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ARTICLE SUMMARIES (WITH INTERNET LINKS)

5 myths about the Marcellus and natural gas industry, by Timothy Puko, Pittsburgh Tribune-Review (09-02-12) = Backers of the state's natural gas industry often compare work in the Marcellus shale with keys dangling in front of a baby: It's the new attention-grabber. / Yet in many respects, it's an industry not unlike others. / Experts say people don't fully understand the consequences of drilling, leading some to raise worst-case scenarios about health and environmental issues that might not be factual. / "There is a real lack of data, and I think some people interpret that as (the industry) hiding something," said Douglas J. Arent, who leads the Joint Institute for Strategic Energy Analysis in Denver. / Those who have concerns about the industry say it and its supporters provide overly optimistic safety proclamations. / "These are people's homes and it is their kids, and it's not surprising to me that there's some fear out there," said Jim Marston, vice president of the Environmental Defense Fund's energy program. / The Tribune-Review talked with experts about five prevalent myths about the gas industry, to dispel speculation and look at facts. / **Myth 1: Hydraulic fracturing of rock layers is the biggest problem associated with the gas boom** / Fracking, or cracking rocks to free gas, is less risky than shoddy well construction, surface spills, and shortcomings or mistakes in gas drilling. / The technique that helped unlock vast quantities of underground gas, ushering in a rebirth for the U.S. drilling industry, led to confusion about fracking, and the term became a catch-all for the expanding gas development. / Experts say the semantics distract environmentalists and regulators from focusing on greater pollution risks from well failures, leaky storage units or abandoned wells. / "Wells can leak whether they're hydraulically fracked or not. ... If you misidentify the problems, you misidentify the solutions," said Mark D. Zoback, a Stanford University geophysicist and member of President Obama's Shale Gas Development advisory committee. "Things get spilled, things get contaminated; when things aren't drilled properly, it can cause environmental problems down the line. But hydraulic fracturing is really not the problem." / Duke University researchers who studied shale drilling in Pennsylvania found no evidence that fluids used during fracking migrate to the surface. / **Myth 2: Drilling threatens public health minimally because crews can contain and clean up spills with relative ease** / Chesapeake Energy Inc. CEO Aubrey McClendon told CBS' "60 Minutes" in 2010: "If something were to get away ... you can go fix it." / It actually can be tougher to clean up on-shore spills than off-shore spills, experts said. / Blowouts can happen underground, and there's often no way to contain or clean up a spill that spoils an underground aquifer, they said. / Chesapeake has not stopped a three-month leak in Bradford County. One well was part of a widespread methane leak that led to a record fine of nearly \$1 million last year, according to the state Department of Environmental Protection. / "The industry has responded at some points by claiming perfection," said Jeremy Boak, a geologist at the Colorado School of Mines. "That's going overboard in providing the type of assurance that you could reasonably promise." / Some aquifers could take as many as 1 million years to flush themselves out, said Michael E. Webber, an engineer at the University of Texas. / "It's clear that you're not going to have an accident on the scale of what happened in the Gulf of Mexico (the BP oil spill) ... but you're shifting an impact of scale for an impact in terms of time," said Stephen B. Shaw, a hydrologist at the State University of New York College of Environmental Science and Forestry. / **Myth 3: Widespread hydraulic fracturing may diminish water supplies** / Drilling uses water, and people worry about its effect on streams. The state's often generous water withdrawal allotments and dry summers helped spur that concern. / Overly aggressive water withdrawals can impact small streams, but the industry doesn't use enough water to make a dent in major watersheds such as the Monongahela, Ohio or Susquehanna rivers, experts said. / Using 1 million to 5 million gallons of water per well puts it in line with many other industries, experts say. / "It pales in comparison to agriculture," which is the top user, said Arent of the Denver institute. / Even in the energy sector, shale-gas drilling is comparable to coal and nuclear production in terms of water use per unit of energy recovered, according to a March study from the University of Texas Bureau of Economic Geology. / If wells produce as much gas as geologists expect, the industry would use a fourth of what coal mining uses and a third of what the nuclear industry uses, the study said. / Experts caution against pumping water from small streams with low flows, but note that Pennsylvania

is a “wet” state compared with those in the West. / “The American Southwest’s view of people in Pennsylvania worried about the water (quantity) is like, ‘Man, you guys are so water rich, what are you worried about?’ ” said Texas engineer Webber. / **Myth 4: Domestic natural gas production brought the United States close to energy independence** / “You hear it from politicians all the time,” said Alan J. Krupnick, an economist who leads Resources for the Future’s Center for Energy Economics and Policy. “This is just flat-out wrong.” / Most cars, trucks and buses rely on oil and gasoline, and that isn’t changing quickly. / It might never be practical to convert to natural gas-fueled vehicles and construct millions of miles of pipelines to feed fueling stations, said Marston of the Environmental Defense Fund. / Such an overhaul could cost billions — even trillions — of dollars, said Webber, who is also associate director of the Center for International Energy and Environmental Policy, and little investment has happened. / Surplus gas fuels power plants, replacing coal instead of imported oil. / “(Gas) certainly has the prospect to be a boon for energy security, but the claim that it’s helping now is a stretch,” Webber said. / **Myth 5: The natural gas industry caused ‘flaming’ water taps and well-water problems across the state** / Modern drilling contaminated some water wells, but the state has a history of substandard well water that’s a bigger problem, experts said. / A 2011 Penn State University study funded by the Legislature did not find well-water pollution from drilling waste fluid or significant increases in methane levels in 48 private water wells within 2,500 feet of Marcellus shale gas wells. / Researchers found that before gas drilling, 40 percent of those water wells failed at least one safe drinking water standard, usually for coliform bacteria, turbidity and manganese. About 20 percent had dissolved methane — typically below safety levels — before shale-gas drilling. / Drilling probably didn’t cause the flaming taps in Colorado, which appeared in the activist documentary “Gasland,” according to the Colorado Oil and Gas Conservation Commission. / The movie showed other flaming taps from northeastern Pennsylvania. / But many such taps existed for decades because of leaking abandoned wells and natural seeps, experts said. / It’s unclear how much drillers contribute to the problem of flaming taps and methane contamination, they said. / “We don’t do before-and-after studies. We only do after studies,” Webber said.

<http://triblive.com/state/marcellusshale/2263462-74/gas-industry-drilling-experts-energy-state-wells-environmental-marcellus-natural#axzz25ViJiyto>

Pa. banks, homeowners examine oil and gas leases, AP, NY Times (09-02-12) = PITTSBURGH — When Donald Yost tried to refinance his home about 30 miles north of Pittsburgh in January, he met a roadblock. It wasn't his credit score — he had a solid rating — or the appraisal he'd paid almost \$500 for — that was good, too. / Instead, it was the lease he has that allows a company to drill for gas about a mile underneath his property, similar to leases that many of his neighbors have. / Yost said that in the middle of the application process ESB Bank told him the gas lease was too prohibitive. So he went to the drilling company, Rex Energy, which agreed to subordinate their claims to the property — in other words, to put the bank's interest first. / "They were actually very good," Yost said of Rex. / But Yost said a bank representative then told him that no loans would be given to anyone with a gas drilling lease. And that's what upsets Yost the most, he said: that the bank didn't tell him upfront that homes with leases didn't qualify. He said it also declined to refund what he'd paid for his appraisal. / Eventually, Yost did get his home refinanced with another bank — after he paid for a second appraisal. ESB spokesman Daniel Schwartz said the bank has no comment. / ... Charles Updegraff is chairman of Citizens & Northern Bank, which is based in a western Pennsylvania region with a long history of drilling. / "We're taking a little bit harder look at it than we did in the past, simply because of the increased activity," he said of both the number and value of gas drilling leases. But Updegraff said his bank doesn't exclude people with Marcellus leases, simply because they wouldn't write many mortgage loans if they did. / The biggest questions now tie into appraisals, Updegraff said. A property that actually has a drilling rig or pipeline on it is quite different than one that doesn't, but even there blanket judgments don't apply, he said, since one owner might be getting larger amounts of money from a lease than another. Many people with leases are also using their money to improve the properties. / Updegraff said that in the past it was probably common that people seeking loans or mortgages didn't even

ask about mineral leases, since many involved tiny amounts of money. / "I would find it hard to believe that nobody's asking now," he said, since gas leases can now involve hundreds of thousands of dollars.
<http://online.wsj.com/article/APc77eadc692da4f6781fb8ff90e3b9c4b.html>

'Fracking' brine -- Gas-well waste full of radium, by Spencer Hunt, Columbus Dispatch (09-03-12)

= Millions of barrels of wastewater trucked into Ohio from shale-gas wells in Pennsylvania might be highly radioactive, according to a government study. / Radium in one sample of Marcellus shale wastewater, also called brine, that Pennsylvania officials collected in 2009 was 3,609 times more radioactive than a federal safety limit for drinking water. It was 300 times higher than a Nuclear Regulatory Commission limit for industrial discharges to water. / The December 2011 study, compiled by the U.S. Geological Survey, also found that the median levels of radium in brine from Marcellus shale wells was more than three times higher than brine collected from conventional oil and gas wells. / "These are very, very high concentrations of radium compared to other oil and gas brines," said Mark Engle, a U.S. Geological Survey research geologist and co-author of the report. / State law bans radioactive shale-well sand and sludge from Ohio landfills. However, brine can be sent down any of Ohio's 171 active disposal wells regardless of how much radium it contains. Michael Snee, the Ohio Department of Health's radiation-protection chief, said that's the safest place for brine. "Injection wells are almost the perfect solution for that disposal issue," Snee said. / However, environmental advocates say the Geological Survey's report intensifies their fears of surface spills and leaks to groundwater. / "It's an alarm bell in the night that we better get serious about testing the material in the Utica shale right here in Ohio," said Jack Shaner, an Ohio Environmental Council lobbyist. / Shaner and others said the study shows that state officials should look at what's bubbling out of Ohio's shale wells. / Radiation is yet another wrinkle in the ongoing debate over "fracking," a process that sends millions of gallons of water, sand and chemicals down wells to shatter shale and free trapped oil and gas. Thousands of Marcellus shale wells have been drilled in Pennsylvania. Of the 12.2 million barrels of brine injected into Ohio disposal wells last year, 53 percent came from Pennsylvania and West Virginia. / A similar drilling and fracking boom is expected in Ohio's Utica shale. Engle said the Marcellus shale absorbs uranium from ancient saltwater trapped within the rock layer. The decaying uranium then leaks radium into the water. As the wells continue to produce oil and gas, Engle said the brine becomes saltier and more radioactive. / For its study, the Geological Survey examined 52 samples of Marcellus shale brine collected from wells in New York and Pennsylvania from 2009 through 2011. In 37 of the samples, radioactivity from radium-226 and radium-228 was at least 242 times higher than the drinking-water standard and at least 20 times higher than the industrial standard. / That included a sample collected Dec. 21, 2009, in Tioga County, Pa., that was 3,609 times higher than the drinking water standard and 300 times higher than the industrial. / The U.S. Geological Survey's Ohio office wants to study radium and other contents of Utica brine. "We want to understand these natural formation fluids, what's in the ground before any drilling occurred," said Ralph Haefner, the survey's groundwater-studies chief. / Snee said there's no need for the state to test Utica brine because disposal wells are safe. He said shale wastes trucked to landfills pose a bigger threat to groundwater. / In May, the health department told American Landfill in Stark County that two truckloads of waste sand from two Greene County, Pa., wells must instead go to a hazardous-waste landfill. / Required lab tests showed radium at levels 36 times higher than the state's safety standard. Some critics say they worry that Ohio municipalities will spray shale brine on roadways in winter to combat ice. There are no restrictions against using shale-well brine on Ohio roadways. / Cities, townships and others now spray brine from conventional oil and gas wells. However, state officials say they routinely tell drilling companies to take shale wastewater to disposal wells. [**REPORT:** Rowan, E.L., Engle, M.A., Kirby, C.S., and Kraemer, T.F., 2011, Radium content of oil- and gas-field produced waters in the northern Appalachian Basin (USA)—Summary and discussion of data: U.S. Geological Survey Scientific Investigations Report 2011-5135, 31 p. (Available online at <http://pubs.usgs.gov/sir/2011/5135/>) Manuscript approved on August 4, 2011

<http://www.dispatch.com/content/stories/local/2012/09/03/gas-well-waste-full-of-radium.html>

Injection well raises concerns, by Jim Phillips, The Athens News (09-03-12) = A local anti-fracking group has called a public meeting for this Wednesday to discuss the pending state permit application for an injection well in Rome Township that would accept waste brine from oil-and-gas drilling operations. / In a news release, the Athens County Fracking Action Network (ACFAN) noted that the Ohio Department of Natural Resources is currently accepting public comment on the well proposed by the company D.T. Atha, Inc., based in Sugar Grove, Ohio. The comment period will close Sept. 17, the release said. / According to Heidi Hetzel-Evans, a spokeswoman for ODNR, the application is to convert an existing shallow vertical oil-and-gas well near Ohio Rt. 144 into an injection well. She said the well is planned to accept brine from local production wells, not large-scale shipments of out-of-state waste-water. / "It's only going to be used for local disposal," Hetzel-Evans said. "It's not what we would call a large commercial well." / She further explained that Atha had filed a permit application earlier, but that this was put on hold after a series of earthquakes in the Youngstown area last year that were linked to the presence of injection wells there. The state responded with new legislation and emergency rules governing injection wells, but in the meantime pending permit applications were temporarily suspended. / After the legal changes were put in place, according to Hetzel-Evans, applicants already in the system, like Atha, were asked to re-submit their applications under the new standards. / Atha submitted its latest application in January; company official David T. Atha wrote to Tom Tomastik, a geologist with ODNR's Division of Oil and Gas Resources Management, that "It is my understanding that there is a moratorium on all new disposal wells. Nonetheless I want to be 'on the list' for processing this application." / After the application was sent back for some needed revisions, the company submitted it again in March. On Aug. 1, Tomastik wrote to Atha, telling him to proceed with posting a public notice. Roxanne Groff, a member of ACFAN, said that members of that group have been watching for its publication in a local newspaper, but so far haven't seen it. "As far as we know, it hasn't shown up in any paper," she said. / The well goes down into the Onandaga Limestone and Huron Shale formations, and has a maximum depth of a little over 3,800 feet, ODNR records indicate. / The Atha application is one of two pending permit applications on file with the state for injection wells in Athens County. The other was filed last November by K&H Partners, LLC, a West Virginia company, for a site in Troy Township. That application appears to have already gone through its public comment period, but no permit has been issued. / According to the release from ACFAN, Wednesday's meeting, set for 6:30 p.m. at the Athens Community Center, "will allow community members to discuss the problem and how to comment (on the permit application). A primary goal of the meeting is to help people request that a public information session and public hearing be held on the permit." / Groff said members of ACFAN missed the opportunity to organize against the earlier injection-well application in Troy Township, and want to make sure they're ready to fight the Atha well. She said they're concerned that the two pending applications may be only the first of many. / "I think with two pending, it's just a matter of time before there are more," she predicted, noting that Athens County has many old production wells that could be converted to injection wells. "That's the biggest issue with the Atha well; it's an old well that's going to be converted," she said. / Hetzel-Evans of ODNR said a public hearing will not be scheduled unless someone asks for one, and granting of a hearing is not automatic. Someone requesting a hearing, she said, is required to cite relevant concerns relating to public health and safety and/or conservation practices, she explained. / "'Not in my back yard' is not considered relevant," she noted. / According to the permit application paperwork, the Atha well is expected to take an average of 1,200 barrels per day of brine, and a maximum of 1,500. / Hetzel-Evans, asked which local oil and gas operations will be producing the brine, said she didn't have specific information on the source. An ongoing drilling operation, the Hayes-Wolfe well, is currently being developed in Rome Township not far from the proposed deep injection disposal well site.
<http://www.athensnews.com/ohio/article-37704-injection-well-raises-concerns.html>

