represented by Kevin Abbott of Reed Smith LLP and Kevin L. Colosimo of Burlinson LLP. // The cases are McRoberts et al. v. Chesapeake Energy Corp. et al., case number 2:12-cv-00514 and Chesapeake Appalachia LLC v. McRoberts et al., case number 2:12-cv-00379, both in the U.S. District Court for the Western District of Pennsylvania. --Editing by Rebecca Flanagan.

**Wyoming Water Tests in Line With EPA Finding on Fracking, by Mark Drajem, Bloomberg News (10-11-12)** = Tests of drinking water near a natural-gas drilling site in Wyoming back up findings that established the first link by the federal government between hydraulic fracturing and tainted water, the Environmental Protection Agency said. // The EPA yesterday issued its follow-up analyses of two test wells it drilled in Pavillion and of five residents' water wells, saying the pollutants it found were "consistent" with the results last year used to establish that connection to hydraulic fracturing, or fracking. // Water quality in Pavillion, Wyoming, has attracted national attention since the EPA's draft report in December showed that fracking may have contaminated homeowners' water. // "If it's possible here, then it's possible elsewhere as well, and that's why the gas industry and some state governments are fighting tooth and nail to question the results," Alan Septoff, research director for Earthworks, a Washington-based environmental group, said in an interview. "Once that precedent is set," it could increase pressure for more government regulation, he said. // In fracking, millions of gallons of water with chemicals and sand are shot underground to break apart underground rock and free trapped gas or oil. The technology has helped the U.S. cut dependence on imported fuels, lower power bills and cut state unemployment from Pennsylvania to North Dakota. // Scientific Evidence – Critics have said it endangers water supplies, while the industry maintains that no confirmed case of such contamination has ever been demonstrated scientifically. If the Pavillion results hold up to further scrutiny, they could refute that contention. "EPA has provided no sound scientific evidence that drilling has impacted domestic drinking-water wells in the area," Doug Hock, a spokesman for Encana Corp. (ECA), the company that leases the natural-gas field there, said in an e-mail. "Encana didn't put the hydrocarbons there; nature did." // The EPA conducted the latest tests after Calgary-based Encana and Wyoming state officials criticized the EPA's initial testing methods and preliminary conclusions. // The results from the test wells show similar levels of methane, benzene and glycol contamination as the earlier EPA tests, said Wilma Subra, who has her own testing company and works with residents in Pavillion concerned about the health effects of their water. "The results confirm what was found before," she said. // Encana, Canada's largest natural-gas producer, owns 140 natural-gas wells in an area of cattle and hay farms outside of Pavillion, about 230 miles (370 kilometers) northeast of Salt Lake City. The company says that contaminants found in water wells are naturally occurring, and that the two test wells the EPA drilled

in 2010 were improperly constructed. Encana provides water to about 20 area households. // The gas wells in Pavillion are different than those drilled in most areas of Pennsylvania, where residents also have complained about tainted water from fracking. The wells in the Wyoming town don't go as deep and aren't separated from the aquifer by thousands of feet of rock. // "This is an outcome that does not apply to shale formations" in Pennsylvania, Ohio and elsewhere, Terry Engelder, a professor of geosciences at Pennsylvania State University, said in an interview. "This is a very unique situation." // Also yesterday, the EPA pushed back until Jan. 15 its deadline for public comment on the preliminary report and the newly released follow-up data. // To contact the reporter on this story: Mark Drajem in Washington at [mdrajem@bloomberg.net](mailto:mdrajem@bloomberg.net) <http://www.businessweek.com/news/2012-10-10/epa-says-test-of-wyoming-water-consistent-with-prior-results>

**Drilling report's message mixed -- GAO assessment doesn't quantify extent of risks, by Kevin Begos, AP, Columbus Dispatch (10-13-12)** = PITTSBURGH — Shale gas and oil drilling pose environmental and public-health risks, but the extent of those risks is unknown, the Government Accountability Office said in new study. // The independent, nonpartisan agency that works for Congress reviewed existing scientific reports on shale drilling and spoke to state regulators, industry experts and environmental groups. // Regulators in Ohio, Arkansas, Colorado, Louisiana, North Dakota, Oklahoma, Pennsylvania and Texas said state investigations found that the part of the drilling process called hydraulic fracturing, or "fracking," has not been identified as a cause of groundwater contamination, the report notes. // Travis Windle, a spokesman for the Marcellus Shale Coalition, suggested that the GAO report, "like so many other independent reports, determines that hydraulic fracturing is safe and that this critical, tightly regulated technology has never impacted groundwater." // But the GAO also noted that, according to studies and publications, "underground migration of gases and chemicals poses a risk of contamination to water quality." For example, the GAO said, the Ohio Department of Natural Resources found in 2008 that a gas well with a faulty seal allowed natural gas to build up and migrate into the local aquifer, infiltrating drinking-water wells. // George Jugovic, president of the Pennsylvania environmental group PennFuture, said he doesn't think the public cares which part of the drilling process poses a threat to health or the environment. // "I don't think it serves the industry well to shy away from what is a legitimate public concern," Jugovic said, noting that every industrial process has some risk. The question is what risk people are willing to live with, he added. // Fracking has made it possible to tap into deep reserves of oil and gas, but it also has raised pollution concerns. Large volumes of water, along with sand and hazardous chemicals, are injected underground to break rock apart and free the oil and gas. // Contaminated wastewater from the drilling process can leak from aquifers via faulty well casings. Also, some studies have shown air-quality problems around gas wells, while others have indicated no problems. // In a separate but related report, the GAO said both federal and state agencies face challenges in regulating shale oil and gas wells, such as a lack of data and limited legal authority. It also noted that some states — including Ohio and Pennsylvania — have strengthened regulations in recent years, based on recommendations from independent reviews. // The second report also found that environmental regulators in North Dakota, Pennsylvania and Wyoming mentioned challenges related to hiring or retaining staff. Ohio didn't report that problem.

[http://www.dispatch.com/content/stories/national\\_world/2012/10/13/drilling-reports-message-mixed.html](http://www.dispatch.com/content/stories/national_world/2012/10/13/drilling-reports-message-mixed.html)

**Hagen Introduces Bill to Disclose Fracking Chemicals, Business Journal, Youngstown, Ohio (10-14-12)** = COLUMBUS, Ohio -- State Rep. Robert F. Hagan (D-Youngstown) and state Sen. Michael J. Skindell (D-Lakewood) today introduced companion legislation addressing the concerns of many Ohioans regarding the chemicals used in hydraulic fracturing by the oil and gas industry. The bills, House Bill 596 and Senate Bill 379, propose to reverse the gag order that was placed on medical professionals through SB 315, and expand the reporting requirements for oil and gas well permits. // "It's bad public health policy for legislators to take prescriptions from the oil and gas industry, and that's exactly what they did when writing

the gag order,” said Hagan in a prepared statement. “Ohioans would be better served by doctors deciding what is right for their patients, not by oil and gas executives trying to suppress vital medical information. We certainly don’t use family physicians to operate rotary rigs, so I don’t see why we should let oil tycoons decide what kind of information is medically necessary.” // The legislation would also expand how medical professionals can access the chemical information they need to properly treat their patients. Additionally, if enacted, the bills would broaden the reasons for which a medical professional can request this information and the ways in which a patient can be deemed adversely affected. // "It's the responsibility of state lawmakers to protect the health and well being of Ohioans and that's why I am calling for full disclosure of the chemicals used in gas and oil drilling,” said Skindell. “Doctors need to know what chemicals are being used so they can treat their patients. We can't allow corporate secrets to endanger public safety." // The bills provide that at the onset of the application process, the owner of a well disclose all chemical information used in both well stimulation and well drilling. Owners would also be expected to supply the Ohio Department of Natural Resources with a full list of chemicals, including those deemed to be proprietary. Specific chemical information that these bills would require to be reported is as follows: •The chemical’s name, the chemical abstracts service number, the chemical family name, the trade name and the vendor. •A brief description of the chemical’s intended use or function. •The proposed quantity to be used, reported as a percentage, by weight or volume, of the total fluid. // Ultimately, the legislation would centralize all chemical information, including proprietary information, with the chief of the Ohio Department of Natural Resources. Such a database would allow medical professionals to have timely access from a single source, the legislators said.

