

# The PIOGA Press

The monthly newsletter of the  
 Pennsylvania Independent Oil & Gas Association  
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## State Supreme Court declines case rejecting challenge to zoning ordinance allowing drilling in all districts

On May 14, the Pennsylvania Supreme Court entered an order denying the petition for allowance of appeal in *Frederick v. Allegheny Township Zoning Hearing Board, et al.*, No. 449 WAL 2018 (Pa. 2019). The order concludes a battle of more than four years over the validity of the Allegheny Township, Westmoreland County, zoning ordinance. Previously in *Frederick*, the Commonwealth Court in a 5-2 *en banc* decision, rejected the contention that an unconventional natural gas well pad can be permitted only in an industrial zoning district, concluding that Pennsylvania law empowers municipalities to determine the location of oil and gas development and whether the same is compatible with other land uses within their boundaries. *Frederick v. Allegheny Twp. Zoning Hr'g Bd.*, 196 A.3d 677 (Pa. Cmwlth. 2018).

*Frederick* is one of at least eight cases involving challenges to the validity of local zoning ordinances in Pennsylvania which authorize oil and gas development.



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*Continues on page 3*

## Senate Republicans prepare 'no-tax' response to Wolf's infrastructure plan

As Governor Tom Wolf continues touring the state to pitch the possibilities of his Restore Pennsylvania infrastructure plan, Senate Republicans are readying a similar plan that looks to address many of the same issues without a tax on natural gas extraction.

Instead, Senators Camera Bartolotta (R-Washington) and Pat Stefano (R-Fayette) want to remove Wolf's 2015 moratorium on natural gas drilling on state forest land, which would allow the state to lease the land to drilling companies, resulting in new revenue.

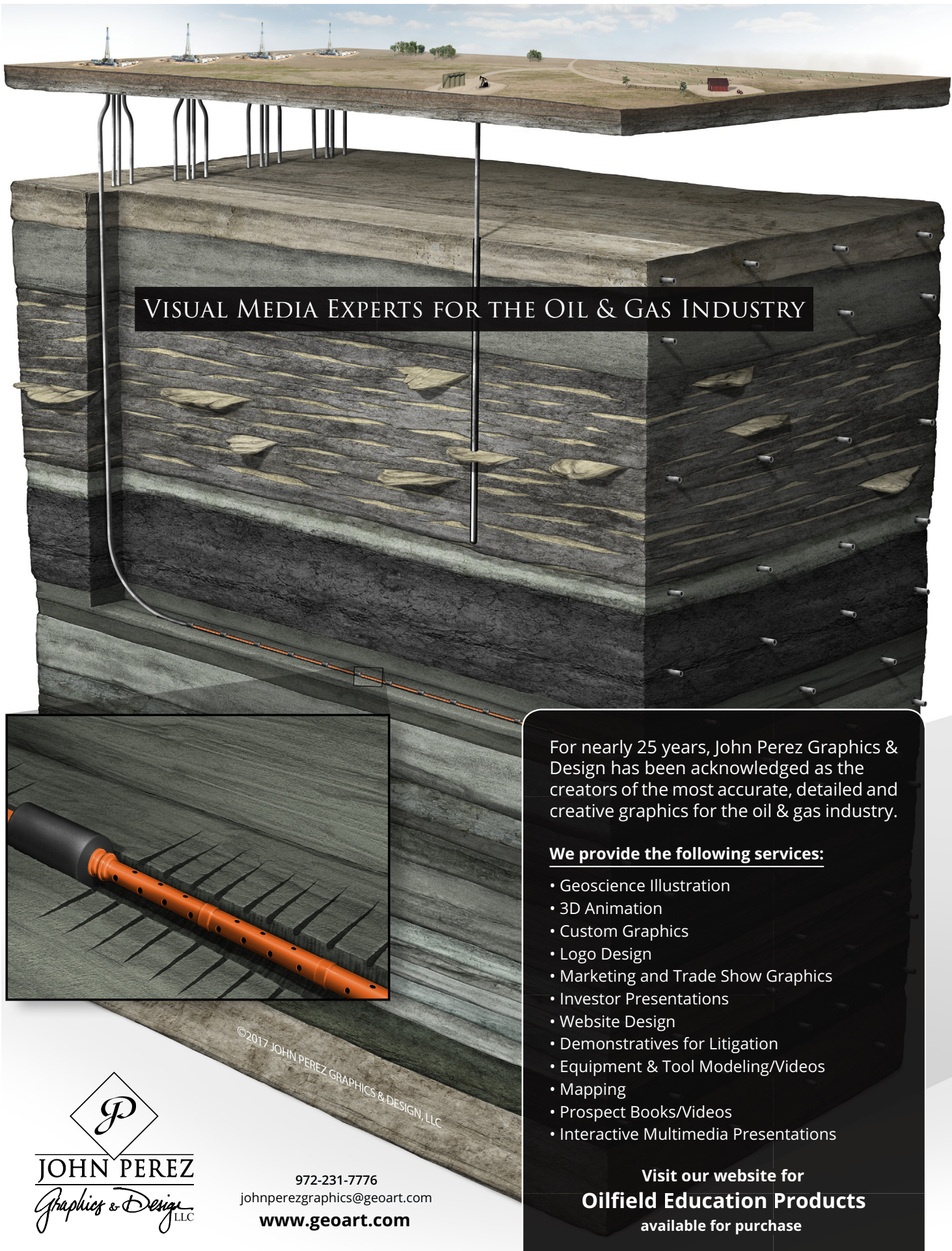
The western Pennsylvania senators hope the new leases by the Department of Conservation and Natural Resources will provide the revenue needed for many of the capital projects in Wolf's plan, while also taking advantage of Pennsylvania's natural gas deposits.

Bartolotta told *The PLS Reporter* there are approximately 930,000 acres of accessible state forest land over natural gas deposits, which could result in \$1 billion of initial revenue to the state through signing bonuses. She added that the state could see additional revenue—up

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## Allegheny Township *Continued from page 1*

Generally speaking, the challengers in these cases claim, based on the Pennsylvania Supreme Court's decisions in *Robinson Township v. Commonwealth*, 83 A.3d 901 (Pa.2013) and *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 161 A.3d 911 (Pa. 2017) that the zoning ordinances violate substantive due process and Article I, Section 27 of the Pennsylvania Constitution, commonly known as the Environmental Rights Amendment (ERA), because they permit an allegedly industrial use in non-industrial zoning districts.

In *Frederick*, the Allegheny Township zoning ordinance authorized oil and gas operations as a permitted use by right in all zoning districts.<sup>1</sup> After the township issued a zoning permit to an operator for an unconventional well pad, three residents filed an appeal with the zoning hearing board challenging both the permit and the validity of the zoning ordinance. Following multiple nights of hearings, the board dismissed these challenges. The board's decision contained numerous findings of fact related to the qualities and characteristics of the township and its long history of oil and natural gas development. The board specifically accepted the testimony of an expert proffered by the operator on the interplay between the oil and gas industry and agricultural and rural communities in Pennsylvania. The board rejected the objectors' claims that the well pad would have an adverse effect on public health, safety, welfare or the environment. The board likewise declined to accept the objectors' reading of *Robinson*, concluding that the zoning ordinance was valid.

Both the Westmoreland County Court of Common Pleas and the Commonwealth Court affirmed the board's decision. Addressing the objectors' repeated use of the term "industrial" to describe natural gas wells, the Commonwealth Court observed that the objectors did not present any evidence to the zoning hearing board "on what they meant by 'industrial' or the significance of that term." The court observed that oil and gas drilling, like farming, is not a heavy industrial use, but instead is a use traditionally exercised in agricultural areas, containing temporary components of an industrial use. As a result, the court agreed with the zoning hearing board that the zoning ordinance does not violate substantive due process.

Next, the Commonwealth Court addressed the objectors' contention that the zoning ordinance violates the ERA. The objectors repeated their previous argument under the due process clause—that oil and gas is an incompatible "industrial use" that degrades the local environment. The objectors also asserted that the Supreme Court's interpretation of the ERA in *Robinson* required the township to engage in an undefined pre-action environmental impact analysis before enacting the zoning ordinance.

