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STEPHENSON GROUP NATURAL GAS COMPANY  
912 McCORMICK ROAD  
SMICKSBURG, PA 16256  
ENVIRONMENTAL QUALITY BOARD

August 04, 2010

VIA CERTIFIED MAIL ARTICLE NUMBER 7192 6390 0010 0000 0664

Environmental Quality Board  
16 th Floor, Rachel Carson State Office Building  
(PO Box 8477)  
400 Market Street  
Harrisburg, PA 17101-2301

COPY

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AUG 17 2010  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

Re: Public comments; Proposed Rulemaking; Oil and Gas Wells; Title 25, Part I, Subpart C, Article I, Chapter 78, Subchapter A, (Pennsylvania Bulletin, Vol. 40, No. 28, July 10, 2010.) IRRC No. 2857, Reg. No. 7-459.

Environmental Quality Board:

On or about November 24, 2009 Stephenson Group Natural Gas Company, "SGNGCO", submitted a rulemaking petition, the "Petition", to the Environmental Quality Board, "EQB", pursuant to Chapter 23, §23.3. The Petition requested amendments to Title 25, Chapter 78, §78.51 and §78.52. A copy of the Petition is attached.

On or about January 19, 2010 SGNGCO submitted a revised version of the Petition to the EQB addressing the assessment of the Petition by the EQB. A copy of the revised Petition is attached.

On March 16, 2010 the EQB accepted the revised Petition pursuant to 25 Pa Code, Chapter 23. (See 40 Pa.B.1635, Saturday March 27, 2010, copy enclosed.) A copy of the minutes of the EQB meeting is attached.

The EQB accepted the Petition for further review at 40 Pa.B.1635 under the premise as follows:

**" In lieu of proceeding with § 23.6 (relating to notice of acceptance and Department report) of the Board's Policy for Processing Petitions, which requires the Department of Environmental Protection (Department) to prepare a report evaluating the petition within 60 days, the Department will review the petitioner's suggested amendments as it proceeds with a proposed rulemaking to amend Chapter 78. At 40 Pa.B. 623 (January 30, 2010), the Department requested**

**comments on proposed changes to regulations it is developing for Chapter 78 regarding the construction of oil and gas wells. As the Department proceeds with amendments to Chapter 78, it will address the petitioner's recommendations within the proposed rulemaking package."**

Furthermore the EQB by letter to SGNGCO dated March 02, 2010, stated as follows:

**" Your petition will be submitted to the EQB for consideration at its next meeting scheduled for March 16, 2010. The Department will summarize the petition for the Board members who will take action to either accept or reject the petition as identified in Section 23.5 of the EQB's petition policy. At the meeting, the Department will recommend the EQB's approval of the petition for further review and study; however, in lieu of proceeding with Section 23.6 of the EQB's petition policy, which requires the Department to prepare a report evaluating the petition within 60 days, the Department will recommend to the Board that it review and further study your petition as it proceeds with a proposed rulemaking to amend 25 Pa Code, Chapter 78. In the January 30, 2010, issue of the *Pennsylvania Bulletin*, at 40 Pa.B. 623, the Department requested comments on proposed changes to regulations it is developing for Chapter 78 regarding the construction of oil and gas wells. As the Department proceeds with the proposed Chapter 78 regulations, it will address your recommendations within the proposed rulemaking package. You will be notified when the proposed rulemaking is submitted to the EQB for consideration."**

The proposed amendments referenced at 40 Pa.B.623 (January 30, 2010) and by the EQB in both communications are the predecessor of the proposed rulemaking at 40 Pa.B. 3850 (July 10, 2010).

As of this date SGNGCO has been unable to find any evidence of the EQB or the DEP having reviewed the Petition or addressed the recommendations in the Petition as part of the current regulatory package despite the EQB having acknowledged to do so by virtue of the aforementioned letter of March 02, 2010 or as per 40 Pa.B.1635, (Saturday March 27, 2010). In addition the DEP is currently proposing amendments to the very same sections as referenced in the Petition (Chapter 78, §78.51 and §78.52) however again has not addressed the content of the Petition. Furthermore, SGNGCO has not been notified of the proposed rulemaking being submitted to the EQB for consideration.

SGNGCO submits the Petition in the entirety, as accepted and approved by the EQB, as a public comment with respect to the subject proposed rulemaking. SGNGCO requests that the EQB suspend any further progression of the current proposed rulemaking package until such time that it has reviewed and addressed the Petition as required in accordance with Chapter 23, §23.6 and as set forth by previous admission of the EQB.