<http://businessjournaldaily.com/drilling-down/hagan-introduces-bill-disclose-fracking-chemicals-2012-10-4>

**Another Voice: Fracking spoiled farm’s hay fields, By John Peters, The Buffalo News (10-15-12)** = The oil and gas industry apparently believes its own propaganda – that modern drilling techniques are environmentally friendly. Maybe it’s time the true-believers at the Independent Oil and Gas Association of New York stop by my small farm in the Town of Arcade and see, first hand, the mess made by one of their drillers. // Before the drillers arrived two years ago, my land produced excellent quality hay, feed for my livestock. Then the state Department of Environmental Conservation gave the company permission to level eight acres of land for a drilling rig next to my hay fields. // Down the drill bit went to the Theresa sandstone 6,000 feet below. Up came tens of thousands of gallons of toxic drilling fluids to fill a pond built for that purpose. But, when four days of heavy rain washed out the small poly-lined pond, guess where all of those toxic fluids ended up? Yep, in my fields and an adjoining neighbor’s field. // How could this happen if the drilling is environmentally friendly? Well, first of all, the drillers did not care enough to protect my land from a natural downpour, a commonplace event. Perhaps to save a few construction dollars and fatten their bottom line? // Next, the DEC failed to inspect the drilling operation to make sure my land was protected. If the DEC has the authority to issue the drilling permit, doesn’t it also share the responsibility to protect my land and, when things go wrong, share the blame? Can we count on the state to do its job? Apparently not. // I asked the Wyoming County Soil and Conservation office to look at my hay field. Its agent described the damage caused by the drillers in a blistering five-page report. At last, I had some hope that the drilling company would do the right thing and offer to pay for removal of the toxic wastes covering my hay field. Nope. The company did not move. And the county has no legal authority to force drillers to fix anything. // Then, to my surprise, an engineering firm hired by the drillers stopped by. His conclusion agreed with the Wyoming County study. My hay field was ruined by the company’s own drillers. The engineer’s recommendation: Build a storm retention pond and release the water slowly through the new roadway. The storm water retention pond was never built. // Finally it dawned on me. No one would help me. Not the drilling company. Not the Oil and Gas Association that represents the drilling company. Not my own town government, not even the state agency that gave the driller a license to ruin my hay field. // Now I am buying hay at \$8 a bale for my cattle – many times more than the costs to grow my own hay. I have hired a lawyer and I am suing

the drillers. // The next time you are tempted to believe the oil and gas industry propaganda, stop by my farm for a dose of reality. // John Peters runs a small farm in the Town of Arcade.  
<http://www.buffalonews.com/apps/pbcs.dll/article?AID=/20121015/CITYANDREGION/121019518/1074>

**Oil and gas industry regulations examined, by Sam Shower, Marietta Times (10-16-12) = MARIETTA**  
- Ohio could do a better job of regulating the oil and gas industry, according to a panel of speakers who participated in a forum titled "Ohio's Laws and the Oil and Gas Boom" at Marietta College Monday night. // The speakers included Ohio 92nd District Rep. Debbie Phillips, D-Athens; Pavenne Pettigrew, retired from the West Virginia Department of Environmental Protection and owner of P.L. Pettigrew Consulting LLC; and Nathan Johnson, staff attorney for the Buckeye Forest Council. // Phillips kicked off the discussion with a summary of the three pieces of legislation that govern oil and gas activity in Ohio. // "Senate Bill 165 was passed during the previous administration in preparation for the coming oil and gas industry in Ohio," she said. "There were conflicts, especially in some suburban areas, where some landowners who did not sign leases with oil and gas companies were being included with other property owners who did have signed leases." // Phillips said SB 165 addressed those and other issues, but it was a lengthy process that took a couple of years to develop. // The bill levies an oil and gas recovery tax on well owners, sets rules for minimum acreage required for drilling, requires that the state Division of Mineral Resources Management review sites before granting drilling permits, and requires standards for well construction to be included in the permits. // Phillips opposed House Bill 133, which created an Oil and Gas Leasing Commission to control leasing of state-owned land for exploration and drilling. // "Private landowners can negotiate anything with oil and gas companies, but state agencies have to deal through this commission when deciding if the land they're responsible for should be leased for oil and gas development," Phillips said, adding that state parks and university lands are not the right place for drilling activity. // She also disagreed with parts of Senate Bill 315-Gov. John Kasich's energy bill-that revises requirements for oil and gas drilling permits. // "This sets a number of new requirements for drilling, as well as requirements for information and notification from oil and gas companies," Phillips said. "But I disagreed with a portion of the bill on 'trade secrets' which doesn't require companies to release the names of the chemicals they're using in hydraulic fracturing wells." // Pettigrew said Ohio does not conduct enough mechanical integrity testing of the state's 170-plus injection wells to make sure the facilities are constructed and working properly. // The injection wells are used by oil and gas companies from within and from outside Ohio to store waste water, or brine, used in shale hydraulic fracturing operations. // West Virginia has only a handful of injection wells, compared to Ohio. // Pettigrew said that's because the Mountain State requires testing for a two-page list of chemicals before a hauler can inject brine into the ground in that state, while Ohio does not require such extensive testing. // "If the injectate (brine) cannot meet federal safe drinking water standards, the injection well permit should be denied," she said. "I'm not against oil and gas extraction, but Ohio is on a ragged edge right now. You have to get control in the beginning of this activity, because once an aquifer is contaminated, you'll never get it cleaned up." // Johnson said Ohio's oil and gas statutes are inadequate. // "Ohio is essentially becoming the dumping ground for wastewater from oil and gas operations," he said, noting that some hydraulic fracturing waste includes radioactive materials like radium, strontium and cadmium. // "Contamination happens," Johnson said. "The oil and gas industry reports show routine leaks in oil and gas wells that allow these chemicals to bubble to the surface." // He said between 2007 and 2010 one in seven injection wells inspected showed integrity violations in the state. // "And more than 90 percent, or 58,000 wells go uninspected every year in Ohio," Johnson added. "And companies found in violation are rarely penalized."  
<http://www.newsandsentinel.com/page/content.detail/id/566421/Oil-and-gas-industry-regulations-examin ed.htm>

**New EPA Report Again Ties Wyo. Water Pollution To Fracking, by Matthew Gilpin, Hydraulic**

**Fracking Blog, Fulbright & Jaworski, LLP (10-17-12)** = On October 10, 2012, as a follow-up to its December 2011 draft report concerning allegations of groundwater contamination in Pavillion, Wyoming, the EPA released the methodology and results for additional water samples collected from two monitoring wells by the U.S. Geological Society, in cooperation with the Wyoming Department of Environmental Quality, in April 2012, a report that was highly criticized by industry. // The EPA announced that the results of the additional testing “are generally consistent with the monitoring data” in the draft report which indicates that the groundwater in the area contains chemicals (glycols, alcohols, and methane) linked to hydraulic fracturing. // The December 2011 draft report and this additional data are now available for public comment on the EPA website through January 15, 2013. These reports can be found here; and additional information about the comment period can be found here. // The EPA’s conclusion is being questioned by industry representatives, including Encana Corp., the operator of oil and gas wells near Pavillion. An Encana spokesman stated that the EPA has provided no sound scientific evidence that drilling has impacted domestic drinking water wells and that finding hydrocarbons in two monitoring wells is not surprising given that the wells were drilled into a gas production zone.  
<http://fulbrightfrackingblog.blogspot.com/>

**State Supreme Court to hear Shale law challenge today, by Laura Olson, Pittsburgh Post-Gazette (10-17-12)** = When state attorneys defend the new Marcellus Shale drilling law before the Pennsylvania Supreme Court today, they'll be addressing a panel of justices who weighed in on a gas-drilling ordinance case a little more than three years ago. // In that case, the court determined that energy company Huntley & Huntley Inc. was improperly denied a permit to drill in Oakmont. But it also provided part of the foundation for the current challenge against the new statewide zoning requirement. // The unanimous opinion, issued in February 2009, stated that Pennsylvania's drilling law did not entirely preempt local rules because the two layers of government are charged with distinct aspects of oversight. // The Huntley decision was cited prominently in the Commonwealth Court's July decision overturning a portion of the new shale drilling law. // A majority panel sided with a set of mostly southwestern Pennsylvania municipalities -- which include Allegheny County's South Fayette, along with Cecil, Mount Pleasant, Robinson and Peters in Washington County -- who argued that the new law was unconstitutional because it would require local officials to allow drilling activity in areas where it would otherwise be prohibited under their local zoning plans. // Commonwealth Court President Judge Dan Pellegrini pointed to the Huntley opinion's description that state oversight focuses on the efficient production and utilization of natural resources, while zoning must match land use to "local demographic and environmental concerns." // He and three other judges overturned a portion of the law limiting local zoning rights, as well as another section that allowed the state Department of Environmental Protection to grant waivers regarding the required distance between a gas well and certain water sources. // The case is among several scheduled arguments in the Supreme Court's Pittsburgh courtroom, located in the city-county building, this morning. // Activists from several anti-drilling groups advertised the case on their websites, encouraging supporters to bring signs urging the court to protect local zoning rights. // Today's arguments will include appeals from both sides. State officials are contesting the decisions on zoning and the DEP waiver. The municipal challengers will be appealing several aspects in which the lower court did not agree with their side, including whether the Public Utility Commission should be allowed to decide whether municipal ordinances comply with the state law. // The local officials involved say they view the Huntley decision as strong precedent for their case, particularly since the six justices that ruled then are on the current court. // The seventh justice, Joan Orié Melvin, was elected after the opinion was issued. She currently is suspended from her duties while awaiting trial on corruption charges. // While that case offers insight into how justices might rule on part of the challenge, two sections of the new law related to local ordinances didn't exist in 2009, said Ross Pifer, director of the Agricultural Law Resource and Reference Center at Penn State's Dickinson School of Law. // One section of the zoning provisions is nearly identical to what existed at that time. But the new portions also prevent localities from creating their