In analyzing the ERA claims, the Commonwealth Court addressed the Pennsylvania Supreme Court's 2017 decision in *PEDF* rejecting the three-part test for measuring compliance with the ERA first enunciated in

the Commonwealth Court's 1973 decision in *Payne v. Kassab*, 312 A. 2d 86 (Pa. Commw Ct. 1973) and instead ruled that challenges raised under the ERA should be decided in accordance with its text. Acknowledging that the "precise duties imposed upon local governments by the first sentence of [the ERA] are by no means clear," the Commonwealth Court ascertained the relevant standard, based on *Robinson* and *PEDF*, to be whether the governmental action "unreasonably impairs" the environmental values implicated by the ERA. However, the court found that *Robinson* "did not give municipalities the power to act beyond the bounds of their enabling legislation" and that "[m]unicipalities lack the power to replicate the environmental oversight that the General Assembly has conferred upon [the Department of Environmental Protection] and other state agencies."

The Commonwealth Court also observed that Section 3302 of the Oil and Gas Act preempts municipalities from regulating "how" drilling takes place, and that a municipality only may use its zoning powers to regulate "where" mineral extraction occurs. The court concluded that the objectors failed to prove that the township's legislative decision expressed in the zoning ordinance allowing gas wells in all zoning districts unreasonably impairs their rights under the ERA, particularly when the record (and the zoning hearing board's findings) showed how long natural gas development has safely coexisted within rural communities, how the land can be returned to its original state once the wells are completed and how energy extraction can support the agricultural use of land.

In its conclusion, the *Frederick* majority opinion recognized that municipalities, if they do elect to utilize their discretion to enact land use regulations in the first place, must balance the interests of landowners in the use and enjoyment of their property with the public health, safety and welfare. The objectors' contention that the ordinance would result in oil and gas development anywhere and everywhere in the township is tempered by the significant setback requirements in Act 13 that remain in effect. In fact, the zoning hearing board found that these requirements eliminated shale gas development from more than 50 percent of the land mass of the township. The Commonwealth Court returned to the "where" versus "how" distinction declared by the Supreme Court and noted that a zoning ordinance expressing legislative decisions regarding where a land use can occur must be affirmed unless clearly arbitrary and unreasonable.

### Other validity challenges pending in Commonwealth Court

With the Supreme Court's denial of the petition for allowance of appeal in *Frederick*, there is now precedent supporting the validity of zoning ordinances authorizing oil and gas development in all zoning districts. Presumably the *Frederick* decision will have a significant impact on two other similar ordinance validity challenges currently pending before the Commonwealth Court.

Of particular note is *Delaware Riverkeeper Network v.*

*Middlesex Township Zoning Hearing Board*, No. 2609 CD 2015 (Pa. Cmwlth. 2015). There, the township zoning hearing board denied a zoning ordinance validity challenge and well permit appeal brought by several residents and nongovernmental organizations. The challenged ordinance permits oil and gas wells as either a use by right or a conditional use in designated rural, residential and commercial districts, but not in all districts. In its decision, the board noted the history of oil and gas production in the township, found the balancing of residential and oil and gas interests in the challenged ordinance to be credible, and found challengers' arguments would render the zoning ordinance exclusionary. On appeal, the Butler County Common Pleas Court affirmed. The Commonwealth Court, in an unpublished opinion, affirmed the zoning hearing board and the common pleas court. However, in doing so the Commonwealth Court applied the *Payne v. Kassab* test for measuring compliance with the ERA. Thirteen days later, the Pennsylvania Supreme Court rejected *Payne v. Kassab* in its *PEDF* decision. The objectors had filed a timely petition for allowance of appeal in *Delaware Riverkeeper*, and the Supreme Court subsequently entered an order vacating the Commonwealth Court decision and remanded the case back to the Commonwealth Court for reconsideration. The Commonwealth Court held oral argument on the remanded case on June 6 and a decision is pending.

Finally, in *Protect PT v. Penn Township Zoning Hearing Board*, 1632 CD 2018 (Pa. Cmwlth. 2018), a nongovern-

mental organization filed a substantive validity challenge to the Penn Township, Westmoreland County, zoning ordinance on the grounds that allowing oil and gas drilling as a special exception in the Mineral Extraction Overlay (MEO) district, which encompasses portions of the rural resource and industrial districts, violated substantive due process and the ERA. The township zoning hearing board elected not to schedule a hearing on the challenge, resulting in a deemed denial under applicable law.

On appeal, the Westmoreland County Court of Common Pleas heard the case *de novo* and upheld the validity of the zoning ordinance. The court observed that the township had an established history of oil and gas drilling. Further, the court found that while the MEO district encompasses 54 percent of the township's land mass, natural gas development is only permitted in less than 10 percent of the township after applying setbacks. Relying on the testimony of an oil and gas operator's expert witnesses, the court reasoned that natural gas development: (1) did not interfere with the expectations of township residents because historical ordinances were much less stringent concerning oil and gas; and (2) was consistent with and beneficial to the agricultural and residential uses in the rural resource district. Applying the standards set forth in *Frederick*, the court held that the objector failed to meet its burden that the zoning ordinance violated substantive due process or the ERA. The objector appealed to Commonwealth Court, and the parties have submitted their briefs. Oral argument is scheduled for the October session in Pittsburgh. ■

For more regarding issues relating to land use and municipal implications of the *Frederick* case, contact Blaine A. Lucas at 412-394-5657 or [blucas@babstcalland.com](mailto:blucas@babstcalland.com), Robert Max Junker at 412-773-8722 or [rjunker@babstcalland.com](mailto:rjunker@babstcalland.com), or Jennifer L. Malik at 412-394-5490 or [jmalik@babstcalland.com](mailto:jmalik@babstcalland.com).

<sup>1</sup> The Commonwealth Court's decision is addressed in more detail in the November 2018 edition of *The PIOGA Press*. Blaine Lucas and Robert Max Junker, *Commonwealth Court upholds ordinance allowing drilling in all zoning districts*, [pioga.org/wp-content/uploads/2019/02/PIOGA\\_Press\\_103\\_November\\_2018.pdf](http://pioga.org/wp-content/uploads/2019/02/PIOGA_Press_103_November_2018.pdf).



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# More Supreme Court oil and gas decisions

## Town can consider testimony from nonresidents in zoning case

An Allegheny County borough considering whether to grant permission for development of natural gas wells can weigh testimony from residents of a neighboring municipality about their experiences with the same operator, the Pennsylvania Supreme Court said in 6-1 decision issued on May 31.

The case involved a special conditional-use permit denied to EQT and an affiliate for unconventional natural gas drilling on a 30-acre property in Jefferson Hills Borough, Allegheny County. Jefferson Borough Council held a hearing on the application that included negative testimony from residents of adjacent Union Township, Washington County, near another EQT drilling site.

Jefferson Hills denied the special conditional use permit for drilling, citing the testimony received. EQT appealed the borough's decision to the Allegheny County Court of Common Pleas, which in turn reversed the decision without taking additional evidence. On appeal, the Commonwealth Court affirmed the Allegheny County court decision.

In the May 31 decision, the Supreme Court reversed the Commonwealth Court decision and sent the case back to the Allegheny County Court of Common Pleas with orders to include the Union Township residents' testimony in its consideration of the zoning appeal.

Writing for the majority, Justice Debra Todd said, "As a general matter, our court has recognized the relevancy and probative value of an applicant's past conduct in determining whether he meets the conditions of licensure for conducting future business activities of the same nature. This similarity rendered the testimony of the Union Township residents, as to their firsthand actual experiences with the effects of the construction and operational activities at the [Union Township] site, relevant and probative as to the question of whether the grant of conditional use approval to EQT for construction and operation of the [Jefferson Hills] site would adversely impact the health, safety, and general welfare of the residents of Jefferson [Hills] borough."