Natural Gas Driller and Insurer Dispute Coverage for Fracking Claim, by Burke Coleman, Claims Journal (09-05-12) = One of the first lawsuits implicating insurance coverage for a fracking-related claim is under way in Ohio. Warren Drilling Co., Inc. v. ACE American Ins. Co., No. 2:12-cv-425 (S.D. Ohio 2012)

will be the first case to determine how insurance coverage applies to the controversial drilling technique of hydraulic fracturing (or “fracking”). While future cases will certainly present different facts and unique arguments, the outcome of the case will set the stage for how courts are going to approach insurance coverage for fracking-related liability. / The case arises from an insurer’s refusal to defend or indemnify its insured, a drilling company, after drilling activities contaminated a nearby homeowner’s water well. In 2006, Warren Drilling entered into a contract with natural gas producer Equitable Production Company (EQT) to conduct drilling operations in West Virginia. Warren Drilling procured a commercial general liability policy from ACE American Insurance which included an Energy Pollution Liability Extension (EPL) endorsement as well as an Underground Resources and Equipment Coverage (UREC) endorsement. / In 2008, a homeowner who lived close to the drilling operations became aware that his water well had been contaminated by the hazardous fracking fluid used by the drillers. EQT was notified of the problem in October 2008, but Warren Drilling did not receive notice until late 2010 when the homeowner filed suit against EQT and Warren Drilling. / Upon receiving notice of the claims, Warren Drilling promptly notified its insurer, but ACE refused to defend or indemnify the driller. Warren Drilling eventually retained its own law firm to defend the action and, after amassing over \$100,000 in legal fees, the case was settled with the homeowner. Following the settlement, Warren Drilling sued EQT for indemnification and sued ACE for its refusal of coverage. / Warren Drilling claims that ACE breached its contract and acted in bad faith by refusing to defend the driller in the case brought by the homeowner and by refusing to indemnify the driller for its losses from that case. Warren Drilling cites both the EPL and the UREC endorsements as grounds for coverage and has incorporated its letter to ACE and ACE’s response denying coverage into its complaint. The pleadings and the letters provide some insight into the arguments that each side is positioned to make. / The case hinges on the applicability of the EPL endorsement and the UREC endorsement. / The commercial general liability policy issued to Warren Drilling generally excludes coverage for bodily injury or property damage caused by pollutants. However, the EPL endorsement reinstates coverage for a pollution incident, but only if the discharge of pollutants (1) was unexpected and unintended; (2) commenced abruptly and instantaneously; (3) commenced at or from a site owned by, occupied by, or at which the insured was performing operations; (4) was known by the insured within 30 days of the commencement of the discharge; and (5) was reported to the insurer within 60 days of the commencement of the discharge. ACE argues that Warren Drilling failed on all five conditions. / Neither party detailed its arguments regarding the first three conditions but, as the case progresses, the discussion of the first two conditions will prove particularly interesting for production companies, drillers and insurers. Whether fracking results in an “unexpected and unintended” discharge of pollutants and whether the discharge commenced “abruptly and instantaneously” will likely apply universally to incidents of fracking pollution. Courts have repeatedly affirmed that it is the discharge of pollutants, not the harm to person or property that must be expected and intended. See e.g. *United States Fidelity & Guaranty Co. v. Star Fire Coals, Inc.*, 856 F.2d 31 (6th Cir. 1988). In order to prevail, Warren Drilling will have to show that it did not intend nor did it expect the fracking fluid to be discharged into the ground water. While Warren Drilling may satisfy this condition, it could have a more difficult time convincing the court that the discharge of the pollutants was abrupt and instantaneous. / In their letters, the parties devoted most of their discussion to the time limits of the fourth and fifth conditions in the EPL endorsement. The time limits work in conjunction with the “abrupt and instantaneous” requirement to avoid coverage for gradual releases of pollutants. ACE stated that Warren Drilling’s two year delay in realizing and reporting the incident to ACE precluded coverage. Warren Drilling characterized the time limits as mere “technical hurdles” that did not require strict obedience and whose breach did not prejudice ACE and therefore did not bar coverage. / In Ohio, courts have held that where a time limit is a condition precedent to coverage it must be complied with and the insurer need not be prejudiced by the delay to refuse coverage. *American Employers Ins. Co. v. Metro Regional Transit Auth.*, 12 F.3d 591 (6th Cir. 1993). Other courts, as cited by ACE, have found that time limits for special coverage endorsements are not subject to the prejudice exception afforded to general notice requirements in a policy. See e.g. *Venoco Inc. v. Gulf Underwriters Ins. Co.*, 175 Cal. App. 4th 750 (2009). Overcoming the reporting time limits could be a challenge for Warren Drilling. / Although Warren Drilling is not likely to find coverage under the EPL

endorsement, it also argues that the UREC endorsement provides coverage. / The policy excludes coverage for damage to “personal property in the care, custody or control of the insured,” but the UREC endorsement modifies this exclusion by allowing coverage for property damage included within the definition of “underground resources and equipment hazard.” The endorsement defines “underground resources and equipment hazard” as including “property damage to . . . oil, gas, water and other mineral substances which have not been reduced to physical possession above the surface of the earth.” / In its letter to ACE, Warren Drilling argued that the UREC endorsement applies to the homeowner’s water well because the endorsement includes coverage for property damage to water below the surface. ACE countered that Warren Drilling is applying an overly broad reading to the endorsement and that because the endorsement modified an exclusion that applies only to “personal property in the care, custody, or control of the insured,” the endorsement also applies only to personal property within the control of the driller. The endorsement is clumsily drafted and appears to create ambiguity within the policy. While the UREC endorsement is intended to modify an exclusion for damages to “personal property”, it modifies it in such a way that apparently includes coverage for property damage to any water below the surface, which would include the homeowner’s water well. This potential ambiguity may be Warren Drilling’s best opportunity, but the argument ultimately depends on the court’s reading of the policy. / Warren Drilling v. ACE American Insurance will shed light on how courts may approach the applicability of insurance coverage to fracking-related claims. Insurers, upstream producers, and drilling companies should pay close attention to the case as the outcome could be an indication of the long-term implications of fracking liability on insurance coverage. / Burke Coleman is Legal Counsel and Compliance Manager for Demotech, Inc. Burke can be contacted at bcoleman@demotech.com. This article is for informational purposes only, is not intended as legal advice, and is not a substitute for independent legal analysis and advice on a particular issue. <http://www.claimsjournal.com/columns/burkes-law/2012/09/05/213109.htm>

Broadview Heights City Council sides with residents on Community Bill of Rights, By Robert Rozboril, Cleveland.com (09-05-12) = To the delight of dozens of residents in attendance at its Sept. 4 meeting, City Council voted unanimously to place a charter amendment on the Nov. 6 ballot which would create a Community Bill of Rights declaring that no more gas or oil wells could be drilled in the city. / This decision blatantly contradicts the legal advice given by Law Director Vince Ruffa during council’s Aug. 27 meeting when he advised the city to vote against the ordinance because it is, in his opinion, not in the city’s best interest because it makes it vulnerable to potential lawsuits. / “We defied our law director tonight because we believe it is more important to put this on the ballot,” said Councilman at large James Giomini after the meeting. He went on to say that he personally believes that the city and Mothers Against Drilling in our Neighborhoods missed an opportunity to get something done that could have a much greater impact than the proposed bill of rights. / “If we brought 10,000 signed petitions to our state representative saying ‘we want home rule back,’ it would be huge,” Giomini said. “But, we didn’t partner. We took sides.” / Giomini made a point to say that no matter how the issue plays out down the road, he believes one of the most important things to remember is that people on both sides should handle it with civility. / Following the vote, Councilman at large Glenn Goodwin remarked that the city should think about putting money away for potential future lawsuits of which Ruffa warned. / Before the vote, residents took their turns at the microphone to address council. / These included the familiar faces of MADION co-founders Tish O’Dell and Michelle Aini as well as former mayor Edna Deffler, who said she actually did not sign the petition but that she didn’t discourage anyone from signing it and would vote for the Community Bill of Rights. / “I didn’t sign the petition because I felt it should be an initiative petition,” Deffler said. “If it fails it fails. But if it passes, I believe that we can find a way to make it work to our advantage.” / The main point of Deffler’s speech echoed one which residents such as O’Dell, Aini and others have been stressing, ‘give people the power.’ / Mayor Sam Alai announced at the Aug. 20 City Council meeting that a new gas and oil well will be drilled in the city within the next several months, between Avery and Wyatt Roads. / This news came on the heels of the submission of MADION’s petition. / Although the charter already contains language

saying that no gas or oil wells can be drilled in residential neighborhoods, it is unenforceable due to state laws that allow for mandatory pooling, something the city has been fighting for years. / “We don’t have the power or authority to keep out gas wells,” Ruffa said. “We’ve gone to the state multiple times and fought mandatory pooling. They overruled us.” / Mandatory pooling was created by section 1509.27 of Ohio Revised Code, which states: “If a tract of land is of insufficient size or shape to meet the requirements for drilling a well and the owner of the tract who also is the owner of the mineral interest has been unable to form a drilling unit under on a just and equitable basis, such an owner may make application to the division of oil and gas resources management for a mandatory pooling order.” / Sections 1509.02-1509.31, included in House Bill 278, also provide more in-depth explanation of many of points pertaining to mandatory pooling and the fact that the state of Ohio has full authority to regulate the dispersion of gas and oil wells. / The developers who are going to drill the well have notified all of the homeowners within 500 feet of the well’s location and collected the necessary permits required to start drilling. / Giomini said that the city does not want to strip anyone of their constitutional rights. He said that this includes the rights of those who choose to allow wells to come into the city and get financial gain from them. / Mayor Sam Alai, as well as Ruffa and other council members, said that if voters approve the bill of rights, the city would likely be sued the first time it tried to turn away a drilling company because the state has sole authority to regulate drilling. They fear that such a lawsuit could virtually bankrupt the city. / Alai said that the anger some citizens who are against drilling are directing at city officials is misplaced, because it regulated by the state. / The mayor said he doesn’t like the fact that wells have been and are continuing to be drilled in residential neighborhoods, but finds his hands tied at the state level. / http://www.cleveland.com/broadview-heights/index.ssf/2012/09/broadview_heights_city_council_32.html

For Farms in the West, Oil Wells Are Thirsty Rivals, by Jack Healy, NY Times (09-05-12) = GREELEY, Colo. — A new race for water is rippling through the drought-scorched heartland, pitting farmers against oil and gas interests, driven by new drilling techniques that use powerful streams of water, sand and chemicals to crack the ground and release stores of oil and gas. / A single such well can require five million gallons of water, and energy companies are flocking to water auctions, farm ponds, irrigation ditches and municipal fire hydrants to get what they need. / That thirst is helping to drive an explosion of oil production here, but it is also complicating the long and emotional struggle over who drinks and who does not in the arid and fast-growing West. Farmers and environmental activists say they are worried that deep-pocketed energy companies will have purchase on increasingly scarce water supplies as they drill deep new wells that use the technique of hydraulic fracturing. / And this summer’s record-breaking drought, which dried up wells and ruined crops, has only amplified those concerns. / “It’s not a level playing field,” said Peter V. Anderson, who grows corn and alfalfa on the parched plains of eastern Colorado. “I don’t think in reality that the farmer can compete with the oil and gas companies for that water. Their return is a hell of a lot better than ours.” / But industry officials say that critics are exaggerating the effect on water supplies. / Energy producers do not — and cannot — simply snap up the rights to streams and wells at the expense of farmers or homeowners. To fill their storage tanks, they lease surplus water from cities or buy treated wastewater that would otherwise be dumped back into rivers. In some cases, they buy water rights directly from farmers or other users — a process that in Colorado requires court approval. / “This is an important use of our water — to produce energy, which is the foundation of all we do,” said Tisha Schuller, president of the Colorado Oil and Gas Association. “Think about the big users of water — agriculture, industrial development. All these things require energy.” / In average years, farmers and ranchers like Mr. Anderson say they pay about \$30 for an acre foot of water — equal to about 326,000 gallons — a price that can rise to \$100 when water is scarce. Right now, oil and gas companies in parts of Colorado are paying as much as \$1,000 to \$2,000 for an equal amount of treated water from city pipes. / That money can be a blessing for strained local utilities and water departments, but farmers say there is no way they can afford to match those bids. / “We’re not going to be able to raise the food we need,” said Ben Rainbolt, executive director of the Rocky Mountain Farmers Union. “How are we going to produce this with less?” / In the spring, during an annual auction of

surplus water in northern Colorado, Mr. Anderson and a handful of other farmers were outbid by water haulers who supply hydraulic fracturing wells. Although Mr. Anderson ultimately got the water he needed as bids settled after the auction, the mere shadow of energy producers at the auction offered a glimpse of their growing presence in the rush for Western water. / “Energy companies are moving quickly to shore up supplies,” said Reagan Waskom, director of the Colorado Water Institute at Colorado State University. “They’re going to find it, and they’re going to pay what they need to pay, and it’s on an order of magnitude of what crop producers can afford to pay. That changes the whole deal.” / Oil and gas companies estimate that they will use about 6.5 billion gallons of water in Colorado this year, and that figure makes up only 0.1 percent of overall water use, according to state data. Their consumption represents more water than is used making snow on the ski slopes or greening the state’s golf courses. But it is paltry compared with the deluge needed for irrigation and agriculture, which accounts for 85.5 percent of Colorado’s water use. / Still, the industry is growing fast. The Colorado Oil and Gas Commission estimates that the state’s oil and gas water needs will grow by 16 percent over the next three years. / “Water flows uphill to money,” said Mike Chiropolos, a lawyer for Western Resource Advocates, an environmental group based in Boulder. “It’s only going to get more precious and more scarce.” / In June, the group released a study that accused Colorado of underestimating the amount of water used in hydraulic fracturing, also known as fracking, saying the true figure was between 7.2 billion and 13 billion gallons per year — enough to serve as many as 296,100 people. / Despite the drought and worries about water supplies, several cities — and even farmers with water to spare — are starting to line up as eager sellers. / In July, after receiving proposals from several energy companies, Aurora, a suburb of Denver, approved a \$9.5 million deal to lease 2.4 billion gallons of effluent water to the Anadarko Petroleum Corporation over five years. It did not come from drinking supplies. It was excess water that “we couldn’t capture, couldn’t store, couldn’t do anything with,” said Greg Baker, a spokesman for the city’s water department. / But the agreement — the first of its kind for Aurora — drew stiff rebukes from opponents of hydraulic fracturing. / Opponents said the Anadarko agreement would divert water that would have flowed to other users along the South Platte River and send it far from the community. Molly Markert, a city councilwoman who voted against the lease, said she was uneasy about selling municipal water to energy companies. / “I’m not a supporter of fracking,” Ms. Markert said. “I don’t want to enable them.” / For years, Greeley has leased its surplus water to farmers, construction companies and others. In 2008, the oil and gas companies started making offers, said Jon Monson, the city’s water and sewer director. Most of the water still goes to agriculture, but the city rented 1,300 acre feet to energy companies last year and is on pace to rent 1,800 acre feet — as much as 586 million gallons — this year. / It is easy math for the city: The farmers pay \$30 an acre foot. The oil and gas companies pay \$3,300, which will earn the city’s water department \$4 million to \$5 million this year. / Precious as water is, Kreg Edrington, 26, spilled only a little one recent morning as he hooked his tanker truck up to a fire hydrant in Greeley and opened the tap. Like a herd of thirsty elephants, the tankers begin lining up early to fill their steel bellies. In less than 15 minutes, Mr. Edrington’s tanker was brimming with leased city water, and he was ready to make the two-hour round trip over gravel roads to a drilling site, where he would empty the tank and turn around for more. / “That’s it,” he said. “Now I drive away.”

http://www.nytimes.com/2012/09/06/us/struggle-for-water-in-colorado-with-rise-in-fracking.html?_r=1&ref=us

Pa. Tells High Court Towns Can't Challenge Fracking Law, by Dan Packer, Law360 (09-05-12) = The state of Pennsylvania argued that municipalities lack standing to challenge a law designed to encourage drilling in the Marcellus Shale, claiming in an appeal brief filed Tuesday in the state Supreme Court that the Commonwealth Court erred in declaring the law unconstitutional. / The brief — filed on behalf of the state’s Department of Environmental Protection, attorney general’s office, and Public Utilities Commission — contended that the state’s General Assembly holds the authority to impose restrictions on municipal zoning with regard to gas and oil drilling.

