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APPOINTMENTS
 PA ATHLETIC OVERSIGHT COMMITTEE

House of Representatives
 Commonwealth of Pennsylvania
 Harrisburg

March 11, 2014

RECEIVED
MAR 14 2014
DEP Policy Office

Environmental Quality Board
 P.O. Box 8477
 Harrisburg, PA 17105

Dear Board Members:

We respectfully lend our support of proposed revisions to Chapter 78 communicated to you in February by Senator Scott Hutchinson and various members of both the House and Senate. A copy of this communication is enclosed for your convenience.

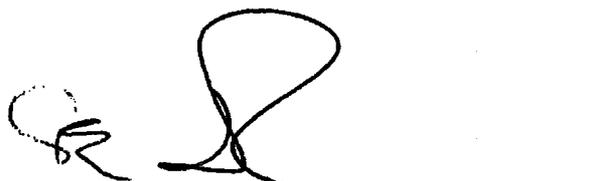
In addition, we call your attention to a recently proposed revision to Section 78.1, adopted by your board in January and currently being reviewed by the Independent Regulatory Review Commission, which defines a conventional well as: A bore hole drilled or being drilled for the purpose of or to be used for the production of oil and gas from a conventional formation. Conventional wells are, irrespective of technology or design: (1) any wells drilled to produce oil; (2) wells drilled to produce natural gas from formations other than shale formations; (3) wells drilled to produce natural gas from shale formations located above the base of the Elk Group or its stratigraphic equivalent; and (4) wells drilled to produce natural gas from shale formations located below the base of the Elk Group where natural gas can be produced at economic flow rates or in economic volumes without the use of vertical or non-vertical well bored stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore; and (5) irrespective of formation, wells drilled for collateral purposes, such as monitoring, geologic logging, secondary, and tertiary recovery or disposal injection.

Because of this proposal, we believe the revisions in the attached letter to be relevant and appreciate your consideration of this important topic.

Sincerely,


 Mike Reese
 59th Legislative District


 Tim Krieger
 57th Legislative District


 George Dunbar
 56th Legislative District

**21ST SENATORIAL DISTRICT
SCOTT K. HUTCHINSON**

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Senate of Pennsylvania

February 4, 2014

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PA HARDWOODS DEVELOPMENT COUNCIL

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Board Members:

We appreciate this opportunity to provide comments on the proposed Chapter 78 rulemaking affecting oil and gas activities, and specifically how they will impact job creating small businesses in this Commonwealth.

As you know, our legislative districts encompass a region that is colloquially referred to as the Pennsylvania Oil Patch, the area where modern oil and gas exploration and production began over a century and a half ago. Today the conventional oil and gas industry is part of our heritage, but also continues to have significant direct and indirect impacts our local and regional economies.

The relatively recent technological advances that have allowed for production of previously inaccessible formations have also necessitated updates and revisions to Pennsylvania's laws and regulations governing the new industry. Unfortunately, many of these regulatory and legislative changes – including parts this proposed rulemaking related to surface activities – do not adequately allow for the significant differences between conventional and unconventional development.

Unlike the well-known multinational corporations – most of whom are developing unconventional shale formations in a safe and responsible manner – conventional operators are mainly *multigenerational* small businesses. The Regulatory Review Act requires the consideration of alternatives for small businesses. At a minimum, the proposed regulations should be revised in a way that establishes alternative technical requirements for conventional producers.

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The obvious differences within the industry cannot be ignored and should be reflected in a separate regulatory framework for conventional oil and gas operations. The Department should educate its staff and inspectors on these differences -- or better yet, delineate a separate inspection team altogether.

If advanced as proposed, the impact of these regulations will be felt far beyond the small business producers. In Pennsylvania there are two refineries designed specifically to process the Pennsylvania grade crude oil that is unique to our region. Both facilities employ hundreds of local residents and have made significant capital investments in recent years. Unfortunately, due in part to increased regulatory burdens on the producers, their supplies of Pennsylvania grade crude have reached alarmingly low levels. If this trend continues, the overall impact to the local economy will be devastating.

The environmental resources that are the pride of our Commonwealth have flourished side-by-side with conventional oil and gas development for over a century and these proposed regulations will not materially benefit those resources. We acknowledge that the conventional oil and gas industry is unfamiliar to most Pennsylvanians and is often assumed to be similar to the unconventional industry. In reality, the processes of conventional oil and gas drilling and production are vastly different and its surface impacts are far less. In many cases, the proposed regulations as they are currently written inadequately account for these differences and would place an inordinate burden on conventional operators, most of whom are small businesses, functioning much like family farms and only reaping small margins over the life of each well.

Again, we appreciate this opportunity to comment on a proposed regulation that will so significantly impact an industry that has defined the regions we represent and continues to provide considerable economic benefit. At a minimum, we urge revisions (see Appendix) of the proposed rulemaking to reflect the considerable differences between conventional and unconventional oil and gas development and reject future efforts at one-size-fits-all regulation of the oil and gas industry. However, a more responsible and appropriate course of action would be for the Department to promulgate separate regulations for the very different conventional oil and gas industry.