Dissenting Justice Sallie Updyke Mundy wrote that Jefferson Hills should have granted the conditional use for drilling because EQT had shown it met all criteria for approval laid out in the zoning laws, which should have shifted the burden to the objectors to prove that allowing the natural gas wells would be detrimental to the municipality.

"The fact that a use is permitted as a conditional use presumptively establishes that the particular type of use is consistent with the health, safety and welfare of the community," she wrote in her dissent. "In fact, the borough council's written decision recognized that EQT's application complied with both the general and specific requirements for a natural gas production facility as a

conditional use."

Mundy added that "objectors presented no evidence that EQT's oil and gas operations at the [Jefferson Hills] well site would have any effect on the community other than those normally associated with such activities. Instead, they presented speculative objections of a kind that courts have deemed insufficient to grant relief." ■

## Court declines to hear Penn Township zoning permit appeal

The Pennsylvania Supreme Court has declined an appeal of a November 2018 Commonwealth Court decision that upheld special exemption permits for unconventional natural gas development in a Westmoreland County township.

Challengers claimed that the wastewater that would be generated by the Apex Energy, LLC wells would be "toxic" and barred from being stored under Penn Township's zoning laws. The group also alleged violations of the Pennsylvania Constitution's Environmental Rights Amendment (ERA).

The state Supreme Court published an order on May 21 that without elaboration denied Protect PT's petition for allowance of appeal.

Penn Township had granted four special exception applications to Apex Energy for wells in a Rural Resource Zoning District which also lie in the Township's Mineral Extraction Overlay District. Three of the applications were denied initially by the zoning hearing board, but Apex sued in federal court and in a settlement agreement allowed the applications to proceed under a set of conditions in exchange for the township agreeing to be bound by certain interpretations of the zoning ordinance under the ERA.

The group Protect PT then challenged the special exception decisions in Westmoreland County Court, which, without taking additional evidence, affirmed the zoning hearing board's decisions.

On appeal, the Commonwealth Court said the zoning regulations did not include a distinct definition of "toxic" but did define the wastewater as "residual waste" distinct from "hazardous or toxic waste" and provided requirements for its storage and handling that the zoning board believed the operator could meet. The court said Protect PT had not adequately shown that drilling would create toxic byproducts that would be barred under the zoning code. The group also failed to show that the operator's studies and a federal consent order did not meet the zoning law's requirements for a predrilling analysis.

The Commonwealth Court wrote that Protect PT presented "no credible evidence of harm" and the claims made are unsupported by the "accepted evidence of record." ■

Nearly 100 members and guests turned out on June 3 for a gorgeous day of golf and networking at PIOGA's Third Annual Ted Cranmer Memorial Golf Outing & Steak Fry. Thanks to all who participated, including our great sponsors. Find many more scenes from the day in the Photo Gallery section at [pioga.org](http://pioga.org).



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## PIOGA PoWER subcommittee will focus on diversity and inclusion

Pennsylvania has seen its oil and gas industry grow at a record-breaking pace since the first Marcellus Shale well was drilled in the southwest corner of the state in 2004. This rapid growth has resulted in an expanding job market for native Pennsylvanians, as well as those seeking new opportunities by relocating to Pennsylvania. With this growth, a diverse population of individuals has emerged. From the exploration and production companies to the service providers, the industry has seen a population shift to include a broad range of individuals in terms of gender, race, ethnicity and age.

PIOGA recognizes and embraces this shift in the industry. In an effort to continually serve its members, PIOGA's Board of Directors was pleased to introduce the PIOGA PoWER (Power of Women's Energy Roundtable) initiative in 2018. PIOGA PoWER offers current social and educational programs to members on topics of diversity and inclusion. So far, the initiative has covered professional development topics such as the challenges of owning your own business, how to avoid burnout, and interactions where unconscious bias influences judgment and actions, to name a few.

PIOGA PoWER is expanding to include a new Diversity Subcommittee in an effort to appeal to a broader base. We welcome anyone interested in participating, as well as all ideas for events and programs. Jennifer Mosesso of Steptoe & Johnson, PLLC has volunteered to take the lead with this subcommittee. If you would like to get involved, please reach out to Deana McMahan at [deana@pioga.org](mailto:deana@pioga.org). ■

## New subcommittee will track and support projects

A new subcommittee is forming within PIOGA's Market Development Committee that will focus on new projects in the midstream and downstream part of the industry—pipelines, virtual pipelines, CNG, LNG, power generation, fractionation, crackers, etc.

The New Projects Subcommittee will concentrate on:

- Awareness and support of new projects. This will include any "call to action" to show support through letter submission, public testimony, meeting attendance and more.
- Support and updates for ongoing projects.
- Opportunities for service companies to gather information as to how they may connect with and offer their



services to project owners/contractors.

The subcommittee, led by Sandy Spencer of Appellation Construction Services and Gene Pietrowski of BlackRock Resources, will meet by conference call on the first Friday of each month at 10 a.m. If interested in participating, email Sandy Spencer at [sspencer@appcs-llc.com](mailto:sspencer@appcs-llc.com). If you're not a member of the Market Development Committee already but would like to participate, visit the committee's portal in our Members Only site and click on Request Membership. ■

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## As Wolf supports full DRBC fracking ban, Republican lawmakers gear up to pass a rebuke of the agency

As debate rages over a bill in the General Assembly which would discourage an interstate agency from fully banning fracking in eastern Pennsylvania, Governor Tom Wolf has quietly come out in support of taking further action to ban natural gas drilling.

Wolf and Delaware Governor John Carney on May 16 joined New Jersey Governor Phil Murphy in calling for the Delaware River Basin Commission (DRBC) to fully ban hydraulic fracking in their jurisdiction, which stretches from Wayne County in the far northeast region of the state down to the Philadelphia environs.

This marks a change from past positions, where Wolf has advocated for halting fracking while still allowing the transfer and disposal of wastewater from other fracking sites.

In 2017, Wolf, Carney and New York Governor Andrew Cuomo pushed draft regulations which would allow for wastewater importation, as well as the withdrawal of water from the Delaware River basin to be used in fracking projects elsewhere. This has been met with consternation from environmental groups, who argue the practice is unsafe.

The DRBC has had a moratorium on fracking since 2010, following concern from environmental activists that allowing the practice would get in the way of the agency's mission of protecting the health of the watershed, which comprises parts of Pennsylvania, Delaware, New York and New Jersey.

But when asked about whether he would join Murphy in supporting a full ban, Wolf appeared to reverse course.

"I'm fine with [a full ban]," Wolf said. "I thought we had actually dealt with that, so apparently we're still

working through some details."

Wolf proceeded to join his counterparts in signing a proclamation reaffirming their commitment to protect the watershed.

Maya Van Rossum, leader of the Delaware River-keeper Network, said pressure from Murphy and new research on the threats posed by fracking wastewater helped bring about Wolf's updated stance.

"This is a huge shift in position," Van Rossum said. "We are so pleased he has listened to people, to science and information we've been bringing forward."

Given that the DRBC is comprised of the four governors, plus a representative from the U.S. Army Corps of Engineers, the panel now has the support to advance a full fracking ban.

"Now that Governor Wolf was on board, he was a key cornerstone of how this would go," Van Rossum said.

It is unclear, however, when that might take place. Van Rossum said she believed it was in the four leaders' political interest to act as soon as possible.

But Carney said the DRBC was still collecting public comment on the matter, even though the official comment period closed last year. The matter was on the agenda for the commission's next meeting on June 12.

And the DRBC is still embroiled in a legal dispute, brought by landowners in Wayne County, who argue it does not have the authority to bar natural gas drilling. The DRBC and environmental groups argue the agency's compact allows it to take any action necessary to protect the health of the watershed.

But a federal appeals court in Philadelphia overturned a lower court's decision to throw out the legal challenge, saying further study of the compact, which dates back to 1961, is needed. Three NEPA senators—Gene Yaw (R-Lycoming), Lisa Baker (R-Luzerne) and President Pro Tempore Joe Scarnati (R-Jefferson)—are again attempting to intervene on the lawsuit, arguing it affects their districts.

