f 🗹 in 🚹 🖪 Like





Peter R. Rich Pittsburgh

prich@spilmanlaw.com

### Enforcing a "Fair Day's Pay" -What Can You Do in the Face of This Initiative?

The Department of Labor ("DOL") announced in late 2012 it was launching a multi-year wage and hour enforcement initiative on Marcellus Shale contractors operating in Pennsylvania and West Virginia. Following that announcement, DOL has issued several reports about the success of its efforts to recover what it describes as "a fair day's pay."

The most recent DOL press release involved investigators from the Wage and Hour Division Offices. DOL announced it had secured agreements from employers to pay almost \$4.5 million in back wages to 5,310 employees, primarily to remedy overtime wage violations.

Examples of violations cited by DOL included the misclassification of some salaried employees as being exempt from overtime and the failure to include production bonuses paid to hourly employees in the regular rate for purposes of calculating overtime.

DOL attributes the prevalence of violations in part to the fractured nature of the extraction industry, which frequently involves the use of dozens of small contractors performing work on one job site and other contractors providing ancillary services away from the site. Those contractors are said to face significant

## In The News

٥

### Pennsylvania Finds Naturally Occurring Radiation from Gas Drilling Poses Little Threat

Following a two-year study by the Department of Environmental Protection, it has been determined that naturally occurring radioactive material ("NORM") poses little threat to workers and the public. The state also weighed in that the industry should study wastewater spills and disposal of items in landfills.

Click here to read the entire article.

### Washington County and 59 Million Cubic Feet Per Day -Range Resources Finds Success in the Utica

Range Resources has a project in Washington County, Pennsylvania that is producing 59 million cubic feet of natural gas per day. This project is producing significantly more than the previous record-setting well in Tyler County producing 46 million cubic feet per day.

Click here to read the entire article.

# WVDEP Finds 1,100 ASTs "Not Fit for Service"

The Aboveground Storage Tank Act signed into law in West Virginia in 2014 required all storage tanks to be inspected and certified by January 1, 2015. Nearly 50,000 tanks were inspected, competitive bidding pressures, which increases the likelihood of cutting corners.

The DOL enforcement initiative continues, and as can be seen from the most recent example, the costs of noncompliance can be substantial. DOL audits typically look back two years and in the case of willful violations, lost wages and other damages, including double damages, can be sought for three years. Employers must continue to be proactive in installing and monitoring FLSA-compliant pay practices and provisions.

What can you do in the face of this Fair Labor Standards Act initiative? Click here to find out.

28,000 were certified and 1,100 were taken out of service.

Click here to read the entire article.



### Methane Emissions from Fracking Are Decreasing

The University of Texas has published a study that shows methane emissions from natural gas production, including fracking, are less than previously thought - 10 percent lower than a 2013 study found.

Click here to read the entire article.



### Featured Shale Team Member



<u>James A. Walls</u> (Morgantown)

Jim is the Member in Charge of the Morgantown office and Co-Chair of our Shale Gas Group. He has

more than 25 years of experience representing clients in litigation and commercial matters, natural gas law, Marcellus and Utica Shale issues and, labor and employment discrimination litigation. Jim has tried numerous cases to verdict in state and federal courts in and around West Virginia. He has been recognized for excellence in his law practice by *Chambers USA*, *The Best Lawyers in America* and *Super Lawyers*. Jim also is a Fellow in the Litigation Council of America.

Excellence. Value. Get There.™

www.spilmanlaw.com

THIS IS AN ATTORNEY ADVERTISEMENT. Your receipt and/ or use of this material does not constitute or create an attorney-client relationship between you and Spilman Thomas & Battle, PLLC or any attorney associated with the firm. This e-mail publication is distributed with the understanding that the author, publisher and distributor are not rendering legal or other professional advice on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use.

Responsible Attorney: Michael J. Basile

#### Forward this email

SafeUnsubscribe

This email was sent to jessica@jdsupra.com by <u>news@spilmanlaw.com</u> | <u>Update Profile/Email Address</u> | Rapid removal with <u>SafeUnsubscribe</u><sup>™</sup> | <u>Privacy Policy</u>.



Spilman Thomas & Battle | 300 Kanawha Blvd., E. | Charleston | WV | 25301