

Pennsylvania House of Representatives
Finance Committee
Informational Meeting
Marcellus Shale Severance Tax/Impact Fee
July 19, 2011
Waterville, PA

Testimony by Timothy D. Schaeffer
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Good morning Representative Benninghoff, Representative Mundy, other House members, colleagues, and guests. My name is Tim Schaeffer, and I am Director of Policy, Planning, and Communications for the Pennsylvania Fish and Boat Commission. On behalf of Executive Director John Arway, local Commissioner Bill Worobec, the rest of our Board of Commissioners, and Pennsylvania's 870,000 anglers and 2.5 million boaters, thank you for the opportunity to join you today.

For many of you, my remarks will sound familiar. Since Executive Director Arway briefed this committee on May 12, 2010, he and I have traversed the Commonwealth both individually and with our Commissioners to deliver a simple message: the Fish and Boat Commission should receive a portion of a severance tax or impact fee to support our work associated with making sure that Marcellus Shale natural gas is developed in a way that has as little impact as possible to our incredible aquatic resources, their habitats, and Pennsylvania's world class fishing and boating. Our agency should be compensated for the work we are doing to benefit the natural gas industry rather than asking the Commonwealth's resident and tourist anglers and boaters to shoulder this burden.

The mission of the Pennsylvania Fish and Boat Commission is to protect, conserve, and enhance the Commonwealth's aquatic resources and provide fishing and boating opportunities.

While you may know us best for the work we do to support the Commonwealth's \$3.4 billion recreational fishing and boating industry, we perform countless activities that benefit all Pennsylvanians and visitors in implementing our Resource First philosophy.

Since the Commission's founding in 1866, we have worked cooperatively with industry and other agency partners, and we are committed to maintaining that level of collaboration as Pennsylvania maximizes the potential of its clean-burning natural gas. In 1909, your predecessors in the General Assembly passed a law forbidding the emptying of any waste deleterious to fish into waters of the Commonwealth and assigned the responsibility to enforce that law to the Fish and Boat Commission.

The Fish and Boat Commission is an independent administrative agency with statutory authority and responsibility for hundreds of game and non-game species. The Commission receives no General Fund revenues and no portion of permit fees charged by the Department of Environmental Protection (DEP). We rely entirely on fishing licenses, boat registrations, and federal funds tied to fishing and boating for just about everything we do. Moreover, without a legislative change, the Commission does not even have the authority to charge fees to support the work we need to do to assist gas companies and other developers in reviewing and implementing their projects.

This includes the thousands of permits we review each year as part of DEP's regulatory programs and collaborating with the Susquehanna and Delaware River Basin Commissions (SRBC and DRBC) to maintain adequate flows in our streams and rivers. We work daily with DEP staff to try to insure that fish and aquatic life uses of streams are protected before and after DEP issues drilling permits for Marcellus wells and associated infrastructure. As Executive Director Arway recently stressed to the Marcellus Shale Advisory Commission's Public Health,

Safety, and Environmental Protection Work Group, activities associated with natural gas development have become a large part of the work being performed by many of our staff.

For example, Marcellus-related reviews have grown to comprise nearly 25% of all of the statewide species impact reviews we conduct as part of the Pennsylvania Natural Diversity Inventory (PNDI), and we are on pace to eclipse the 555 reviews attributed to Marcellus that we conducted in 2010.

Perhaps even more telling is the fact that we have already quadrupled the number of Marcellus-related Chapter 105 waterway encroachment reviews we conducted for DEP last year, going from 20 in all of 2010 to about 80 already this year. It is significant to note that one permit review does not equal one encroachment; rather, one project might cover four counties and include 300 individual encroachments.

Marcellus reviews have also come to dominate the reviews we conduct on an ongoing basis for the Susquehanna River Basin Commission. Of the 35 dockets we reviewed for SRBC's June meeting, the overwhelming majority were for Marcellus-related projects. Indeed, water for natural gas development has made up the bulk of SRBC dockets in the last two years.

