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PENNECO OIL COMPANY

6608 ROUTE 22 • DELMONT, PA 15626-2408
PH: (724) 468-8232 • FAX: (724) 468-8230 • EMAIL: PENNECO@PENNECO.COM • WEB: PENNECO.COM

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

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Re: Proposed rulemaking on 25 PA Code Ch. 78, Subpart C – Environmental Protection Performance Standards at Oil and Gas Well Sites.

Dear Board Members:

As an officer of Penneco Oil Company, an independent oil and gas producer in Pennsylvania, I am writing to express my opposition to the Environmental Quality Board (EQB) adopting the revisions proposed by the Pennsylvania Department of Environmental Protection (PADEP) to 25 Pa Code Chapter 78 “Oil and Gas Wells.”

We and our sixty-one Commonwealth based employees have firsthand experience with the extraordinary efforts made by Pennsylvania’s oil and gas industry to be good stewards to the environment and good neighbors to the communities in which we live and work. Based upon these experiences, we find the proposed revisions to lack sufficient justification, to have costs far in excess of any benefits, and to provide very little in actual, real-world environmental protections. In fact, we believe the proposed rule will diminish the recent prosperity created by Pennsylvania’s oil and gas industry and will cost our communities revenue while increasing their social burdens. We urge you to stand with us by voting against finalization of this rulemaking in its current form.

Among our many concerns with this proposal, we would like to highlight several which pose a particular burden on our business.

- **Water Supply Restoration Criterion** – The language in the proposed changes to 78.51 conceivably requires that an operator restore an affected water supply to an improved quality above that of the pre-drill survey with “the standards established under the Pennsylvania Safe Drinking Water Act.” This is an unreasonable expectation. The mandated restoration criterion for water quality should continue to be the “floor” established by the pre-drill survey. This proposed revision should be tabled in favor of further consideration.
- **Intermittent Distinctions Referencing Unconventional Wells** – Throughout the proposed changes are references of applicability to a particular well-type known as unconventional [including, but not limited to 78.19, 78.52(g), 78.55, 78.56(a)(5,7,11,16), 78.57(c), 78.59a, 78.59c, 78.63(1), 78.64a, 78.69(a), 78.121]. Since the regulations are written to encompass all oil and gas operations, these references blur

the lines of applicability and leave other passages within the same sections open to interpretation of relevancy. It is our opinion that there are enough operational and regulatory distinctions between the conventional and unconventional well types that there should be a separate set of regulations directing the operations of each. These proposed revisions should be tabled in favor of further consideration.

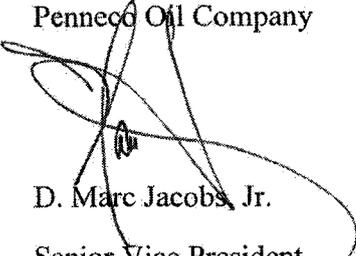
- **Abandoned and Orphaned Well Identification** – The abandoned and orphaned well identification procedure detailed in 78.52a contains an unreasonable, administrative burden disproportionate to any perceived benefit. The directive asks for a review of farm line maps followed by a submission of a questionnaire to property owners within the 2,000' swath that bisects the entire surface-length of a horizontal well bore. Because many original farm lines have been segmented into smaller lots and subdivisions, the proposed research exercise has the potential to add tremendous time and expense to the administrative phases of well development with diminutive data returns. By way of an example, Penneco drilled a horizontal oil well in Plum Borough, Allegheny County, which would have required 113 survey questionnaires by this standard. Not only would we have discovered nothing in the way of abandoned or orphaned well data, but the phone calls of concern and objection that would have been generated from the angst of the uninitiated would have required a panel of receptionists educated in well construction and maintenance beyond our capacity to assemble. During our own research phase leading up to the development of this well, we learned of a potential location of an old, unmarked well. After being denied access (for the purpose of observation) by the surface owner, we had to monitor the approximate location from a distance during the completion. While parts of this section do represent Best Management Practices in our opinion, any directive in this regard should only be encouraged as such and not be mandated as a requisite to abiding under the law. These proposed additions should be tabled in favor of further consideration.
- **Control and Disposal Planning (PPC Plans)** – 78.55 is titled "Control and Disposal Planning; Emergency Response for Unconventional Wells." Paragraph "(a)" mandates the implementation of "site specific PPC plans according to the requirements in 25 Pa. Code § 91.34 and 102.5(I)." Neither of the cross-referenced regulations is specific to unconventional activities. The requirement for operators to generate "site specific" PPC Plans needs additional clarity and should be consistent throughout the PA Code. 93.34(b) says that the Department "may" require the submission of a plan. How does a conventional operator discern if a request for a plan will be forthcoming and what would be the timeframe given to the operator to produce a plan? As a conventional operator, we began compiling site specific PPC Plans based on rules like 102.5 (I) as part of our pre-drill preparation. Because of the effort involved, these plans are initiated months in advance of the site construction. If the Department may or may not be requiring a plan (as intimated in 91.34b) and 78.55 is specific to unconventional operators, how are conventional operators to interpret applicability and how can they be guaranteed that their drilling and completion operations will not be interrupted by an order to produce a plan within some indeterminate timeframe and based on interpretational discretion? The regulatory language regarding the PPC plans and their applicability lacks clarity and consistency. Perhaps conventional operators should be permitted to develop a general, PPC template as opposed to the site specific expectation mandated for the unconventional operators. These proposed additions should be tabled in favor of further consideration.
- **Pits and Liners** – Section 78.56 has intermittent references to unconventional operations blurring the lines of applicability for conventional operators. 9(ii) mandates that all pit liners have a minimum thickness of 30 mils. While this may be a reasonable safeguard for long-term pits on multi-well, unconventional pads, it represents an unnecessary expense and inconvenience to conventional operators whose pits are significantly smaller and are open only a fraction of the time by comparison. It can be understood that a conventional operator use a 30 mil liner in pits that they intend to encapsulate, but in

situations where they intend to landfarm drill cuttings or are performing service work to an existing, producing well, the 30 mil requisite is an inappropriate standard. Paragraph 10 details the construction parameters for pits mandating a 2 to 1 horizontal to vertical slope for the interior sides. While this may be a reasonable safeguard for long-term pits on multi-well, unconventional pads, this, too, represents not only an unnecessary expense to conventional operators, but it will require a much larger footprint of disturbed area. This consequential environmental impact will not be a popular reality with the surface owners who have historically appreciated our willingness to work in tight quarters. 78.62 addresses pits and their contained wastes "generated by the drilling, or stimulation, or production of an oil or gas well." From time to time in the course of production, a pit will be required in order to responsibly accommodate the maintenance activities related to a service rig. It is unreasonable to require an operator to contract "a soil scientist or other similarly trained person using accepted and documented scientific methods" to verify that the pit bottom is "20 inches above the seasonal high groundwater table" every time they decide it is necessary to put a rig over a well. This requisite should be limited to the drilling and completion phases of a well and not to production. These proposed revisions should be tabled in favor of further consideration.

In closing, we urge the Environmental Quality Board to reject this rulemaking as proposed. Unless the proposal is substantially revised based on full consideration of the costs and benefits, it will cause harm to the prosperity of our communities, and especially to those people who will lose their jobs. To the extent that portions of this rulemaking are mandated by state law, the EQB should insist that the DEP propose revisions only to fulfill those obligations, with simple rules, based on empirical science, and written in plain language.

Sincerely,

Pennco Oil Company



D. Marc Jacobs, Jr.

Senior Vice President