

TESTIMONY ON COUNTY BENEFITS OF THE SHALE GAS IMPACT FEE
UNDER ACT 13 OF 2012

PRESENTED TO THE
SENATE LOCAL GOVERNMENT COMMITTEE AND
SENATE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

BY

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On behalf of the County Commissioners Association of Pennsylvania (CCAP), I want to thank Chairman Yaw, Chairman Yudichak, Chairman Hutchinson, Chairman Teplitz and members of the Senate Environmental Resources and Energy and Local Government committees for the opportunity to submit comments on the benefits Pennsylvania's counties have seen from the shale gas impact fee under Act 13 of 2012. The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the commonwealth's 67 counties.

Shale-based natural gas exploration and development directly impacts more than half of Pennsylvania's counties. Over the past decade, the expansion of the natural gas industry has represented vast opportunities for jobs and local and regional economies, decreased reliance on outside energy sources, and provided a fresh outlook for many of our older and declining communities. However, as with any form of development, drilling has also come with its own economic, infrastructure and social costs, which continue across the counties to varying degrees.

The local impacts of shale gas development—and particularly the impacts beyond highways and environment—were recognized early and led to adoption of a strategy that has its primary focus on localities, namely legislation enacted as Act 13 of 2012. Act 13 authorized counties to levy impact fees on development of unconventional gas wells. It is enacted by the counties, state collected, and redistributed on a formula basis to counties, municipalities and environmental agencies. The bulk of the funding goes directly to impacted counties and their municipalities, while all counties (including non-impacted) receive an allocation of part of the funds for highway and environmental purposes. A small portion of the funds stay with the commonwealth for environmental and emergency response purposes.

One of CCAP's top priorities for 2015 is to maintain the shale gas impact fee as it is structured now, regardless of any discussion of proposals to place a severance tax on the natural gas industry. Counties continue to need the tools to respond to the industry impacts that are unique to their regions. With the real property tax being counties' only source of locally raised revenue, the impact fees assure that property owners are not asked to shoulder the additional costs of impacts to county programs and services. Beyond our host counties, the impact fees benefit all 67 counties, with statewide distributions to all counties for open space purposes and for at-risk bridges, as well as support for other county interests in housing and other environmental efforts. Act 13 also provides direct distributions to county conservation districts to support their functions in delivery of state environmental programs at the local level.

Addressing Local Impacts

Although the most visible impacts of the natural gas industry have been to roads, bridges and the environment, other impacts are not so obvious but are equally important. Hotels might be filled with workers associated with shale gas drilling, impacting both the tourism industry and the county hotel tax. Workers from out of state and their families have affected human services such as drug and alcohol treatment, children and youth services and affordable housing programs. Shale gas drilling also affects county jails, county probation and law enforcement. The impacts even extend to county recorder of deeds offices, as title searchers and leaseholders flood those offices confirming ownership of subsurface rights and recording assignments. Other impacts at the county level include the responsibility for emergency preparedness and response

coordination, training for local responders and volunteers, and updating the county and municipal all-hazards response plans.

Local governments with spud wells received the first impact fees in the fall of 2012, offering a revenue stream that has generated more than \$200 million annually for county and municipal governments to use at their discretion to address a broad array of shale gas related impacts. The Act includes 13 broad categories for the use of local impact fees, providing counties with significant flexibility in determining how best to use these revenues to meet their unique community needs. Counties have responded by thoughtfully planning in response to short-term needs as well as anticipated long-term trends.

In the short-term, counties have invested in improvements to local transportation infrastructure, updates to emergency response plans to reflect the unique challenges of the industry, scholarships to local residents to acquire training needed for employment with the industry, and affordable housing projects.

As a parenthetical note, while the usage reports submitted to the Public Utility Commission (PUC) offer some perspective on how local governments with spud wells are using their impact fee monies, we would caution the committees that these reports provide only a brief snapshot of usage and do not show a comprehensive picture. For instance, local governments received their first distributions in the fall of 2012, and were required to report usage of those funds in April 2013. Many counties, still determining how best to use their revenues in that short time, reported much of the funds as being placed in capital reserve. While they have in many cases since spent those funds in accordance with the other Act 13 allowable uses, the law specifically states that the annual usage report is to include only the use of funds received in the prior calendar year. Therefore, because usage reports do not include the use of funds received before the prior calendar year and those prior reports cannot themselves be updated, the impression is maintained that the funds are held in reserve when in fact the counties may have since committed those funds.