own environmental rules and -- in the only section that was overturned this summer -- creates more restrictive rules for what constitutes the "reasonable development" that communities must allow. // "Even under the Commonwealth Court ruling, there were more restrictions on municipalities than there were before," Mr. Pifer said. // In briefs filed last month, attorneys for the commonwealth appear to maintain their earlier argument that the municipalities do not have standing to challenge the law. Even if the towns did, they argue, local authority is granted by the Legislature and can be revised when the state deems necessary. // "While local municipalities certainly play an important role in Pennsylvania government, the Commonwealth Court's unyielding adherence to an idyllic Jeffersonian model of small town life improperly shifts the ultimate authority to establish economic and environmental policy from the General Assembly to the local township or borough hall," argues the state attorney general's office in its brief. // David Ball, a councilman in Peters -- the only southwestern town in the suit that has not had a challenged filed against its drilling ordinance since the appellate decision -- said local zoning powers are vital for officials to control how their towns develop. He said Peters officials have reviewed their ordinance to see what might need tweaking. // "There are some things that we're going to have to change regardless," he said, citing portions on air-quality standards that are regulated by the state. "It's okay with us as long someone is [regulating those areas]." <http://www.post-gazette.com/stories/local/state/state-supreme-court-to-hear-shale-law-challenge-today-657892/>

**API: EPA Pavilion Analysis Not Scientific, Sound, by Karen Boman, Rigzone (10-18-12)** = The U.S. Geological Survey (USGS) did a better job conducting water quality testing in two monitoring wells at EnCana's Pavilion natural gas field in Wyoming, while the U.S. Environmental Protection Agency's (EPA) gathering and analysis of data from its two wells did not involve "scientific and sound" methods, according to the American Petroleum Institute (API). // In December 2011, the EPA released a draft report that indicated that groundwater near the town of Pavilion could contain hydraulic fracturing fluids. EPA in September 2008 began investigating the groundwater near Pavilion after some local residents reported changes in well water taste and odor following hydraulic fracturing activity at nearby gas production wells. // The controversy generated by that report prompted the State of Wyoming, in coordination with the EPA, to request the U.S. Geological Survey (USGS) to conduct sampling of water from the two monitoring wells drilled by the EPA. USGS late last month released two reports related to groundwater quality, quality control and well yield data for EPA's two monitoring wells near Pavilion. // "In summary, the most significant key finding of the USGS investigation at Pavilion is that most of the key indicator compounds that the EPA claims show a possible link between hydraulic fracturing and supposed groundwater contamination were not found in the USGS samples, and thus the USGS results are inconsistent with EPA's results of 2011," said API in its review of the recent USGS Pavilion Wyoming reports. // API is not asking EPA to stop its nationwide study of the impact of hydraulic fracturing on U.S. drinking water supplies. However, API is asking EPA to utilize scientific, proven practices in its well construction, sampling and analysis, said Upstream Director Erik Milito during a conference call with reporters Thursday. // "If you continue down a sloppy path you'll get sloppy results," Milito commented. // Milito also refuted the EPA's claim that its findings were consistent with the USGS study results. // USGS' data sampling was better than the EPA's in that it chose not to test samples from one of the EPA monitoring wells because the well could not provide a representative sample due to low-flow characteristics, said Milito. In the well from which USGS did draw samples, it found the samples did not contain several compounds of interest previously identified by the EPA. // In addition, while EPA has yet to acknowledge this, hydrocarbons are naturally occurring and have historically been detected in groundwater in the Pavilion area, said Milito. It is not unexpected to find hydrocarbons in groundwater in a hydrocarbon-bearing formation. // "We would advocate EPA abandon these wells and move forward with their study using proven scientific peer-reviewed processes involving properly constructed wells," Milito commented. // Milito said the "apparent EPA failure" to follow sound scientific practices at Pavilion also raise concerns about the testing EPA is now doing in its national study on the potential impacts of hydraulic fracturing on drinking water resources. // A study conducted by Battelle, on behalf of API and

America's Natural Gas Alliance found that more collaboration between the oil and gas industry and the EPA could enhance EPA's national study of hydraulic fracturing's impact on drinking water. // The Battelle study found deficiencies in API's study in terms of rigor, funding, focus and stakeholder inclusiveness of EPA's study plan. // API has reached out to the EPA to work with the agency on well construction design, Milito said, noting that the industry group has experts available to collaborate with EPA on well construction. However, API has encountered quite a bit of resistance to cooperative efforts between API and the agency. // As a result, API has conducted its own independent analysis of issues such as hydraulic fracturing and drinking water. Milito said API would continue to work with Battelle and other third party consultants to ensure it was using accurate data in its analysis. // He noted that U.S. states are best-suited for monitoring hydraulic fracturing activity – which Milito said EPA Administrator Lisa Jackson acknowledged -- and that oil and gas companies are committed to protecting U.S. public health and managing water resources. // "The Pavilion analysis is critically important because EPA – as part of its separate nationwide study into potential drinking water impacts – is also drilling monitoring wells and collecting and analyzing samples in other places," Milito commented. // "If EPA thinks its investigation at Pavilion has produced scientifically useful information, then it may proceed in the same inexperienced way at other testing sites, assume it is getting useful information, and employ that information to justify changes in public policy," Milito added. // While USGS' work has raised the bar for sound science in the EPA's Pavilion research, some key technical issues still remain, requiring review and consideration by the USGS, EPA and the scientific community. Based on the USGS report and backup USGS sampling documents, EPA was onsite and may have influenced the USGS sampling effort. // "For example, USGS field notes collected during the sampling of MW-01 indicate not all samples were collected as planned by the USGS due to the EPA limiting access and time for full USGS sample collection," API noted in its review. // Pavilion field-operator EnCana late last month weighed in its own analysis of the USGS and EPA reports, saying the USGS results showed no evidence that hydraulic fracturing had impacted groundwater at Pavilion, and that EPA had provided no sound scientific evidence that drilling has impacted domestic drinking water wells in the area. // The EPA has warned local residents not to drink groundwater near Pavilion. However, EPA has based its warning in part on the presence of low levels of methane, despite the fact that they are well below any state or federal "Action Level" related to the danger of explosion, said EnCana spokesperson Doug Hock in an email statement to Rigzone. // While EPA tests of domestic wells found that over 60 domestic well sampling results exceeded the palatability criteria for sulfate and Total Dissolved Liquids, these tests found no oil and gas constituents had exceeded drinking water standards. // Hock said the sulfate and Total Dissolved Solids are naturally occurring and high levels in the groundwater have been documented by USGS and others in studies going back over 60 years. These tests also found that Diesel Range Organics concentrations were in parts per billion and unrelated to naturally occurring fossil fuels. // EnCana in August 2010 did agree to provide water to residents impacted by hydraulic fracturing on a short-term basis until the issues regarding palatability of their water could be resolved, said Hock. // The company currently provides drinking water to about 20 households in the area as a goodwill gesture until issues regarding the palatability of their water could be resolved, Hock noted. // "So again, the issue was the palatability of the water, not the presence of oil and gas constituents." // Environmentalist groups such as the Natural Resources Defense Council have called for more regulations to be put in place governing hydraulic fracturing, saying the practice results in contaminated water supplies. // In its Pavilion gas study the EPA had said it used stainless steel casing for monitoring well No. 2, when it actually used carbon steel for the casing. The Wyoming Department of Environmental Quality (DEQ) made the discovery when it sent a downhole camera into monitoring well No. 2; this occurred when EPA released its Pavilion report in December 2011. // At a public hearing Oct. 10 in Riverton, Wyo., DEQ reported it had found corrosion in the well's interior and mineral accumulations within the well. The corrosion and accumulations suggest the well casing was not stainless steel, but possibly carbon steel. The blank casing was confirmed by the EPA to be high strength carbon steel, DEQ noted. // The video taken by DEQ suggested that monitoring well No. 2 was completed to a depth deeper than reported by the EPA. The USGS confirmed this finding, DEQ reported in its presentation. // "Due to the depth discrepancy of the completed well, it appears the screened interval of the monitoring well was completed within the drill cuttings and drill

mud used to fill the open hole," according to the DEQ presentation. // Simon Lomax, research director of Energy in Depth, a research, education and public outreach campaign launched by the Independent Petroleum Association of America, noted that the use of carbon steel goes against EPA's own handbook of suggested practices for the design and installation of groundwater wells. // "The presence of corrosion products represents a high potential for the alteration of groundwater sample chemical quality," Lomax quoted the EPA handbook. "The surfaces on which corrosion occurs also present potential sites for a variety of chemical reactions and adsorption. These surface interactions can cause significant changes in dissolved metal or organic compounds in groundwater samples..." // "On the basis of these observations, the use of carbon steel, low-carbon steel and galvanized steel in monitoring well construction is not considered prudent in most natural geochemical environments. Conversely, stainless steel performs well in most corrosive environments, particularly under oxidizing conditions," Lomax noted.