<http://www.law360.com/environmental/articles/375511/pa-tells-high-court-towns-can-t-challenge-frackin>

g-law

ODNR official: we'll let the public know what's happening after you can no longer object. Pruning Shears blog (09-06-12) = The fracking industry has dramatically increased its activity in Portage county recently. In some cases the activity is unmistakably tangible (more on that next week), but the real action at the moment seems to be preparing the ground for the deluge. ... Several citizens contacted ODNR Geologist Tom Tomastik with questions. ... I emailed Tomastik on Sunday: *It is my understanding that there is supposed to be an informational meeting on the Portage county wells listed in the public notices below. I would like to get some clarification on this. / First of all, is it true that there will be a meeting? / If so, will the meeting be held during the public comment period? That would be the most useful; having it after would be like closing the barn door after the horse left. / Will this be a public hearing, or just an informational meeting? It would be much better to have an actual public hearing. / I urge you to hold any session at a time when the most people could attend: on a weekday evening or a weekend.* On Tuesday he responded: Below is the link to the rules regarding public notice requirements for Class II injection well applications under Section 1501: 9-3-06 (E) (c) of the Ohio Administrative Code. Please read this section. No meeting is held until after the end of the public comment period. A Public Hearing is only required when the objections are relevant to public health, or safety, or good conservation practices. The chief of this Division rules upon the validity of each objection. Since we are receiving a number of comments regarding the Soinski applications, I have agreed to hold a public meeting to do a presentation about Class II injection well applications and answer questions regarding the public's concerns.

http://www.ohiodnr.com/portals/11/oil/pdf/uic_emergency_rule_9-3-06.pdf/ ... I decided to give it one last try though: Yes, I was clear on the rules and your intentions. My request was this: that you hold the public meeting during the comment period so citizens can make the most informed comments possible. / As far as I know you are not legally enjoined from doing this, and it would be of much greater value to the community. As I wrote before, having the meeting after the comment period smacks of closing the barn door after the horse is gone. We need to be able to ask questions now - during the comment period. ... Full article at <http://www.pruningshears.us/pruning-shears/2012/9/6/odnr-official-well-let-the-public-know-whats-happening-after.html>

EU Report Urges Tight Regulation of 'Risky' Shale Gas Fracking, novinite.com (09-07-12) = A new report for the European Union warns that tough new regulations are required for the shale gas industry because of the high risk it poses to human health and the environment. / The EC study, 'Impacts of shale gas and shale oil extraction on the environment and human health', the most comprehensive analysis yet of the shale gas sector, says that drilling for shale gas poses a "high risks", worse than those posed by other fossil fuels, EEM reported. / Amongst these is water contamination caused by the hydraulic fracturing of rocks to obtain the gas, known as 'fracking'. ... Seven other risks are highlighted, including contamination and depletion of ground and surface water, degradation of biodiversity, land, air quality and the danger of earthquakes. ... It concludes that "the present privileges of oil and gas exploration and extraction should be reassessed in view of the fact that the environmental risks and burdens are not compensated for by a corresponding potential benefit as the specific gas production is very low." ... Another report being prepared for the European Parliament and due to be published later this month, also reportedly recommends "a thorough analysis of the EU regulatory framework regarding specifically UFF [unconventional fossil fuels] exploration and exploitation", and calls on the Commission "to propose, as soon as possible ... appropriate measures, including legislative [ones], if necessary". ...A report published earlier this year by Policy Exchange in the UK, Gas Works? Shale gas and its policy implications also called for effective regulation. Full article at http://www.novinite.com/view_news.php?id=143038

Pa. PUC Issues First Opinions On Local Fracking Laws, by Dan Packel, Law360 (09-07-12) = The Pennsylvania Public Utility Commission on Wednesday began issuing advisory opinions to municipalities

over their zoning ordinances, as part of its role in overseeing a controversial law aimed at promoting development of the Marcellus Shale in the state. / The nonbinding opinions [were] issued under Act 13 — which gives the state power to prevent municipalities from enacting zoning regulations that ban drilling, and [which is being challenged] in the state’s Supreme Court <http://www.law360.com/environmental/articles/376370/pa-puc-issues-first-opinions-on-local-fracking-laws>

Ohio lawmakers keep doctors in the dark about fracking chemicals, Ohio Citizen Action Blog (09-07-12) = On May 24, 2012 the Ohio Senate and House of Representatives voted to pass the final version of Senate Bill 315, with amendments from both houses of the legislature. Governor John Kasich signed the bill into law on June 4th. ... The law lets drillers hide all chemicals they use from the public until 60 days after a well is completed. Meanwhile, they can hide any chemicals they want even after that by declaring that they are “trade secrets.” Doctors, emergency responders, and other medical professionals are supposed to be able to get the trade secret information, but the law makes getting it difficult, especially if they need the information quickly in the case of an emergency. / If a doctor manages to get the trade secret information, she is bound by a gag-order to only use it for treating a single individual. She can’t tell other people what they might have been exposed to in an accident, and she can’t do medical research on how the chemicals affect people that live in the area. Full article at <http://ohiocitizen.org/>

Activists push local control of ‘fracking’, by Pamela Engel, The Columbus Dispatch (09-08-12) = Hoping that the state will relinquish some control over hydraulic fracturing, environmental activist groups across Ohio are encouraging local governments to pass resolutions decrying the controversial practice. / These groups say they want local governments to acknowledge the dangers of hydraulic fracturing, or “fracking,” and demand local control over the practice, which is regulated by the state. / “We strongly believe in communities being able to decide what’s best for their communities,” said Vanessa Pesec, president of the statewide Network for Oil and Gas Accountability and Protection, one of the groups involved in the initiative. ... The Ohio Department of Natural Resources regulates oil- and gas-well operations in Ohio, including the relatively new process of shale fracking. Local laws, such as those that would attempt to ban fracking, cannot supersede state law. / “This issue has been debated at the General Assembly, and they wisely concluded that oil and gas regulation is a complex, technical issue and should be regulated by people who are experts in oil and gas,” said Tom Stewart, executive vice president of the Ohio Oil and Gas Association. ... The resolutions that fracking-activist groups hope local governments will pass, however, would be nonbinding. ... Full article at <http://www.dispatch.com/content/stories/local/2012/09/08/activists-push-local-control-of-fracking.html>

Communities seek ways to override state control of oil and gas drilling boom, by Bob Downing, Akron Beacon Journal (09-08-12) = Patti Gorcheff is worried about the potential dangers of oil and gas drilling near schools in her community near Youngstown. / Julia Fuhrman Davis, who lives in the same area south of town, considers the drilling — known as hydraulic fracturing or fracking — to be a threat, and she’s angry that there is little citizens can do. / Their concerns are twofold: The rich discoveries of oil and gas in eastern Ohio have brought a surge in drilling, but eight years ago, the Ohio legislature and former Gov. Bob Taft stripped local governments of control. / The Ohio Department of Natural Resources is now in charge. / The two activists are involved in grass-roots campaigns to give communities more weapons to fight the spread of horizontal boring in the Utica shale formation, and injection wells, which are used for disposal of the polluted water that comes from oil and gas exploration. / They are pushing what’s called limited home rule in Ohio townships and a community bill of rights in cities and villages, both aimed at increased protection for air, water, health, property values and public safety. / Limited home rule already is an option for townships. The community bill of rights could be adopted in cities and villages as resolutions or charter amendments. Such provisions say state laws allowing drilling violate the civil rights of local residents and threaten their health and safety. Supporters say the new efforts give local communities power over state laws.

/ However, state officials believe otherwise. Under Ohio law, drilling cannot be banned or blocked by local communities. / “We have the sole authority under Ohio law for regulating aspects of the oil and gas industry in Ohio,” said agency spokeswoman Heidi Hetzel-Evans. “That, we feel, is clear.” / ‘It’s David versus Goliath’ – “We can’t ban fracking, and we know that,” said Fuhrman Davis. “But with limited home rule, we can adopt local rules on hours of operation, noise limits, truck traffic and routes, local nuisance rules, fences and sign rules for drillers, waste shipments. ... We can use those rules to fight back a little bit, to give us more control. It’s David versus Goliath. But it’s a way to fight drilling.” / She said it’s not a fracking problem; it’s a democracy problem. / “Citizens are losing rights and this is just another example. ... Home rule would help us regain that voice,” she said. / Anti-fracking efforts are growing in Ohio, Pennsylvania and New York as interest in shale drilling grows. / Locally, limited home rule will appear on the Nov. 6 ballot in Portage County’s Randolph Township. / After the township rejected a proposed community bill of rights, a group led by Sandra and Newt Engle decided to place the issue of home rule on the ballot. They needed 209 signatures and collected 271. / Will home rule provide the air-and-water protection they seek? / “I hope so. But I really don’t know,” Newt Engle said. “No one does. That truly is the great unknown.” / If approved by voters, extended home rule would begin Jan. 1. And there would be challenges. Regulations must apply to all, not just drillers. / And there is a financial cost to taking on home rule, according to township trustee Roger Klodt. / Establishing a police department and hiring a part-time law director could cost as much as \$500,000, and that would require a tax levy of as much as 5 mills, Klodt said. / Gorcheff and Fuhrman Davis have hit a legal snag in their efforts to get expanded home rule in their community, Beaver Township, on the Nov. 6 ballot. / The two women circulated petitions and got 369 signatures, more than the 296 required. However, on July 27, their petitions were rejected by the township, which said the wrong forms were used. / Akron attorney Warner Mendenhall has taken their case to the Ohio Supreme Court, asking that trustees be ordered to place the issue before voters. / The high court has not yet ruled, leaving the home-rule issue in Beaver Township in legal limbo. / Limited home rule is in place in 48 urban Ohio townships, including Springfield in Summit County and Lake, Jackson, Plain and Perry in Stark County. / Drilling in Medina County has led to serious discussions about limited home rule there, but nothing is likely to appear on the ballot this year, said spokeswoman Sandra Bilek of the Concerned Citizens of Medina County. / She also is involved in a new grass-roots campaign to convince Gov. John Kasich and legislative leaders to return control of drilling to municipalities. Nonbinding resolutions seeking that change are being submitted to local governments and petitions will be circulated, she said. / Bill of rights – Others are trying a different approach: pioneering community bills of rights that acknowledge the rights of the citizens over the government. / Some communities are targeting gas wells, some injection wells, and some target both. / Cincinnati City Council has voted to ban injection wells. The village of Yellow Springs near Dayton is adopting a resolution against gas and injection wells. / Mansfield will vote on Nov. 6 to amend its charter to block injection wells. Athens, in southeastern Ohio, prohibits drilling in protected areas around drinking-water wells. / On Tuesday, the Broadview Heights City Council approved a city charter amendment prohibiting future drilling as part of a community bill of rights. If approved by voters Nov. 6, the initiative would also state that city residents have a right to clean air, clean water, clean soil and a sustainable energy future. / Behind the initiative was Mothers Against Drilling in our Neighborhoods, which collected 1,519 valid signatures on petitions, meeting requirements in the city charter and Ohio law. There are more than 90 active wells in the Cleveland suburb. / Water agencies in Montgomery and Hamilton counties — Dayton and Cincinnati, respectively — are fighting injection wells for fear they will threaten drinking water. / An additional 29 Ohio municipalities have called for drilling bans and moratoriums. They include North Canton, Munroe Falls, Canton, Garrettsville, Hartsville, Meyers Lake and Canal Fulton and the following townships: Hinckley, Medina, Montville, Plain, York and Randolph, according to Food and Water Watch, a national environmental group concerned about fracking. / Nonprofit leads effort – Behind many of the local efforts, including the one in Broadview Heights, is the Community Environmental Legal Defense Fund, a nonprofit based in Mercersburg, Pa. / Its pro-democracy campaign was first used in Ohio years ago in an unsuccessful effort to wrest control of factory farms from the Ohio Department of Agriculture and give communities more leverage. / To date, more than 100 communities, mostly in Pennsylvania, have pushed for increased local

control with laws drafted by the defense fund, said group spokesman Ben Price. / He worked with Pittsburgh in late 2010 on banning fracking within the city. More recently, he made a presentation to Youngstown City Council in support of a community bill of rights. / “It’s not a movement yet,” he said in a telephone interview. “What’s happening is small, but it’s growing. ... We’re attempting to assist communities to establish the greatest degree of local control and self-government possible.” / When laws don’t serve the people, you change the laws, he said. / The bills of rights recognize that local residents “have certain rights and that to protect those rights they have the democratic authority to prohibit activities that would violate these rights,” he said. “Our basic premise is that those rights are yours, and for the state to remove local control is a violation of those rights.” / Industry opposition – The industry is strongly against the citizen efforts. / “The activist organizations furthering these efforts are taking cues from out-of-state organizations that oppose the responsible development of fossil fuels at every turn,” said Dan Alfaro of the pro-drilling, industry-backed group Energy in Depth-Ohio. / “More often than not, these organizations ignore the fact that the region has a long history of development — development that utilized the six-decade-old practice of the hydraulic fracturing process they have focused efforts on. More and more Ohioans are witnessing the positive benefits we are already seeing in this early stage in the exploration of the Utica shale and have educated themselves on the time-tested practices and processes involved in oil and natural gas extraction.” / Critics of the citizen movement point out that landowners who want to drill may have their rights taken away. / Until 2004, Ohio municipalities had the right to control where — and whether — oil and gas wells could be drilled in their communities through zoning and outright bans. / But with passage of House Bill 278, the Division of Oil and Gas Resources Management in the Department of Natural Resources became the sole authority over oil and gas wells. / To date, there have been no legal challenges to local attempts to control the drilling. / Ohio Attorney General Mike DeWine’s office can’t comment on such scenarios, said spokesman Dan Tierney. His office would be responsible for advising and defending Natural Resources and therefore is in a position of attorney-client privilege. / Even the citizen groups are uncertain whether more home rule will stop or slow drilling. / “If hundreds of local communities adopted home rule, it would be wonderful and amazing and might make a difference,” said anti-fracking activist Teresa Mills of Columbus. But she said she fears that it would take years to win such widespread support and that drilling by then will be firmly entrenched in eastern Ohio. / She said there appears to be little interest in the legislature to rethink the local-control issue. / “Fracking is waking people up that we don’t have home rule or control over what is happening locally. It is an issue of trying to protect democracy or fixing the lack of democracy,” she said. / Yellow Springs will be the first Ohio community to ban fracking and injection wells through rights-based legislation, although it’s not in the target zone for oil and gas. / The proposal, pushed by a grass-roots group, Gas and Oil Drilling Awareness and Education, was introduced on Aug. 6 and is expected to get a final vote on Sept. 17. / The proposed ordinance would ban oil and gas extraction or injection wells in Yellow Springs on the premise that they violate the civil rights and threaten the health and safety of residents. / “It’s something we believe in and we’re convinced that this is the right way to go,” said Vickie Hennessy, a spokeswoman for the grass-roots group. “This one stood out and we feel that it might really work. This is the only clear way to go.” / However, Village Solicitor John Chambers told local media that the ordinance may not be enforceable and could face a court challenge. / The Community Environmental Legal Defense Fund says Yellow Springs will join 12 communities in Pennsylvania and New York in approving the rights-based legislation, but there have been no attempts at enforcement, so there have been no court challenges. / Hennessy acknowledged that oil and gas exploration in Yellow Springs isn’t likely, but the underground geology could open the community to injection wells. / Voters in Mansfield will be asked to approve a city charter amendment that would block two proposed injection wells in Richland County. / The change, drafted by Law Director John Spon, would add a community bill of rights to the charter and prohibit the injection of fracking waste on the grounds that the policy is necessary to secure and protect citizens’ rights. / The charter change also recognizes that corporate rights are subordinate to the rights of the people of Mansfield, as well as recognizing the rights of residents, natural communities and ecosystems to clean air and water. / A Texas-based company, Preferred Fluids Management, has state approval to drill two 5,000-foot-deep wells in Mansfield. The company intends to take briny wastes from Pennsylvania via rail.

/ In Mahoning County, Gorcheff and Fuhrman Davis are not giving up. / "Quitting is not an option," Gorcheff said. "We've worked too hard. This is just such a monster to fight. We're digging in." / Said Fuhrman Davis: "We live here. We should decide what happens here.