Specific examples of county uses of impact fees include:

- Sullivan County has provided for homestead/farmstead exclusions, returning more than \$500,000 in tax reductions to almost 1,700 approved homesteads in the county. Approximately \$275,000 is anticipated to be needed in 2015 to support and enhance the emergency communications program, including upgrades to the emergency network and planned replacement of a communication tower in the county. Additionally, the impact fee has been used to eliminate Sullivan County's waiting list for Area Agency on Aging services, offer rental assistance, and provide advanced technology in county departments dealing with impacts of shale gas drilling.
- Forest County purchased a new office building for the magistrate and will be remodeling the building for security purposes; the use of impact fees prevented the county from having to face a debt service tax for the project, following years of need for more suitable office space with better security. Possible uses of remaining impact fee revenues include GIS software

and other investments to assist the county in keeping up with technology needs, taking the burden off taxpayers for these projects.

- Clarion County granted \$10,000 to Community Action for a housing grant match, and \$17,600 to municipal parks for maintenance.
- In McKean County, some of the impact fee revenues are earmarked for replacement of the Prospect Hill communications tower. Remaining funds will go to infrastructure projects, based on applications by municipalities that will be scored by the McKean County Planning Commission. The commissioners have also authorized an award of \$124,140 to Bradford Township for the replacement of the Lang Maid bridge on township road T-339 over Marilla Creek, and another \$64,860 for Norwich Township's project replacing the West Valley Road bridge over the West Branch of Potato Creek.
- In January, Indiana County split its impact fee revenues for several different projects, including upgrades to the sewer services at the county prison, and \$30,000 for the Indiana County Fire Academy to assist local fire departments and first responders with training for emergency preparedness. Funding was also allocated for hazardous materials training for the Emergency Management Agency Team 900, to the Indiana County farmland preservation program, and for rural broadband deployment. Finally, the county providing additional funding for the Central Allegheny Challenger Learning Center to be located on the campus of the Indiana County Technology Center, and for preparation of the subdivision and land development ordinance as part of the county's comprehensive plan.
- Washington County has been able to fund the rehabilitation of four bridges, which will be completed more quickly and at less cost than if funded conventionally. Because drilling has burdened the county's public safety department, the county has also invested in upgrades to emergency services, including \$195,000 for replacement of a 20-year-old hazardous material truck with a new state-of-the-art vehicle. The impact fees have also allowed the county to upgrade their county nursing facility to continue to provide skilled and unskilled nursing and rehabilitative services. And, to address the added strain on the judicial system, including overcrowding in the 20-year-old correctional facility and security systems that have reached the end of their useful life, impact fees have been used to replace the outdated security and video systems, making the facility a safer place for inmates and the workforce.
- Tioga County has created scholarship programs at Mansfield University and the Pennsylvania College of Technology to provide financial assistance to those students who are enrolled in ShaleNET or emergency medical technician training at the College of Technology, or if they are an active first responder living in the county who is pursuing a career in nursing, criminal justice, biology, geography/geology, safety management or natural gas production services at Mansfield. The local airport was provided the opportunity to convert their fuel tank to dispense jet fuel to allow for Life Flight helicopters to be able to refuel. The installation of an Automated Weather Observation System benefits pilots flying into Wellsboro, emergency services who can see pertinent weather, real time, in the EMS facilities, and the public, who has access to this weather information via computer and landline telephone. In addition, the county assisted Liberty Borough with the rehabilitation of

a culvert prior to construction of a bridge and constructed an addition at the human services complex to provide a larger, safer setting for family services visits between parents and children. A food services addition was constructed on the Tioga County prison in order to meet state requirements to have at least two weeks of food on hand in case of an emergency, for which capacity was not previously available. The county also upgraded the security camera system at the prison for the safety of the staff and the inmates.

- In Cameron County, \$61,000 was allotted to Driftwood Borough for their water system that was, and still is, in need of major repairs; the borough is a very small municipality with limited infrastructure and resources. Almost \$90,000 was allotted for emergency preparedness and public safety, including the purchase of a brush truck, turn-out gear and rope and related rigging equipment for rescue scenarios for the Emporium Volunteer Fire Department, purchase and installation of a new generator for the Whittimore public safety radio tower site, and 911 dispatch services. The county also invested in several environmental projects, such as allocations to West Creek Trails Association for construction costs associated with the new rails to trails area and two area playgrounds for new equipment.
- Elk County has approved grants of its impact fee revenues to projects ranging from equipping St. Marys Police with body armor to expanding local drug and alcohol treatment services.

Many counties have also saved a portion of their impact fee revenues with an eye toward aggregating several years of funding, and leveraging those dollars with other funding opportunities to tackle more extensive infrastructure needs. Having experienced the boom and bust cycles of other natural resource industries, counties are also managing their impact fee revenues with an eye toward proactive long-term fiscal management. In this way, they can assure funding is available to maintain vital services during challenging times or when impact fee revenues may not be as robust as they are presently, rather than having to turn to local property taxpayers.

