



# THE SHALE PLAY TODAY



News & Insights from the Marcellus and Utica Shales

[www.spilmanlaw.com](http://www.spilmanlaw.com)

Contact Spilman's  
Marcellus & Utica  
Shale Practice Group

1-800-967-8251



R. Christopher Anderson  
Charleston, W.Va.  
[rcanderson@spilmanlaw.com](mailto:rcanderson@spilmanlaw.com)

## Judicial Hostility Toward Fracking in N.Y. Reinforces Anti-drilling Perception

On February 21, 2012, in *Anshutz Exploration Corp. v. Town of Dryden*, a New York court upheld a municipality's effort to restrict production of oil and natural gas within city limits. The case arose from the Town of Dryden's effort to ban horizontal-well fracking by amending a zoning ordinance to prohibit all activities related to exploration for, production and storage of oil and natural gas. Anshutz challenged Dryden's ordinance, arguing that it was preempted by state law. The court rejected Anshutz's argument and upheld Dryden's prohibition on drilling activity, concluding the state "statute governing oil and gas production does not preempt the power of a local government to exercise its zoning power to regulate the districts where gas wells are a permitted use."

A few days later, on February 24, 2012, a separate New York court upheld a second municipal zoning ordinance prohibiting oil and gas drilling in *Cooperstown Holstein Corp. v. Town of Middlefield*. Together, the *Dryden* and *Middlefield* decisions reinforce the perception of an anti-drilling sentiment resulting from New York's fracking moratorium in 2010.

Given the persistently low-price environment that natural gas could experience for the next several years, municipal zoning actions like those of Dryden and Middlefield will curtail the flow of capex funds and impede economic growth in those regions. Instead, producers are likely to continue to focus investment in Pennsylvania and West Virginia, which, through legislative and court action, have taken a more reasonable approach to regulation of

## In The News



Pa. Gov. Corbett Signs New Oil & Gas Legislation  
by Michael G. Connelly  
Pittsburgh

On February 13, 2012, Pennsylvania Governor Tom Corbett signed House Bill No. 1950 into law, approving major changes to the Pennsylvania Oil and Gas Act, most notably an impact fee on unconventional drilling operations. Along with the impact fee, the receipts of which will be distributed among local governments, state agencies and several new programs, the new legislation also increases the administrative powers of the Public Utility Commission ("PUC") and the Department of Environmental Protection ("DEP"). The following sets forth highlights of the new legislation.

Click [here](#) to read the full article.



Wheeling, W.Va. Center of Gas Industry Activity

At a recent informational event about the gas industry, an advisor for the American Petroleum Institute called Wheeling, W.Va. ([where one of Spilman's seven offices is located](#)) "dead center" of the Marcellus & Utica Shale fields. Wheeling and the surrounding region is particularly attractive to energy companies because of the prevalence of wet

horizontal drilling.

[Read more](#) about *Anshutz Exploration Corp. v. Town of Dryden*.

[Read more](#) about *Cooperstown Holstein Corp. v. Town of Middlefield*.

gas (natural gas that contains aqueous substances, such as ethane and other valuable hydrocarbons) in the underlying shale formations.

Click [here](#) to read the full article.



### Useful Resource: Interactive Rig Count Map

This month's Useful Resource is an interactive rig count map, courtesy of Baker Hughes. Click [here](#) to explore.

#### Marcellus Shale Team Member



#### R. Christopher Anderson (Charleston)

Chris's practice focuses on energy law and energy-related commercial litigation. Before joining Spilman, he acquired broad exposure to the domestic energy business working in-house at International Coal Group and at NiSource, a large natural gas midstream operator. Chris's experience and undergraduate education in engineering provide valuable technical insight in composing practical solutions to the challenges faced by energy companies. Click [here](#) to view his full professional biography.