<http://www.ohio.com/news/communities-look-for-ways-to-override-state-control-of-oil-and-gas-drilling-boom-1.332880>

Mansfield leads legal fight against injection wells holding fracking waste, by Aaron Marshall, Cleveland Plain Dealer (09-09-12) = COLUMBUS, Ohio - Mansfield voters will decide this November if they want to join a growing movement among Ohio cities trying to block injection wells that store waste from the controversial hydraulic fracturing process. / Using Ohio's home-rule provision, Mansfield officials have placed ground-breaking language on the ballot designed to stop injection wells -- aimed squarely at a pair planned by a Texas company -- from being located in the Richland County city of 48,000. / The Texas company has plans -- approved by state regulators in 2011 -- to build two injection wells on 4.9 acres and ship in up to 82 tanker cars a week of oilfield waste via train. / Mansfield's novel legal approach to fight back using the home-rule provision of the Ohio Constitution is part of a larger not-in-my-backyard sentiment that has been spreading across Ohio in recent weeks against new injection wells. / On Aug. 2, Cincinnati became the first Ohio city to vote to ban injection wells within its borders, and bans have quickly followed in the cities of Yellow Springs and Niles. / Activists in Broadview Heights are pushing for a similar ban, and an Athens County advisory committee on drilling is pushing for changes to state regulations on injection wells that are about to be approved. / The cities are seeking to avoid becoming dumping grounds for oilfield waste fluids that are the byproduct of the controversial process of hydraulic fracturing, or fracking, in which millions of gallons of chemical-laced water are used to crack open rock formations holding gas deposits deep under the earth's surface to release the energy. / The millions of barrels of waste produced typically contain a brine-water mix including chemicals used in the oil and gas production process, some of them toxic. Injection wells funnel the brine-water mix into geological formations thousands of feet below the surface for storage. Some of them are oil and gas production wells that have been converted, while others were originally designed as injection wells. / The threats from Mansfield officials have spurred a lawsuit filed July 13 in federal court in Cleveland by the Texas company -- Preferred Fluids Management -- that asserts that the city has no right under Ohio law to regulate the injection wells. It says a 2004 Ohio law clearly hands all decisions about drilling regulations to the Ohio Department of Natural Resources. / As some communities grow more concerned about injection wells, state officials point to a flock of tougher new regulations adopted for injection wells as proof that fluids can safely be disposed of in Ohio. / John Spon, Mansfield law director, said he's prepared to go to the Ohio Supreme Court to defend his community's right to protect its water resources, which he views as under attack. The language being voted on would establish a "bill of rights" in Mansfield's charter and allow local officials to take action to protect those rights, including banning injection wells. / "The industry position is that the state statute pre-empts home rule, but our position is that the Ohio Constitution pre-empts the ODNR statute," Spon said. He called regulations put in place by the department "ludicrous" and said they "defy all logic." / "The regulations they have established are grossly inadequate to reasonably protect the community," said Spon. "For example, there is no requirement whatsoever for a company to disclose the toxic poisons that are in fracking fluids prior to actual injection." / Heidi Hetzel-Evans, a spokeswoman with the Ohio Department of Natural Resources, said more than 100 new well construction standards and requirements are undergoing final review and significantly strengthen the program. She stressed that the department has also beefed up inspection staff and has new powers to order scientific and mechanical-integrity testing at well sites. / "We believe Ohio, when all of these new regulations become effective, will have the most stringent Class 2 injection well permits in the country," Hetzel-Evans said. / Preferred Fluids Management owner Steven Mobley declined to comment on his Mansfield project, but the company's lawsuit quotes Ohio law stating that Natural Resources Department officials solely hold the power to regulate and permit the injection wells. / In the lawsuit, the company says efforts by city officials to block its project have created "a cloud of uncertainty" and it asks the federal court

to issue an injunction stopping the city in its tracks. Mansfield officials have not yet filed a response to the lawsuit. / The fresh wave of Department of Natural Resources regulations -- some were ordered by Gov. John Kasich while others were included in recent legislation passed by state lawmakers -- will be in place when the state begins processing 30 new permit applications for injection well sites across Ohio in the near future, according to Hetzel-Evans. / Applications for new injection well permits were suspended in January following a series of earthquakes in the Youngstown area last winter caused by oilfield waste fluids injected into a fault line. / As communities push back against new injection wells, state records show Ohio is on pace to store a record amount of waste in 2012 in the 177 injection wells across the state. / During the first quarter of 2012, injection wells across Ohio stored 3.44 million barrels of oilfield waste fluids with about 56 percent coming from out of state -- in particular, Pennsylvania. That puts Ohio on track to store about 13.76 million barrels of waste in injection wells this year -- a mark that would be 10 percent above 2011's record high. / Out-of-state waste coming into Ohio rose by about 60 percent from the first to the third quarter of 2011, largely because of a decision by the Pennsylvania governor to stop allowing fracking fluids to be processed in wastewater treatment plants in that state. / Because Pennsylvania has only a handful of injection wells, shipping the wastewater fluids into Ohio for injection is the most economical option for oil and gas companies in the state, according to industry experts.

http://www.cleveland.com/open/index.ssf/2012/09/mansfield_leads_legal_fight_ag.html

Barnesville signs lease agreement to help pull in \$5.5 million, by Ryan Eldredge, WTOV9.Com

(09-10-12) = The village of Barnesville signed a lease agreement that will help it pull in a jaw-dropping 5.5 million dollars. / The news is huge for the town of four thousand people and it's all thanks to the natural gas industry and a company out of Colorado called Antero Resources. / It comes as no surprise that this deal was brokered by the Utica Landowners Group. / We've been anticipating more news like this. Gas drilling companies moving into the area and more and more we are seeing the signs. / "It's really a great opportunity for all of us to be able to build our position and work together to drill wells in the future," said Chris Tremel, who is the land manager for Antero Resources. / Barnesville's village council approved a lease agreement that will allow Antero Resources to use 1,047 acres -- land they plan to use for drilling. / And the agreement will give the town \$5,700 per acre in addition to 20 percent in royalties. / "A town of 4,100 people getting \$5.5 to \$6 million is a considerable amount," said Mayor Ronald Bischof. "And we will make sure we use the money to the best interest of the village." / The mayor says this about more than just the money or the land. "This is going to bring in jobs obviously," said Bischof. "Some are going to come in but there are going to be people that create jobs where people are going to stay in Barnesville." / Representatives with Antero Resources say this deal would never have gotten done without the help of people in Barnesville and western Belmont County. / Antero Resources still wants to acquire more acreage and will hold a meeting at 6:30 p.m. Thursday at the Union Local school auditorium. / And anyone who is interested in leasing is encouraged to attend.

<http://www.wtov9.com/news/news/village-barnesville-signed-lease-agreement-will-he/nR7Xq/>

PUC says Pittsburgh's ban on natural gas extraction conflicts with state law, by Laura Olson and Joe

Smydo, Pittsburgh Post-Gazette (09-11-12) = HARRISBURG -- State officials say Pittsburgh's ban on natural gas production does not comply with Pennsylvania law, pointing to what they say are several issues within the stringent local ordinance. / Those recommendations, outlined in an advisory opinion from the Public Utility Commission dated Monday, were drafted in response to a February request from city solicitor Daniel Regan. / The commission is authorized to determine whether local drilling rules fall within the parameters set up in the new state law known as Act 13. / PUC officials delayed issuing opinions on local ordinances while the lawsuit challenging that statute was pending earlier this summer, but began working through a stack of requests last month after a portion of the law was overturned. / Pittsburgh's local rules, passed in November 2010, are more restrictive than most of the other ordinances before the commission. It says gas production poses a "significant threat" to residents, and that drilling permits issued by the state and

federal governments will not be recognized in the city. / The PUC letter says that in banning gas extraction, the city created its own environmental regulation, which only the commonwealth has the right to do. Provisions stating that Department of Environmental Protection permits are invalid also is in conflict with state law, according to the letter. / The advisory opinion for Pittsburgh's ordinance, like one issued last week for Fayette County, is non-binding and does not carry any penalties. / ... Full article at <http://www.post-gazette.com/stories/local/neighborhoods-city/puc-says-pittsburghs-ban-on-natural-gas-extraction-conflicts-with-state-law-652858/#ixzz26CWnyggO>

PUC: Pittsburgh Ban on Drilling Violates PA Law, by Arlow Linton, Shale Watch (09-12-12) = On Monday, the Pennsylvania Public Utility Commission issued a non-binding advisory opinion on a proposed municipal zoning ordinance which would ban all natural gas drilling, including fracking, within Pittsburgh. The PUC concluded that the zoning ordinance does not comply with, and likely violates, Pennsylvania's Article 13 of 2012, a controversial statute dealing with the regulation of oil and natural gas. / The PUC concluded that the Pittsburgh zoning ordinance did not comply with Article 13 on several grounds. First, the PUC noted that the ordinance enacts a complete ban on the "commercial extraction of Marcellus Shale natural gas within the City of Pittsburgh" to protect the citizens of Pittsburgh from "widespread environmental and human health impacts" resulting from natural gas exploration. The PUC found that, in doing so, the ordinance likely violated the section of Article 13 which "preempts and supersedes the local regulation of oil and gas operations regulated by [other state] environmental acts." / Additionally, the PUC concluded that the ban on drilling in Pittsburgh was at odds with another section of Article 13 which provides the Department of Environmental Protection with the authority to grant or deny well permits. "The City cannot assume and override DEP's permitting role," said the PUC. "The City also cannot assume the power to retroactively deny all previously issued DEP permits." / The PUC did not address the Pittsburgh zoning ordinance in terms Section 3304 of Article 13. That is because on July 26, 2012, the Commonwealth Court of Pennsylvania issued a decision declaring Section 3304 of the Act unconstitutional. See Robinson Township, et al. v. Commonwealth et al., No. 284 M.D. 2012. <http://shalewatchblog.com/2012/09/12/puc-pittsburgh-ban-on-drilling-violates-pa-law/>

Athens Countians Respond to Injection Well Permit Application with Demand for Public Hearing , No Frack Ohio (09-12-12) = Athens (OH) County Fracking Action Network, acfan.org / Sept. 12, 2012 / contact: Roxanne Groff, 740-707-3610, groski@earthlink.net, acfanohio@gmail.com / A public notice for an Athens County injection well permit application for the Atha well on Rte. 144 near Frost, OH, has been posted. Citizens have until Sept. 28 to send in comments and concerns about the application to the Ohio Department of Natural Resources (oilandgas@dnr.state.oh.us, include reference: Permit # 3761 and application # aAMY0000706). "We call on everyone who cares about southeast Ohio drinking water and public safety to tell ODNR we must have a public hearing on this permit application," stated Former County Commissioner Roxanne Groff, an organizer of the effort and last week's public meeting, attended by 50. "We have until Sept. 28 to tell ODNR we don't want this dangerous waste dumped on our land or 50,000 gallons a day of toxic liquids being hauled on Ste. Rte 44 along the Hocking River, 24 hours a day, seven days a week," she stated. Groff has been growing increasingly alarmed as she studies the rules and practices involved. / If it is permitted, the Atha Class II Injection Well will be licensed to receive "brine," "produced water," and "fracking fluids" – all the liquid waste from oil and gas wells. "This waste, especially from fracking operations, is heavily laced with toxins, both intentionally from fracking chemicals and unintentionally from the deep earth," Groff stated. "Only last week, the Columbus Dispatch reported that this waste coming into Ohio from Pennsylvania is highly radioactive." According to the Dispatch, radium in one sample of Marcellus liquid shale waste ("brine") that Pennsylvania officials collected in 2009 was 3,609 times more radioactive than a federal safety limit for drinking water. It was 300 times higher than a Nuclear Regulatory Commission limit for industrial discharges to water. (Columbus Dispatch, 9/3/12, linked at acfan.org) / "The 1200 barrels--over 50,000 gallons--a day will be hauled on twisty narrow roads with school

buses and young drivers going to nearby schools. It is reckless and irresponsible to allow this dangerous activity on our rural roads,” Groff stated. She explained that tanker trucks carry 75-100 barrels and semis up to 150-200 barrels, meaning as many as 16 tankers or eight semis daily. The trucks are permitted to dispose of waste 24 hours a day. / The waste is intended to reach the porous rock formation at the end of the pipe, about 3000 to 4000 feet down. “I’ve read the Atha permit application. This well does not even have an annulus,” stated Teresa Mills, Buckeye Forest Council fracking coordinator, who has been studying Ohio injection wells for decades. She explained, “The annulus is the envelope of sealed fluid between the pipe and the cement casing. It’s what allows inspectors to see whether the well pipe and casings have been breached. If they check the pressure of the annulus and it’s low—or even non-existent as the Ginsburg well in Lee Township has often been—that means there’s a leak.” She concluded, “The fluid could be going anywhere.” The Atha well is a converted production well. All new injection wells must have an annulus, Mills explained. / Mills has recently been poring over records of all 177 Ohio injection wells as well as permit applications and found extensive serious violations that have not been corrected. She spoke in Athens on Friday at Madeline ffitch’s press conference about the Ginsburg well. “For 26 years, this well has been in violation,” she stated, adding, “For ten years, the Ginsburg well went uninspected.” An examination of ODNR records shows repeated references to “no pressure detected in annulus.” The well has continued to accept waste except briefly when the county cut a trench across the driveway to prevent access in 2003. / Groff commented on the relevance of this information: “How can we expect ODNR to have effective oversight of additional wells when they’re not even following their own regulations for the wells already permitted?” / “This new permit application is the just the tip of the iceberg,” added local business owner Christine Hughes. “As more wells are drilled in Ohio, more waste will be headed here. West Virginia, Pennsylvania, and New York don’t allow their fracking waste to be disposed of in their states,” she stated. She concluded, “We know we can expect much more of this toxic waste in Ohio, with the intensity of shale drilling heating up and our own governor welcoming other states to use us as a toilet. I think citizens should demand Ohio shut the lid and hold the oil and gas industry to common sense standards of safety and stewardship.” 53% of the 12.2 million barrels of “brine” injected into Ohio disposal wells last year came from out of state. / A landowner who lives near the Atha site and wished to remain anonymous, added, "It's 20 truckloads of waste every day for just one injection well, bringing in huge amounts of unknown industrial waste from other states. As a neighboring landowner, I am very alarmed that it is not tested. If this stuff is safe, why won't they prove it through proper testing and reporting of every load, so the public can know what's going down there, and decide whether they want to live next to this stuff?" He concluded, “If someone's profiting from dumping this waste in Ohio, they can afford to test it and we deserve to know the results.” / Nate Ebert, spokesperson for Appalachia Resist and an attendee at last Wednesday’s meeting, stated, “It’s urgent and imperative that citizens speak up now to have a voice in ODNR’s evaluation of this dangerous industrial activity planned for our county. People must demand that ODNR hold a public hearing in Athens before evaluating this terrible proposal.” Ebert added that letter writers should note that a handout at last week’s public meeting had incorrect e-mail information for ODNR. [to the editor: please include this important correction! thank you] / Citizens can write to ODNR Division of Oil and Gas (oilandgas@dnr.state.oh.us rather than incorrect e-mail info disseminated previously) by Sept. 28. Letters should include a reference to the DT Atha Well Permit # 3761 and application # aAMY0000706. Supporting materials, including the Atha application, ODNR Ginsburg records, letter writing information and other pertinent documents, are available at Athens County Fracking Action Network’s injection well page at [acfan.org](http://www.nofrackohio.com/news/).

