

# CALVIN TILLMAN

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## FORMER MAYOR OF DISH, TX CITIZENS' ADVOCATE

To The Honorable Governor Beverly Perdue,

June 20, 2012

I write to you as a former mayor and town councilman of the small conservative town of Dish, Texas, which you might say is near the epicenter of fracking in Texas.

Last week, on Tuesday June 12th, I had the pleasure to visit Raleigh and speak with many state legislators about fracking. I understand that you may soon be considering whether to veto Senate Bill 820, and I hope you'll take a moment to read this letter to better understand what's happening to communities where fracking is now a reality.

Fracking has turned our small rural town into an industrial zone. People in our community – including my two young boys – have been overcome at times with strong chemical odors. We've watched our roads be in a constant state of congestion and in need of repair due to the stress of relentless heavy truck traffic. **Perhaps most importantly, fracking brings with it a complicated mess of legal questions around property rights, land use, eminent domain, and trespass law.** From my review of the bill, it appears to me that S820 doesn't prepare North Carolina well for these issues. I have serious concerns about what could happen to an individual's private property rights in North Carolina if S820 becomes law.

I can relate one scenario that you'd imagine "would never happen in North Carolina" but that has already played out in Texas: the case of Christine and Tim Ruggiero of Decatur, Texas, people I know personally. They were surface landowners who did not own the gas under them and this excerpt about their story comes from a Pittsburg Post-Gazette report:

*Christine Ruggiero remembers the day vividly -- Sept. 16, 2009. She had left the house at 7:30 a.m. to take her daughter to school. Two hours later, she got a phone call at work from her neighbor. "They're out there," the neighbor said, looking out the window. "They've knocked down your fence. And they're bulldozing your pasture. And your horses are not put up."*

*...Mrs. Ruggiero confronted the foreman. "You're trespassing. And you don't have a permit." (She says she'd been checking the website of the Railroad Commission of Texas, an elected board that handles drilling permits, to see if Aruba had applied for its permit yet.) "And he said, 'I don't need a permit. I have the lease.'"*

*Within weeks, a drill was erected in their yard. By Thanksgiving, Aruba was "fracking" -- pumping water and chemicals underground, at high pressure, to create millions of fractures in the mile-deep shale formation. By early 2010 they were done fracking and were installing condensate tanks and the two wellheads. Along the way, there were constant methane odors and, of more concern, a mud blowout that the Ruggieros caught on video. Water quality was a worry,*

too. The day the drilling started, Mrs. Ruggiero said, was the day her family stopped using their well for drinking and started buying bottled water instead. <http://www.post-gazette.com/stories/local/marcellusshale/deep-in-the-heart-of-the-gas-drilling-controversy-what-have-texans-learned-211199/#ixzz1yBIKRsn>

The landowner protection provisions of S820 provide for surface owners in North Carolina to receive notice before the gas company comes on their land, and also place liability for some water contamination on the company. But S820 doesn't change the basic outcome: the gas company can use as much of the surface as it needs to drill and produce the gas from underground. I understand that you also have thousands of acres of split estates, with surface owners who may not even be aware that they do not own the gas or minerals underneath them.

In addition, as in Texas, North Carolina's eminent domain laws for public utilities could be used by fracking operators to lay down gas pipeline and take the personal property and land of your citizens without their permission. As noted by a Fort Worth paper:

*The Dish area is a spider web of pipelines that converge on a bank of natural gas compressors just outside the town limits. "It is a mess. People don't realize just how wide a 100-foot easement is, and they don't know that once that easement is there, you can never put anything on it, ever." Pipeline companies have been given the right to take land through eminent domain on the theory that they are public utilities, like power companies. <http://www.fwweekly.com/2011/11/30/down-the-pipe/>*

As written, Senate Bill 820 does not provide for local oversight of the industry. As bad as fracking has been at times for my area, it would be immensely worse in Texas if local government controls were preempted by our state program.

Given the historical low gas prices, given the controversies around water and air contamination in other states, and the behavior of this industry in my town and state, I urge you to move slowly and cautiously. Senate Bill 820 raises more questions than it answers and I urge caution for a state like North Carolina that has no history with this industry.

I hope you will study this issue much more closely before moving forward.

Thank you for your time and attention.

Best wishes,



Calvin Tillman  
Former Mayor  
DISH, Texas