For instance, Mercer County has several commitments for bridge projects in the coming months, while Tioga County has nearly \$4 million in capital reserve that is committed for projects such as a courthouse security addition and a solar project for the prison.

Lawrence County too has not yet spent all of its funds, although all have been allocated; capital reserve funds will be used for county property upgrades, while in the past the county has focused on social service agencies. In Washington County, officials are studying construction of a new public safety facility to house equipment and supplies in close proximity to the present command center, and studying ways to reduce the overcrowding at the correctional facility, expand the work release program, provide pretrial services to those incarcerated who are awaiting trial and to continue to support and expand the county's veterans and drug courts. The Washington County commissioners have also created a GIS department, and Act 13 funds will be used to get this project up and running.

Wyoming has placed \$2 million in capital reserve because they have needs coming in the future with which they will need funding assistance. Further, in Cameron County, the balance of funds

in capital reserve have been earmarked to offset any deficit in 911 funding available for Elk County dispatch fees, with whom they piggyback services, and other funding requests from local governments they feel are fitting.

It is worth noting that in late January, Moody’s Investors Service in its Weekly Credit report discussed how local governments are using their impact fee revenues. The report highlighted several local governments that use the impact fee revenues to minimize the effect on operating funds by putting the money in capital reserve or transferring the money to the general fund on a one-year lag, which Moody’s says allows for accurate budgeting.

Local Benefits Across the Commonwealth

While it is clear that the impact fee has a significant benefit for those counties directly dealing with natural gas drilling, impact fees also provide benefits to all 67 counties, not just those with spud wells. All counties receive through the Marcellus Legacy Fund a minimum allocation of \$25,000 each year for open space purposes, and a minimum of \$40,000 each year for at-risk bridges. Since the enactment of Act 13, counties have received \$33.9 million for open space purposes (more than \$10 million each year) and \$56.6 million for at-risk bridges (more than \$17 million each year).

Legacy Funds – Open Space Purposes

The following is a sampling of examples of how counties are using their Legacy Funds for open space purposes:

Armstrong	Renovations to a county-owned recreation facility; farmland preservation; Environmental Learning Center; preliminary planning and design for a downtown revitalization project
Bedford	Pike to Bike trail economic impact study; municipal improvements to parks and trails
Berks	Capital improvements to a county park
Bucks	Support for the planning staff cost for open space and parks
Centre	Farmland preservation
Clinton	Handicapped accessible fishing piers; rail to trail development; municipal partnership for park improvements
Crawford	Engineering services to develop a plan to handle wastewater needs; comprehensive parks, recreation and open space for the city of Meadville; master plan for Oak Grove Park including a connector trail between Oak Grove Park, Tamarack Lake and the Meadville Area Recreation Complex; improvements to the French Creek Water Trail; gap funding for Phase III of the Saegertown Water System expansion project; improvements to Gibson Park
Cumberland	Farmland preservation; Land Partnerships Plan implementation (Cumberland County’s plan for greenways, trails, park/recreation, and natural resource protection)
Dauphin	Recreational, educational and historical programs for the general public

Forest	Contribution to the Knox-Kane Railroad project (rails to trails) for assistance in the appraisal costs; environmental characterization of a former gas station property to provide for beneficial uses in the future
Huntingdon	Municipal park replacement and improvement; walking path restoration; Portstown Park Juniata River access; Juniata River access at Alfarata Trailhead
Indiana	Geo-technical review of Cummins Dam at Blue Spruce Park as required by the state Department of Environmental Protection (the dam was built before state regulations and never permitted by the state, and the review is necessary to get a permit)
Lancaster	Farmland preservation
McKean	Stream bank stabilization; riparian buffer demonstration projects
Mifflin	Boat launch on the Juniata River; dog park in Kish Park
Northumberland	Projects and opportunities in conjunction with the county conservation district
Westmoreland	Conservation district funding; farmland preservation; recycling program; Westmoreland Land Trust

Several counties have created unique programs with their Marcellus Legacy Funds for open space. For instance, Juniata County has created a grant program for its 17 municipalities, distributing the funding based on population. In order to receive their portion of the funding, municipalities must complete a request form developed by the county describing the project and certifying that the funds will be used in compliance with Act 13.

Cumberland County has used some of its funds for its Land Partnerships Plan, whose implementation includes a municipal grant program in addition to county projects. The county awarded \$348,900 in the 2013 round of grants, leveraging \$1.5 million in state, local and private dollars and funding 18 community park and trail projects. Another \$128,655 was anticipated to be awarded in the 2014 round, leveraging \$423,352 in state, local and private dollars to fund ten community park and trail projects.

