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Chapter 78 Commentary – West Chester, PA – January 9, 2014

Good Evening, my name is Scott Miller. I am a Senior Community Relations Representative for WPX Energy in the Marcellus Basin. WPX Energy is one of largest producers in the United States and is active in many of the nation's basins. We have been in the Marcellus Basin since 2009 and to date have drilled 100 wells in the Commonwealth.

Individually and in concert with trade associations, we have been engaged with the DEP, DCNR, TAB and all of the environmental working groups involved in this labor intensive process. Thank you for allowing WPX to comment on items WPX believes are important.

Regarding Chapter 78 Section 15 Regulations:

Initially, Section 3215(e) of Act 13 requires the Department to develop regulatory criteria that protect **public resources** while ensuring optimal oil and gas resource development and respecting oil and gas owner property rights. However, the proposed regulations in Chapter 78 Section 15 do not adequately implement/address these requirements – the regulatory criteria for conditioning a permit has not been provided and the draft regulations only frame the Department's authority to implement the conditions. If industry is required to avoid or mitigate potential impacts to these resources, the criteria used to assess impacts must be established and provided.

In addition, requiring industry to potentially gain clearance for **Species of Special Concern** may significantly limit our development opportunities and/or create costly mitigation solutions which would be in conflict with Section 3215(e) as it pertains to ensuring oil and gas development and property owner rights. If the Department's goal is to protect the Commonwealth's resources as they specifically relate to Threatened, Endangered or Species of Special Concern, then Industry has the right to know the locations of such resources in order to avoid or mitigate any potential impacts.

Regarding the issue of Water Replacement:

The main concern is the DEP proposing the industry "replace" a water supply to Safe Drinking Water Act (SDWA) Standards, or better, even when the results of Pre-Drill testing of the water supply show the water did not meet these standards in the first place. There are many challenges in the Commonwealth in regards to private water wells – especially the lack of construction standards. Our experience with pre-drill testing and several studies independent of natural gas development demonstrate that a large number of private water wells are poorly constructed, many contain iron, manganese, coliform and methane, and many do not meet the criteria of the Safe Drinking Water Act. Until such time as the Pennsylvania legislature passes legislation to require property owners to properly construct

private water wells, and ensure they meet the Safe Drinking Water Act, it is unreasonable for the DEP to require the industry to restore a private water supply to better standards than originally existed. We are requesting that if the operator impacts a water supply, the DEP requires replacing the water supply to the pre-drill test results.

Regarding Wastewater management at a well site.

The natural gas industry has been "recycling/reusing" water and minimizing fresh water use for quite some time now. Unfortunately the new regulations would force operators to rethink this option. In order to increase the amount of water being reused/recycled in the Commonwealth, the Regulations need to provide an avenue for the operator, either through permits or DEP approvals, to document, move, and reuse water from one site to another. In addition, the Oil and Gas Division must have its own regulations concerning water management and not be conflicted and confused with those of the Waste Management Division.

Regarding Orphaned and Abandoned Wells:

Identifying active, inactive, plugged, abandoned and orphaned wells prior to hydraulic fracturing may be something that the industry can work with the DEP, but not to the level of the proposed regulations as that may lead to non-ending obligations on behalf of the industry for wells that are not ours.

It is well-known that The State Review of Oil & Natural Gas Environmental Regulations (STRONGER), a national non-profit organization charged with assessing states' oil and gas regulations, reviewed Pennsylvania's oil and gas regulatory program in May 2013 at DEP's request. STRONGER released its report in September 2013 and found that Pennsylvania's program "is, over all, well-managed, professional and meeting its program objectives." STRONGER lauded the DEP on many of its initiatives and regulations. WPX implores this Board to recognize STRONGER's assessment and credits the DEP for employing STRONGER to review our environmental regulations in light of the natural gas industry's operations and economic growth for all.

WPX Energy appreciates and respects the communities in which we operate and we are dedicated to protecting Pennsylvania's environment. We thank you for your efforts and desire to continually seek better and more efficient ways to regulate our industry and safeguard Pennsylvania's environment.