"In enforcing the moratorium, the commission has

attempted to exercise legislative authority vested in the General Assembly and subject over 5 million citizens of the commonwealth residing in the basin to its dictates, rather than the comprehensive statutory scheme enacted by their duly elected senators," lawmakers wrote in their most recent motion to intervene in the dispute, which was filed last year.

Conservatives have long argued a DRBC fracking ban is tantamount to eminent domain and that landowners in the region are having their hands tied by what is essentially a federal agency. The motion estimates that over \$40 billion worth of natural gas reserves exist in the basin, a substantial portion of which are centered in Wayne and Pike

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A resolution authored by Representative Jonathan Fritz (R-Susquehanna) called on the DRBC to halt considering the new fracking regulations passed the House last session but did not advance further. This session, he has joined with Baker to push a bill requiring that all landowners affected by the DRBC moratorium receive compensation, arguing the agency's policy is effectively eminent domain.

That measure has drawn contentious debate from both sides. Fritz himself has acknowledged the bill would cost the DRBC billions of dollars, effectively forcing the agency to back down or risk bankruptcy. Fritz called the most recent statements from Wolf "hypocrisy."

"The governor sings the industry's praises when he's in the northern tier or out in the western part of the commonwealth," Fritz told The PLS Reporter. "But adopts a regional attitude when he's in the east that this activity, natural gas activity, is the spawn of Satan. And I just get frustrated from the lack of independent thought."

Even though Wolf is unlikely to sign the bill into law, it has been laid on the House calendar for final consideration on June 3. While there were rumblings the bill might lack the support it needs to pass, Fritz pointed to the support of Representative Pam Snyder (D-Greene) and other moderate Democrats and said leadership

had a "full speed ahead attitude" towards the measure.

"There is certainly a partisan but I think there is enough votes on both sides of the aisle," Fritz said.

"People understand this is a property rights issue."

—By Andrew Bahl, The PLS Reporter

**Editor's note:** As this issue was being finalized, Representative Fritz's House Bill 827 was still on the House calendar awaiting action. A companion version sponsored by Senator Baker, SB 305, passed the Senate Environmental Resources and Energy Committee on June 4 and moves to the full Senate for consideration.



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# Heat stress prevention

By Wayne Vanderhoof  
RETTEW Associates, Inc.

Summer is here, so it's time to focus on preventing heat stress and the related injuries. Heat cramps, heat exhaustion and heat stroke are all possible during hot weather. All heat stress-related injuries need prompt medical attention.

## Three types of heat stress

**Heat cramps** are muscle cramps. Usually these cramps occur in the arms or legs but may be in the abdominal or chest muscles as well. The cramps are caused by excessive body fluid loss through sweating (dehydration).

First aid for heat cramps includes:

- Move the victim to a cool place.
- Rest the cramping muscle.
- Give the person cool water.

**Heat exhaustion** signs include heavy sweating, weakness, fast pulse, normal body temperature, headache and dizziness, nausea, and vomiting.

First aid for heat exhaustion includes:

- Have the worker move to a cool place.
- Keep the person lying down with legs straight and elevated 8 to 12 inches.
- Apply wet towels around the neck loosely or on their forehead to cool them.
- Give the victim cold water only if he or she is conscious.
- If the victim loses consciousness or if no improvement is noted within 30 minutes, seek professional medical attention.

**Heat stroke** is a true emergency! Signs and symptoms include high body temperature, unconsciousness, hot skin, rapid pulse and breathing, weakness, dizziness or headache.

**Immediate first aid is required and includes:**

- Move the victim to a cool place.
- Immediately cool the worker by any available means (use ice and water from a jobsite cooler, for example).
- Keep the head and shoulders slightly elevated.
- Monitor the victim's breathing.
- Call for professional help—call for an ambulance.

## Looking out for safety

Along with last issue's Safety Corner we used a file photo of several men working at a well site. Sharp-eyed Amy Toner of Universal Pressure Pumping, Inc. pointed out that at least one of the individuals was not wearing eye protection. Obviously, that's not something we want to use in helping to illustrate an article about oil and gas workplace safety!

Thanks, Amy, for the reminder. And, everyone, please remember to use all appropriate personal protective equipment—including eyewear!

## Safety Committee Corner

### Know The Signs

Heat Exhaustion	Heat Stroke
	
<b>What To Do</b> <ol style="list-style-type: none"><li>1. Move to a cooler location.</li><li>2. Lie down and loosen your clothing.</li><li>3. Apply cool, wet cloths to as much of your body as possible.</li><li>4. Sip water.</li><li>5. If you have vomited and it continues, seek medical attention immediately.</li></ol>	<b>What To Do</b> <ol style="list-style-type: none"><li>1. CALL 911 IMMEDIATELY</li><li>2. Move the person to a cooler environment.</li><li>3. Reduce the person's body temperature with cool cloths or even a bath.</li><li>4. Do NOT give fluids.</li></ol>

Prevention of heat stress is very important. Becoming used to working in the heat over time is a good place to start; this is called becoming acclimated. As the weather heats up, the supervisor should make sure workers take frequent short breaks during the day and, if possible, schedule heavy work so that it does not have to be accomplished during the hottest part of the day. Dress in light clothing when possible and drink plenty of water.

If a worker is thirsty, that person is already dehydrating and needs to drink so as not to feel thirsty. The amount of water depends on how much the worker is sweating, but a good rule of thumb is at least 8 ounces every 15 to 20 minutes. Regular water is most easily and readily absorbed by the body to do the most good. Consuming sports drinks should be kept to a minimum. Carbonated drinks cause more thirst, so they do nothing to keep the worker hydrated. It is also good to eat small snacks as the body needs other nutrients that water and sports drinks do not provide.

Remember, heat stroke is a serious medical emergency. Call for professional help immediately!

**Resources:** OSHA Safety and Health Topics page for Occupational Heat Exposure (Water, Rest, Shade), [www.osha.gov/SLTC/heatstress](http://www.osha.gov/SLTC/heatstress). ■

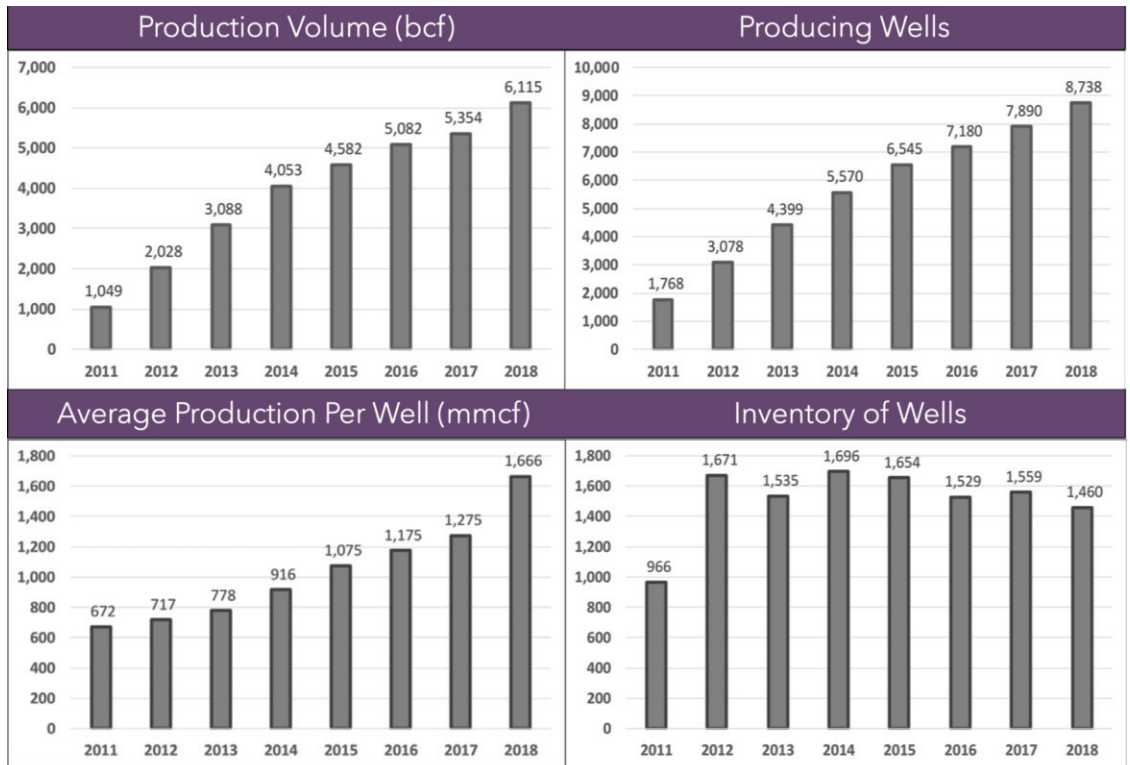
# State's natural gas production continues to rise

