



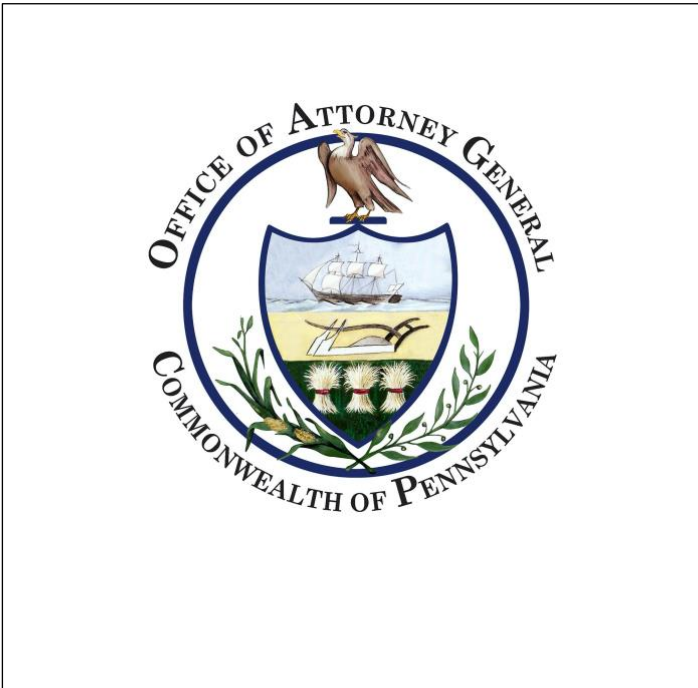
Green Amendment Victories
How Green Amendments Are
Recognizing & Protecting
Environmental Rights in PA & MT



Pennsylvania and Montana are the only two states in the U.S. that currently promise, protect and respect constitutional environmental rights protected on par with other fundamental human, civil and political rights we hold as inviolate inherent, inalienable and indefeasible rights protected from government infringement and transgression. In this series we share the varied ways that constitutional recognition is providing meaningful and transformative protection in these two states, thereby making the case for constitutional Green Amendments in states across our nation and ultimately at the federal level.

On June 25, 2020, opening by quoting Article 1, Section 27 of the Pennsylvania Constitution, a Statewide Grand Jury empaneled by Pennsylvania Attorney General announced its 2 year investigation into government oversight of Pennsylvania’s fracking industry and issued its report of findings and recommendations. The report stated:

We, the 43rd Pennsylvania Statewide Investigating Grand Jury, find by a preponderance of the evidence and in many instances by clear and convincing evidence, and that after comprehensive study in the course of our investigative duties, conclude that government oversight of this activity was for



many years poor, and has only more recently shown signs of improvement. As a result, officials often did not do enough to properly protect the health, safety and welfare of the thousands of Pennsylvania citizens who were affected by this industry.

In the course of our work ... we saw evidence that government institutions often failed in their constitutional duty to act as trustee and guardian “of all the people,” as Article 1, Section 27 provides.

We issue this Grand Jury Report to document our findings, and to make recommendations for improvements going forward.

We are not “anti”-fracking. The purpose of this Report is to present an account of the impacts of an industry that will affect Pennsylvanians for decades to come. We are aware that unconventional drilling brings significant economic benefits. But if the activity is to be permitted, it still must be regulated appropriately, in ways that prevent reckless harms. Instead, we believe that our government often ignored the costs to the environment and to the health and safety of the citizens of the Commonwealth, in a rush to reap the benefits of this industry.

According to the Attorney General’s press release announcing the report and findings: “

The Grand Jury’s two-year investigation uncovered systematic failure by government agencies in overseeing the fracking industry and fulfilling their responsibility to protect Pennsylvanians from the inherent risks of industry operations.

In addition to exposing failures on the part of Pennsylvania’s Department of Environmental Protection and the Department of Health, the Grand Jury made eight recommendations to create a more comprehensive legal framework that would better protect Pennsylvanians from the realities of industry operations.

“This report is about preventing the failures of our past from continuing into our future,” **said Attorney General Shapiro in a press conference Thursday.** “It’s about the big fights we must take on to protect Pennsylvanians – to ensure that their voices are not drowned out by those with bigger wallets and better connections. There remains a profound gap between our Constitutional mandate for clean air and pure water, and the realities facing Pennsylvanians who live in the shadow of fracking giants and their investors.” ...

The report details the initial failure of the Department of Environmental Protection to adequately respond to the unconventional oil and gas industry and also points out that missteps continue to this day. These failures harmed Pennsylvanians living in close proximity to this industry. The grand jurors found that, while the Wolf administration has forced through some improvements at the agency, there continues to be room for meaningful change to occur.

The Grand Jury also heard from many Pennsylvania residents who suffered severe health consequences and lived near unconventional drilling sites. Residents testified that their well water was “black sludge,” “cloudy,” and using the contaminated water caused “problems with breathing whenever we were in the shower.” Pennsylvania farmers testified that their livestock, which used the same water source as the families, would sometimes become violently ill, infertile, and die. Other residents spoke of problems with their air, which became so polluted from stray gas or other chemicals used during industry operations that they could not leave windows open or let their children play outside. Parents testified that their children would repeatedly wake up at night with severe nosebleeds caused by increased levels of gas in the air around the fracking sites.

In response to the failures of government oversight and in order to ensure that the regulators have the tools necessary to hold this industry accountable, the Grand Jury’s report details eight recommendations. These recommendations would better protect Pennsylvanians from the risk posed by fracking operations and confront the culture of inadequate oversight in the unconventional gas industry and government agencies that oversee their activities:

1. Expanding no-drill zones in Pennsylvania from the required 500 feet to 2,500 feet;
2. Requiring fracking companies to publicly disclose all chemicals used in drilling and hydraulic fracturing before they are used on-site;
3. Requiring the regulation of gathering lines, used to transport unconventional gas hundreds of miles;
4. Adding up all sources of air pollution in a given area to accurately assess air quality;
5. Requiring safer transport of the contaminated waste created from fracking sites;
6. Conducting a comprehensive health response to the effects of living near unconventional drilling sites;
7. Limiting the ability of Pennsylvania Department of Environmental Protection employees to be employed in the private sector immediately after leaving the Department;
8. Allowing the Pennsylvania Office of Attorney General original criminal jurisdiction over unconventional oil and gas companies.

“Our government has a duty to set, and enforce, ground rules that protect public health and safety. We are the referees, we are here to prevent big corporations and the powerful industries from harming our communities or running over the rights of citizens,” **said Attorney General Shapiro**. “When it comes to fracking, Pennsylvania failed. Now it’s time to face the facts, and do what we can to protect the people of this commonwealth by encouraging the Department of Environmental Protection to partner with us and by passing the Grand Jurors’ common-sense reforms.”