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# THE SHALE PLAY TODAY

News & Insights from the Marcellus and Utica Shales



[Victoria D. Summerfield](#)  
Pittsburgh  
[vsummerfield@spilmanlaw.com](mailto:vsummerfield@spilmanlaw.com)

## Pa. Supreme Court Strikes Down Key Provisions of Act 13

The Pennsylvania Supreme Court held unconstitutional several key provisions of Act 13—the legislature's broad amendment to the Pennsylvania Oil and Gas Act. The Supreme Court invalidated Section 3304 of Act 13, which placed limits on the regulatory authority of local governments. The Commonwealth Court had previously determined that Section 3304 violated substantive due process because the measure would require local governments to amend existing zoning ordinances and permit incompatible land uses within existing zoning districts, which did not protect the interests of neighboring property owners. The Supreme Court affirmed the Commonwealth Court's findings on the grounds that the limitation on local governments violated the Environmental Rights Amendment at Article 1, Section 27 of the Pennsylvania Constitution.

The Supreme Court also invalidated Section 3303, which sought to occupy all environmental regulation of oil and gas operations, and preempt any existing or future local ordinances regulating the industry. Sections 3305 through 3309 were enjoined to the extent that they enforced certain invalidated portions of Act 13. Sections 3305 through 3307 and 3309 created a commission to provide advisory opinions and review local ordinances, and created a private cause of action for aggrieved parties to seek invalidation or enjoinder enforcement of non-compliant local ordinances with the

## In The News

### Midstream Remains a Hot Spot in Marcellus & Utica Region

Spilman attorneys and industry group leaders were among the 1200 people in attendance at the Hart Energy Marcellus-Utica Midstream Conference this week. Williams CEO Alan Armstrong opened Wednesday's session with a highly encouraging keynote on the industry.

"It is clear that the midstream is going to remain a hot spot in the Marcellus and Utica Shale plays," said Scott Rotruck, Director of Spilman's Energy & Transportation Services Group. "My colleagues and I were able to glean new insights on how to best serve those companies engaged in the build-out and development of the midstream industry in this region."

[Read more.](#)

### Marcellus Shale Responsible for \$1.14 Billion in Deals

According to PriceWaterhouse Coopers LLP, more than \$1 billion in mergers and acquisitions deals were completed in the last three months of 2013 - the first time since the spring of 2012. The increase in improvements regarding the industry, growth in customers, wells performing better than expected at lower costs, and a buildup in pipelines for delivery have fostered well for the industry.

Commonwealth Court. Section 3308 made municipalities with non-compliant local ordinances ineligible to receive funds collected from unconventional gas well fees (provided by Chapter 23 of Act 13) until such local ordinances were repealed, amended or found compliant on appeal.

The Commonwealth Court had determined that Section 3215(b)(4), providing the mandatory waiver of setback provisions from water, was null and void for its lack of guidance provided to the Department of Environmental Protection ("DEP") in administering the legislative policy. The Supreme Court affirmed, holding that all of Section 3215(b) must also be enjoined because the waiver of setback provisions were not severable from the rest of the subsection. Additionally, the Court enjoined enforcement of Sections 3215(b) through (e) because the sections were not severable from invalidated Sections of Act 13.

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## Marcellus Shale Wells Produce Less Wastewater than Conventional Wells

Kent State and Duke University recently released a study finding that while natural gas production in the Marcellus Shale has increased the volumes of wastewater produced, shale wells produce about one-third of wastewater per unit of gas recovered than do conventional wells. The study, the first comprehensive look at wastewater volumes, reviewed data from 2,189 active Marcellus wells.

[Read more.](#)

### Marcellus Shale Team Member

Victoria D. Summerfield (Pittsburgh)



Ms. Summerfield focuses on litigation with an emphasis on the oil and gas industry. She has experience representing exploration & production, midstream and oilfield services companies related to a wide variety of disputes in state and federal court throughout the Marcellus and Utica Shale regions. [View her full professional biography.](#)

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