In addition SGNGCO submits the following comments in relation to the proposed rulemaking.

**78.51**

SGNGCO incorporates the Petition and the proposed regulatory language as set forth in the Petition in the entirety as a written comment for the purposes of this comment forum.

**78.51(A)**

What will be "...**reasonably foreseeable uses...**" and who will determine this? With respect to property not zoned for construction purposes a 60 gallon per day water supply for a residential dwelling could be come the 60,000 gallon per day water supply for a car wash in the future. Would this scenario qualify as "...**reasonably foreseeable uses...**" for which an operator should be liable? This term is too ambiguous and will lead to unnecessary debate and litigation.

**78.52**

SGNGCO incorporates the Petition and the proposed regulatory language as set forth in the Petition in the entirety as a written comment for the purposes of this comment forum.

**78.84**

The term "**new**" needs defined. "New" as in never previously purchased from a supplier for installation in a well? "New" as in purchased from one operator by another but never having been installed in a well? "New" as in installed in a well for a few hours for a particular operation then removed to be immediately reinstalled? "New" as in never installed in a well but has weathered from storage to a point of more or less being "used". Conversely the term "**used**" should be defined as well.

**78.89 (a)**

The term "**natural gas migration incident**" is too broad and ambiguous and needs further definition. An operator would be placed under the undue duress of unilaterally defining what this term means for proper compliance with this section. In addition an operator could deem that no notification of such an "incident" would qualify as a "natural gas migration incident". Without a clear definition the DEP would have no definition on which to rely to enforce compliance with this section therefore rendering this section useless.

An operator could be notified by a complainant of a "natural gas migration incident" at an area several miles from the location of any facilities owned, operated or controlled by the owner or operator. Language should be included such as "**...owner is notified of or otherwise made aware of a natural gas migration incident (occurring within 2500 feet of the location of any wells or facilities owned, operated or under the control of the operator), the operator...**".

**78.89 (b)(1)**

This commentator is not aware of any other situation where a complainant and an operator or owner must confront each other concerning a complaint. The DEP has historically vigorously defended the confidentiality of the identity of a complainant. The policy proposed her is inherently flawed and irresponsible to the general public. An unsuspecting complainant, without knowledge of their civil rights, could be subject to possible vigorous and intimidating interrogation by an operator including but not limited

to an entourage of investigators and legal counsel. An operator may be pulled into a fraudulent complaint and ill intentioned, yielding a situation risking harm, bodily injury or death. Conversely an individual posing as an agent for an operator could use this regulation as a premise for ill intentioned activities (burglary, robbery, assault, rape, etc.) which has happened many times in the past in like situations. If the DEP wants this regulation then it should perform the police function of the same.

**General comment:**

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania as set forth therein. At 40 Pa B. 4154, Saturday, July 24, 2010, (Pa. B. Doc. No. 10-1324. Filed for inspection July 23, 2010 9:00a.m.) the EQB announced the scheduling of an additional hearing with respect to the proposed rulemaking. The hearing was scheduled for July 26, 2010 at 7:00p.m. at the Department of Environmental Protection, Southwest Regional Office, Waterfront Conference Rooms A and B, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. It would be impossible for the general public, and not privy to the printer's press or inside information, to be in possession of a hard copy of the bulletin dated Saturday, July 26, 2010 to be made aware of the said additional public hearing occurring Monday, July 26, 2010. Such an action by the EQB is unscrupulous and unduly spontaneous at best.

Please also find attached a one page summary of the above written comments, suggestions and objections to be provided to each member of the Environmental Quality Board prior to consideration of the final-form rulemaking with respect to the proposed regulations as set forth above.

Respectively submitted,



DELETED SIGNATURE

Gregory W. Stephenson  
Vice-President  
Stephenson Group Natural Gas Company

COPY

Enclosure

Cc: John Hanger, Chairman EQB  
Michele Tate, Regulatory Coordinator, EQB  
J. Scott Roberts, Deputy Secretary, Mineral Resource Management  
Representative Samuel H. Smith  
Senator Donald White

**Environmental Quality Board**  
**(Comment summary)**

**Public comments; Proposed Rulemaking; Oil and Gas Wells; Title 25, Part I, Subpart C, Article I, Chapter 78, Subchapter A, (Pennsylvania Bulletin, Vol. 40, No. 28, July 10, 2010.) IRRC No. 2857, Reg. No. 7-459.**

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Respectfully submitted, Gregory W. Stephenson, Vice President, Stephenson Group Natural Gas Company