

# Pa. Supreme Court says Act 13 gave oil and gas industry special treatment, violated constitution



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Plaintiffs fighting a four-year battle with state government got a big win Wednesday when the Pennsylvania Supreme Court ruled in their favor on four major environmental issues.

The state Supreme Court said Act 13, a 2012 law that overhauled oil and gas regulations, gave special treatment to the industry during the shale boom.

After hearing arguments in March, the court on Wednesday ruled that parts of Act 13 violate state constitutional rights to clean air and water.



## Pa. regulators fail to protect environment during Marcellus shale boom

The state is obligated "to act as trustee to conserve and maintain these and other natural resources for the benefit of all the people in this and future generations," according to the ruling.

In **Robinson Township v. Commonwealth**, the court found the following parts of Act 13 to be unconstitutional:

- **Notification.** If you are a state resident who has a private water well, you don't have to be notified of a toxic spill at an industry site that may affect your drinking water, according to a section of Act 13. The Pennsylvania Department of Environmental Protection only has to notify public water users. Residents using private water wells have to rely on industry to tell them if there's been a spill. The state Supreme Court said that's unconstitutional.

There are more than 3 million Pennsylvanians who rely on private wells for their drinking water, and many of them live in the rural areas of the state where oil and gas drilling takes place.

- **Medical gag order.** Two sections of Act 13 prohibit doctors and other health care professionals from disclosing information that oil and gas companies consider to be trade secrets. The state Supreme Court said the statute gives the industry special treatment.

- **Eminent Domain.** If a gas company has rights to a majority of a Pennsylvania resident's land, Act 13 allows it to take the final portion through eminent domain for gas storage wells. Attorney Jonathan Kamin argued private land taken through eminent domain has to be used for the public good, and the statute doesn't require companies to give anything to the public once it has been taken.
- **Severability.** The Supreme Court has already struck down parts of Act 13. Because of those decisions, there are some other sections of the act that no longer apply, attorneys said.

Attorneys previously won arguments that zoning decisions should be made locally instead of statewide.

Some parts of the original Act 13 allowed the PUC to withhold impact fees if the agency found townships did not comply with local ordinances in the act.



## Federal agency funded by industry has never rejected a pipeline plan

Funds have only been withheld against four townships, and they are four of the plaintiffs in this case: Cecil, Robinson, Mount Pleasant and South Fayette.

Commonwealth Court in July 2014 said the law couldn't stay in place without uniform zoning, which also got kicked out of the act by the court.

Now, the state Supreme Court agrees with those Pennsylvania townships. At numerous points in its 88-page opinion, the court said Act 13 gave the oil and gas industry "special laws."

"It's an absolutely great day for the citizens of Pennsylvania," said John Smith, attorney for the plaintiffs. "The court found the acts of the Legislature to be at the behest of the oil and gas industry, and they found that to be unconstitutional. No industry is supposed to get special treatment according to the state constitution."

Attorneys for the state could not immediately be reached.

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