<http://www.nofrackohio.com/news/>

Rolling Hills Schools OK mineral rights deal, by John Lowe, The Daily Jeffersonian (09-13-12) =

BYESVILLE -- Members of the Rolling Hills Local Board of Education voted unanimously Wednesday to authorize the board president and the superintendent to execute an agreement for a gas and oil mineral rights lease for property owned by the school district. / The board also approved a landowner's agreement with

Southeastern Ohio Landowners Association Inc. / The mineral rights lease will be with Eclipse Resources, a Pennsylvania-based gas and oil company. / Under the agreement, the district will be compensated for each acre leased. The combined area of all district-owned properties is more than 200 acres. So, the district potentially could receive \$1.1 million for the lease in addition to any royalties for the resources recovered. / The key word, however, is "potentially." First, title searches have to be conducted to determine whether the district still owns the mineral rights of all or any of the acreage. ... Full article at <http://www.daily-jeff.com/local%20news/2012/09/13/schools-ok-mineral-rights-deal>

Town of Belmont deals blow to gas industry workers, by Ryan Eldredge, WTOV9 (09-13-12) = Belmont County, OH — More than 20 people packed inside Belmont's tiny town hall to confront council members about an issue that has sparked a lot of debate. / RV campsites, caused by the gas industry, are popping up around town with the promise of more on the way. Something residents have been very vocal about it, and the majority seems to be against them. / After voicing their opinions, residents and council members listened to the decade-old ordinance. The one that until tonight had been ignored, which states that mobile homes "shall not be stored or parked outside of any mobile home park accept for mobile homes properly affixed or in place." / Once the ordinance was read, council went into executive session and residents waited for their decision. / After about 25 minutes, we were invited back in. The council upheld the ordinance and asked those living on the current sites to leave within six months. ... Full article at <http://www.wtov9.com/news/news/town-belmont-deals-blow-gas-industry-workers/nSBGc/>

NRDC Launches Community Fracking Defense Project, Kate Sinding's Blog, NRDC Switchboard (09-19-12) = I am very excited to be able to announce the official launch today of NRDC's new Community Fracking Defense Project. / For too long, communities around the country have had little defense against the oil and gas companies that sweep into their neighborhoods and start fracking—a natural gas extraction technique linked to a range of air and water pollution issues across the country—without regard for the impact it has on the people who live there. If a city or town decides it doesn't want fracking, or wants to restrict it, their voice should be heard and respected. ... / The new project, which is launching in five states—New York, Pennsylvania, Ohio, Illinois, and North Carolina—will provide assistance to towns and other local governments that want added control over the siting of and/or protections against the harms of fracking in their communities. / For example, NRDC legal and policy staff, together with local partners, will: (1) Assist in drafting local laws and land use plans that control the extent of fracking within their borders and/or limit the harmful effects of fracking. (2) Work to re-assert communities' rights to protect themselves under state law. (3) Defend relevant zoning provisions and other local laws that are challenged in court. / ... Just yesterday, NRDC filed a friend-of-the-court brief in the Pennsylvania Supreme Court on behalf of a number of municipalities in support of a lower court decision striking down portions of a recently enacted Pennsylvania law that severely limited the ability of local governments to use their zoning powers to control where fracking occurs. / Ohio, too, is also already experiencing the impacts of fracking, much of it in the form of an influx of fracking wastes from other states. / In these two states, we will be working to establish and secure communities' power to protect themselves against fracking's harmful effects and then to help those communities exercise that power. / Decisions over land use and community character have long been the province of local governments in the United States. Over three quarters of a century ago, our Supreme Court held that communities have the right to enact local laws to protect "public health, safety, morals, and general welfare." ... Full article at http://switchboard.nrdc.org/blogs/ksinding/nrdc_launches_community_fracki.html

Ohio EPA issues advisory to landfills of incoming drilling waste including solidified brine, Ohio Citizen Action (09-19-12) = COLUMBUS — "As oil and gas drilling activity in the Utica and Marcellus shale formations increases, licensed municipal solid waste landfills in Ohio and surrounding states should expect to see increased volumes of incoming solid wastes generated from the drilling process, including drill

cuttings, drilling muds, and frac sands. Other wastes associated with shale development, including oilfield fluids and brine, will also be generated in large volumes, and there is an increasing interest from drilling companies in exploring options to manage these liquid wastes. Because solid waste landfills are prohibited from accepting bulk liquids and waste streams not passing the paint-filter test, these waste streams would require solidification or other processing in order to be received for disposal. / Given the anticipated increase in disposal of drilling wastes and interest of onsite solidification by landfill operators, the Division of Materials and Waste Management (DMWM) is providing this advisory to share regulatory guidance to support compliance at licensed landfills. In an effort to assist landfill operators to obtain necessary authorizations, this advisory also summarizes regulatory programs administered by the Ohio Department of Natural Resources (ODNR) Division of Oil and Gas Resources Management (DOGRM) and Ohio Department of Health (ODH) Bureau of Radiation Protection (BRP).” — Pamela S. Allen, Chief, Division of Materials and Waste Management
<http://ohiocitizen.org/>

USGS finds 2% of NY water wells have explosive levels of methane & 53% have detectable levels, Ohio Citizen Action Blog (09-19-12) = ALBANY, NY — USGS did a major study of methane levels in New York water wells. The results are striking, including the literally explosive finding that 2% of the wells tested (200) had ignitable levels of methane in them. / Also 9% of the wells had methane readings above the Office of Surface Mining’s action level of 10 mg/L. A full 53% of the water wells had detectable levels of methane, and 47% did not. The report’s links are:
<http://www.usgs.gov/newsroom/article.asp?ID=3391#.UF1a5FHGx8F>; and
http://pubs.usgs.gov/of/2012/1162/pdf/ofr2012-1162_508_09072012.pdf. / To be clear, the USGS findings of methane in New York water wells are pre-gas drilling and have nothing to do with gas drilling. ... Full article at <http://ohiocitizen.org/>

Land owners meet with Columbia Gas and Hilcorp Energy, by Katie Schwendeman , The Review (09-16-12) = COLUMBIANA - Two days this past week those who own land in the Brinker Storage Field were invited to meet with Columbia Gas Transmission and Hilcorp Energy officials to discuss what will become of the already existing mineral gas leases there, among other things. ... Justin Furnace, corporate manager of external affairs for Hilcorp Energy, verified the bulk of the meetings have focused on the landowners' concerns regarding already existing land leases owned by Columbia. ... The mineral rights leases on the 35,000-acre storage field date back to the 1940s, and due to the terms are keeping interested landowners from signing new, more lucrative leases with other oil and gas exploration companies like Chesapeake Energy. ... Under the existing leases, Columbia is permitted to store natural gas under the Brinker property in the Berea Sandstone formation. / ... State Rep. Mark D. Okey, D-Carrollton, who in July introduced a bill that would require a minimum royalty payment of 15 percent of gross revenue on active wells. / The bill was assigned to the House Committee on Agriculture and Natural Resources and a hearing date has not been set. However, there is a possibility the law may not affect those in the Brinker Field unless they are grandfathered in if and when a bill is passed. / ...Hilcorp is ... proposing an amendment to the existing leases that would include a 12.5 percent royalty.... Full article at
<http://www.reviewonline.com/page/content.detail/id/559788/Land-owners-meet-with-Columbia-Gas-and-Hilcorp-Energy.html?nav=5008>

Colossal water sale for fracking: Call for inquiry of U.S. Army Corps of Engineers and Muskingum Watershed Conservancy District , Ohio Citizen Action Blog (09-19-12) = TOLEDO — In a September 17 letter, Toledo attorney Terry Lodge asked Thomas Bostick, Chief of Engineers, U.S. Army Corps of Engineers, in Washington, D.C. to begin an inquiry into correspondence between the Muskingum Watershed Conservancy District and the U.S. Army Corps of Engineers office in Huntington, West Virginia. Lodge wrote on behalf of the Southeast Ohio Alliance to Save Our Water, property owners Steven Jansto and Leatra

Harper, Buckeye Forest Council and Food and Water Watch. / According to the letter – “It is very important that federal statutory and regulatory requirements be closely followed respecting the Muskingum Watershed Conservancy District’s proposal to undertake the gross sales of hundreds of millions of gallons of water. The water is stored in Corps-built lakes for a variety of public uses. Its permanent removal appears about to be approved, in the form of for-profit sales by the [Conservancy District], to oil and gas drilling firms to enable hydraulic fracturing of eastern Ohio shale for natural gas, without area property owner knowledge or consent. Much of that water will be permanently removed from the ecosystem and thence lost to public use and to the hydrologic cycle for long-term environmental sustainability” / ... Full article at Ohio Citizen Action Blog

Fracking banned by Quebec government, The Vancouver Sun (09-20-12) = QUEBEC — ... Quebec’s new natural-resources minister, Martine Ouellet, says she doesn’t believe the controversial method of extracting natural gas from shale, known as “fracking,” can ever be done safely. ... “I don’t foresee a day when there will be technology that will allow safe exploitation (of shale gas),” Ouellet said in Quebec City. “Our position is very clear: we want a complete moratorium, not only on exploitation but also on exploration of shale gas. We haven’t changed our minds.” / ... Full article at <http://www.vancouversun.com/business/Fracking+banned+Quebec+government/7274086/story.html>

The Trillion-Gallon Loophole: Lax Rules for Drillers that Inject Pollutants Into the Earth by **Abraham Lustgarten, ProPublica (09-20-12)** = [LONG ARTICLE ABOUT PROBLEMS WITH CLASS 2 INJECTION WELL PROGRAM]. ... Class 2 wells are subject to looser rules and less scrutiny than others designed for hazardous materials. ... Injection wells have proliferated over the last 60 years, in large part because they are the cheapest, most expedient way to manage hundreds of billions of gallons of industrial waste generated in the U.S. each year. ... There are now more than 150,000 Class 2 wells in 33 states, into which oil and gas drillers have injected at least 10 trillion gallons of fluid. ... State and federal regulators often do little to confirm what pollutants go into wells for drilling waste. They rely heavily on an honor system in which companies are supposed to report what they are pumping into the earth, whether their wells are structurally sound, and whether they have violated any rules. ... Thanks in part to legislative measures and rulemaking dating back to the late 1970s, material from oil and gas drilling is defined as nonhazardous, no matter what it contains. ... A series of injection accidents beginning in the 1960s ... prompted lawmakers to impose tougher rules on injection wells. / ... Class 1 wells for chemical, pharmaceutical and other industrial wastes, along with Class 2 wells for the oil and gas industry, were subjected to tough controls under the Safe Drinking Water Act of 1974. ... In 1980, California Rep. Henry Waxman sponsored a measure that allowed the EPA to delegate authority to oversee Class 2 injection to state oil and gas regulators, even if the rules they applied varied from the Safe Drinking Water Act and federal guidelines. ... In the late 1980s, the EPA moved to impose more stringent measures on injection wells after Congress banned injection of “hazardous” waste. The new rules barred underground dumping unless companies could prove the chemicals weren’t a health threat. ... the late Texas Sen. Lloyd Bentsen, led the fight against the hazardous waste rule. ... Bentsen had won the industry a temporary reprieve in 1980 by persuading Congress to redefine any substance that resulted from drilling – or “producing” – an oil or gas well as “non-hazardous,” regardless of its chemical makeup, pending EPA study. In 1988, the EPA made it permanent, handing oil and gas companies a landmark exemption. From then on, benzene from the fertilizer industry was considered hazardous, threatening health and underground water supplies; benzene derived from wells for the oil and gas industry was not. ... Class 1 wells for hazardous waste [9] are tested for pressure continuously and are supposed to be inspected for cracks and leaks every 12 months. Oil and gas wells – though the goal is to inspect their sites annually – have to be tested only once every five years. / Injection wells are known to cause earthquakes, so Class 1 wells usually have rigorous seismic and geologic siting requirements. Often, Class 2 wells do not. An EPA staff member might spend an entire year reviewing an application for a new hazardous waste well. Class 2 wells are often permitted in bulk, meaning hundreds can be green-lighted in a matter of days. / Where Class 1 hazardous waste is injected, companies have to inspect a two-mile radius

for old wells, making sure contaminants will have no avenue to shoot back up into drinking water aquifers or to the surface. The minimum standard for oil and gas companies is to inspect within 400 yards, even though it is widely believed, according to internal EPA memorandums obtained by ProPublica, that such a rule is arbitrarily defined, runs against “much existing evidence” and “may not afford adequate protection” of drinking water. ... Ohio injected twice as much waste in 2011 as it did in 2006 and is evaluating applications for dozens of new injection sites, largely for waste exported by Pennsylvania and New York, where such wells are deemed unsafe. ... Recently, Stark Concerned Citizens, an anti-drilling group, asked Ohio regulators why radioactive materials such as radium weren’t identified or disclosed when injected into Class 2 wells. / “The law allows it,” Tom Tomastik, a geologist with Ohio’s Department of Natural Resources and a national expert on injection well regulation, replied in a Sept. 17 email. “It does not matter what is in it. As long as it comes from the oil and gas field it can be injected.” / ... Most states aim to visit injection sites at least once a year, and some meet or exceed that schedule, EPA records show. Ohio, for example, recently added staff dedicated exclusively to injection oversight and visits its active injection sites every 12 weeks. (Ohio also insists that Class 2 wells meet many of the more stringent testing and permitting regulations it uses for Class 1 hazardous waste wells.) / “Ohio’s [rules] are based on what we felt we needed to develop to continue to alleviate any concerns,” said Tomastik, of Ohio’s Department of Natural Resources. “Obviously without regulatory presence in the field, the operator is not concerned about operating within the requirements.” / But understaffing seems to be endemic across drilling states, especially where state regulatory agencies are responsible for checking both producing oil and gas wells and injection wells for waste or to enhance production. / ... Full article at <http://www.propublica.org/article/trillion-gallon-loophole-lax-rules-for-drillers-that-inject-pollutants>

Youngstown delays gas lease vote, Warren Tribune Chronicle (09-20-12) = YOUNGSTOWN - City Council delayed a vote Wednesday on leasing city-owned property for drilling for natural gas and oil. / Opponents argued during a finance committee meeting held just before the full council meeting that the city should delay its decision until after the EPA completes a report on potential dangers. / "With the proliferation of fracking and class II injection wells in Ohio, it is imperative that we have the most timely and accurate research at our disposal," state Rep. Bob Hagan, D-Youngstown, wrote in a letter to council. / ... "There's danger in poisoning the water," Hagan told council members. "There's danger in hurting our environment. There's danger in hurting the morale of the people, and I think you should just move slower." / Sammarone said, "Mr. Hagan, if you want to help us, get us money! That's what we need in the city of Youngstown, money!" / Council voted to put the land lease ordinance to a second reading. / ... In his letter, Hagan said the EPA has been directed to conduct scientific research to examine the relationship between fracking and contamination of drinking water resources. / Proponents of drilling maintain that there isn't any correlation, and that this type of drilling has been going on for decades without contamination problems. / Hagan said, "The report will be wholly comprehensive, studying the chemical make-up of brine, the impact of the actual fracturing process and subsequent injection well disposal. / "The EPA will release its preliminary finding in late 2012, with the final report due out in 2014." Full article at <http://www.tribtoday.com/page/content.detail/id/576845/Youngstown-delays-gas-lease-vote.html?nav=5021>

Activists Blast Officials; Council Delays Leasing OK, By Dennis LaRue, Youngstown Business Journal (09-20-12) = YOUNGSTOWN, Ohio – In a packed chamber Wednesday night, City Council gave a second reading to a measure that would allow the Board of Control to seek competitive bids and lease land the city owns for oil and gas extraction. / Council also gave a second reading to a resolution calling for “stringent regulations by the state of Ohio on oil and natural gas drilling and hydraulic fracturing,” better known as fracking. / ... They have bought and sold the Ohio Legislature.” / Hagan ended by declaring his new uncertainty about the safety of horizontal drilling and fracking. “I was just opposed to brine injection [wells],” he said. “But more and more I’m moving to [question] the rest of the industry.” / The opposition led council to briefly debate whether to move the resolution, which calls for the state of Ohio to adopt and

enforce more stringent regulation of the oil and gas industry, to a second reading or have a separate vote. By a 4-3 vote, council moved the resolution to a second reading. Full article at http://www.crainscleveland.com/apps/pbcs.dll/section?category=framelink&link=businessjournaldaily.com%2fdrilling-down%2factivists-blast-officials-council-delays-leasing-ok-2012-9-20&oas=businessjournaldaily.com_drilling-down_activists-blast-officials-council-delays-leasing-ok-2012-9-20