[http://www.rigzone.com/news/oil\\_gas/a/121452/API\\_EPA\\_Pavilion\\_Analysis\\_Not\\_Scientific\\_Sound](http://www.rigzone.com/news/oil_gas/a/121452/API_EPA_Pavilion_Analysis_Not_Scientific_Sound)

**While Utica Shale's early birds celebrate, others wait, by Peter Behr, E&E Publishing (10-19-12) =**  
CANTON, Ohio -- Ron's Workingman's Store had been a small, durable business here for nearly 75 years, serving eastern Ohio's industrial workers. And then Chesapeake Energy Corp. moved in across the street last year, as the Oklahoma firm made its foray into the Utica Shale gas development. // "We created a great friendship, and a lot of their subcontractors came over here," said the store's purchasing manager, Lisa Nicodemo. Sales of fire-retardant clothing used in drilling operations spiked, along with business at the company's companion store, Wilkof Industrial Supply, handling industrial equipment and tools. // "Two years ago, we were running this place with four people. Now we're up to nine," said Nicodemo, whose company has added a mobile store that goes to drilling sites. "This is just the beginning." // Indeed, tapping into the Utica Shale resource is just beginning. Oil and gas companies have secured 405 permits, nearly all of them since the beginning of last year, and have drilled 171 exploratory wells. The U.S. Geological Survey, in its first estimate of the Utica Shale this month, pronounced it a potential gold mine, with 38 trillion cubic feet of technically recoverable natural gas, 940 million barrels of oil and 208 million barrels of natural gas liquids. // But moving the Utica's production -- in particular, the valuable natural gas liquids -- into markets has hit a bottleneck with gas prices stubbornly low. In June, 24 horizontal wells were drilled. In September, the number had dropped to three. // "These companies are very anxious to get going," said Tom Stewart, executive vice president of the Ohio Oil and Gas Association. "But the lack of adequate midstream capacity is a throttle on drilling activity," he added, citing the lack of infrastructure, notably the processing facilities required to separate ethane and other gas liquids from pipeline gas, so that both can be sold. // The midstream projects are coming, said Stewart. MarkWest Energy Partners is completing the first phase of a gas processing plant in eastern Ohio's Harrison County. NiSource Inc., the parent of Columbia Gas of Ohio, and a Chesapeake Energy subsidiary have also announced projects, the latter in partnership with M3 Midstream LLC and EV Energy Partners LP. // They are key, Stewart said. "The drilling won't accelerate until producers can get the full value of the production." // "What industry is seeing is a lot of joint ventures, with a midstream company partnering with exploration and production company to build these massive midstream processing plants," said David Karpinski, vice president of NorTech, a Cleveland-based nonprofit economic development organization. "Once those are clear, you'll see an acceleration of the wells." // "Everyone is exploring their leases," said Craig Kasper, CEO of Hull & Associates Inc., an engineering firm in Dublin, Ohio. The major energy companies active in the region have not started their programs yet, he said. // The rate of drilling is likely to increase next year, Kasper said. "If the play is the way we hope it will be, 2014 is when we'll see 40, 50, 100 rigs operating versus 10 or 20 we have running around now." // An advocacy 'revival' – Environmental activists don't agree that the road is open yet. // "Our board's position is that fracking should be banned," said Nathan Rutz, campaign organizer for Ohio Citizen Action, a statewide advocacy group based in Cleveland that is organizing protest meetings against shale development. "It is intrinsically dangerous because of potential contamination of groundwater from the entire process, from

fracking to the disposal of wastewater," he said. // "Everybody wants this to be done as carefully as possible," said David Kaminski, director of education and government affairs at the Canton Regional Chamber of Commerce. The state needs to show that it can scale up its well inspection operations in pace with drilling, but the former journalist said he believes that will happen, adding, "In 33 years of newspapering, I can't remember a story where a water system was contaminated by mineral drilling." // The state is experiencing "a revival of the environmental battles of the '70s and '80s," said Cleveland attorney David Nash, a specialist in environmental law with the McMahon DeGulis firm. "There are certain citizens and environmental advocacy groups that don't want to see it under any circumstances. No matter what the analysis shows, they don't want it. // "At the same time, there are those on the other extreme," Nash said. "As long as minimum legal requirements are met, it's 'Drill, baby, drill.' The state is making progress in beefing up laws and regulations. Whether the right compromises have been made remains to be seen," he said. // "I think the environmentalists are kind of in the minority," Karpinski said. "The opportunity this presents for citizens and residents is compelling. There are opponents, but they aren't slowing it down." // Early beneficiaries— The pause is on the industry's side, and it has divided Ohio's large and growing Utica Shale cheering section into two camps. One includes a relatively few fortunate companies like Nicodemo's store that are riding high with the first phase of development. The industry, and much of the rest of the state, is like the kin of a rich, benevolent elder uncle, awaiting its geological bequest. // The first phase of development has been a boon to a fortunate few. // CESO Inc., a civil engineering and architectural firm in Dayton, has tripled in size in the past 18 months after landing a relationship with Chesapeake Energy and opening a Canton office next to Chesapeake. // "We do a majority of their road improvements and share [drilling] pad design with another firm," said CESO Vice President Steven Olson. "We were in the right place at the right time, and they've been very supportive of our efforts to grow, and we've committed the resources they've need to grow in Ohio," he said. // Evets Oil and Gas Construction Services, in Gerard, Ohio, handles every part of well development, from excavation to installing piping, pumps, compressors and electrical stations, said Dominic Spelich, corporate development manager. It operates in other shale plays, but the Utica is in its backyard, he said. "Our business has doubled since Marcellus [in Pennsylvania] and Utica started," he said. // The Atwood Lake lodge, in Dellroy, Ohio, east of Akron, is both an immediate winner and a hopeful beneficiary. Built in 1965, the lodge looks down on a postcard view -- a broad ribbon of blue water cradled in trees, its shore lined with boats. But the inn had become a big money loser in middle age. It had been closed for nearly two years and had a wrecking ball in its future until its rescue by the Carroll County Commission. // The commission acquired the property for free from the Muskingum Water Conservancy District, a state agency, and received the mineral rights on the 515 acres surrounding the lodge, as well, said Commissioner Thomas Wheaton. // "We would not have been able to take it without that. That's our income," Wheaton said. Sierra Buckeye, the independent oil and gas developer from Houston, is paying \$4,500 an acre to lease mineral rights on the site, Wheaton said. That is worth \$2.25 million -- equal to nearly half of the county's annual general fund budget. // Radius Hospitality, the lodgings firm that has a five-year lease to run the lodge and restaurant, has refurbished and reopened it, to the relief of local residents, said company principal Randy Budd. Radius is seeking to sign two-year contracts with drilling companies to reserve some of the rooms for their managers and employees. That would be a cushion of cash flow during a two-year development, he said. // Under the county agreement, shale gas revenues must be reinvested in the lodge to modernize it and expand the golf facilities and have it live up to its new name -- resort and conference center -- said the regional operations director, John Logsdon, as he led a visitor around the building, describing the plans. // "You have to have a vision of what it can be," Logsdon said.

