



# Wilkey Legal Consultants, LLC

Providing Cost Effective, Quality, Successful, Reliable Legal Services

## **What Natural Gas Drilling Companies Don't Want Property Owners to Know: The Significance of Pre-Drilling Water Testing**

As property owners throughout the country, especially those in rural areas that are completely dependant upon well water as their primary source of fresh potable drinking water, are increasingly encountering natural gas drilling or more commonly referred to as hydraulic fracking activities near their property, the often recurring question remains as to whether such drilling activities have or may have the potential to adversely harm their well-water, aquifers, streams, lakes, ground-water, or other sources of fresh water.

The modern day tragedy in many of these situations is that the property owner may have purchased such land years or even decades ago, and at the time of purchase, never even considered the importance of conducting substantive and measurable water quality testing prior to drilling their family well. As a result, years later, when such property owner discovers that their well water may have been potentially contaminated by natural gas drilling or fracking related activities, they have no accurate water quality baseline by which to scientifically measure, gauge, or otherwise accurately determine the extent or scope of such water contamination. In fact, many natural gas drilling companies will seize upon such omission or failure in seeking to deny liability or alternatively, will argue that there is a natural forming baseline or natural exposure of certain minerals or chemicals in well water that cannot in any causal way be attributed to the company's drilling or fracking related activities. To rebut such industry arguments, many States now, through their respective Departments of Environmental Protection (DEP) now require many natural gas drilling companies to conduct pre-drilling and baseline related water quality testing. Here is a [link](#) to many State regulations regarding mandatory pre-drilling and baseline requirements. The challenge for property owners with respect to such State pre-drilling and baseline requirements, is that they are generally conducted exclusively and under the control by the company themselves, including selection of the industry based water testing company and labs that may evaluate and analyze the results, and as such, it is often highly questionable as to whether such industry based testing is objective and bias free.

In short, the most reliable, certain, and accurate means by which a property owner can insure their property interests are preserved, is at the outset of purchasing property or drilling a water well, conducting their own independent pre-drilling water quality testing, using widely accepted water quality methods and testing sources. For a more thorough discussion as to the legal significance of pre-drilling water quality testing, see the American Bar Association's February 15, 2015 [article](#) entitled, "Fracking Debate: The Importance of Pre-Drill Water-Quality Testing."

### **About Us**

Robert N. Wilkey, Esq. is the Principal Attorney of Wilkey Legal Consultants, LLC ("WLC") located in Exton, PA, with over a decade of class action, mass tort, and complex civil litigation experience, including environmental and regulatory issues involving property owners adversely harmed by natural gas drilling or fracking related activities. Mr. Wilkey holds a BA/MPP from Brigham Young University and a JD from the University of Iowa College of Law, and currently provides regulatory, legal, and consultation and litigation services to individuals, corporations, industry, non-profits, school districts, and government entities.

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