Utica Midstream Development Much More than Talk, by Dan O'Brien, The Business Journal (09-21-12) = YOUNGSTOWN, Ohio -- There's talk of new companies relocating here. There's talk of new jobs. And, there's talk of new revenue streams for businesses that can supply and support an industry that stands to change the landscape of eastern Ohio. ... "We've been working on grading the site, and that's nearing completion," says George Francisco, executive vice president at Houston-based M3 Midstream. M3 and its venture partners is beginning construction of a large natural gas processing plant in the tiny town of Kensington in Columbiana County. "The first phase will be finished and in service sometime in June." / ... In just the last year, M3 and its partners announced a \$900 million infrastructure and processing project that includes the Columbiana County plant. Denver-based MarkWest Energy announced its initiative to spend at least \$500 million on a new cryogenic and fractionation plant in Cadiz, Ohio. And NiSource Midstream and its partner, Hilcorp Energy, announced plans to spend between \$1 billion and \$1.5 billion on a new processing network in the Utica shale – \$300 million of that devoted to a pipeline that runs directly through Mahoning County and a processing plant in eastern Mahoning County. / ... Spectra Energy Corp., DTE Energy and Embridge Inc. announced Sept. 4 they want to build a 250-mile pipeline that extends from northeastern Ohio to Michigan at a cost of \$1.9 billion. / ... M3, Access Midstream (formerly Chesapeake Midstream) and EV Energy Partners have joined to form Utica East Midstream, the corporate entity that will build the massive gathering, processing and pipeline system that extends from Columbiana County to Harrison County in southeastern Ohio. / The Columbiana project – known as the "Kensington plant" – is likely to create hundreds of construction jobs during its building phase, M3's Francisco reports. Full-time permanent jobs, however, should range between 20 and 30, once all phases of the plant is finished and at full capacity in 2014. / ... The Kensington plant will gather natural gas from wells drilled across the region and separate "wet" gas from "dry" gas. Dry gas, such as methane, is trading at record-low prices and is less profitable than the higher-priced liquids gas such as ethane, propane and butane. / Once the Kensington plant separates dry gas from the liquids, the dry gas is pumped into existing transportation lines that have crisscrossed the area for decades while the wet gas will be transported via a new large pipeline to a fractionation plant in Scio, Harrison County. There, the wet gas would be separated into specific products such as ethane, then shipped to centers for further processing. / ... Handling the massive volume of natural gas from the Utica shale – some preliminary reports suggest it holds trillions of cubic feet – will require equally massive building projects, says Rich Millicent, economic development coordinator for the village of Cadiz, just west of Steubenville. / MarkWest is constructing a giant processing complex on a sprawling 200-acre site at the village's industrial park, the first phase of which is scheduled for completion next quarter. A second phase is targeted for the first quarter of 2013. / "We consider the MarkWest plant to be our anchor store," Millicent says. "Once they're up and going, we think they'll be a lot of spinoff businesses emerging." ... A smaller MarkWest fractionation plant is planned about five miles from the Cadiz processor. ... A pipeline leading west of the MarkWest project is directed toward gathering lines under construction related to Gulfport's well sites, he says. / ... Last month, Gulfport announced the initial results of some of its wells in southeastern Ohio, the most productive of which is the Wagner 1-28H well in the northwestern corner of the county. / The Wagner well recorded a peak rate of 4,650 barrels of oil equivalent per day, outperforming by far Chesapeake Energy Corp.'s Buell well, also in Harrison County. By comparison, Buell registered a peak rate of 3,010 barrels of oil equivalent per day. / "Gulfport had to put a small-scale processor at that [Wagner] well," Millicent says, and underscores the need to finish the MarkWest complex. "They wanted to get it into production as quickly as possible. ... There are four major oil and gas companies active in Harrison County, the most prolific leaseholder being Chesapeake. Gulfport owns a sizeable lease position

in the western and southern portions of the county, Hess Energy, under a joint venture with Pittsburgh-based Consol Energy, has acreage mostly in the eastern part of Harrison, while Chevron is drilling its first well in the west. / ... Full article at <http://businessjournaldaily.com/drilling-down/utica-midstream-development-much-more-talk-2012-9-21>

Kent group seeks measures to keep fracking out of city, by Kyle McDonald, recordpub.com (09-23-12)

= Community activists concerned with horizontal hydraulic fracturing and its potential effects on drinking water may soon push for Kent City Council to re-address the issue, nearly half a year after first approaching it for a ban of the natural gas extraction process within city limits. / In April, council decided to task Kent's volunteer Sustainability Commission with exploring what, if anything, can be done on a local level to proactively keep the drilling practice outside of Kent. / During its Sept. 11 meeting, the commission and members of Concerned Citizens Ohio: Frack-Free Kent discussed numerous measures to propose to council including a ban, passage of a rights-based bill, purchasing infrared monitoring equipment, designating drinking water protection areas and more, but ultimately decided to seek Kent Law Director Jim Silver's advice before making a recommendation. / And with the Ohio Department of Natural Resources currently acting as the sole regulating authority in Ohio with the ability to override all local zoning rules, Sustainability Chair Daniel Schweitzer admits that it's a tough fight. / "I don't know that there's a whole lot of things we can do to stop a well if someone wants to drill it," Schweitzer said after the meeting. "Right now we're trying to figure out what we can tell Kent to do." / Concerned with its proximity to Longcoy Elementary School, activists called attention to an oil and gas lease for a drilling operation on land owned by the Captain Brady Veterans of Foreign Wars Post at 500 VFW Parkway and land owned by the Weckerly Family Trust at 600 Tallmadge Ave. in Kent. / Commander Jim White of the Captain Brady VFW said a conventional well, drilled vertically into the Clinton Shale formation about 4,600 feet below the surface, has been located on the site for about two years without complaint. / White said to his knowledge, there aren't any plans to further develop the site into a horizontal operation targeting the 8,000-foot deep Utica Shale formation. / "I've heard everything else, but I haven't heard that one," he said. / Heidi Hetzel-Evans, a spokeswoman for ODNR, said it's unlikely that the site will see further development, given its footprint of 40 acres. / "A horizontal drilling operation would need a minimum of 150 acres, and even that's really small," Hetzel-Evans said. "It's more likely to be in the 600 to 1,000-acre range." / Kent Service Director Gene Roberts said it's more likely for injection wells, used to dispose waste water from the drilling process, to be drilled in the Portage County area. / "The geological formation in our area is prone for injection of used fracking water," Roberts said, estimating about 60 injection wells projected for Portage County in the future. / But, injection wells are a cause for concern on their own accord, said Ted Voneida, a board member of Kent Environmental Council and former chair of Northeast Ohio Medical University's neurobiology department, who actively researches horizontal fracking and its environmental and health effects. / "Injection wells are becoming a greater issue, leeching toxic fluids laden with heavy metals and chemicals into the drinking water," Voneida said. "The concrete lining is faulty and can leak out." / Voneida points to Cincinnati, the first city in the state to ban injection wells after reports linking the disposal method to a series of earthquakes near Youngstown. / "I think we have to push city council to do something," he said, whether it be a ban, a declaration of citizen rights or moratorium. "The technology for horizontal drilling is moving so quickly that I wouldn't be surprised to find that in the not too distant future, they could do a horizontal well with much less acreage." / Voneida said he isn't against using natural gas, rather he believes a safe medium exists as long as regulations are thorough and local municipalities can regain a say in what goes on in their jurisdictions. / "But the industry pours money into fighting any type of regulation we try to impose on them," he said. "Regulations hurt the bottom line, they fight them tooth and nail, and they've got the money to do it." <http://www.recordpub.com/news/article/5217558?page=0>

Judge Dismisses N.Y. Lawsuit Over Delaware Basin Fracking, by Christie Smythe and Tiffany Kary, Bloomberg News (09-24-12) = New York state can't pursue a lawsuit seeking a full environmental review

of hydraulic fracturing, a federal judge ruled in a case that might have held up natural gas development in the Delaware River Basin. / U.S. District Judge Nicholas G. Garaufis granted a request by the Environmental Protection Agency and other U.S. agencies to throw out the case, finding that the development plans are in the early stages and the threat of harm is speculative. / “The court has no way of judging reliably how probable it is that the regulation will be enacted and thus no way of judging whether risk that natural gas development may create are more than conjecture,” Garaufis said in his ruling. / The lawsuit, brought by New York Attorney General Eric T. Schneiderman, pitted arguments for environmental conservation against those for a domestic energy source and new jobs. / The New York City Council and environmental groups have sided with the state, warning of breathing problems for city residents and risks to fish in the Chesapeake Bay. Organizations representing companies including Exxon Mobil Corp. (XOM) sided with the federal government, arguing that the lawsuit is based on “speculative fears.” / River Compact – Schneiderman sued the Delaware River Basin Commission, the EPA and other federal agencies in May 2011 to force a fuller assessment of the environmental impact that gas development could have on the state’s water supply. / The river commission, created in 1961, is a compact among New York, Delaware, New Jersey, Pennsylvania and the federal government. It is responsible for water quality in the Delaware River Basin, which supplies drinking water to the four states. / “Everyone in this room drinks New York City water,” Garaufis said during a July 24 hearing. “I’m dealing with a real serious issue that may occur here with regards to the drinking water of 15 million people.” / Schneiderman said in the lawsuit that the commission’s proposed regulations would allow the natural gas-extraction process known as fracking at 15,000 to 18,000 gas wells without a full environmental review. If the regulations are issued, a moratorium on fracking in New York, already in effect for more than 18 months, will be lifted. / State Findings – New York says it has shown that fracking generates millions of gallons of wastewater contaminated with toxic metals and radioactive substances, and that companies using the process in Pennsylvania have violated the law 1,600 times, harming the state’s water. / “It was very clear to us that the judge understood that this was a very serious issue and we are absolutely the right organizations and individuals to be pursuing this litigation on behalf of the public,” said Maya van Rossum, leader of the Delaware Riverkeeper Network, which was also a plaintiff in the case. / The Marcellus Shale beneath parts of New York, Ohio, West Virginia, Pennsylvania, Maryland and Virginia, has an estimated 400 trillion cubic feet of natural gas, one of the largest such formations in the world, according to the trade groups, which represent companies with natural gas-leases in New York State. / The lawsuit might have shut down gas development in the river basin “for many years to come,” the trade associations said in court papers. / In Pennsylvania, natural gas and related industries have generated 72,000 jobs, 3,143 well permits and more than \$1 billion in tax revenue since 2009, the trade groups said. / New York City has spent almost \$1.5 billion to protect the drinking water that flows from the watershed, Schneiderman said in his complaint. The money has gone to buying land to serve as a buffer for pollutants, upgrading sewage plants and regulating human activity. / The case is *New York v. U.S. Army Corps of Engineers*, 11- cv-02599, U.S. District Court, Eastern District of New York (Brooklyn).
<http://www.businessweek.com/news/2012-09-24/judge-dismisses-n-dot-y-dot-lawsuit-over-delaware-basin-fracking>

Conservancy district approves sale of water to drillers, by Bob Downing, Akron Beacon Journal (09-24-12) = The Muskingum Watershed Conservancy District intends to sell water from two reservoirs in eastern Ohio to natural gas drillers, despite an earlier plan to suspend sales until a water availability study was completed. / The district said it will sell water from Clendening Lake in Harrison County and Piedmont Lake, mostly in Belmont County, during the fall drawdown, when lakes are lowered for the winter. / The U.S. Army Corps of Engineers, which manages the dams, typically lowers the lakes by several feet in the fall to allow them to refill over the winter with rain and melted snow. / The district’s governing board approved the sales from the two lakes at a meeting Friday and the district announced the plan Monday. / The district said water requests from drillers near Clendening and Piedmont “have increased sharply” in recent weeks. / Any water sales from the two lakes would reduce the wear and tear on local roads —and thus save taxpayers

money — by cutting the number of tankers hauling water to new natural gas wells to be hydraulically fractured, or fracked, the district said in announcing the proposed sales. / Earlier this month, the Ohio Township Association's board of directors had endorsed water sales to drillers from the winter drawdowns. / The volume of water and the price would still have to be negotiated, officials said. / Drillers have told the district they intend to begin drilling soon and will need water. Each well that is fracked typically takes 5 million to 10 million gallons of water. / "At drawdown, billions of gallons of water are released from the lakes, making this the optimum time to supply excess from the lakes to the oil and gas industry without any negative impacts on recreational activities of these two lakes, including boating," said Sean Logan, the district's chief of conservation. / An estimated 6 billion gallons of water from the two reservoirs would have been released this fall under normal operations, the district said. / "We do not need a study to verify that excess water is being released from the lakes during the drawdown period, which occurs each fall and winter," Logan said. / Earlier in the year, the district, based in New Philadelphia, had approved the sale of up to 11 million gallons of water from Clendening Lake to Gulfport Energy Co. In June, however, the district said it was suspending sales to oil and gas companies pending a water availability study by the U.S. Geological Survey at three reservoirs: Atwood, Clendening and Leesville. Results from those studies are expected in December. / A vocal grass-roots group led the push to stop the water sales to drillers. / The district also has approved a new water availability study at Seneca Lake. / The district has three long-term contracts for water sales: with Cadiz for water from Tappan Lake, with Cambridge for backup drinking water from Seneca Lake and with Carroll County for water from Atwood Lake for Atwood Lake Resort. / The district and the U.S. Army Corps of Engineers oversee 16 reservoirs and dams in eastern Ohio to control flooding.

<http://www.ohio.com/news/local-news/conservancy-district-approves-sale-of-water-to-drillers-1.337014>

Shale drilling bans pose serious 'access challenge' for U.S. producers, by Joel Kirkland, Environment & Energy Publishing (09-25-12) = A well-organized campaign to convince local governments in New York, Pennsylvania and Ohio to ban natural gas drilling poses a real threat to the industry's boast that it can supply 100 years' worth of gas to U.S. consumers, analysts say. / Thirty-nine communities in New York have imposed outright bans on unconventional gas drilling. About 100 more have passed moratoriums. Restrictions imposed by Albany, Buffalo, Syracuse and towns in the Catskill Mountains raised the profile of the ban movement this year, as local critics of unconventional drilling race the clock to boot out producers before New York Gov. Andrew Cuomo (D) lifts the state's broader moratorium. / "The reality is that you have an increasing access challenge as you move into new areas, as you move into communities that aren't used to this," said Michael Levi, a senior fellow at the Council on Foreign Relations. "That is the biggest supply-side issue, not the details of regulation or the details of tax policy when it comes to the big, long-term picture for the resource." / A year ago, the movement to ban hydraulic fracturing -- the process of tapping shale gas deposits a mile underground by injecting water, sand and chemicals at a high pressure -- wasn't viewed as an insurmountable threat. Most moratoriums and ordinances banning the practice have fallen along geographical lines. Towns near the Pennsylvania border favor drilling the region's sprawling Marcellus Shale gas reserves, while communities in central and western New York, outside of the heart of the Marcellus, have been more likely to oppose drilling. / But that could change quickly, analysts say, with dozens of communities debating how economic payoffs from private drilling leases balance against land-use, public health and environmental issues. / Municipalities and environmental groups are enlisting each other in the quest to cobble together a large patchwork of drilling bans across the Northeast. The Natural Resources Defense Council (NRDC), for example, last week launched a "Community Fracking Defense Project" in New York, Pennsylvania, Ohio, Illinois and North Carolina (EnergyWire, Sept. 20). The organization provides legal and policy advice to opponents of gas drilling and hydraulic fracturing who say the risks to local air and water outweigh the economic benefits. / NRDC, the Sierra Club and other national environmental groups have been slower to jump on board a grass-roots anti-gas drilling movement that for the past couple of years has lined up behind "Gasland" filmmaker Josh Fox and Bill McKibben, a writer and founder of the global

warming advocacy group 350.org. But increasingly, the larger, established environmental groups are bringing organizational tools and legal resources to bear. / Talk is also turning to the extent to which the historically low price of U.S.-produced gas is heading up. That debate revolves around the prospect of U.S. exports, and whether selling liquefied natural gas (LNG) at a higher price to Asia and Europe would increase the price for U.S. industrial and residential consumers. The United States today benefits from an oversupply of cheap domestic gas, more and more of which is going toward electric power generation. / "If you can't drill the stuff, then you don't have the production volume and prices will go up," Levi said yesterday at a forum in Washington. "That is essentially an infinite tax. It is a regulation that says you can do nothing. That is the big, looming issue here." / Limited LNG export fleet – Still, he and other analysts say the sobering reality of U.S. LNG exports is that they will be limited. / "The bottom line is there is not going to be money for five or 10 export facilities," said Amy Myers Jaffe, a fellow at Rice University's James Baker III Institute for Public Policy, speaking at the Howard Baker Forum in Washington. / The United States can't pump natural gas onto the world market without cutting into the price premium countries in Asia now pay for world gas. That will make U.S.-based LNG export facilities less profitable during their first 15 years of operation, she said. / Analysts at the U.S. Department of Energy are also expected to weigh in either at the end of the year or early next year in an assessment of gas price scenarios and defined parameters for licensing LNG export projects. Despite at least a dozen applications to build out facilities to export LNG, only Cheniere Energy Inc.'s Sabine Pass project in Louisiana has received the green light from federal regulators. / Analysts at ClearView Energy Partners speculated in a report this month that DOE could be considering a limit on total export volumes of LNG that would see four to five projects permitted at the start. Others would face tougher economic reviews later on (EnergyWire, Sept. 20). / Jaffe called the prospect of U.S. gas producers shipping a large amount of gas overseas a "tempest in a tea pot." Most of the gas out of North America will be exported out of British Columbia and, in the longer term, Alaska, she said. Further, she noted Asian gas buyers will have plenty of access to gas from Australia and Africa. / "How many empty LNG import terminals do we have in the United States?" she pointed out. / U.S. regulators and energy companies embarked on an LNG import licensing and building spree starting around 2005, greenlighting LNG import terminals for construction and expansion along the coasts. The assumption at the time was that the United States would need to import gas to meet demand and to reduce sharp price spikes. That changed with an onshore shale gas boom that has produced a surplus of domestic gas. U.S. import terminals are running at less than half of their capacity to receive foreign gas shipments. / Scott Sheffield, chairman and CEO of Pioneer Natural Resources Co., said an increase in world supply through U.S. exports is bound to bring prices down around the world. Gas in Europe sells for about \$10 per million British thermal units compared to less than \$3 per million Btu in the United States. Gas sells for as high as \$18 per million Btu in Japan. / "If you reduce the oil drilling, you reduce the gas drilling, you let all these LNG projects come on," Sheffield said. "Everybody's worried about U.S. gas coming up; what'll happen is that it will bring down world LNG prices." / That's good for Europe, Japan and South Korea, he said. / Clarification: Michael Levi of the Council on Foreign Relations did not connect zoning laws to LNG export potential, as was stated in an earlier version of this story. In addition, he did not make a reference to anti-fracking campaigns when he described potential resource access challenges for the U.S. gas industry. Rather, Levi said his remarks were focused on the need for improved regulation and industry performance.

