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## Nick Casey: New law on drilling needed

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CHARLESTON, W.Va. -- Since the early 1800s, West Virginia has produced natural gas from thousands of shallow wells dotting the landscape. Old English law, then in effect and still in effect in West Virginia, allowed a single gas owner to capture all the natural gas that flowed into its well, even if it meant draining gas from the neighboring gas owner.

The rule of capture and the tendency of gas to flow from tract to tract far too many times have resulted in the sprouting of multiple gas wells at the edges of tracts that are designed to drain gas from the adjoining lands and then counter-wells on the adjoining tracts drilled to stop the drainage.

Under the rule of capture, this strategy is lawful as well as routine and has characterized shallow well gas production in most parts of West Virginia.

Many people believe that the rule of capture results in too many wells, too closely placed that inefficiently gather gas and needlessly burden the use of the surface of the land. It can result in owners of the gas not having their property fully developed so they receive less in royalties. If wells are placed in an inefficient manner to offset drainage it results in over use of the surface since each well requires a road to reach it, a gathering pipe to transport the gas and when the initial well is drilled heavy equipment to prepare the site and drill the well.

The rule of capture, perhaps rational in medieval England, is now detrimental to West Virginia's shallow gas owners and surface owners. It even affects state revenues because the producer of gas pays a 5 percent severance tax to the state. When wells are inefficiently placed less gas is produced and less severance tax is paid.

Recent Improvements in production technology, developed in the oil and gas fields of Texas and Oklahoma, have reached West Virginia. They make our current rule of capture obsolete for shallow horizontal wells in the Marcellus and other formations. Horizontal drilling still requires a road, a gathering line, equipment to drill the well and ponds for fluids, but the technology eliminates the need for multiple wells on the surface.

Horizontal wells can extend for miles under the surface of the earth. One well every several miles is now possible compared to the current spacing under the rule of capture which can result in shallow gas wells as close as 1,500 feet from each other. Rather than dozens of wells, roads and gathering pipes over several miles, shallow horizontal drilling allows one well, one road and one gathering pipe.

Natural gas production has been profitable for thousands of small and large West Virginia gas royalty owners. It can be much better if the rule of capture is changed for horizontal wells. With the exact same rights they have now, gas owners would enjoy more efficient production and surface owners less disruption. West Virginia needs a modern way to encourage horizontal drilling for the benefit of all: gas owners, surface owners and the state.

Legislation is expected during the 2011 Legislature to allow pooling for horizontal wells. Pooling would replace the rule of capture. Gas owners who are at risk of having their gas drained by a horizontal gas well would be notified that such a well is planned and could elect to participate in the royalties or to own a share of the well. With a pooling law no longer will gas owners find their gas has been drained without compensation.

Our lawmakers created pooling laws in 1994 for extremely deep vertical gas wells. These deep well laws eliminated the rule of capture and established pooling rights so all adjacent property owners would be paid for their share of the gas drained from their property.

The 1994 rules were a huge step in the right direction. Now horizontal wells are being drilled, and just as our lawmakers in 1994 understood the rule of capture was obsolete for deep wells, they should consider whether the rule is obsolete for horizontal wells.

Now is the time for the Legislature to adopted new laws eliminating the rule of capture and compelling pooling for the new technology of horizontal wells.

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