Pennsylvania's unconventional natural gas production topped 1,654 Bcf in the first quarter of 2019, a 14.7-percent increase over the same period last year, but just a small gain over the final quarter of 2018, according to a report from the state's Independent Fiscal Office. Total production for Q4 2018 was 1,649 Bcf.

The production, based on monthly data provided to the Department of Environmental Protection by unconventional operators, came from 9,243 wells. The average production per well has grown steadily to 496 MMcf.

Top five producing counties during Q1 2019 were Susquehanna (408.9 Bcf), Washington (293.2), Greene (243.1), Brad-

ford (215) and Lycoming (91.4). Of those, Greene saw the largest jump in production by far—an increase of 42.4 percent compared to the same quarter in 2018. ■



Source: Independent Fiscal Office




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# Pennsylvania expands Alternative Fuel Corridors

Expanding routes for those who drive clean-fuel vehicles in Pennsylvania, the Department of Environmental Protection and Department of Transportation recently announced the designation of 500 more miles of highway as “Alternative Fuel Corridors,” with compressed natural gas (CNG) or electric vehicle charging stations readily accessible.

PennDOT and DEP partnered to secure designations in April for about 560 more miles in eastern and central Pennsylvania. These highways have charging stations every 50 miles and CNG fueling stations every 150 miles. Stations are 5 miles or closer to the routes.

“Pennsylvania is now a leading producer of natural gas, and the Alternative Fuel Corridor initiative aims to take advantage of this new, cleaner burning fuel source,” said PennDOT Secretary Leslie S. Richards. “PennDOT is excited to support this program that will bring benefits for the state, transit agencies and the public for years to come.”

The following highways are newly designated as corridors for CNG:

- Interstate 81 from Carlisle to the New York border
- Interstate 78 from intersection with I-81 to Allentown
- US Route 30/Interstate 676 from York to the New Jersey border
- Interstate 70 from the Ohio border to the intersec-

tion with the Pennsylvania Turnpike (New Stanton exit) and from the Turnpike’s Breezewood exit to the Maryland border

These latest routes, combined with those designated in 2016 and 2017, give Pennsylvania a total of 14 Alternative Fuel Corridors covering 1,763 miles. Interactive maps are available on the Federal Highway Administration’s website at [www.fhwa.dot.gov/environment/alternative\\_fuel\\_corridors/maps](http://www.fhwa.dot.gov/environment/alternative_fuel_corridors/maps). Smartphone apps also are available that pinpoint fueling locations.

Corridor designation allows roads to have additional signage indicating that specific types of alternative fuel stations are available. PennDOT is developing a signage package. The agencies will pursue opportunities for further corridor designations as alternative fuel stations increase.

Businesses and organizations can learn more about DEP grant programs that support installation of alternative fuel stations for fleet or public use by searching for Alternative Fuels Incentive Grants and Driving PA Forward at [www.dep.pa.gov](http://www.dep.pa.gov). At the end of April, DEP awarded \$2.5 million in grants for 20 clean vehicle energy projects, many of which were for CNG vehicles and fueling facilities. ■



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## Bipartisan legislation spurs carbon capture R&D for natural gas power generation

A bipartisan group of U.S. senators have introduced legislation incentivizing research and development into carbon capture technology for natural gas-fired power generation to promote the continued use of this fuel in meeting America's energy needs.

Natural gas is now the main source of energy in the United States, generating 35.1 percent of electricity in 2018. The U.S. Energy Information Administration expects this number to continue to rise for the foreseeable future as more natural gas power plants come online. Natural gas emits 50 to 60 percent less carbon dioxide when combusted in a natural gas power plant compared with other sources. Natural gas supports the deployment of renewable energy, and natural gas power plants can quickly and safely ramp up and down to combat the volatility of renewables. Developing cost-effective carbon capture technology for natural gas power plants will help the United States continue to lower emissions while creating jobs and supporting domestic energy production and security.

The Launching Energy Advancement and Development through Innovations for Natural Gas (LEADING) Act would require the federal Department of Energy (DOE) to establish a program for the research, development and demonstration of commercially viable technologies for the capture of carbon dioxide produced during the generation of natural gas-generated power. Specifically, S.1685 would:

- Require DOE to establish a program to develop cost-effective carbon capture technologies for use by natural gas-generating power facilities. By incentivizing research and innovation, the goal is to accelerate development and commercial application of natural gas carbon capture technologies and create a partnership with the private sector for demonstration projects.

- Encourage DOE to include the participation of National Laboratories, universities and research facilities, including the National Carbon Capture Center.

- Require DOE to solicit applications for demonstration projects and submit a report to Congress detailing legislative recommendations, applicant evaluation method, expected goals for technology development, estimations of project costs, and timelines for project construction.

"The U.S. leads the world in emissions reduction, but to build on that success, we need to incentivize innovation and partner with the private sector to create affordable solutions," said one of the bill's sponsors, Senator John Cornyn (R-Texas) said. "Instead of a one-size-fits-all mandate that would bankrupt our country, this bill encourages the continued use of natural gas so we can protect the environment and remain a global leader in energy innovation." ■

## PIOGA Member News

### Babst Calland opens Houston office, merges with attorneys from the Chambers Law Firm

The law firm of Babst Calland has announced the opening of a new office in Houston, Texas, and merger with attorneys of The Chambers Law Firm, a prominent Houston law firm. Les R. Chambers, Ryan A. Chambers, and Coleman G. Anglin join the Firm as shareholders, and Nataliya K. Tipton as associate.

These Houston-based attorneys represent clients on a variety of legal and regulatory matters, particularly in the areas of oil and gas, property, and transactional law and all aspects of oil and gas title examination and analysis process for exploration and production companies in the Mid-Continent (including Texas, New Mexico and Oklahoma) and Appalachian Basin.

Commenting on these developments, Donald C. Bluedorn II, managing shareholder of Babst Calland, said, "These highly-regarded oil and gas attorneys are a natural fit in advancing our firm's vision to continue to expand our geographic footprint to serve clients' needs in the development of the Permian Basin and other

## PIOGA Member Profiles

### Introduce your company

Introduce your company and tell other members what you offer to Pennsylvania's oil and gas industry. The guidelines for making a PIOGA Member Profile submission are:

- Include a brief history of your company. When and where was it founded, and by whom? Is the company new to the oil and gas industry in general or to Pennsylvania?

- Describe the products and services you offer specifically for the oil and gas industry. Do you have a product in particular that sets your company apart from the competition?

- If applicable, tell how the business been positively impacted by Pennsylvania's oil and gas industry. Have you expanded, added employees or opened new locations?

- Include a website address and/or phone number.

- Your submission may be a maximum of 400-450 words and should be provided as a Word document. Use minimal formatting—bold and italic fonts are OK, as are bulleted or numbered lists. Your submission is subject to editing for length, clarity and appropriateness.

- Include your company logo or a photo. Images must be high-resolution (300 dots/pixels per inch or higher) and in any common graphics format. Please include identifications for any people or products in a photo. Send image files separately, not embedded in your document.