Sincerely,



Scott E. Hutchinson
State Senator, 21st District



Robert D. Robbins
State Senator, 50th District



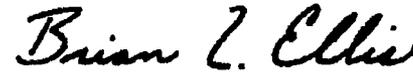
Kim Ward
State Senator, 38th District



Michele Brooks
State Representative, 17th District



Martin T. Causer
State Representative, 67th District



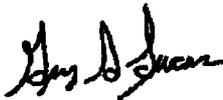
Brian L. Ellis
State Representative, 11th District



Matt Gabler
State Representative, 75th District



R. Lee James
State Representative, 64th District



Gregory Lucas
State Representative, 5th District



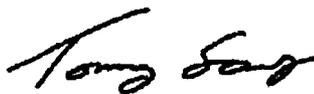
Donna Oberlander
State Representative, 63rd District



Kathy Rapp
State Representative, 65th District



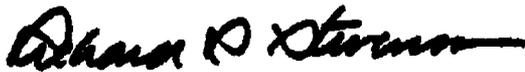
Brad Roae
State Representative, 6th District



Thomas Sankey
State Representative, 74th District



Curtis Sonney
State Representative, 4th District



Richard Stevenson
State Representative, 8th District

Enclosure

APPENDIX

Listed below are several of the proposed regulatory changes that are of concern to Pennsylvania's conventional oil and gas industry. In addition to these specific concerns, the currently proposed regulations reference no less than 23 separate notifications to the Department. This onerous notification process should be limited or streamlined wherever possible. Furthermore, we would support the establishment of a building permit for conventional well operators, which would allow for well pad and access road construction if appropriate erosion and sediment controls are followed.

- **§ 78.15. Application requirements.**
 - Like others, the conventional oil and gas industry has been adversely impacted by the ambiguity surrounding the requirements related to threatened species, endangered species and species of special concern. We urge cooperation between the Department of Environmental Protection and the resource agencies to establish an efficient system for identifying and protecting endangered species, including availability of a centralized database of endangered species and their areas of critical habitat.
 - The language related to the protection of public resources, including the definition of a species of special concern, is ambiguous and should be revised to clarify what constitutes a public resource and what activities may be considered a harmful impact.
- **78.17. Permit renewal.**
 - Businesses of all types face regular operational uncertainties. A one year permit term is inadequate and the regulations should be revised to provide for a three year term on drilling permits.
- **§ 78.51. Protection of water supplies.**
 - The language should be revised to require a water supply affected by an operator to be restored or replaced to meet the quality and quantity of water that existed prior to well development activities.

- **§ 78.52a. Abandoned and orphaned well identification.**
 - Because conventional well drilling does not employ the practice of horizontal drilling, a search radius of 150 feet is sufficient to identify abandoned and orphaned wells that may be impacted by the operations.

- **§ 78.55. Control and disposal planning; emergency response for unconventional wells.**
 - The surface impact of a conventional well site represents only a small fraction of an unconventional well, and unlike unconventional well sites, conventional operators store minimal equipment and fluids at individual sites. Furthermore, the impacts of conventional well sites vary nominally. The proposed language requiring Preparedness, Prevention & Contingency (PPC) Plans should clarify that a single comprehensive plan is satisfactory for conventional well operators rather than site specific PPC plans. If the proposal is intended only for unconventional wells, the language should consistently state so.

- **§ 78.56. Temporary storage.**
 - The proposed language related to securable tank valves, access lids and other equipment should be clarified to reflect the differences between conventional and unconventional well sites. Furthermore, the language regarding securable equipment should be revised to specify that these upgrades will be required only at new sites, and at existing sites when the useful life of the current equipment ends and an upgrade is necessary.
 - High demand for limited drilling services, delays caused by weather events, and other extenuating circumstances make it difficult to establish a definitive timeframe for the drilling and completion of a conventional well. Moreover, the time frames necessary for the drilling and completion of conventional wells are far shorter than unconventional wells. The proposed language should be revised to allow for the single notice already required at the commencement of drilling a conventional well in lieu of the additional notice required under the proposed regulations.

- **§ 78.57. Control, storage and disposal of production fluids.**
 - The proposed language specifying a 2:1 slope for storage pits should be revised to allow for vertical sides in small pits. Pits at conventional well sites are used for a shorter duration and a steeper slope allowance will result in less surface disturbance without any greater likelihood of ground contamination.

- The proposed language related to open-top storage of brine and other production fluids should be clarified to reflect that such storage containers may be used during the drilling and completion of oil and gas wells.
- **§ 78.62. Disposal of residual waste – pits.**
 - The proposed language related to a certified minimum 20” pit depth above the seasonal high groundwater table should be revised to remove the certification requirement.
- **§ 78.66. Reporting releases.**
 - The threshold for a reportable release fails to account for the low level of total dissolved solids found in conventional well production water. Categorizing these fluids with other much more hazardous substances and contaminants unnecessarily burdens conventional well operators with minimal environmental benefit. The proposed draft regulation is overly inclusive and should be revised.
- **§ 78.67. Borrow pits.**
 - Conventional well operations often include a series of wells in relative close proximity. For this reason, borrow pits should remain active for the life of a project area, not for the construction of a single well pad.
- **§ 78.68b. Temporary pipelines for oil and gas operations.**
 - This section should be revised to clarify that it is not applicable to conventional operators.