<http://www.eenews.net/public/energywire/2012/10/19/1>

**Wishgard cites unclear titles for delay in paying Ashtabula County landowners for oil and gas leases, by Carl E. Feather, Star Beacon (10-20-12) = ASHTABULA COUNTY — The president of Wishgard,**

LLC, says a high failure rate in obtaining a clear title, not a shortage of capital, is preventing his company from paying Ashtabula County landowners for their oil and gas leases. // Kip Tygard, president of Wishgard, said in Ashtabula County, the company is experiencing an 85 percent “failing initial title” rate, whereas in the Appalachian Basin, the rate is 40 percent. // Typical causes for failure are existing leases that were not released after expiration or the lease holder went out of business and never bothered to clean up the title. Or, the landowner may have purchased the well and the transaction was never recorded. // Tygard said the extra work involved in clearing those titles is costing the company, in some instances, tens of thousands of dollars per customer. The extra work is also causing delays in paying the landowners, resulting in extensions. // “Those things are being done at my cost and we are charging the landowners nothing,” Tygard said. “You got two of the most unreasonable people in the county causing these problems and by listening to them you are causing me international problems. I don’t think you understood the good Wishgard has done for them.” // Tygard was not available for comment when the first story was prepared for publication. He denied the company does not communicate with landowners, or that there is a funding issue. // “To summarize you can blame the old oil and gas leases that were signed, real estate agents or ultimately the landowners for not taking care of their title,” Tygard said in an email. // Victoria Dresnek, interim Ashtabula County Recorder, said the issue is not with her office. “It’s not that we can’t find the records, it’s that the leasing company has not bothered to record the releases,” she said. // Tygard said Wishgard had been using an out-of-town title company to perform work in Ashtabula County until recently. // “They were doing a good job, but it was just too costly,” he said of their departure. Since then, releases have been handled through the company’s home office in Eighty-Four, Pa., and filed by the Jefferson office. // Earlier this week, the Star Beacon received complaints from area property owners who signed lease agreements with Wishgard months ago and are still awaiting payment. Several said they were promised payment within 120 days, but instead Wishgard requested they sign an extension while title work continued. // Tygard said the extensions are necessary because clearing the titles takes time and the company must have a “critical mass” of acreage before it can obtain funding and pay the landowners. He denied a lack of funding is causing the delays. // “No, we’re not broke,” he said. “Our customers have received over \$200 million. We have sources that ... are willing to spend hundreds of millions dollars, with some of it designated for Ashtabula County. But they are not going to pay for anything unless there is a critical mass (of acreage).” // One county family committed 900 acres to Wishgard but, as of earlier this week, had received payment for 15 acres. Tygard said the parcels had multiple title issues the owners had not disclosed at the time of signing. The company since has agreed to release the land and “all (the owners) did is get \$10,000 worth of free title work from us.” // “Despite our efforts, the (family) recently sent us a letter to release them. All companies require a letter requesting release before we go through the time and expense of releasing people at the courthouse,” Tygard said in an email. “It’s simply the honest and legal way to do business. Conversely what would happen if an unreasonable landowner called in and requested a release and then all their neighbors got paid and they did not? They would then call us back and complain.” // Tygard said the company responds within 30 days of the receipt of any such letter. // He said the examples cited in the Star Beacon’s article were the exception to the way Wishgard treats its customers. // “We have also released about 10,000 acres that we suspected had clean title,” he stated. “Some of those people have gone on to get paid, some are still waiting for a deal.” // He defended Wishgard’s 30-day time period as “ahead of the curve” and said some companies claim that they can take as long as 60 days. In Mahoning and Trumbull counties, landowners are being asked to sign nine-month contracts that allow for an additional “curative effort.” // “When Wishgard requests a release from an old oil and gas company we often have to track the company down and wait for them,” Tygard stated in the email. “Many companies respond quickly but some take all of their allotted time. This is a prime example of why extensions are a needed and common part of the industry.”  
<http://starbeacon.com/local/x688444142/Wishgard-cites-unclear-titles-for-delay-in-paying-Ashtabula-County-landowners-for-oil-and-gas-leases>

**Neighbors rocked by cluster of 14 new injection, production wells planned in northeast Portage**

**County, by Bob Downing, Akron Beacon Journal (10-21-12) = WINDHAM TWP.:** In what should be the still of the night, Natalie Baker can feel her house shake. // It is a strange, disconcerting and troubling sensation, Baker says of the vibrations caused by a drilling rig 1,800 feet away off Frazier Road in Portage County's northeast corner. // The neighborhood on the township line between Windham and Nelson is the epicenter, the hottest hot spot, in Ohio's Utica shale formation — with 14 new wells planned, permitted or already under construction. Some are only a few hundred feet apart. // Half of the wells would produce oil and gas; the other half would be used for injection of briny wastewater. // “Who would want to live with 14 wells? I'm not confident that a leaking well would be detected and corrected right away,” Baker, 46, said. “Fourteen wells in one place is a nightmare.” // And apparently, unprecedented in Ohio. // Jeff Daniels, a geology professor and director of the Subsurface Energy Resource Center at Ohio State University, said he was unaware of any place in Ohio where there is such a concentration of production and injection wells. // From all indications, the Ohio Division of Oil and Gas Resources Management will approve the entire cluster of wells, despite environmentalists' protests and increasing neighborhood tensions. // “We're alarmed by what's being allowed ... and we have serious concerns about putting all these wells in one place,” said Gwen Fischer, a Portage County resident and member of Concerned Citizens Ohio. “We have serious reservations about how safe this will be and how the industrial nature of these wells will affect the whole community. // “This is a huge concern.” // Work begins on horizontal well -- To date, the Ohio Department of Natural Resources has approved six horizontal production wells and one 6,120-foot deep vertical test well, which has been drilled. Drilling of the first horizontal well is beginning. // Pittsburgh-based Mountaineer Keystone LLC will drill the production wells, then hydraulically fracture, or frack, them to free up natural gas and so-called natural gas liquids like ethane, propane and butane. // Hard Rock Drilling and Producing LLC, a company based in Wayne County, holds the leases on the seven pressurized injection wells proposed in an old sand and gravel pit on a tract that covers more than 1,200 acres. // C.J. Cutter, a spokesman for Hard Rock Drilling, said the two companies will drill at different depths in an area leased by landowner Dale Soinski. The injection wells will go down 4,000 to 4,200 feet into Newburg dolomite, a type of limestone. The production wells will go as deep as 6,100 feet, according to state permits, with horizontal legs stretching up to 8,400 feet. // The two drilling pads for the production wells — each about 400 feet square — are about 4,000 feet apart on opposite sides of Silica Sand Road, which separates Windham and Nelson townships. // “It's just crazy,” neighbor Leah Cain, 54, said of all the activity and the plans for more drilling. “A lot can happen, and we're fearful. // “What's happening here is not in the public interest. ... “Why are things moving so fast? Why the rush?” Cain asked. // Neighbors are not clear why the two kinds of wells are being located so close together and they “are starting to feel like guinea pigs in an experimental process,” said Trish Harness, 36, of Garrettsville. // “We're hoping that ODNR will balance the interests of neighbors along with health and safety. We're not NIMBYs (“not in my backyard”). But we have major concerns about what's happening. // “Nowhere else in Ohio do you find so many injection wells clustered together. Nowhere else in the world will you find injection wells on top of frack well laterals,” Harness said. // A major issue of concern is “well integrity” with that many wells so close together, said Vanessa Pesec of the Northeast Ohio Gas and Oil Accountability Project, a grass-roots group based in Lake County. // Teresa Mills of Columbus, a spokeswoman for the Center for Health, Environment and Justice and of No Frack Ohio, said the key is limiting the underground pressure in the injection wells to assure there are no problems underground. // Neighbors are asking ODNR to hold a public hearing on the drilling requests. // Agency spokeswoman Heidi Hetzel-Evans said the state printed two notices and held a public-comment period on the proposed injection wells. ODNR probably will conduct what it calls a public information meeting, but no date has been set, she said. // Clustered together -- What is happening in northeast Portage County might be a harbinger of what is to come to the Utica shale formations all over eastern Ohio. // Fifteen of the 33 permits for new injection wells pending before the ODNR are for sites within a half-mile of production wells, mostly because Ohio has tens of thousands of existing wells, state geologist Tom Tomastik said. // The only state rule is that there must be 100 feet between a production well and an injection well, he said. // State law requires a review of all existing wells within a half-mile radius of proposed injection wells. // Tomastik said there is at least