Email material to Matt Benson at [matt@pioga.org](mailto:matt@pioga.org). This is a free service to our member companies and publishing dates are at the discretion of PIOGA. If you have questions, email Matt or call 814-778-2291.

major and emerging shale plays in the country.”

Les Chambers, the managing shareholder of Babst Calland's Houston office, concentrates his practice in the areas of oil, gas and mineral title examination and opinions, oil and gas transactions, property law, as well as assisting clients on a wide range of energy matters including negotiating and drafting oil and gas contracts, leases, due diligence examination and analysis, pipeline acquisitions and surface use and seismic agreements. Ryan Chambers, Coleman Anglin and Nataliya Tipton also focus their practice on a wide range of oil, gas, and mineral-related matters including title opinions, title examination, due diligence, business and land transactions, operating agreements, litigation, and contractual and regulatory issues.

The Firm's new Houston, Texas office is located in The Woodlands, Texas.

## Skelly and Loy announces changes to marketing team

Jacque L. Foster has been named Marketing Manager at Skelly and Loy, Inc. She worked as Marketing Supervisor for more than three years and as a Marketing Coordinator for 15 years before that.

“Jacque worked with her staff to examine and refine the department's processes and ensures quality results with all functions of Skelly and Loy's Marketing Department. We look forward to continued success of our Marketing Department under her leadership,” remarked John W. Gunnett, P.G., firm President, CEO, and COO.

The firm also announced recently that Kay E. Morris had joined as full-time Marketing Assistant and LeShelle as Marketing Specialist. Morris began working with Skelly and Loy in May 2016 as an intern and more recently as part-time Marketing Assistant. Her responsibilities include searching for PennDOT and federal project opportunities and preparing client submissions, proposals, and qualifications packages. Smith is responsible for graphics coordination, including preparation of brochures, charts, exhibit materials, and specialized collateral materials. She assists with development of special marketing and public relations programs, development of communications/media plans, and ensuring that the website is current and consistent. ■

## New/returning PIOGA members Welcome, and welcome back!

### **B&B Oil & Gas Production Company**

370 Pipeline Road, Dayton, PA 16222  
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*Oil & Gas Producer*

### **Gilmore & Associates**

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### **Griffin Oilfield Developers, LLC**

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412-527-4536  
*Associate*

### **Carlton Oil & Gas Company, Inc.**

PO Box 208, Derby, KS 67037-0208  
316-304-8160  
*Oil & Gas Producer*

### **John Perez Graphics & Design, LLC**

1723 Analog Drive, Richardson, TX 75081  
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### **Hayden T. Haines**

354288 East 970 Road, Sparks, OK 74969  
hayden.haines@utulsa.edu  
*Student*

### **Michael Kingerski**

212 Draw Bridge Court, Greensburg, PA 15601  
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*Associate*

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## PIOGA Centennial commemorative knife

As part of PIOGA's celebration of 100 years of working together on behalf of Pennsylvania's crude oil and natural gas industry, we commissioned a commemorative knife from W.R. Case & Sons Cutlery Company. The limited edition, collector quality knife and wooden display box feature PIOGA's 100th Anniversary logo. It's a great collector's piece and also makes a unique gift for coworkers, industry colleagues and petroleum history enthusiasts. To learn how to get yours before they're gone, visit the Members Only section of the PIOGA website or email [deana@pioga.org](mailto:deana@pioga.org).





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## GOP infrastructure plan *Continued from page 1*

to \$1 billion—from royalties tied to the production of natural gas.

“It would generate revenue immediately,” Bartolotta said, adding that the Senate GOP plan would not require borrowing, unlike Wolf’s. Bartolotta added that DCNR already has drilling leases for state forest land, which are not affected by Wolf’s 2015 moratorium.

“They’ve already got the leases,” Bartolotta said. “They enjoy a lot of revenue because of it.”

According to DCNR, 333,722 acres of land have been leased for natural gas development in the past. The additional 930,000 acres, Bartolotta said, could be accessed without any surface disturbance.

“This is non-surface disturbance,” she said. “It would also not harm the landowners.”

Wolf has made Restore Pennsylvania a focal point of this legislative session, proposing improvements to infrastructure, storm preparedness, rural broadband internet and other projects through a \$4.5 billion bond paid back using severance tax revenue (*February PIOGA Press, page 1*).

The Democratic governor has repeatedly sought to generate revenue by taxing the extraction of shale gas in Pennsylvania, but the Republican-led legislature has shot down his attempts at imposing a severance tax.

JJ Abbott, a spokesperson for Wolf, said the proposal wouldn’t generate nearly as much revenue as Restore Pennsylvania, and called into question who the proposal is designed to help.

“This is not a realistic alternative to Governor Wolf’s bold plan to revitalize communities and fix critical infrastructure,” Abbott said in a statement. “It would generate a very small amount of revenue compared to Restore Pennsylvania. This plan seems more aimed at helping the gas industry than helping Pennsylvanians.”

Abbott also questioned the constitutionality of the plan, citing a 2017 Pennsylvania Supreme Court decision that said proceeds from drilling in state forests must be devoted to the conservation and maintenance of the state’s “public natural resources.”

“This proposal appears to be unconstitutional,” Abbott said. “The Supreme Court has ruled that these revenues must be devoted to the conservation and maintenance of Pennsylvania’s public natural resources.”

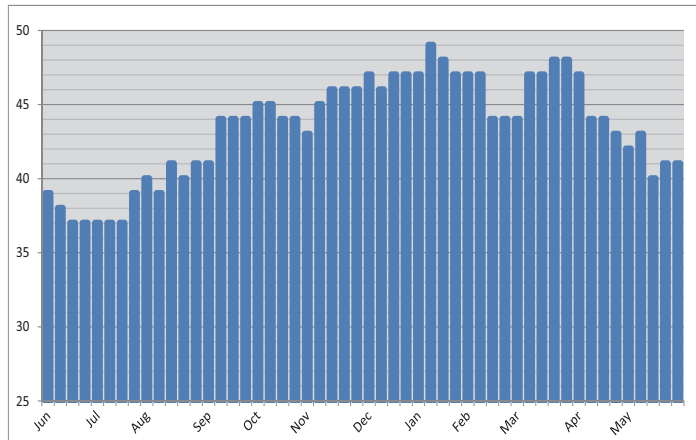
Bartolotta said she disagrees, believing blight remediation, infrastructure improvement and coal mine reclamation efforts to be conservation- and restoration-focused projects.

The Washington County senator added that Republican leadership has indicated support for the proposal, but Abbott said Wolf has no interest in lifting the 2015 moratorium.

—Justin Sweitzer, *The PLS Reporter*

## Oil & Gas Dashboard

### Pennsylvania Rig Count



### Penn Grade Crude Oil Prices



### Natural Gas Futures Closing Prices

Month	Price
July	\$2.371
August	2.371
September	2.365
October	2.422
November	2.515
December	2.707
January 2020	2.820
February	2.786
March	2.704
April	2.519
May	2.486
June	2.531

Prices as of June 6

### Sources

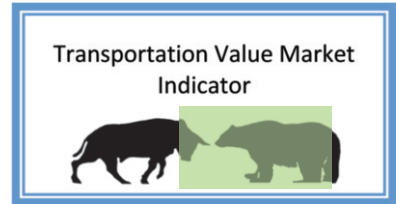
American Refining Group: [www.amref.com/Crude-Prices-New.aspx](http://www.amref.com/Crude-Prices-New.aspx)  
 Ergon Oil Purchasing: [www.ergon.com/prices.php](http://www.ergon.com/prices.php)  
 Gas futures: [quotes.ino.com/exchanges/?r=NYMEX\\_NG](http://quotes.ino.com/exchanges/?r=NYMEX_NG)  
 Baker Hughes rig count: [phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-report-sother](http://phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-report-sother)  
 NYMEX strip chart: Nucomer Energy, LLC, [emkeyenergy.com](http://emkeyenergy.com)