<http://www.eenews.net/public/energywire/2012/09/25/1>

EPA Says Wyoming Fracking Results Are Consistent, by Tennille Tracy, Wall Street Journal (09-26-12) = The Environmental Protection Agency said new government tests of groundwater near Pavillion, Wyo., have yielded results similar to data it released last year, when it suggested chemicals in the water were linked to hydraulic fracturing. / The EPA's contention was dismissed by Encana Corp., ECA.T -0.71%the natural-gas company operating in the area, which said the EPA was still offering a "flawed" interpretation of test results. / The new findings were released Wednesday by the U.S. Geological Survey, which tested water from one of two monitoring wells the EPA drilled after Pavillion residents started to voice

concern years ago about the smell and taste of their water. The agency dug the two wells, both hundreds of feet deep, to test the area for signs of contamination. / Encana and natural-gas industry supporters said the wells were drilled into a natural-gas reservoir, which was why the agency found components of natural gas. / Wednesday's findings come after the EPA issued a draft report last December, saying it found chemicals in both wells that appeared to come from hydraulic fracturing, or fracking, the drilling technique credited with helping spur a boom in U.S. natural-gas production. Critics accused the EPA of jumping to conclusions before seeking the input of outside experts. / The EPA has said it would review comments and concerns before releasing a final report. / The EPA agreed to retest the Pavillion wells earlier this year. The agency hasn't yet completed its analysis of Pavillion's water and outside experts say it is too early to draw definitive conclusions from either the USGS data or the agency's draft report. The USGS presented its findings as raw data, leaving it to EPA and others to interpret them. / The EPA said USGS results are "generally consistent" with its data. / The USGS said it declined to test the water in one of the two EPA monitoring wells because the volume of water flow wasn't high enough to get good readings—relying on the other well for the tests. / "This goes to the heart of concerns raised by state and federal agencies, as well as Encana: EPA's wells are improperly constructed," Encana spokesman Doug Hock said. / Fracking opponents say the procedure poses a risk to the country's drinking-water supplies and should be regulated more strictly, if not stopped altogether. The natural-gas industry says fracking is safe as long as drilling is done correctly. / The EPA has repeatedly stressed that conditions in Pavillion are different from many other areas of the country because the fracking took place in and below the drinking-water aquifer and in proximity to wells that provide drinking water. President Barack Obama has voiced strong support for natural-gas production and says the industry can create jobs. / With a population of about 230 people, Pavillion has become an epicenter in a broader debate over fracking, in which energy companies pump a high-pressure mix of water, sand and chemicals into the ground to break open seams in the earth and unlock natural gas trapped inside.
<http://online.wsj.com/article/SB10000872396390443328404578020923049282436.html>

Fracking foes lose bid for home rule vote, by Kevin Howell, Salem News (09-26-12) = BEAVER TOWNSHIP- Local fracking opposition has been denied in an attempt to place a Home Rule issue on the November ballot. / The Ohio Supreme Court on Sept. 14 denied a writ of mandamus that would have forced the township trustees to submit the issue to the Mahoning County Board of Elections. The ruling found that the group used an incorrect form to collect petitions to place the issue on the ballot. / "The form was given to me by the Mahoning County Board of Elections and has been used recently and successfully in another township to put home rule on the ballot," explained township resident and organizer Julia Fuhrman Davis. "The form contains all the required information so it is hard to explain why the Supreme Court is forcing citizens to come up with their own form. / "This petition form was used and modified for our use because it is in accordance with Ohio Revised Code...The trustees can easily accept it because the important information meets the requirements." / In a written statement, Akron Attorney Warner Mendenhall, who is representing Davis and co-organizer Patti Gorcheff said, "at least the Supreme Court opinion provides guidance for all other township home rule petitioners." Based on the guidance provided by the ruling, Mendenhall has agreed to provide a compliant petition to anyone seeking to circulate future home rule petitions. / Home rule allows municipalities to pass laws and ordinances as they see fit to further their operations, within the bounds of the state and federal constitutions. Davis said the group was attempting to put the home rule issue on the ballot so that if passed the trustees would have the authority to pass ordinances regulating actions related to fracking such as noise pollution and weight on the roads. Additionally the group would have been able to form another citizens initiative to petition residents to place another issue on a future ballot that would have strongly influenced fracking in the township. / The ruling stated that the group presented to the trustees a form that did not request the board to place the issue on the ballot, but instead used a form that allows residents in unincorporated areas of townships that already have limited home rule to petition voters to place an issue on a ballot. / In July Davis and Gorcheff collected 369 signatures (only

needing 296, the 10 percent of township voters who voted in last election) from township registered voters. However their petitions were rejected by the township trustees, who said that the wrong forms were used. Davis and Gorcheff represented by Mendenhall then filed a writ of mandamus on July 31 to compel the trustees to accept their petitions to place Home Rule for the township on the November ballot. / A call to the township's Administration Office for comment was not immediately returned.

<http://www.salemnews.net/page/content.detail/id/558629/Fracking-foes-lose-bid-for-home-rule-vote.html?nav=5007>

Report criticizes Pa. gas drilling enforcement, Wall Street Journal, Associated Press (09-26-12) = PITTSBURGH — Pennsylvania regulators aren't inspecting tens of thousands of oil and gas wells even once a year, a new report says. But state officials say they're inspecting most new wells in the Marcellus Shale region, which is the right place to focus. / The report issued Tuesday by Earthworks, a Washington D.C. nonprofit, found that more than 66,000 active wells weren't inspected by the Department of Environmental Protection last year, and that many companies cited for violations aren't punished. / DEP spokeswoman Katherine Gresh said in a statement that the agency inspected 78 percent of newer shale gas wells last year, and that older conventional wells usually operate for decades without problems. She said that failing to note the major differences between old and new wells "is comparing apples to oranges and misleading the public." / Hydraulic fracturing, or fracking, has made it possible to tap into deep reserves of oil and gas but has also raised concerns about pollution. 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 process can leak from faulty well casings into aquifers, but it's often difficult to trace underground sources of pollution. / The Marcellus Shale formation exists across much of the state, and is the target of most new drilling in Pennsylvania. Fracking is required to release the gas from the shale. / Earthworks says the number of inspections don't meet the goal of DEP's own guidelines, even for new wells. / "There's at least a quarter of all new wells that aren't getting inspected. We still think that's not good enough," said Bruce Baizel, an Earthworks staff attorney. / Gresh said that a 1989 DEP statement on frequency of well inspections isn't a law, just a policy, and that drilling companies also are required to inspect their own wells and report any problems. The 1989 document states that the agency intends to inspect wells "at least once during each of the phases of siting, drilling, casing, cementing, completing, altering and stimulating a well." / Regulators contend that overall, water and air pollution problems are rare, but environmental groups and some scientists say there hasn't been enough research on those issues. The industry and many federal and state officials say the practice is safe when done properly, and many rules on air pollution and disclosure of the chemicals used in fracking are being strengthened. / Gresh also said that the number of inspections per well has risen from 5.3 in 2009 to more than 10 so far this year, and that the agency has made "rapid and significant field personnel staffing increases; and upgraded policies and regulations." / The Associated Press found that the staffing increases took place in 2009 and 2010, during the previous administration of Gov. Ed Rendell. DEP said in an email last month that it has budgeted for 202 employees in the oil and gas program since 2010. / However, the earlier budget increases for oil and gas oversight were substantial. Earthworks found that Pennsylvania now budgets more for oil and gas oversight than the state of Texas, which has far more wells. / "I do give them credit. They've increased their budget," Baizel said of Pennsylvania. / The Marcellus Shale Coalition, an industry group, said the Earthworks report is biased. / "In 2009, Marcellus Shale producers supported a well permitting fee increase which helped double PA DEP's regulatory staff at no taxpayer expense," spokesman Patrick Creighton said in a statement. He added that the report makes "false claims, contrary to the facts and readily available data, in an effort to grab a headline and spread fear." / Earthworks also said that other oil- and gas-producing states have similar problems.

<http://online.wsj.com/article/AP810b48bf6a564ff1b450e5a2e87a8d64.html>

The Other F-Word of Shale Drilling, by Ken Silverstein, Forbes (09-27-12) = If you think fracking is a deal-breaker, then you have not thought much about "flaring." Both controversies could undo the shale gas

industry, although the burning off of natural gas found alongside oil discoveries is something that oil drillers and green groups alike would prefer to minimize. But how? / Shale gas derived from sedimentary rocks deep underground needs to be captured, piped and processed before it is consumed. That requires the development of an infrastructure, or the pipelines necessary to carry the fuel to the utilities that would burn it to make electricity. Beside piping it, the energy companies are considering liquefying the gas and creating LNG that would be globally shipped. / In the absence of either option, the gas is flared, meaning it literally goes up in smoke — in the form of all types of types emissions. That inflames not just the environmentalists who are concerned about greenhouse gases but also investors who furthermore say that such fuels are valuable assets that must be monetized. / “A lack of aggressive industry action also invites potentially inhibiting regulatory responses,” says a letter written by stockholder activists at CERES to all chief executives of companies with shale gas operations. Any actions that would restrict drilling would affect supplies, and the subsequent ability of the industry to fulfill demands. / In the United States, flaring is most prevalent in North Dakota’s Bakken field, the investors say. But they add that concerns are escalating elsewhere around the country, including the Eagle Ford shale region in Texas as well as in Colorado’s Niobrara and Ohio’s Utica shale repositories. / In North Dakota alone, the investment group says that 30 percent of natural gas discoveries are flared, or 100 million cubic feet per day. That amounts to the forsaking of \$110 million in revenues per year. The state is working hard to build out its pipeline network, but CERES adds that such development is occurring at a slower pace than the drilling taking place. / The Interstate Natural Gas Association of America commissioned ICF International to review the country’s anticipated pipeline requirements in a world where unconventional forms of gas such as shale gas are expected to make up two-thirds of the total natural gas mix by 2035. It makes a few assumptions that range from a price of \$4-\$7 per million Btus as well as an increase of 1.3 percent in the expected electricity demand per year for at least a decade. / To get there, the United States and Canada will require an average yearly investment of \$8.2 billion, or \$205 billion over the next quarter century. The trade group notes that the industry has invested \$8 billion during a three year period from 2006 to 2010 — a “strong indication” that it will continue to make the necessary capital allocations if the regulatory environment permits. / By 2030, the U.S. and Canada will need approximately 29,000 to 62,000 miles of additional natural gas pipelines as well as 370 billion to 600 billion cubic feet of additional storage capacity, says the study. If the country does not rise to the challenge, it would create supply disruptions and price volatility would increase. / Globally, meanwhile, flaring remains prominent. Data released by the World Bank this past summer shows that flaring rose from 138 billion cubic meters to 140 billion cubic meters. That is mainly because of increased activity in Russia and the United States, specifically North Dakota. Iraq, Kazakhstan and Venezuela are also major contributors. / “The small increase underlines the importance for countries and companies to sustain and even accelerate efforts to reduce flaring of gas associated with oil production,” says Bent Svensson, manager of the World Bank-led gas flaring project. “It is a warning sign that major gains over the past few years could be lost if oil-producing countries and companies don’t step up their efforts.” / If producers could harness and sell the gas, they would do so. That’s why they are investing billions throughout the LNG value chain — everything from liquefying stations, to transport ships to re-gasification ports to pipelines. / ExxonMobil, for instance, is spending \$3.5 billion to prevent flaring in Nigeria. To that end, it has built LNG facilities that will process about 950 million cubic feet of natural gas per day, or enough to make 50,000 barrels of natural gas liquids. Meantime, Royal Dutch Shell and Mitsubishi are now working in Iraq to build an LNG infrastructure that will take 700 million cubic feet of natural gas that is typically burned off every day there. Shell is further expected to invest \$3 billion over the next several years in Nigeria and all to collect stranded natural gas. / While capital intensive, more LNG projects will get built to accommodate the stranded gas. The host governments, meanwhile, will reap millions in new tax revenues. High global demand for natural gas will furthermore ensure it. / Environmentalists, meantime, would prefer less drilling and fewer emissions. But they must now reconcile their concerns over flaring with those of producers, who are trying to expand their pipeline and LNG networks. The situation has long lurked but if the two sides can bridge their differences, the natural gas at issue could be processed and consumed instead of burned off and wasted.

<http://www.forbes.com/sites/kensilverstein/2012/09/27/the-other-f-word-of-shale-drilling/?ss=businessenergy>

Enviro Says Pa. DEP Is Shirking Gas Well Inspections, by Matt Fair, Law360 (09-27-12) = A new report released Wednesday by the environmental advocacy group Earthworks ripped the Pennsylvania Department of Environmental Protection for failing to conduct recommended annual inspections at tens of thousands of oil and gas wells throughout the state. / With the natural gas industry booming in Pennsylvania, the report said the department was failing to abide by its internal inspection policies recommending that wells be inspected at least once a year during production.