one place in Ohio where a production well sits close to an injection well: in Ashtabula County. // Putting injection wells close to production wells “makes economic sense” for drillers, said Jeffrey C. Dick, chairman of the geology department at Youngstown State University. // “It’s a possible new trend,” he said. // Drillers could run a small pipeline from the production well to the nearby injection well and eliminate the need to haul waste by truck, he said. // At present, Ohio has 178 operating injection wells, mostly in eastern Ohio. Another 15 wells have been permitted but are not operating. // The state figure includes 16 wells each in Portage and Stark counties — sharing the top spot in Ohio. // In 2011, Ohio’s injection wells handled an estimated 12.5 million 42-gallon barrels of waste — nearly 525 million gallons. More than half of it was imported from Pennsylvania. // Ohio tightened its rules on injection wells following a series of small earthquakes around Youngstown in 2010 and 2011. The injection well was shut down in late 2011. // The new permanent rules went into effect Oct. 1. Ohio has not approved new injection wells and is reviewing all pending applications under the new rules. // Ohio’s rules require that all briny production waste from drilling be pumped into underground rock formations for disposal. // Daniels said it is highly unlikely that the production wells would interfere with the injection wells, or vice versa. // The two types of wells are separated by significant vertical space with numerous layers of impermeable rock in between, he said. // The injection wells would have to be adequately spaced from each other to ensure that the underground pressure doesn’t interfere with the injection operations, he said. // The state, Daniels said, would not approve the plan if the injection wells were too close together. // Tomastik said the distance between the injection wells in Nelson and Windham townships appears adequate. // He also noted that Hard Rock Drilling filed its applications for the injection wells before Mountaineer Keystone filed for the production wells. // This is significant, because it means Mountaineer Keystone must cement its production well casings from 4,000 feet to 4,200 feet below ground back to the surface as a safety measure under a state-imposed requirement. // Efforts to reach a spokesman for Mountaineer Keystone were unsuccessful. // ‘Zero concerns’ -- The Soinski property was selected because it offered easy access off state Route 82, had few neighbors and had once been excavated for sand and gravel, said Cutter, whose company is located north of Wooster. He called the underground geology ideal for injection wells. // He said the first two wells will be drilled; the others will be developed in the next five to 10 years. // Cutter said no deal has been completed, but the Nelson and Windham injection wells might be operated by Ray Pander Trucking, a company based in Portage County’s Palmrya Township. // That firm has been involved in helping Cutter develop plans for the Portage injection wells, spokesman R.C. Pander said. His company operates eight injection wells in Ohio. // Such a concentration of wells is “not unusual and I have zero concerns,” Pander said. // Baker, who lives near the drilling rig, disagrees. // “I can’t believe that this is really happening to us. ... This shouldn’t happen to us or anyone else.”

<http://www.ohio.com/news/local-news/neighbors-rocked-by-cluster-of-14-new-injection-production-wells-planned-in-northeast-portage-county-1.343856>

**Unitization requests in Ohio expected to rise as drillers move into more densely populated areas, by Matt Warnock, ShaleOhio Blog (10-23-12)** = After not processing a single unitization application under Ohio Revised Code 1509.28 for 15 years, the Ohio Department of Natural Resources approved such an application for Chesapeake Energy during the summer and is currently reviewing a second request from the company, Gongwer reports (See the Jul 30, 2012, blog – “Unitization law makes unwilling landowners’ properties part of drilling units”). Unitization requires buy-in from at least 65% of property owners and is done to maximize the production efficiency of the well, the article said. As the state moves out of “exploration mode,” and into the production phase, larger units will be put together in more densely populated areas, which is expected to lead to more unitization applications, the article said.  
<http://www.shaleohio.com/>

**Watchdog Agency [GAO] Weighs In on Whether Shale Gas Drilling is Safe, by Ken Silverstein,**

**EnergyBiz (10-23-12)** = Newfound shale gas deposits are getting touted as the next economic tidal wave that will carry the country to prosperity. True? // With both the U.S. Energy Information Administration and the industry's Potential Gas Committee agreeing that there are 2,600 trillion cubic feet of shale gas beneath the ground, the possibilities would appear endless -- enough to supply homes and businesses for the next century. However, risks exist to both the air and water, including the potential for tainting surface and groundwater supplies resulting from the accidental release of chemicals. // "Oil and gas development, whether conventional or shale oil and gas, pose inherent environmental and public health risks, but the extent of these risks associated with shale oil and gas development is unknown, in part, because the studies GAO reviewed do not generally take into account the potential long-term, cumulative effects," says the General Accountability Office that examined the environmental and public health risks with shale gas fracking. // In its report, the congressional watchdog agency points to the New York Department of Environmental Impact Statement saying that spilled, leaked or released chemicals or wastes could dirty drinking water. But the GAO analysis goes on to say that air and water conditions at each fracking site can vary. At the same time, its report quotes regulators from key states involved in overseeing the drilling process, all of whom say that fracking is not responsible for contaminating groundwater supplies. // What's at stake? In 2011, 20 trillion cubic feet of shale gas was produced, representing 300 days of U.S. consumption, says the Energy Information Administration. Three-quarters of that came from four places: Barnett, Marcellus, Fayetteville and Haynesville. The nation's shale gas supply grew from 6 percent in 2007 to 25 percent in 2011, it adds, projecting it to be 49 percent by 2035. // "According to a number of studies and publications we reviewed, shale oil and gas development pose risk to air quality," says GAO's report. "These risks are generally the result of engine exhaust from increased truck traffic, emissions from diesel-powered pumps used to power equipment, intentional flaring or venting of gas for operational reasons, and unintentional emissions of pollutants from faulty equipment or impoundments." // Resistance Ahead – With respect to air quality, state regulators from Pennsylvania are of the view that the fracking process does little of consequence to hurt human health. // As for rivers, lakes and ponds, the GAO references a 2012 University of Texas study on drilling. There, the university says that withdrawing water could decrease flows downstream, making those watersheds susceptible to temperature changes. That, in turn, would hurt aquatic life. Similarly, if any of the chemical additives come into contact with either surface or groundwater, it could pose a hazard. // Other government, academic and nonprofit organizations have also examined water quality both before and after fracking. The GAO looked at three done in 2011: The Center for Rural Pennsylvania found that there were "no statistically significant increases in pollutants" and that the gas drilling had not adversely affected drinking water wells. Likewise, the Ground Water Protection Council found no incidents of groundwater contamination caused by fracking in Texas. // Meantime, Duke University reviewed groundwater systems in the Marcellus Shale in Pennsylvania and the Utica Shale in New York. It found that methane was detected in all watersheds, regardless of whether fracking had occurred. However, those levels were "substantially higher" closer to the shale gas wells, although the analysts cautioned that the source of the contamination could not be determined and that they found no evidence of fracking fluids. // "Regulatory officials we met with from eight states -- Arkansas, Colorado, Louisiana, North Dakota, Ohio, Oklahoma, Pennsylvania, and Texas -- told us that, based on state investigations, the hydraulic fracturing process has not been identified as a cause of groundwater contamination within their states," GAO says. // But the watchdog agency is cautioning that there is insufficient data to definitively make that call. Essentially, the baseline info of where things started is missing, making it difficult to determine if such drilling is having a notable effect. Any degradation could be part of a natural occurrence, or it could be tied to fracking. // If shale gas is to reach its potential, developers must ensure that the drilling process is safe. The best way, say experts advising the U.S. Department of Energy, is more monitoring and greater transparency -- revealing the chemicals that they are using to frack. Industry has been resistant to that. But it is now softening its stance, realizing that producers must acquiesce to public demands to meet tomorrow's energy needs. <http://www.energybiz.com/article/12/10/watchdog-agency-weighs-whether-shale-gas-drilling-safe>

**17 Groups Petition EPA for Public Reporting of Chemical Releases from Fracking, Other Oil and Gas Operations** (10-24-12) = The Environmental Integrity Project (EIP), along with 16 other local, regional, and national organizations petitioned the U.S. Environmental Protection Agency today to require the oil and gas extraction industry—including companies engaged in fracking—to report to the Toxics Release Inventory (TRI). The oil and gas extraction industry has long used and released large amounts of TRI-listed toxic chemicals, and this has dramatically increased in the last decade with the rapid spread of horizontal hydraulic fracturing (or “fracking”).

