

LOUIS D. D'AMICO

Louis D. D'Amico has served as Executive Director of IOGA of Pennsylvania since 1995. Prior to joining the association, he spent twenty-three years in the industry in engineering, gas marketing and operations management.

Following graduation from the Pennsylvania State University with a BS in Petroleum and Natural Gas Engineering in 1972, Mr. D'Amico joined the Peoples Natural Gas Company as a drilling and production engineer. In 1978, he was recruited by Wainoco Oil and Gas Company, a Houston Texas based independent producer, to develop and manage operations in Pennsylvania, New York, Michigan and West Virginia. Mr. D'Amico joined Industrial Energy Service Company in 1991, following the sale of Wainoco's properties. At IESCO, he evaluated producing properties for acquisition and worked in marketing natural gas services to end-users.

In addition to his engineering degree, Mr. D'Amico holds an MBA from Gannon University and is a registered professional engineer in Pennsylvania. He was one of the founding board members of the Pennsylvania Natural Gas Associates, which became IOGA of Pennsylvania.

***Testimony of the
Independent Oil and Gas Association of
Pennsylvania***

***Before the Pennsylvania House
Transportation Committee***

On

HB 2133

Delivered by Louis D. D'Amico

Executive Director

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Good afternoon Chairman Markosek and distinguished committee members. I am Lou D'Amico, Executive Director of the Independent Oil and Gas Association of Pennsylvania (IOGA). Thank you for the opportunity to testify today on HB 2133. I am also representing the Pennsylvania Oil and Gas Association today with my comments today.

The oil and natural gas industry is very familiar with road bonding in Pennsylvania. Pennsylvania is the third most actively drilled state in the United States after Texas and Colorado. The very nature of the equipment used in our industry in drilling, completion and production operations requires heavy hauling in rural areas.

We are quite aware that rural roads in Pennsylvania were never designed to withstand heavy truck traffic on a regular basis. We are also fully aware that it is necessary for our industry to repair whatever damage we do in the course of our operations to state and local roads. If the Marcellus Shale exploration in Pennsylvania is as successful and lucrative as we all hope, the impacts on the Commonwealth's rural highway system will be even greater.

Marcellus drilling will require larger rigs with more truckloads to the site. There will also be more equipment entering locations for frac jobs and water hauling. The sites are larger, which may require more loads of stone be delivered to build roads and stabilize locations.

Roads will be damaged. These roads will be repaired by the industry.

The companies drilling these Marcellus Shale wells are not small fly-by-night organizations, but rather some of the largest and best capitalized companies in the nation. To believe that any of these companies would risk the huge investment in leasing, drilling, completion and pipelining by shirking their responsibilities to repair road damage is unimaginable.

We still have the potential issue of smaller companies doing conventional wells who occasionally have problems. This legislation is directly attributable to the bad actions of one such company in Rep. Longiotti's district.

As representatives of the people of Pennsylvania I'm sure you feel an obligation to have protections in place for every possible occurrence. It should, however, be noted that our industry has had an excellent track record of cooperation with state and local governments on road damage repair.

I do have some concerns and comments about this particular legislation. My first comments are directed towards the bond amounts. I certainly agree that very little road repair can be accomplished if a forfeited bond is the only recourse a municipality or government agency has to assure compliance.

However, the impact of bond forfeiture goes well beyond the value of the bond. Forfeiture would result in a company being unable to do any further work requiring access to

posted roads in that township or municipality. If the forfeiture is against Penn DOT, no further activity could be undertaken in the state on posted roads. This is clearly the “big hammer” that government has to insure compliance.

The oil and gas industry as well as other industries are finding it increasingly difficult to procure bonds in the marketplace. Increasing bond size may indeed exacerbate that problem. There are perhaps other solutions that need be explored to assure the local governments that damage will be repaired on a timely fashion.

The more serious and onerous problem that our industry has with this bill is the rebuttable presumption language. The assumption here is that in some way a oil and gas developer is more likely to be unreasonable in recognizing the extent of damage that has been inflicted on a road than a township supervisor or government employee. Why should the burden of proof be any different on the user of the road than on the government?

The experience of my members and of me personally is far different. Although most township supervisors are realistic, fair and honest there is always someone who is not. Producers have told me of many instances where a township or municipal official wishes to “repair” minor damage on one section of roadway by repaving miles of township road.

We have also heard numerous complaints from officials who want immediate repaving of a damaged road *in the middle of on-going drilling operations* rather than accepting temporary repair and stabilization with final repair at the completion of our operations in an area.

We are also expected to repair anything damaged on posted roads while no one in government makes any effort to keep other operations from running under our bonds. The state police will rarely enforce this as a result of manpower and most rural governments have no police force to address the problem. The company is then stuck with paying for damage done by other parties.

If a company bulks at making unreasonable repairs, the government already has the advantage without adding rebuttable presumption language. Does anyone on this committee honestly believe that if forced into court a local Court of Common Pleas or the Commonwealth Court will rule for the company unless there is overwhelming evidence in the company’s favor?

I believe there can be and should be review and improvement to the Pennsylvania road bonding and repair program. I believe that my industry as well as any other industry that utilizes our roads would be willing to sit down with government to develop reasonable improvements.

However, any effort to assume that an arm of the government is automatically right until proven wrong is a direct challenge to all the principles upon which this country was founded.

We need to address all the issues relating to road bonding, including the cost and methodology of posting roads so that poorer townships will not suffer from lack of funding to pay for engineering studies in support of weight limits.

We need to address enforcement of a company's bond to protect from damage caused by others running under that company's bond.

Finally, we need some reasonable repair and replacement standards so that all parties understand their responsibilities under the road bonding program.

This concludes my testimony. I would like to spend the remainder of my time addressing your questions and concerns. Thank you.