<http://www.law360.com/environmental/articles/382169>

Company seeks local leases for oil, by Tiffany Y. Latta , Springfield News-Sun (09-30-12) = PIKE TWP., Clark County — Oil discovered on one Clark County farm has a company seeking more lease agreements with nearby landowners in hopes of uncovering additional oil-producing sites. West Bay Exploration, the Michigan-based drilling firm searching for hidden oil deposits in the Miami Valley, discovered oil about 1,700 feet deep at a Pike Twp. soybean farm owned by Bob Suver and relatives along Detrick Jordan Road this summer. The Suvers were the first in Clark County to sign a lease with the company last year. // Karen and Randall Walton of Pike Twp. signed a five-year lease with the company in January, and 23 property owners in neighboring Miami County have reached agreements with the company since late November 2011, according to a Springfield News-Sun review of county recorder's offices. Jim Weymouth, who owns a 35-acre farm along Detrick Jordan Pike, said he and others in the community were first contacted by the company a year and a half ago. He said a representative knocking on doors in the area has offered numerous deals that appear to have sweetened in recent months. "I'm up in the air on it. I've talked to area farmers about it, and a lot of people are up in the air on it," said Weymouth, adding he is more focused on harvest than leasing his property. "I want to find out what all it entails." // A standard agreement with the company could result in a financial boon for local landowners, who could earn minimum bonuses starting at \$50 per acre and royalties of one-eighth from oil production. The agreements are negotiable. The economic impact for the county if more landowners sign leases is unclear, though West Bay officials have hired staff for further exploration of the first oil discovery. A statewide study, however, shows growth in Ohio's oil and gas production from the Utica Shale could result in the creation or support of almost 66,000 jobs by the industry, and generate \$1.7 billion for Ohio's economy this year, \$5.8 billion next year, and nearly \$10 billion in 2014. // The oil discovered in Pike Twp. is not from the Utica Shale, but instead from the Eau Claire formation and the Knox dolomite, which is a combination of sandstone, limestone and sedimentary rock that is about 2,300 feet deep and is found in Ohio, Indiana and other Midwestern states, according to state and local geologists. // West Bay Vice President Pat Gibson declined to provide more information about the formation but said the oil found in localized pockets unlike the tons of oil found in eastern Ohio in the Utica Shale. "It's not part of the Utica Shale. It's something a little deeper than the Utica Shale is. It's a bit confidential. It's a pretty competitive business, and our scientific advantage is a part of our competitive advantage as well," Gibson said. // The notion of finding oil in southwestern Ohio had seemed far-fetched; there had been little success in the area in last 100 years. Oil and gas wells were discovered in Pike Twp, New Carlisle and South Vienna in the 1800s, then again in 1985, but they weren't significant. // West Bay used seismic readings to determine potential oil on the Suver farm. The new technology and the discovery of oil there indicate a potential for untapped deposits in the region that could result in up to 100 leases nearby, Gibson said. "The main technology is geophysical technology ... That technology has definitely helped in identifying some deposits of oil that may be smaller than what people would have been able to identify in the past," Gibson said. // West Bay is using traditional or conventional drilling and not the controversial fracking technique, which a 2011 U.S Environmental Protection Agency study said was to blame for groundwater pollution. // Gibson said it is unknown how much oil the Suver property could produce, but added that the company would consider a well that produced between 15 to 20 barrels per day a success. In October, workers sent sound waves into the ground to gather underground images along public right-of-ways in Montgomery, Preble, Miami, Greene and Clark counties to see whether further examinations and drilling would be worthwhile. The oil and gas well in Clark County is the only one the company has

discovered, Gibson said, adding that officials will know how productive the well is in about a month. // Negotiating Leases – Local landowners who are considering signing lease agreements with a company should seek legal advice, area landowners and attorneys said. Christopher Walker, a Dayton attorney who helped negotiate two oil and gas leases in the Miami Valley, said initial lease agreements are typically heavily favored toward drilling companies. “It’s really important to get advice to make sure their interests are protected,” Walker said. Walker has practiced law for 24 years and specializes in EPA issues. He said he’s among only a few attorneys in the area who has handled oil and gas leases because the issue has been almost nonexistent in southwestern until 2011. The signing bonuses and royalties on an initial lease are negotiable, Walker said. “In my experience, the Miami Valley area leases are not commanding the same kind of premiums as properties east of Columbus,” he said. // Other issues residents should consider is whether the lease should allow fracking on their property and requesting the drilling company to conduct water sampling before and after drilling occurs on their property because contamination can occur if oil wells are not properly constructed, he said. // Environmental Concerns – Wittenberg University geologist Mike Zaleha said oil drilling can be done without causing environmental problems if precautions and safety standards are followed. “I think it can be can be a good thing,” Zaleha said. // But Earthworks, a nonprofit environmental watchdog organization based in Washington, D.C., released a study last week that reveals states nationwide fail to enforce oil and gas development regulation. The yearlong study examined enforcement data and practices in Ohio, Pennsylvania, Texas, New York, New Mexico and Colorado. According to the study, more than 90 percent of Ohio’s more than 58,000 active wells go uninspected and companies that are found in violation of regulations are rarely penalized. “Ohio’s enforcement of state oil and gas rules is largely broken,” Earthworks’ Senior Staff Attorney Brus Baizel said in a written statement. Nadia Steinzor of Earthworks said “the lack of oversight can impact air and water quality as well as the health of residents who live near wells when inspections aren’t carried out and when companies are violating environmental standards.” She said residents living near drilling locations should be concerned about direct impacts on air and water quality as well as health problems that can follow as a result of spills and improper waste disposal. // While West Bay is not using hydraulic fracking, a horizontal drilling technique that goes deeper and uses more water, chemicals and equipment, Steinzor said there is concern for all drilling. “There’s absolutely problems with all types of modern drilling, including vertical drilling. a lot of the issues we’ve seen out west like in Wyoming and Colorado that started years and some cases decades ago were the result of spills, leaks, migration of fluids into aquifers and water wells happened with conventional drilling,” Steinzor said. // Jobs vs. Safety – Zaleha and Steinzor said oil and gas production in Ohio can occur through drilling, but both stressed that safety measures cannot take a backseat in favor of growth. Steinzor said job creation numbers associated with oil and gas production continue to be debated as some say the numbers have been inflated. Still, she said Ohioans should not have to choose between economic development from oil and gas production and environmental safety. “We need to find a way to have both. If we are going to drill we need to drill right and we need to make sure it’s done safely,” Steinzor said. “There’s really no excuse for sacrificing human health and air and water quality in the name of job creation. Ideally we can do both ... It’s wrong to put one against the other.”

<http://www.springfieldnewssun.com/news/news/local/company-seeks-local-leases-for-oil/nSPPq/>

Water for fracking center of controversy, by Russ Zimmer, MarionStar.com (09-30-12) = Environmentalists say a conservancy district violated the public trust by once again agreeing to quench the thirst of "frackers" in eastern Ohio. / The publicly funded Muskingum Watershed Conservancy District broke its pledge to delay temporary water sales, environmental advocates argue. The district, however, maintains its decision will not impact recreation at any of its 12 reservoirs and will allow it to invest the proceeds into projects that benefit the public. / The mineral-rich Utica Shale has attracted multibillion-dollar oil and gas firms to the state, where they want to use controversial horizontal hydraulic fracturing techniques to release natural gas and lucrative liquid hydrocarbons. / Fracking requires millions of gallons of water, which is where the conservancy district - owner of all the land surrounding six man-made lakes near the bull's-eye of

drilling activity - comes in. After signing a few leases allowing oil and gas exploration and making one agreement in April to sell water, the district administration was deluged with complaints. / Activists flocked to the district's annual meeting in June to protest their business ties with a growing number of oil and gas interests. / A week later, they announced a suspension of temporary water sales, promised to include the public in the decision-making process and to wait for the results of a U.S. Geological Survey study on the impacts of withdrawals before reopening negotiations. / They apparently changed their minds at the Sept. 21 board meeting. Or not, according to district leadership. / Administrators say the water sales, now allowed at Clendenen and Piedmont lakes through Feb. 1, will not impact boating or recreation because the withdrawals will represent only a fraction of what is traditionally released during the winter drawdown period. / From Nov. 1 to February 15 each year, the U.S. Army Corps of Engineers releases 6 billion gallons from the two lakes in question to make room for flood water from snow and spring rain, according to district leaders. / Sean Logan, conservation director at the district, said this new action doesn't conflict with their previous pledge to wait to engage in temporary water sales because both arrive at "the same end result, in that recreational boating won't be impacted." / Environmentalists see it differently. – The Southeast Ohio Alliance to Save Our Water has threatened to sue. On what grounds, leader Lea Harper declined to say. / "We're hoping some aspect of the democratic process is still working here. Last I checked, I pay property taxes," Harper said, referring to the district's maintenance assessment on property owners. "They call it public input, but it's disregarded." / Water used in fracking, Harper notes, has to be removed from the natural water cycle and sequestered deep underground in injection wells. This separates the oil and gas industry as end users from manufacturing and agriculture, both of which use billions of gallons every year, but who return the water back into circulation. This decision cost the district credibility with grassroots organizations like the Alliance, according to Melanie Houston, director of water policy and environmental health for the Ohio Environmental Council. / She said the district's rationale - that the water released during the drawdown would exit the district anyway when it empties into the Ohio River at Marietta - needs to be "justified to the public" and not just adopted as policy by the board. / District spokesman Darrin Lautenschleger said the topic wasn't even on the meeting agenda, but arose organically from a typical monthly update from the administration to the board. / Lautenschleger said no deals are in place, though an open records request made of the district by Central Ohio.com shows several firms have inquired upon lake water for use in the hydraulic fracturing. / Terms of future sales have not been determined, though the parameters of the April deal with Gulfport Energy, \$9 per 1,000 gallons up to 11 million gallons total, would be a loose model, according to Logan. / Logan defended this latest decision, reiterating that district moves regarding fracking have always been with an eye toward conservation. / Drillers will take the water regardless, only they may pull from streams and creeks that would miss millions of gallons of water rather than the district's massive reservoirs, Logan said. Ohio law allows companies to draw water after notifying the state where they plan to extract from and how much they plan to take. Permission is not necessary.

http://www.marionstar.com/article/20120930/NEWS01/209300304?gcheck=1&nlick_check=1

Mansfield's injection well fight looms in U.S. court, by Linda Martz, Mansfield News Journal

(09-28-12) = MANSFIELD -- City Law Director John Spon said he works daily on the city's defense to a federal court action filed by a Texas company that announced a plan in 2011 to build two injection wells in the city's industrial park. / Preferred Fluids Management LLC has asked a U.S. District Court judge to rule the city has no authority to regulate or bar the proposed wells, which would be used for underground disposal of waste from hydraulic fracturing gas and oil drilling, or fracking. / **The federal lawsuit was filed in Cleveland on July 13. A hearing is set for Oct. 19.** / Columbus-based attorneys for Preferred Fluids Management could not be reached for comment. / At the heart of the case is whether the state, or the city, has power to regulate deep disposal wells. / Spon said he will file a motion next week asking Judge James S. Gwin to dismiss the case. / "We expected it (the court action) and are fully prepared to fight against their assault upon our city," he said. "The battle has begun. My office is not going to compromise the safety of our drinking water and the safety of our citizens." / Spon said the city plans to raise legal issues "never even

before considered by a federal court in Ohio or the Supreme Court of Ohio." / In June, Preferred Fluids withdrew site plans for the wells from city planning commission consideration. Owner Steve Mobley told the News Journal he had no comment on what that meant. / Spon's take – "I believe they made a tactical decision to assert that that statute giving the state exclusive jurisdiction also allowed them to completely circumvent the city's zoning regulations, so that they didn't even need to have any dealings with the city," Spon said. / Officials and interested parties elsewhere are paying close attention to Mansfield's response to the proposal to build two injection wells in a city industrial park, the law director said. / "We are receiving phone calls from various states, including Pennsylvania, New York and other areas," he said. "Our city represents the very first city to really stand up to protect its citizens and its groundwater, and to do so in a sophisticated manner." / Preferred Fluids obtained permits to construct the wells from the Ohio Department of Natural Resources on April 19, 2011. In the company's court filings, attorneys John K. Keller and Peter A. Lusenhop said ODNR has "sole and exclusive" authority to issue permits and regulate the location, spacing and operation of all Ohio oil and gas wells. ODNR has the expertise and training to make technical decisions concerning siting, the company argued. / City zoning ordinances that state no structure may be built, or land used, except in conformity with local code, conflict directly with the state's "exclusive and comprehensive" grant of authority over oil and gas operations, according to the company's suit. / "The public will not be served by delegating such unique technical and policy matters to local officials who lack the training or experience needed to regulate oil and gas production and related activities," the suit says. / Spon said the city will argue the statute Preferred Fluids cited is unconstitutional, because it usurps the possibility of local municipal government to protect citizens -- and that state regulation is "not necessarily superior to" regulation that could be provided locally. / He also contends the company's case should be thrown out because the ODNR permits for the wells have expired. While permits to build injection wells generally last two years, those issued for wells in urban areas are limited to one year, Spon said. Both the City of Mansfield and Madison Township qualify as urban, he said. / Voters in Mansfield have been asked this fall to consider an environmental "bill of rights," which would require the written consent of city council before an injection well could begin operating. / ODNR's role – ODNR spokeswoman Heidi Hetzel-Evans confirmed Wednesday permits for the Mansfield wells expired April 19. If wells are left unfinished when a permit to construct expires, the applicant must return to ODNR to obtain a new permit before it can proceed further, she said. / ODNR's position has been that Ohio law gives it sole authority to regulate oil and gas wells, from permits for new wells to the time inactive wells are plugged, she said. / Dan Alfaro, spokesman for Energy in Depth, said injection wells have been used in Ohio since the early 1980s as a safe and effective means to dispose of waste fluids. / "Because of their established record of safety, state law mandates their use. These wells are overseen day-to-day by ODNR, but the standards in place are set by EPA under the Safe Drinking Water Act," he said. / Alfaro said the industry has taken steps to reduce the need for injection wells. / "Two years ago, virtually no water used in the well completion process was reused or recycled," Alfaro said. "Twenty-four months later, producers in Pennsylvania are recycling nearly 100 percent of their wastewater, and many operators in Ohio have put in place a similar management system here as the Utica comes online." / Safety concerns – Spon said Tuesday he remains concerned about community safety, especially in light of the fracking boom. Preferred Fluids owner Mobley last year told the News Journal he hoped to have waste liquids shipped by rail to the Mansfield wells from fracking operations in Pennsylvania. / "Potentially how much fracking fluid could be imported? Pennsylvania issued 18,576 oil and gas drilling permits, in just three years from 2009 to 2011. It gives the magnitude of what's coming our way," Spon said.

<http://www.mansfieldnewsjournal.com/article/20120928/NEWS01/209280301/Court-fight-looms-over-injection-well-city>

Support slips for more rules as gas-frackers campaign, Fuel Fix (09-28-12) = Public support has cooled for stricter environmental regulation of hydraulic fracturing for natural gas, a drilling method that has lowered U.S. energy prices while raising concerns over its impact on drinking water. / Fifty-six percent of Americans said there needs to be more regulation of the technique, also called fracking, according to a

Bloomberg National Poll conducted Sept. 21-24, down from 65 percent in March. The share of respondents calling for less regulation of fracking rose to 29 percent, from 18 percent in March. / Gas prices have dropped 76 percent since July 2008 as producers use fracking, in which chemically treated water and sand are forced underground to break up rock and free gas trapped in tight layers of shale. In his Jan. 24 State of the Union address, President Barack Obama said fracking could support more than 600,000 jobs by the end of the decade. / As more people realize the benefits of gas production “the more public support we’ll continue to see for this truly historic opportunity,” Kathryn Klaber, president of the Marcellus Shale Coalition, a Pittsburgh-based industry group, said in an e-mail. / Companies and industry groups, such as America’s Natural Gas Alliance in Washington, have sponsored advertisements that stress measures to protect the environment during drilling. / ‘Tobacco Style’ – “The oil and gas industry have been blanketing the airwaves with ads that tout gas as our savior,” Kate Sinding, a senior attorney with the Natural Resources Defense Council in New York, said in an e-mail. “They’re using Big-Tobacco style smoke and mirrors messaging to deflect genuine concerns about the health threats.” / Supporters of Republican presidential candidate Mitt Romney reported having greater faith in existing drilling rules, with only 32 percent calling for more regulation compared with 76 percent of Obama supporters. Among those who make less than \$50,000 a year, 62 percent favor greater regulation compared to 53 percent of those earning \$100,000 or more. / Because of fracking, the U.S. is producing a glut of gas after warning four years ago of a need to boost imports. Owners of liquefied natural gas import terminals have proposed exports, and in April, Cheniere Energy Inc. (LNG) won federal approval to build the largest U.S. natural-gas export terminal. / Gas from shale, fine-grained sedimentary rocks that trap the fuel, made up 23 percent of U.S. production in 2010, and is forecast to rise to 49 percent by 2035, according to the Energy Department. / Regional Views – Fracking has been used in places such as Texas and Oklahoma since 1949 and is largely regulated by the states. In Pennsylvania, Ohio and West Virginia, drillers are tapping the Marcellus Shale formation, which may be the largest U.S. gas field. / In the northeast, where drilling has boomed in Pennsylvania’s portion of the Marcellus, 69 percent favor more regulation compared with 55 percent in the west. / “Those numbers still show there’s a majority of people who want action, and in fact, I’d argue there seems to be growing concern in the specific communities that are currently being threatened by fracking,” Sinding said. / The boom has also produced failures that have prompted states to review standards. In Pennsylvania, rules were beefed up after regulators found that gas from wells operated by Chesapeake Energy Corp. (CHK) had seeped into drinking water supplies in 2010. In his State of the Union address, Obama said his administration would “take every possible action” to see that fracking is done without putting the public’s health or safety at risk. / Federal Rules – The U.S. Environmental Protection Agency is studying the potential impacts of fracking on ground water. In April, the agency issued rules that will require gas drillers to capture smog-forming compounds and other substances that are now often released into the air or flared off when a well is first tapped. Weeks later, the Interior Department said drillers won’t be forced to disclose chemicals used in hydraulic fracturing until work is completed. / The Bloomberg poll of 1,007 adults was conducted by Selzer & Co., a Des Moines, Iowa-based firm. It has a margin of error of plus or minus 3.1 percentage points.

<http://fuelfix.com/blog/2012/09/28/support-slips-for-more-rules-as-gas-frackers-campaign/>