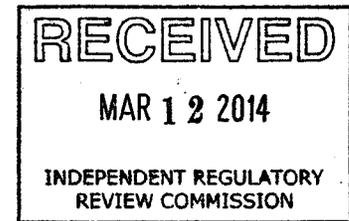


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**Testimony to the Environmental Quality Board
Concerning Proposed Chapter 78 Regulations
Meadville, Pennsylvania**

February 12, 2014

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**Testimony to the Environmental Quality Board
By Al Lander, Esq.**

February 12, 2014

Dear Honorable Members of the Environmental Quality Board:

I am Al Lander, an attorney with the Law Offices of Greco and Lander in Clarion, Pennsylvania. I have practiced law in Pennsylvania for over 36 years, specializing in natural resources law, representing individuals and companies in the areas of oil and gas, coal, timber, land and farming. I have participated in the comments filed with the Board by one or more of the Pennsylvania oil and gas associations. The comments that have been filed with the board are a good analysis of the technical, economic and legal defects in the proposed regulations and the reasons why they should not be adopted as binding on the industry. I ask that this Board give the comments due consideration.

There is no merit in repeating what has already been said by the oil and gas associations, therefore, I will not do so. The bottom line to all of the comments that have been filed is **So What?**

Why does it matter?

- Why does it matter if the proposed regulations expand the PNDI database to include “special concern” species, plant communities or geological features that have never been designated or listed under any federal or state rule making process?
- Why does it matter if the proposed regulations equate “critical communities” with “special concern” species without an adequate basis in law or fact?

- Why does it matter that the proposed regulations do not define criteria for determining if a proposed well, well site, or access road poses a “*probable harmful impact to a public resource*”?
- Why does it matter that the proposed regulations do not define the area of review, both horizontally and vertically for orphaned and abandoned wells that may be impacted by a hydraulic fracturing, and use open-ended obligations or technological determinations of risk assessment of subsurface features?
- Why does it matter that the proposed regulations require an operator to restore or replace a water supply affected by drilling operations to the standards established under the Pennsylvania Safe Drinking Water Act even though the water source did not meet the standard before drilling was conducted?

It matters because . . .

- The vague and undefined standards in the proposed regulations will lead to inconsistent and contradictory outcomes based on the proclivity of the permit reviewer, inspector or other enforcement official.

One of my coal clients who sought to permit a coal mine was delayed for 8 years in the permitting process because of the vague and uncertain standards that gave the reviewer the ability to require repeated tests, studies and to impose onerous permit conditions.

In another situation, I had a client whose permit of a coal mine was denied because the permit reviewer, in applying vague and undefined standards, determined that there would be significant environmental harm result from mining the coal reserve. A year later, my client’s competitor picked up the leases and was issued a permit by another reviewer within 2 years. When the coal was mined, the adverse conditions predicted by the first reviewer did not occur. Vague and ambiguous standards, such as many in the proposed regulations, give wide latitude to permit reviewers, inspectors and other enforcement officials to pursue personal vendettas and enforce anti-business philosophies.

- We are a nation governed by the rule of law, not by executive fiat.
- Proposed regulations such as the replacement of water supplies to the Pennsylvania Safe Drinking Water Act standards in some cases will be impossible and in most cases prohibitively expensive. It is also unjust and unfair to impose upon the oil and gas industry the burden and expense of addressing water contamination unrelated to oil and gas operations.

A study by Penn State in 2009 entitled “Drinking Water Quality in Rural Pennsylvania and the Effect of Management Practices” reported that up to 50% of private water systems fail at least one safe drinking water standard.

- The expense of replacing tanks, dikes and other procedures required for replacement equipment will be uneconomical or burdensome for older wells and may lead to the economic peril for some operators.
- The proposed regulations will have a high cost to the industry and will result in a loss of good paying jobs and economic development.

Companies are making profits and can afford to implement higher environmental standards.

- Oil and gas operators are not making high profits. The price of natural gas has dropped from \$15 per mcf to \$3 per mcf with a temporary spike during this cold winter.
- The Wall Street Journal and trade journals have published numerous articles on the losses and write down of the shale assets of the major oil companies.
- Leasing bonuses, royalties and damage payments have fallen significantly with declining gas prices.
- The major oil and gas operators in Pennsylvania are also operating in Ohio and other shale plays. As a result of Pennsylvania's burdensome regulation, increased risk and uncertainty, many have shifted exploration funding from Pennsylvania to Ohio and other shale plays. Implementation of the proposed regulations will accelerate the flight from Pennsylvania.
- As a result of current regulation, Pennsylvania is suffering not only a decline in economic development, but also layoffs and loss of jobs.

Who profits from a robust oil and gas industry?

- Consumers - through lower heating bills and lower gasoline prices.
- Workers - through increased high-paying jobs.
- Industry - through lower energy costs and raw materials.
- Governments - through high taxes, user fees and lower social support payments.
- The American people - when we establish energy independence we will not be sending our sons and daughters to remote places in the world, sacrificing our blood and treasure to protect our energy supply.

Pennsylvania needs a robust oil and gas industry.

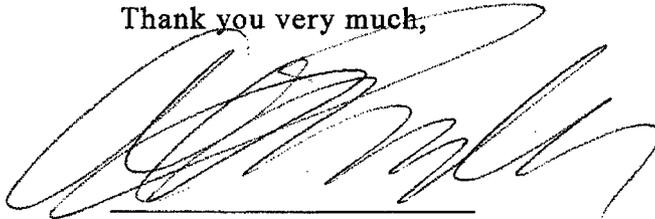
- When my daughters graduated from the university with master's degrees, they moved out of Pennsylvania to find a job.
- When I go to church, I see many empty seats.
- When I go to a school board meeting, I am reminded of empty classrooms.
- When I meet as a director of the Clarion University Foundation, I am reminded of a 10% drop in enrollment and the pending threat of further declines because parents and students cannot afford the cost of education.
- When I read that the drafters of the proposed regulations conclude that adoption of the proposed regulations will increase jobs through increased tourism, I am reminded of those who will lose a high-paying job and good benefits working in the oil and gas industry that may be forced to take a seasonal job at minimum wage in a trinket shop.

Conclusion:

If the proposed regulations are adapted, it is not only the oil and gas industry that will suffer, but consumers will suffer by paying higher energy prices, workers will suffer with the loss of good-paying jobs; business and industry will suffer by paying higher prices for energy and feed stocks making them less competitive; and government will suffer by receiving less tax revenue and burdened with higher social support payments.

I ask that you assure that the full economic impact of the proposed rule is properly analyzed and that the final regulations fully comply with the Regulatory Review Act.

Thank you very much,



Al Lander