

Members of the committee, my name is Bob Davis. I'm a farmer from Cambria Township, Cambria County. I would like to comment on the ways that coalbed methane drilling effects landowners and lessees of farmland, as well as the impact of drilling on preserved farms.

In my area of Cambria County, the mineral rights that coalbed methane drillers are using to acquire ownership of the methane are often bought at tax sales, often for minimal cost. I would like to see legislation passed requiring the notification of surface owners prior to the sale of the mineral rights. I believe that the surface owner should have the right to purchase these mineral rights. The state of Indiana addressed this problem by passing the Dormant Mineral Interests Act (Ind.Code.32-5-11-1 through 32-5-11 [1976]). This act provides that a severed mineral interest that is not used for a period of 20 years automatically reverts to the current surface owner.

As a landowner and lessee of farmland, I believe that coalbed methane drillers should be required to obtain permission from the surface owner and any other person who has an interest in the property, including another farmer leasing that property. This should include the right of refusal. When the mineral rights were severed, coalbed methane drilling was not considered in the sale of these mineral rights. Most of these sales did not include the surface rights. If a strip miner acquired these mineral rights at a tax sale he would be required to obtain permission from the landowner before accessing the property. I believe that methane drillers should be held at the same standard.

As a member of the Cambria County Agricultural Land Preservation Program Board of Directors, I have concerns on the effect of methane drilling on preserved farms. Our board asked the Pennsylvania Department of Agriculture (PDA) to clarify this issue. They stated that drilling would be allowable on a preserved farm, but processing the gas would not be permitted. If the gas was processed on the preserved farm, the deed of easement would be violated. My concern is that if the surface owner cannot refuse access to the drillers, how can he be penalized for the actions of the drillers? Also, the impact on the surface of all farmland should be minimal and restoration should be completed. Many times this land is preserved to insure that it will remain productive agricultural land. Steps need to be taken to protect the investment the Commonwealth has made in these properties before they are impacted negatively. Pennsylvania leads the nation in farmland preservation and the commitment that landowners have made to this program should provide protection from encroachment from coalbed methane drillers.

Furthermore, coalbed methane drillers should be required to prove ownership of mineral rights. The Department of Environmental Protection (DEP) should require this action and provide that information to the surface owners when a permit is applied for. This information should include a Title Report and any other documents concerning the property. Because these rights were severed many years ago and the different seams of coal can have different owners, it can be difficult to verify ownership. Therefore, DEP should require that drillers prove ownership of the seams of coal that they intend to drill through. This should be made available to the surface owner as well. When drilling is completed and the gas is being extracted, DEP should require and provide to the surface owner proof that the gas is coming from the coal seams and only the coal seams.

The ownership of coalbed methane in Pennsylvania was determined by the 1983 "Hoge" decision. Other states, including North and South Dakota, Illinois and Indiana have rejected the holdings in the "Hoge" case and have follow the U.S. Supreme Court

ruling that decided that the owner of the gas rights is also the owner of the coalbed methane. Any company drilling for methane in these states must have an agreement with the surface owner and pay for damages to the land and crops. In Pennsylvania, drillers are not required to pay the surface owner for any damages that may occur, and many landowners have suffered many thousands of dollars of damages with little or no compensation. With the value of farmland rapidly rising, the loss of the use of land that is used by methane drillers puts farmers at an economic disadvantage. The farmer loses the use of approximately one to two acres for every well. This includes the well site, access roads and pipelines. That property's value would be greatly reduced by the presence of methane wells. Who would pay top dollar for a property with methane wells that return no income but cause noise, erosion of roads and well sites?

Another landowner concern has to do with the ground water. Because coalbed methane wells remove up to 4,000 gallons of water daily per well, the depletion of water supplies can negatively affect farmers. Most farms use wells or springs to supply water for household usage and to water livestock. Farmers have concerns regarding both the quality and quantity of water supply. The testing of water and the guarantee of water quality and quantity of water supplies should be required for the life of the well. This testing should be the responsibility of the drillers, not the landowner. This result of any test should be shared with DEP and the surface owners.

In conclusion, Agriculture is Pennsylvania's leading industry, and steps must be taken to protect landowners from the encroachment of coalbed methane drilling operations. The economic damage of drilling operations on Pennsylvania farms is staggering. This would include the loss of valuable acreage to well sites, access roads and pipelines. Landowners must be compensated for these losses. The landowner must have the right of refusal and the right to restrict entry onto his property. Any property that is enrolled in the farmland preservation program should be given additional protection reflecting the landowner's commitment to agriculture. Before mineral rights are sold, the surface owner should be notified and be given the first chance to purchase these rights. Also, a Dormant Mineral Rights Act should be considered. Please take into close consideration the fact that when coal rights were severed many years ago, the drilling of coalbed methane was not intended by either the seller or the buyer of the mineral rights. It was a Pennsylvania Supreme Court ruling that created this problem for landowners and hopefully legislation can be passed to address these problems to find a fair solution for Pennsylvania's farmers.

Thank you very much for your time and consideration.