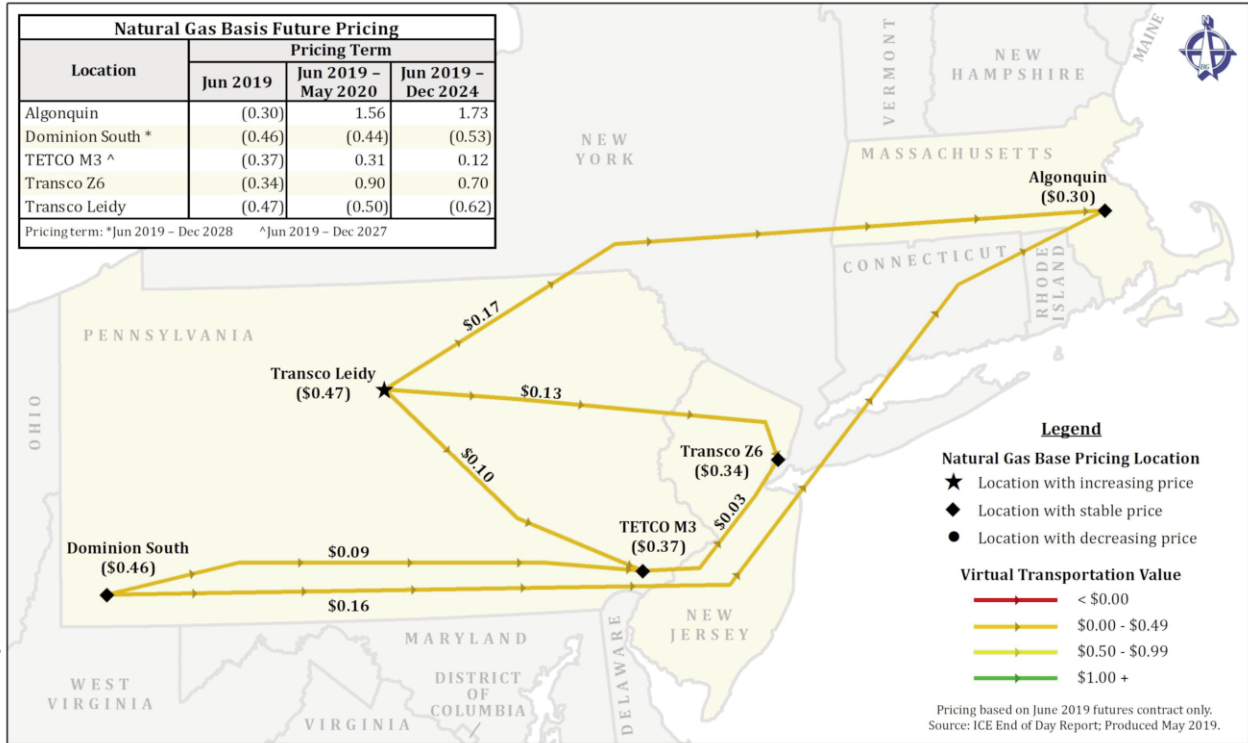
# Northeast Pricing Report – June 2019

Both short-term and one-year term pricing was mixed for June. That being said, there was very little volatility. The variance between all the pricing points differed by only \$0.16 per MMBtu. Algonquin traded down \$0.10 per MMBtu and Transco Leidy increased by \$0.06 per MMBtu. One-year term pricing had an even lower variance. Algonquin and Transco Z6 decreased by -\$0.02 per MMBtu and Transco Leidy increased by \$0.02 per MMBtu. Long-term trading increased across the board. Algonquin increased the greatest amount of \$0.03 per MMBtu. TETCO M3 and Transco Z6 increased the least amount of \$0.01 per MMBtu. Transco Leidy was the only trading point that consistently increased over all three trading periods.

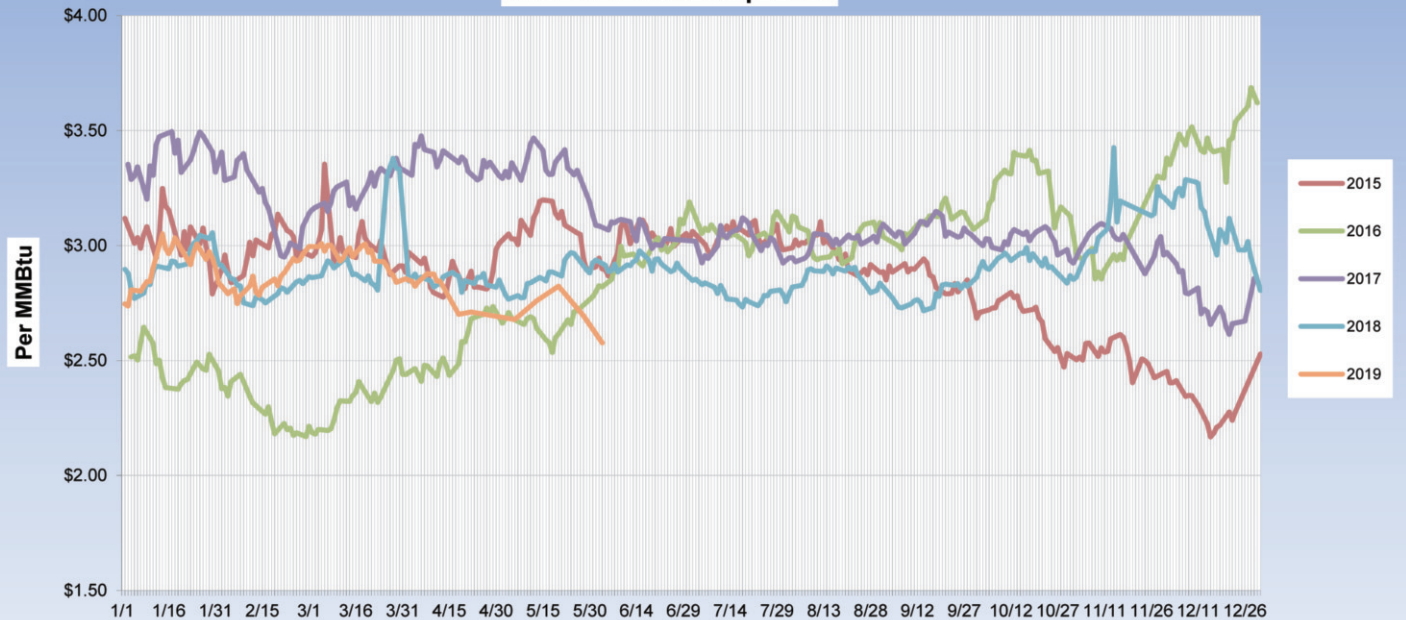
Transportation values decreased for the most part. Dominion South to TETCO M3, and TETCO M3 to Transco Z6 were the only two routes that increased. The increase was a minute \$0.01 per MMBtu. The other transportation routes decreased. Transco Leidy to Algonquin decreased the most by \$0.16 per MMBtu, whereas Transco Leidy to Transco Z6 decreased the least at \$0.06 per MMBtu.