Again, we do all of this work on the backs of anglers and boaters without any compensation from those generating the costs.

We also enforce pollution laws with our network of locally based Waterways Conservation Officers (WCOs) and advise businesses and industries on how they can minimize or prevent the impacts of their operations, including an increasing number of issues related to erosion and sedimentation, on local aquatic resource communities. As with permit reviews, Marcellus activity has necessitated increased attention from our WCOs. So far, we have investigated as many cases in 2011 as we did all of last year.

We have also stepped up our efforts and begun working with outside partners such as Lycoming College to help us survey and document the presence of wild trout in thousands of miles of previously unassessed streams -- many of which flow through this region. Once properly assessed and designated by the Commission, DEP protects these waters consistent with Commonwealth laws and regulations.

We want to help the industry protect our waters and habitats and comply with the environmental laws promulgated by the legislature. Industry representatives have told us that they would welcome the chance to work more proactively with us in areas such as avoiding wild trout streams and sensitive rattlesnake habitats, insuring water quality protection for sensitive aquatic life uses, and avoiding Exceptional Value wetlands. Unfortunately, we simply do not have the resources (staff and funding) to adequately and proactively assist the industry, DEP, and the River Basin Commissions with timely permit review and field visits to help minimize project impacts to waterways like Pine Creek and its tributaries.

We take the authorities and responsibilities given to us in the Fish and Boat Code very seriously, and our needs and the long-term health of aquatic resources are fundamentally a cost of doing business for which the industry should be paying.

Anglers and boaters are not creating the extra work for our staff, so why should they be bearing the costs?

Our agency has a good track record of working with DEP and other agencies in many regulatory review programs. For example, we assist PennDOT through a formal agreement that contributes to the salaries and other costs of Fish and Boat Commission staff positions whose sole responsibilities are to review and advise on transportation projects and make sure that they are planned and constructed to protect our trust species and their habitats.

If we received a portion of an impact fee, we could take a similarly collaborative approach with both the industry and the other agencies that are reviewing and advising on projects. Ultimately, we would like to have Commission staff in position to spend the necessary time reviewing and commenting on projects and working in the field with developers and other agencies to make sure our resources are protected. By passing and dedicating a portion of a Marcellus drilling impact fee to the Fish and Boat Commission, you have an historic opportunity to help us make sure this incredible energy resource is developed consistent with the needs of fish, reptiles, amphibians, anglers, and boaters.

We are not alone in arguing that we should be compensated for the work we are doing and will continue to perform as the industry matures. Last fall, the Legislative Budget and Finance Committee (LBFC) acknowledged our role and the lack of funding to support Marcellus-related work and recommended that the General Assembly “consider providing additional resources to the PFBC so it can continue to make efforts to protect water resources from potential degradation by Marcellus Shale drilling efforts.” The LBFC emphasized that “Given this new threat, we recommend the General Assembly take action...to ensure the PFBC...has sufficient resources to carry out its mission.”

On Friday, the Marcellus Shale Advisory Commission also voted to in favor of directing a portion of an impact fee to state resources agencies – including the Fish and Boat Commission -- with roles in permit review, oversight, and enforcement. In their public deliberations, several Advisory Commission members stressed the need for a correlation between Marcellus impacts and the uses toward which impact fee revenues should be directed. The Fish and Boat Commission’s Marcellus activities meet the test of that nexus.

We have received strong support from both House and Senate members when we explain the inequity inherent in our lack of Marcellus funding, which is evidenced by the Commission being included in no less than four severance tax proposals currently under consideration in the General Assembly and a growing recognition that we should be a part of any impact fee legislation.

When I spoke about this issue on June 3 in Williamsport, I told Representatives Everett and Mirabito that I hoped the next time I was in town it would be for a bill signing. Over a month later, the Commonwealth is hopefully one step close to that bill signing and the day when our anglers and boaters are no longer being asked to pay the price for an escalating workload that they did not create.

Thank you for recognizing the importance of our role and for your ongoing support for Pennsylvania's rich outdoor heritage. I would be happy to answer any questions.