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THE SHALE PLAY TODAY



News & Insights from the Marcellus and Utica Shales



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Pa. Supreme Court Issues Decision in **Butler** Case

On April 24, 2013, the Pennsylvania Supreme Court issued its highly anticipated decision in the [Butler v. Charles Powers Estate](#) case. The Supreme Court decided to maintain the status quo in Pennsylvania by reaffirming the application of the *Dunham* Rule, meaning that there will not be a sea change in the Commonwealth regarding the interpretation of oil and gas conveyances.

The *Dunham* Rule requires that, for an interest in oil and gas rights to be reserved in a deed, the term "natural gas" must be specified in the reservation. At issue in the case was whether a reservation of "minerals" in an 1882 deed included Marcellus Shale gas. The trial court applied the *Dunham* Rule to find that the reservation did not include Marcellus Shale gas.

On appeal, the Superior Court reversed and remanded for further proceedings to allow expert testimony on whether Marcellus Shale gas constitutes a "mineral." The Supreme Court granted an Allowance of Appeal on the issue of whether the Superior Court erred in remanding the case for expert testimony about the Marcellus Shale and the gas contained therein.

The current property owners, John and Mary Josephine Butler, argued that it was irrelevant whether modern-day experts consider Marcellus Shale a "mineral." Rather, they argued that the *Dunham* Rule

In The News



Hydraulic Fracturing - Studies Without End

by [M. Ann Bradley](#), as published in IOGA of West Virginia newsletter

I recently "googled" the word "fracking" and got back 14,900,000 hits. Every few days you can find an article in a major newspaper or magazine alerting the public to the potential threat to drinking water or harm to the environment that could result from oil and gas operations that utilize hydraulic fracturing. It seems that so far as the news media are concerned, there is no allegation of threat or harm—regardless of its lack of basis in sound science or empirical data—that's not worth publicizing. This article provides an overview of the myriad studies currently being conducted to assess potential risks from hydraulic fracturing and suggests the possible outcome from all of this research and investigation.

[Read more.](#)



Pending Pa. Legislation Gives Incentives for Natural Gas Vehicles

The Marcellus Works legislative package, which would encourage use of vehicles fueled by compressed natural gas through tax credits and special loans, would increase demand for natural gas throughout Pennsylvania.

established a presumption that a reservation of "minerals" does not include oil and gas. This presumption can only be rebutted by evidence that it was the intent of the parties to this particular conveyance to include oil and gas in the reservation of "minerals."

[Read the full article on our website.](#)

[Read more.](#)



Atlantic Natural Gas Reserves Estimated to Be Largest in U.S.

A recent assessment by the Potential Gas Committee of the Colorado School of Mines vaults estimates of recoverable gas in the eastern United States past that of the Gulf Coast.

[Read more.](#)



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Featured Shale Team Member



Lee F. Feinberg (Charleston, W.Va.)

Mr. Feinberg's primary areas of practice are energy and public utility matters. He plans, prepares and litigates siting certificates for natural gas fired electric generation. He negotiates and prepares all types of energy contracts - purchase, transportation, production and fuel management. He drafted most of the modern revisions to the natural gas sections of the West Virginia Code. He planned, negotiated and litigated the first self-help purchase and transportation contracts and bypasses in West Virginia. [View his full professional biography.](#)

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