



**Outline of Testimony on behalf of the Marcellus Shale Coalition**  
**Senate Environmental Resources & Energy Committee**  
**June 27, 2013**

The Marcellus Shale Coalition (MSC) appreciates the opportunity to present testimony to the Senate Environmental Resources & Energy Committee regarding royalty issues. The MSC has asked Mr. George A. Bibikos to discuss the general topics identified below to provide the Committee with context for the hearing and background information regarding statutes and case law governing oil and gas royalties in Pennsylvania. For the convenience of the Committee, we have attached a copy of 58 P.S. § 33 and the decision in *Kilmer v. Elexco Land Services, Inc.*, 990 A.2d 1147 (Pa. 2010).

- I. Introductory Remarks
- II. General Information Regarding Oil and Gas Leases
  - A. The Lease Agreement
  - B. The Relationship Between Lessor and Lessee
- III. Royalties, Production Costs, and Post-Production Costs
  - A. Royalty Defined
  - B. Production Costs
  - C. Post-Production
- IV. Pennsylvania's Minimum Royalty Statute ("MRA")
  - A. State of the Industry in 1979
  - B. Legislative History and Enactment
  - C. Deregulation after Enactment of the MRA
- V. Pre-*Kilmer* Lease Litigation in Pennsylvania regarding the MRA
  - A. Lawsuits in Federal Court
  - B. Lawsuits in State Court

VI. The Supreme Court's Decision in *Kilmer*

A. Background

B. Claims and Arguments

C. The Court's Holding

D. Rationale

E. Principles

VII. Closing Remarks

VIII. Questions

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Attachments

Tab A: 58 P.S. § 33

Tab B: *Kilmer v. Elexco Land Services, Inc.*, 990 A.2d 1147 (Pa. 2010)