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MEMO



Senate of Pennsylvania

December 9, 2010

TO: ALL SENATORS

FROM: Stewart J. Greenleaf

SUBJECT: Cosponsorship – Gas mineral rights lease agreement disclosure and indemnification

I am reintroducing **Senate Bill 1486**, amending the Oil and Gas Act to require gas drilling companies, prior to the execution of any gas mineral rights lease agreement, to disclose to the landowner the potential liability he may encounter by allowing gas drilling on his property. Any gas leasing agreement shall also contain an indemnification provision that protects the landowner from any and all liability.

With a massive natural gas deposit in the Marcellus Shale, Pennsylvania is experiencing a significant rise in natural gas drilling activity. In 2009, state-issued Marcellus Shale gas well drilling permits increased 300%. As such, landowners are being approached by drilling companies to enter into a mineral rights lease. What landowners may not realize is that the Commonwealth does not regulate lease agreements between mineral property owners and drilling companies.

Furthermore, while the Oil and Gas Act generally addresses the obligations of the gas well owner or operator, it does not address potential liability of a landowner that allows gas drilling on his property. Section 208 of the Act provides that “Nothing herein shall prevent any landowner or water purveyor who claims pollution or diminution of a water supply from seeking any other remedy that may be provided at law or in equity.” In other words, a landowner who allows gas drilling on his property could be liable for substantial damage to a neighbor’s property based on a trespass or nuisance legal theory.

Given that landowners could be sued in court, my legislation would require that prior to the execution of any gas leasing agreement, the gas drilling company must disclose to the landowner that the landowner may be liable to other landowners for damages that result from the gas drilling. The disclosure shall include a statement that the landowner should consult an attorney before signing any documents. The disclosure shall be on a separate piece of paper, in ten point all capital type. The department shall approve the form and content of the disclosure statement. The disclosure statement shall be signed by the landowner prior to or simultaneously with the execution of the agreement. In addition, any gas mineral rights lease agreement shall contain an indemnification provision which holds the landowner harmless from any and all liability, liens, claims and environmental liability arising out of the drilling company’s operations under the terms of the lease.

With gas drilling companies offering large sums of money for mineral rights, some landowners may be quick to enter into an agreement without fully understanding the ramifications of signing such a document. This bill will help to ensure that landowners carefully review any gas leasing agreement and understand their potential liability. It is vital that the property owner carefully review any lease agreement and consult an attorney familiar with oil and gas law before signing any document.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.