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INDEPENDENT REGULATORY
REVIEW COMMISSION

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DEP Policy Office

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February 7, 2014

Environmental Quality Board

P.O. Box 8477

Harrisburg, PA 17105-8477

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

Dear Board Members:

I am writing on behalf of my company in 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." As a PA BASED consulting firm, I have seen and experienced the extraordinary efforts made by Pennsylvania's oil and gas industry to be good stewards to the environment and good neighbors to the communities where we live and work. Based upon those experiences, I 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. Instead of providing the residents of PA with any real benefit or protections, I 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. I urge you to vote against finalization of this rulemaking in its current form.

Among the many concerns with this proposed rulemaking, allow me to highlight several issues which I feel are particularly damaging.

- *The Rules as drafted do not adequately distinguish between conventional and unconventional producers. The way originally drafted the additional administrative and operational changes would apply across the board regardless of the nature or type of wells being developed or the scope or size of the business in operation. I feel that this aspect is a blind, one size fits all, overly simplistic and without a doubt a very economically damaging approach to regulating an industry. If the State does nothing else to improve its approach at this endeavor I urge that the agency modify the rules to make them graduated based upon the factors stated here. Just like no two States are exactly the same neither are the business' that operate within them. I am very concerned that in its zeal to protect the State, its residents and the environment we overlook the fine technical and practical nuances that are at play here and as a result destroy the small producers viability and competitiveness and in turn eliminate jobs and harm our economy.*
- *It is apparent that PA is attempting to set a new benchmark for regulation of an industry. One that the entire nation will admire and want to emulate. Similar words of those being spoken by the very folks who are championing the effort. As a resident I appreciate the State taking a hard look at how to improve the way things are done and perhaps some of the changes called for in Chapter 78 are needed and warranted. I am certain that the industry will agree to and endorse positive and reasonable rules, restrictions and guidelines. I feel that the industry will accept that*

with these changes will come additional costs and time burdens that they will have to factor into their plans to operate within the Commonwealth. I am also convinced that with overreaching and purposeless rules and regulations the industry will withdrawal from PA when evaluating the value proposition of development here as opposed to other areas of the country. We are already seeing the negative impacts that other very suspect and questionable legal and legislative actions have had on investment interest and development in this State. The Chapter 78 revisions will make even clearer that PA is not the place to position capital or to establish a business.

- *Finally and perhaps the most damaging of all the newly proposed revisions to the rules under Chapter 78 is the section that requires developers to improve the water quality in areas on which they operate. To force by law a company to improve the water quality to drinking water standards regardless of the pre-activity condition of the water is unprecedented in any other industry, anywhere in the country.*

*Mandating such a requirement would without a doubt turn off the vast majority of investment dollars and serious jeopardize the potential future growth within the Commonwealth. I am certain that the DEP is aware that groundwater conditions are impacted by a number of factors. Both legacy and current actions or operations in each instance combine to create the pre-drilling conditions of the ground and well water. Insisting that O & G companies concede to correct all water quality issues from all sources in an attempt to leave each area they wish to work in at drinking water cleanliness levels is truly unreasonable and will as a result greatly limit the areas in which any developer will target to drill The DEP's attempt to implement such rules does so to the detriment of the citizens of the State and by extension the entire nation as it relates to its economic and security health. Leaving water quality the same or better as it was prior to the drilling activity **MUST** remain the standard and is the only reasonable path forward.*

In closing, I 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 will cause harm to the people who depend on the industry for their livelihoods. To the extent that portions of this rulemaking are mandated by state law, the EQB should insist that DEP propose revisions only to fulfill those obligations, with simple rules written in plain language.

Sincerely,

*Richard W. Zink, Proprietor
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