Also, Huntingdon County has created a grant program as well. Municipalities must complete the county's application process, and formal review and recommendation are made at a county planning commission meeting, with final award approval by the commissioners. The projects must be consistent with Act 13 and consistent with the Huntingdon County comprehensive plan, and the county looks for projects that leverage other private or public dollars and that implement other plans such as the Juniata River Conservation Plan, Mainline Canal Greenway Plan, Southern Alleghenies Regional Greenway Plan and Agricultural Land Preservation Plan. In 2013, projects funded included park pavilion replacement and improvement, walking path restoration, access to the Juniata River, and a community garden.

Legacy Funds – At-Risk Bridges

Many counties have saved their at-risk bridge allocations, choosing to aggregate several years of funding to complete projects with larger funding needs. Crawford County, for example, expects

to approve funding from its 2012, 2013 and 2014 allocations in 2015, and Sullivan County has reserved Legacy Funds for future bridge repairs and other infrastructure needs.

Juniata County is working with SEDA-COG and the Wilson Consulting Group to establish a small bridge inventory, with a goal of identifying all bridges that are eligible for Act 13 funding, and to eliminate structurally deficient bridges using those funds. The county will also identify other critical bridges for rehabilitation or replacement. Mercer County has already spent more than \$260,000 on bridge repair and replacement.

In Wayne County, the county has received approval for a project to be placed on the Transportation Improvement Program (TIP) and is saving the at-risk bridge funds for their match. Forest County is holding its at-risk bridge funds until the county has enough to move ahead with repairing a distressed bridge owned by the county.

Cumberland County banked its initial funding while the county developed a countywide bridge strategy. The county adopted a bridge capital improvement plan in 2014, identifying nearly \$15 million of repair, replacement and rehabilitation work, including eight major replacements. Act 13 funding is and will be matched with liquid fuels, Act 44, Act 26 and future revenues from the local use fee on vehicle registrations the county has adopted. The county completed the Encks Mill Road bridge replacement in October 2014 with assistance from Act 13 funds, a \$650,000 construction. They are also working on a steel truss bridge replacement for Hertzler bridge.

In Potter County, the commissioners and the Planning Department formed a review panel that includes representatives of townships and boroughs to rank bridge repair applications based on several criteria. As a result of this analysis, the county recently approved two separate \$40,000 allotments to fix the Whitney Hill Bridge on Rt. 407 in Genesee Township, and the Simmons Hollow Bridge on Rt. 552 in Bingham Township.

Conservation Districts

Act 13 also provides direct distributions to all county conservation districts, which are involved in well site environmental protection efforts alongside the Department of Environmental Protection. Since the law took effect, the districts have been allocated \$15 million, and now receive at least \$7.5 million each year, adjusted annually for inflation. Still, these distributions do not fully address the shortfalls the districts have dealt with over several years of decreased state funding and increased responsibilities, and the County Commissioners Association of Pennsylvania (CCAP) rejects the argument that, due to these allocations, state General Fund allocations could be potentially be decreased.

Housing

Act 13 also allocates certain amounts into the Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) Fund established by Act 105 of 2010 to address the need for affordable housing in counties where producing nonconventional wells are located. According to the Pennsylvania Housing Finance Agency, as of June 2014, \$16.7 million had been awarded to projects including leasing of rental units to be used as emergency housing,

rental and utility assistance for those at risk of becoming homeless, rehabilitation of existing affordable housing units and development of new units, housing specifically designated for the intellectually disabled or with mental health issues.

Moving Forward

As the natural gas industry continues to evolve in Pennsylvania, local governments remain a key player in natural resource management, public safety, and community and economic development. Clearly, the needs are diverse throughout the commonwealth, and CCAP supports the impact fee established under Act 13 and the financial resources it has offered to communities impacted by shale gas development.

Although the association has not taken a policy position on a severance tax in and of itself, we reiterate that if discussions on a severance tax move forward, they must move forward independently without touching the existing impact fee. Should the legislature determine the impact fee would be eliminated and instead drawn from severance tax proceeds, counties will insist the equivalent of the impact fee be carved out, complete and as it is now, with the ability to grow as the industry grows. This includes the same distribution to impacted local governments and additional current distributions to all counties through the Legacy Fund and distributions to conservation districts, as well as allocations to state agencies.

We look forward to working with you on matters related to oil and gas drilling, specifically the benefits of impact fee under Act 13 of 2012. I would be happy to discuss these comments further and answer any questions you may have at your convenience.