Provided by Bertison-George, LLC  
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## NYMEX Annual Strip Price



# Spud Report: May 2019



The data show below comes from the Department of Environmental Protection. A variety of interactive reports are

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Blackhawk Energy LLC	4	5/2/19	083-57110*	McKean	Wetmore Twp
		5/7/19	083-57114*	McKean	Wetmore Twp
		5/13/19	083-57113*	McKean	Wetmore Twp
		5/15/19	083-57112*	McKean	Wetmore Twp
Cabot Oil & Gas Corp	14	5/10/19	115-22567	Susquehanna	Brooklyn Twp
		5/10/19	115-22570	Susquehanna	Brooklyn Twp
		5/10/19	115-22617	Susquehanna	Brooklyn Twp
		5/10/19	115-22569	Susquehanna	Brooklyn Twp
		5/10/19	115-22618	Susquehanna	Brooklyn Twp
		5/10/19	115-22571	Susquehanna	Brooklyn Twp
		5/10/19	115-22572	Susquehanna	Brooklyn Twp
		5/10/19	115-22573	Susquehanna	Brooklyn Twp
		5/28/19	115-22407	Susquehanna	Brooklyn Twp
		5/28/19	115-22408	Susquehanna	Brooklyn Twp
		5/28/19	115-22409	Susquehanna	Brooklyn Twp
		5/28/19	115-22410	Susquehanna	Brooklyn Twp
		5/28/19	115-22411	Susquehanna	Brooklyn Twp
		5/28/19	115-22412	Susquehanna	Brooklyn Twp
Chesapeake Appalachia LLC	2	5/4/19	115-22585	Susquehanna	Auburn Twp
		5/5/19	115-22586	Susquehanna	Auburn Twp
Chevron Appalachia LLC	23	5/9/19	051-24675	Fayette	German Twp
		5/9/19	051-24678	Fayette	German Twp
		5/9/19	051-24676	Fayette	German Twp
		5/9/19	051-24681	Fayette	German Twp
		5/9/19	051-24682	Fayette	German Twp
		5/9/19	051-24679	Fayette	German Twp
		5/9/19	051-24683	Fayette	German Twp
		5/9/19	051-24677	Fayette	German Twp
		5/9/19	051-24680	Fayette	German Twp
		5/9/19	051-24684	Fayette	German Twp
		5/9/19	051-24687	Fayette	German Twp

available at [www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports](http://www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports).

The table is sorted by operator and lists the total wells reported as drilled last month. **Spud** is the date drilling began at a well site. The **API number** is the drilling permit number issued to the well operator. An asterisk (\*) after the API number indicates a conventional well.

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY		
		5/9/19	051-24685	Fayette	German Twp		
		5/9/19	051-24686	Fayette	German Twp		
		5/9/19	051-24688	Fayette	German Twp		
		5/9/19	051-24689	Fayette	German Twp		
		5/1/19	059-27792	Greene	Jefferson Twp		
		5/1/19	059-27793	Greene	Jefferson Twp		
		5/1/19	059-27796	Greene	Jefferson Twp		
		5/1/19	059-27798	Greene	Jefferson Twp		
		5/1/19	059-27797	Greene	Jefferson Twp		
		5/1/19	059-27794	Greene	Jefferson Twp		
		5/1/19	059-27795	Greene	Jefferson Twp		
		5/1/19	059-27799	Greene	Jefferson Twp		
		Chief Oil & Gas LLC	2	5/28/19	015-23448	Bradford	Franklin Twp
				5/28/19	015-23449	Bradford	Franklin Twp
CNX Gas Co LLC	6	5/20/19	059-27701	Greene	Richhill Twp		
		5/20/19	059-27703	Greene	Richhill Twp		
		5/20/19	059-27702	Greene	Richhill Twp		
		5/20/19	059-27705	Greene	Richhill Twp		
Columbia Gas Trans	2	5/2/19	009-20088	Bedford	Monroe Twp		
		5/3/19	009-20089	Bedford	Monroe Twp		
		5/6/19	059-27837	Greene	Aleppo Twp		
		5/6/19	059-27841	Greene	Aleppo Twp		
EQT Prod Co	6	5/6/19	059-27842	Greene	Aleppo Twp		
		5/6/19	059-27838	Greene	Aleppo Twp		
		5/6/19	059-27839	Greene	Aleppo Twp		
		5/6/19	059-27840	Greene	Aleppo Twp		
Huntley & Huntley Energy Ex	3	5/7/19	003-22535	Allegheny	Elizabeth Twp		
		5/7/19	003-22537	Allegheny	Elizabeth Twp		
		5/7/19	003-22539	Allegheny	Elizabeth Twp		
Inflection Energy (PA) LLC	4	5/14/19	081-21793	Lycoming	Eldred Twp		
		5/14/19	081-21792	Lycoming	Eldred Twp		
		5/14/19	081-21766	Lycoming	Eldred Twp		
		5/14/19	081-21767	Lycoming	Eldred Twp		
		5/17/19	015-23504	Bradford	Pike Twp		
		5/17/19	015-23505	Bradford	Pike Twp		
Repsol Oil & Gas USA LLC	11	5/17/19	015-23461	Bradford	Pike Twp		
		5/28/19	117-22016	Tioga	Liberty Twp		
		5/28/19	117-22017	Tioga	Liberty Twp		
		5/28/19	117-22018	Tioga	Liberty Twp		
		5/28/19	117-22019	Tioga	Liberty Twp		
		5/28/19	117-22020	Tioga	Liberty Twp		
		5/28/19	117-22021	Tioga	Liberty Twp		
		5/28/19	117-22022	Tioga	Liberty Twp		
		Rice Drilling B LLC	4	5/15/19	125-28657	Washington	N Bethlehem Twp
				5/15/19	125-28659	Washington	N Bethlehem Twp
5/15/19	125-28660			Washington	N Bethlehem Twp		
5/15/19	125-28662			Washington	N Bethlehem Twp		
Rockdale Marcellus LLC	3	5/4/19	015-23432	Bradford	Canton Twp		
		5/4/19	015-23433	Bradford	Canton Twp		
		5/5/19	015-23434	Bradford	Canton Twp		
Russ Holden Well Svc	1	5/2/19	123-47967*	Warren	Watson Twp		
		5/1/19	083-57196	McKean	Sergeant Twp		
Seneca Resources Co LLC	4	5/2/19	083-57195	McKean	Sergeant Twp		
		5/2/19	083-57194	McKean	Sergeant Twp		
		5/3/19	083-57193	McKean	Sergeant Twp		
		5/7/19	083-57142*	McKean	Wetmore Twp		
SV ABS Interest Wetmore Proj	3	5/13/19	083-57141*	McKean	Wetmore Twp		
		5/20/19	083-57143*	McKean	Wetmore Twp		
		5/29/19	019-22814	Butler	Penn Twp		

	May	April	March	February	January	December
Total wells	93	58	59	92	75	55
Unconventional Gas	83	44	49	82	72	42
Conventional Gas	0	0	0	0	0	1
Oil	8	14	9	10	2	8
Combination Oil/Gas	0	0	1	0	1	4
Storage	2	0	0	0	0	0

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## Calendar of Events

### PIOGA events

PIOGA event info: [pioga.org/event](http://pioga.org/event)

#### Spill Prevention, Control and Countermeasures Training

June 14, webinar

#### Cigar Networking Event

July 10, BURN by Rocky Patel, Pittsburgh

#### PIOGATech: Water and Waste

August 21, The Chadwick, Wexford

#### Divot Diggers Golf Outing

August 22, Tam O'Shanter Golf Course, Hermitage

#### Fall Conference / Annual Meeting

September 24-25, Seven Springs Mountain Resort, Champion

#### PIOGATech: Safety Risk Management

October 17, Location TBA

#### Halloween Theme Networking Event

November 1, Location TBA

#### Marcellus to Manufacturing Conference

November 7, Location TBA

#### Annual Oil & Gas Tax and Accounting Seminar

November 20, Location TBA

#### PIOGATech: Air Quality Compliance

December 17, The Chadwick, Wexford

#### Holiday Mixer

December 17, The Chadwick, Wexford

### Other association & industry events

#### DUG East

June 18-20, David L. Lawrence Convention Center, Pittsburgh  
[dugeast.com](http://dugeast.com)

#### IPAA Midyear Meeting

June 24-26, Colorado Springs, CO  
[www.ipaa.org/events](http://www.ipaa.org/events)

#### IOGANY Annual Summer BBQ

July 11, Peek'n Peak Resort & Conference Center Findley, NY  
[www.iogany.org](http://www.iogany.org)

#### OOGA Summer Meeting

July 16, Glenmoor Country Club, Canton, OH  
[www.ooga.org](http://www.ooga.org)

#### IOGAWV Summer Meeting

August 4-6, The Greenbrier, White Sulphur Springs, WV  
[iogawv.com](http://iogawv.com)

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