[http://www.environmentalintegrity.org/news\\_reports/documents/2012\\_10\\_24TRIPressReleaseFINAL.pdf](http://www.environmentalintegrity.org/news_reports/documents/2012_10_24TRIPressReleaseFINAL.pdf)

**Mansfield blocks injection wells - Council approves moratorium on construction, operation, by Linda Martz, Mansfield News Journal (10-24-12)** = MANSFIELD — City council approved a one-year moratorium Tuesday prohibiting construction or operation of any injection wells in the Mansfield Industrial Park. // Law Director John Spon sought the legislation, saying it would buy the city time to plan how it would finance and carry out extensive geologic testing if any company seeks permits in the future to build injection wells at that location. // Council approved the one-year moratorium in a 7-0 vote during a special meeting Tuesday night. // The legislation was to go into effect immediately. // Spon said he called for the moratorium in the wake of Preferred Fluids Management’s federal lawsuit against the city. // In fall 2011, the Texas-based company announced plans to build two 5,000-foot-deep injection wells on a 5-acre parcel in the industrial park. // Owner Steve Mobley told the News Journal he hoped to ship fracking fluid by rail from Pennsylvania to Mansfield, for disposal in the proposed injection wells. // City officials announced plans to fight the proposed well. // This summer, Preferred Fluids filed a court action asking a U.S. District Court judge to rule that the state alone regulates locations for injection wells, and the city has no legal authority to regulate injection wells. // On Oct. 18, Preferred Fluids, which has not built the wells, asked the judge to dismiss its federal lawsuit against the City of Mansfield. // Spon said he believes the company withdrew its claims because the one-year permits issued by ODNR had expired. // The law director told city officials Tuesday the moratorium would protect the city “so we don’t face an immediate threat tomorrow” from any company that might apply to ODNR for an injection well at the Preferred Fluids site. // Preferred Fluids could either reapply for permits, or sell the land to another company with similar intentions, Spon said. // “The real danger would be that there would be an application for a new permit,” he said. // At least 80 companies do business at the industrial park, which is one of the city’s most important economic assets, Spon said. // “We’re not against business. We’re pro-business,” he said. // The law director estimated it could cost the city hundreds of thousands of dollars to conduct borings and complete a geologic study of the area around the industrial park, pinning down the location of any existing wells or faults. // “We really need to find out ‘How can we raise the revenue for our testing? And where will we get the monies?’ ” he said. // With the City in fiscal emergency, officials would look for public or private grants, he said. // Geologic studies could take months to complete, and the city might need to seek a court injunction delaying construction of any planned well until the study is completed, Spon said. // Third Ward Councilman Scott Hazen said he believed actions taken through Tuesday by the law director and council were “absolutely proper.” // “Whether it’s a Republican or a Democrat down in Columbus,” Ohio should not leave cities without recourse to protect themselves against potential environmental threats, Hazen said. // “The citizens of Mansfield were not asked whether this (state issuance of Preferred Fluids’s permits) was appropriate, and we were not in any way consulted,” he added. // At-Large Councilman Cliff Mears said residents should be grateful for the law director’s energy and his initiatives to protect the city and its industrial park. // “How will this legislation be viewed and how will it be honored by ODNR?” At-Large Councilwoman Ellen Haring asked the law director, referring to the state agency’s stance that decision-making related to new injection wells should rest at state level. // “I’m not sure how they will view it. I’m not sure they will honor it. But we will enforce it,” Spon said. // The law director told council the moratorium legislation was not dependent on the outcome of the charter amendment the city’s voters will consider Nov. 6. If passed, the charter amendment would establish an environmental “bill of rights” requiring city council’s approval before any injection well is built

in city limits.

[http://www.mansfieldnewsjournal.com/article/20121024/NEWS01/310230025?nclick\\_check=1](http://www.mansfieldnewsjournal.com/article/20121024/NEWS01/310230025?nclick_check=1)

**House District 40 candidate Carl Fisher pledges support for medical right-to-know bill, by Melissa K. English, Development Director, Ohio Citizen Action (10-24-12)** = HUBER HEIGHTS — House District 40 candidate Carl Fisher today pledged his support for H.B. 596, the medical right-to-know bill, if he is elected on November 6. District 40 is in northern Montgomery County and includes the communities of Huber Heights, Vandalia and Englewood. // H.B. 596, introduced earlier this month by Rep. Bob Hagan (Youngstown), would fix the medical right-to-know and ‘gag-order’ provisions of Ohio’s new hydraulic fracturing law. That measure contained provisions allowing drilling companies to hide chemical information from doctors, nurses, emergency responders, medical technologists, and medical researchers. It also put a gag order on medical professionals who do obtain this chemical information. // Fisher’s opponent, incumbent Rep. Michael Henne, voted for the defective hydraulic fracturing law last May and has not co-sponsored H.B. 596 to fix it. <http://ohiocitizen.org/> [ ALSO: S.B. 379, the bill to fix the medical right-to-know and gag-order provisions of Ohio’s new hydraulic fracturing law. That law contains unwelcome provisions allowing drilling companies to hide chemical information from doctors, nurses, emergency responders, medical technologists, and medical researchers. It also puts a gag order on medical professionals who do get this chemical information.]

**Local anti-fracking group to raise issue of injection-well public hearings at commission meeting, Athens News (10-28-12)** = The Athens County Fracking Action Network has announced plans to bring the issue of a lack of public hearing on an injection well in Rome Township to the Athens County Commissioners Tuesday. // At issue is a pending state permit application for an injection well that would accept waste brine from oil-and-gas drilling operations. The well has been proposed by the company D.T. Atha, Inc., based in Sugar Grove, Ohio. // The public comment period for the well closed Sept. 17. A news release from ACFAN said that now, 30 days on, the period in which Ohio's Division of Oil and Gas Resources Management should have responded to valid objections has passed. // "Citizens have received no indication that the Chief, required to evaluate the validity of objections, has even read the dozens of formal comments we know him to have received," the release said. "Instead, a form letter was sent to complainants announcing that a public meeting will be held rather than the public hearing required by law if valid objections concerning public health and safety and conservation are received." // The county commissioners also have reportedly received this same form letter indicating a public meeting instead of a public hearing. By Ohio law, the group stressed, a public hearing is required. // A geologist working for the state, Tom Tomastik, responded to one citizen who expressed concern about the lack of a hearing by writing and explaining the state's process. (His letter was quoted in the Athens County Fracking Action Network news release about this Tuesday's meeting with the county commissioners.) // "This means if there is an objection based upon health and safety, the chief evaluates the objection," Tomastik wrote the citizen. "If the chief determines that additional testing or evaluations can address the relevant health and safety objections, then those provisions and conditions to a permit will be attached. This means that there is no longer any 'relevant' objection to health and safety as it has been addressed by terms and conditions to a permit. No public hearing is required." // The ACFAN said that Tomastik seems to be making a leap from the idea that concerns can be addressed with "terms and conditions" to a conclusion that there's no longer any relevant objection. They questioned whether the chief has even read the objections, let alone evaluated their legitimacy. // "DOGRM is a rogue agency running roughshod over the law, public process, and this public agency's duty to serve the public interest," charged Roxanne Groff in the news release. // A former Athens County commissioner, Groff has been calling and writing the division's chief, James Zehringer, daily, regarding what her group terms the inadequacy of the agency's responses to the scores of formal comments on the Atha permit application. // "The chief cannot just disregard the extensive and highly specific and

relevant factual and science-based objections that we know have been raised. To do so is to completely ignore the governing statutes of his agency," she said in the release. <http://www.athensnews.com/ohio/article-38258-local-anti-fracking-.html>

**Water problem in shale is drawing a flood of capital, by Zain Shauk, Houston Chronicle (10-28-12)**

= The need for huge volumes of water is a growing challenge for oil and gas companies working in shale formations, despite dramatic improvements in drilling speeds that have lowered other costs, energy executives said Wednesday. // Speaking at the World Shale Oil & Gas Summit at the George R. Brown Convention Center downtown, executives said that companies now can drill miles-long wells in a matter of days, cutting down budgets for work that just three years ago would have taken weeks. // But drilling technology used in the shale, notably hydraulic fracturing, requires millions of gallons of water, often brought in by the truckload. // "To give you perspective, I'd say that a Marcellus well, a \$6 million well, about \$1.5 million is just moving water on that well," said Steven Mueller, chief executive officer of Southwestern Energy. "So if you could actually get rid of that, then you'd save quite a bit of money." // Executives of several companies highlighted the substantial costs and potential opportunity in reducing volume or increasing recycling of water used in drilling shale and other unconventional wells. // It's estimated that the industry will drill 1 million unconventional wells by 2035, said Salvador Ayala, vice president of marketing and technology for Schlumberger's well production services division. Using existing technology, each would require millions of gallons of water in multiple stages, he said. // 'Everybody's mind' -- "The water scarcity issue is something that has to be in everybody's mind," he said. // Hydraulic fracturing is a drilling technique that uses a mix of water, sand and chemicals to blast into dense underground rock and free up trapped oil and gas. Mueller said some new fracturing technologies don't use water, substituting propane, carbon dioxide or nitrogen, but these are more expensive and don't create the kinds of fractures producers need. Finding a technology that meets economic and technical requirements is "the holy grail of what we're trying to do as an industry," he said. // That effort has prompted substantial investment, said Bobby Tudor, CEO of energy-oriented investment banking firm Tudor, Pickering Holt & Co. "When the industry faces a big problem, typically there is a profit opportunity for somebody somewhere," Tudor said. "And this is a big issue. One of the interesting things that we've seen is a flood of capital toward this problem." // It's also a priority because concerns about water use in fracturing go beyond cost, said Michael Yeager, CEO of BHP Billiton Petroleum. "We have economic incentive to reduce that. We have environmental incentive to reduce that. We have landowner relations incentive to reduce that," Yeager said. "So I think the question can only be grounded in, we have our shoulder into these sort of things on a 24-hour-a-day basis to improve them and I'm confident that we will improve them." // Channel fracturing -- Schlumberger has made progress with a technique called channel fracturing that has cut water use by more than 50 percent, Ayala said. But most companies haven't adopted the process, which also cuts the use of sand and other materials, he said. // As American companies focus on improving shale operations, others from around the world are watching. More than 100 industry professionals from around the world are attending the summit, which continues through Friday. // Speaker from China -- Among the speakers Wednesday was the deputy director general of China's National Energy Administration, Zhang Yuqing, who described his country's plan to partner with Western companies to learn from the successes in American shale plays that could be applied overseas. // "We are going to introduce, study and then master advanced technologies from other countries and build our self-independent innovation capabilities ultimately," he said. // Other speakers touched on the anticipated growth in demand for natural gas, which is expected to spur production for decades, despite current low prices for the resource that many described as unsustainable. <http://www.chron.com/business/energy/article/Water-problem-in-shale-is-drawing-a-flood-of-3878765.php>

**Judge orders PUC to stop reviewing drilling ordinances, by Deana Carpenter. The Almanac (10-31-12)**

= South Fayette Township may be able to receive its impact fees after a state judge ordered the Pennsylvania Public Utility Commission to stop challenging municipal ordinances on natural gas drilling. // The PUC had

ruled Oct. 18 that South Fayette will be ineligible to receive its share of Marcellus Shale impact fees unless it amends its drilling ordinance. // However, in an order handed down Oct. 26, Senior Commonwealth Court Judge Keith Quigley stated that the Public Utility Commission (PUC) of Pennsylvania must "cease and desist" from reviewing municipal ordinances "for compliance with the Pennsylvania Municipalities Code and Chapter 32 and Chapter 33 of Act 13." // South Fayette Township's Marcellus shale drilling ordinance was the first to be reviewed by the PUC in a request filed by township resident William Sray. // Quigley stated that the language of the court's July 26 ruling on Act 13 "does not distinguish between the basis for the PUC's review." // South Fayette solicitor Jonathan Kamin traveled to Harrisburg Oct. 24 to argue against the PUC's opinion that stated that under the township's current ordinance it would be ineligible to receive its share of impact fees from drilling, which would have totaled about \$2,700. // South Fayette Township Commission President Deron Gabriel said of the ruling, "Clearly, the PUC, at the direction of Gov. Corbett, has violated the Commonwealth Court's Order and has been ordered to cease and desist from reviewing municipal ordinances. // "There is no legal basis whatsoever for any bureaucrats at the PUC to review municipal ordinances and/or to withhold impact fees to municipalities." // Gabriel said the decision "represents yet another clear and decisive victory for the 2,500 municipalities in Pennsylvania and its residents who have supported our legal challenge to Act 13." // To date, 2,441 of Pennsylvania's 2,550 municipalities have, through amicus briefs and other means, come out in support of South Fayette's fight, Kamin said at an Oct. 24 commissioners meeting. // "Our 2,500 municipalities and residents support upholding the bipartisan decision of the Commonwealth Court rendered in late July which preserves local control," Gabriel said, referring to local zoning and local planning ordinances put in place for the protection of residents. // In a related matter, Cecil supervisors will look at bringing the community's own drilling ordinance in compliance with the state law at a public hearing set for 6 p.m. Nov. 5, before the township board's regular monthly meeting. // Don Genusso, Cecil's manager, explained the portions of the ordinance to be revised don't deal with the Act 13 zoning provisions that are still up for grabs; however, some of the environmental regulations that are being used by a leaseholder in a challenge to the ordinance before the Public Utilities Commission will likely be altered, Genusso explained. // "We have to move forward, and this is just part of the process," he said.

<http://www.thealmanac.net/alm/story11/10-31-2012-SF-puc-case>

**County commissioners supportive of injection well opponents, by David DeWitt, Athens News (10-31-12)** = The Athens County Commissioners Tuesday morning provided several suggestions to a local group to help in their fight against the forcing through of a proposed drilling disposal well in Rome Township. // The disposal well opponents are challenging what they feel are unfair limitation of public input by the Ohio Department of Natural Resources. // At issue is a pending state permit application for a deep injection well that would accept waste brine from oil-and-gas drilling operations. The well has been proposed by a company, D.T. Atha, Inc., based in Sugar Grove, Ohio. // The public comment period for the proposed well closed Sept. 17. // A news release from Athens County Fracking Action Network (ACFAN) charged that now, 30 days on, the period in which ODNR's Division of Oil and Gas Resources Management should have responded to valid objections has passed. // Former Athens County Commissioner Roxanne Groff led the charge Tuesday morning speaking to the current county commissioners, slamming the ODNR for ignoring more than 70 pages of concerns related to the injection; the state said there would be no public hearing on the matter, and stated that instead these issues would be addressed in "terms and conditions" attached to the permit. // She thanked the county commissioners for their own letter requesting a public hearing on the Atha well. // "You were also dismissed in your request for that," she said. "Mrs. Frost, the owner of the property on which the well is proposed, is also opposed to it and has retained an attorney." // Moreover, many other citizens also expressed objections and concerns that were more or less dismissed by the division's chief. // Groff said that the state of Ohio and ODNR are continually thwarting the ability of citizens to have input on the injection well process. // "We write good (detailed) letters, as did you, expecting to get a public hearing," she said. "Instead, we get this absurd little form note from ODNR that has no reflection of anybody having

read the letters and even has no mention of what well is being addressed." // Groff charged that this was an "extraordinary" use of the "discretion" clause in Ohio Revised Code for the division chief to "blow us all off" and instead just attach some terms and conditions to the permit and call it complete. // "There's a lot of distress on the part of the citizens, and surely on your part as elected officials, that we are ignored," she said. // Commissioner Lenny Eliason referred to the "discretion" clause as a "loophole" in the Ohio Revised Code designed to give the agency carte blanche to ignore public input. // He also noted that ORC has another clause about the obligation of the state to consider "public interest," and said that by dismissing the many, many concerns of citizens, the ODNR is ignoring that obligation. // Eliason suggested the group approach media outlets in Columbus such as NBC and the Columbus Dispatch to express these concerns about the ODNR's seeming willingness to dismiss public concern over the permit applications they approve, including those of the landowner herself. // In response to these concerns, ODNR spokesperson Heidi Hetzel-Evans forwarded a response the agency had previously given to other media inquiries. // She said that the ODNR "takes seriously its responsibility to respond to citizens' comments" on injection wells. // The way that ODNR wants to handle this issue, she explained, is not through a public hearing. This is because the agency "knows from previous experience that one of the best ways to communicate effectively with affected citizens is to have an open house-type public meeting where everyone's questions can be heard, which will take place in Athens in November." // The difference between a public hearing and a public meeting, according to information she provided, is the difference between a meeting where the division chief is given expert testimony from all sides during a hearing, and, on the other hand, where the ODNR conducts a public information session during a "meeting." // Nevertheless, a "public hearing is not a reliable model for an accurate and complete exchange of information with the public," Hetzel-Evans asserted. "The public hearing format can actually hinder opportunities for the entire public to be heard and for incorrect information to be corrected." // She then addressed the concerns that the ODNR has heard with regard to the well. // With regard to concerns about groundwater contamination, she said, "In the nearly 30 years of ODNR managing Ohio's Class II injection well program under a primacy agreement with the U.S. EPA, there have been no cases of groundwater contamination due to injection well disposal." // With regard to concerns about the potential for surface water contamination, she said, "Issues related to surface water contamination concerns are addressed by permit conditions which require the operator to construct the injection well facility to address spill prevention (i.e., the surface facility must have capacity to withhold all fluids contained in tanks)." // With regard to concerns about potential problems related to oil-and-gas well conversion, she said, "Any injection well converted from an oil and gas well is required to have 300 feet of cement above the injection zone, isolating the injection zone. Bond logging is required by the operator to provide evidence of compliance." // Finally, with concerns regarding the potential for induced seismic activity, she said, "Ohio's new Class II injection well rules mandate that no new well may be drilled into the basement (Precambrian) rock formation; the Atha well is targeting a much shallower formation for injection. Additionally, the state's new rules enable the chief to require seismic monitoring during pre- and post-drilling as well as a number of other precautions." // "Upon evaluating these and all other relevant objections received regarding the Atha well, chief has determined that a public hearing is not required in this case," she concluded. "However, we believe concerns regarding injection wells are important, valid and critical, which is why it is even more important to have a public open house to address these concerns." // These assurances have not persuaded many Athens County residents concerned about this issue – members of the ACFAN have promised to continue to call the state to account.

<http://www.athensnews.com/ohio/article-38298-county-commissioners.html>