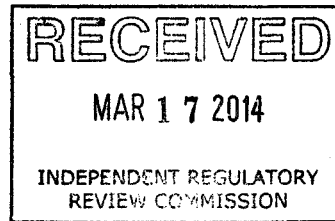


3042

March 14, 2014

RegComments@pa.gov.
Environmental Quality Board
Box 8477
Harrisburg, PA 17105-8477



Re: Comment on Proposed Regulations 25 Pa. Code Chapter 78 (Oil and Gas Wells)

I am providing public comment on behalf of the Allegheny Defense Project and its numerous supporters to the Environmental Quality Board regarding the Pennsylvania regulations governing oil and gas wells because the far reaching impacts from oil and gas development are affecting me and my life and, in my opinion, are having indelible adverse impacts on our Commonwealth.

My home and water well are approximately 6,000 feet from a Royal Dutch Shell Oil Company Marcellus well site. I am in the scientifically researched and identified zone of impact for air pollution and water pollution. I have been monitoring my well water for the past three years. Yet the current proposed regulations do nothing to protect me and my wife, our home and property from pollution. Regulations that don't identify impacts to my water well and home due to air and water pollution from Marcellus drilling and fracking because our home is located more than 2,000 feet from the vertical bore hole when the terminus of the horizontal well is 5,000 to 6,000 feet from the vertical bore hole and under my property is absurd and not based on sound science. These regulations are based on politics and not sound science.

- **Stop all rule making and institute a moratorium on unconventional shale oil and gas extraction until a Pennsylvania state wide scientific study of all human health impacts is initiated and conducted with full public disclosure and participation in the process to identify all impacts to citizens, their health and the environment prior to establishing regulations.**

I am very concerned because the proposed changes do not go far enough to control the damage our communities and environment are experiencing as the gas and oil industry develops its wells, frack pits, impoundments, pipelines, compressor plants, gas processing plants, metering plants, generators and related operations across the entire state. I support the tighter controls you are proposing but they are too few and simply do not go far enough to make a difference in the harm that is being done.

First and foremost, this Rulemaking Process is corrupted by Pennsylvania legislators who actively conspired with Governor Corbett to sell votes to protect special interest groups in the oil and gas industry in order to pass the unconstitutional Act 13 law to usurp Pennsylvania citizen's constitutional right to clean air and pure water while the legislators and PA government actively failed to carry out their constitutional duty upheld by the Pennsylvania Supreme Court "to protect the public trust for present and future generations." The duty of government to protect the public trust is not an option, it's a citizen right guaranteed by the Pennsylvania Constitution.

- **Extend the public comment period and hold a public meeting in every county in which oil and gas drilling occurs in Pennsylvania.**

At the special/additional scheduled February 12, 2014, Environmental Quality Board public hearing which was held in Warren, PA, at the demand of the oil and gas industry, PA legislator Rapp arrogantly proclaimed her cavalier attitude toward not protecting PA citizens and the environment by her ACT 13 "YES" vote because she had a deal with Governor Corbett to exclude special interest conventional oil and gas drilling from regulation when in fact, ACT 13 was supposed to update the grossly outdated oil and gas regulations to protect citizens and the environment.

PA legislator Rapp arrogantly proclaimed,

“When Act 13 was considered for passage in the General Assembly, I and other legislators were given assurances from the Governor’s office and the leaders in the house that the regulations following the legislation would not affect our conventional wells. As a legislator my intent was NEVER to see legislation pass that treated both conventional and unconventional wells alike in the regulation. NEVER. That was NEVER my intent as a legislator and I had assurances from the Governor’s office and our legislative leaders that their regulations would not affect conventional wells.”

(See PA legislator Rapp proclaims she made a deal for her "yes" vote on unconstitutional Act 13 – YouTube) https://www.youtube.com/watch?v=YGP_JhIL9xM

Legislator Rapp’s special interest, conventional oil and gas drilling cronies need to be regulated to the fullest extent of the law possible. This “wild west” industry must be brought into compliance with 21st century regulations to stop further pollution of the environment and damage to our communities. Saying that massive conventional oil and gas drilling developments spanning massive areas and multiple watersheds impacting clean drinking water does not need more stringent and up to date regulations is just absurd.

A March 13, 2014, **Bradford Era**, article on page 3, reported on a conventional oil and gas explosion in legislator Rapp’s district.

“Clarendon man killed in oil tank explosion in Warren Co.”

WARREN - A Clarendon man was killed Wednesday morning as a result of an oil tank explosion in Brokenstraw Township. According to Pennsylvania State Police, Nikolai G. Briggs, 26, was pronounced dead at the Irvine Run Road accident scene by Warren County Deputy Coroner Stan Taydus. Police said Briggs was found about 60 feet north of the tank he had been working on. Taydus estimated the height of the tank at 10 to 12 feet. The victim had been welding on the top of the tank when his torch caused vapor in the tank to ignite and explode,” police said. “Death was due to multiple internal injuries” that were due to the explosion, Taydus said. The fatal explosion blew off the entire top of the tank...

Regulate conventional oil and gas drilling and unconventional hydrocarbon shale oil and gas extraction to the fullest extent of the law based on human health research and scientific research available.

This is especially true today because of the Pennsylvania Supreme Court ruling that requires government to consider how actions being taken affect the reserved environmental rights of Pennsylvania citizens and public natural resources. (Robinson Twp., Washington Cnty. v. Com., --- A.3d ---, 2013 WL 6687290, *33 (Dec. 19, 2013). I believe you must consider how these proposed regulations fulfill Article 1, Section 27 of the Pennsylvania Constitution before you act.

Article I, Section 27 declares:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

In my opinion, these Chapter 78 proposed changes do not serve this inalienable right. I ask that you revise the proposed rulemaking to include consideration of how to meet this mandate.

I advocate these changes to the proposed rulemaking, focusing on just a few key areas:

- **There is no difference in the processes and contaminants produced by conventional and**

unconventional oil and gas drilling or in the extraction and use of water except in terms of scale. All contaminated brine/poisoned water must be hauled to an appropriate closed loop, treatment facility. No contaminates will be discharged to the environment.

- **All radioactive contaminated waste and equipment from conventional and unconventional oil and gas drilling must be hauled to and disposed of in a licensed radioactive waste facility. Immediately stop all dumping of radioactive drilling contaminates in municipal landfills that were never permitted for radioactive waste.**

The McKean County landfill, now owned by Casella Waste, is not permitted to receive any radioactive waste and has already been identified by the PADEP as leaking water soluble, radioactive tritium into the West Branch of the Clarion River and on to the Clarion River where the residents of Clarion withdraw their drinking water. Casella is not permitted to receive radioactive drilling and fracking wastes. The EQB regulations will create future superfund site at municipal landfills.

- **Stop all illegal surface water and ground water withdrawals immediately for drilling and fracking in common law water rights, western Pennsylvania, where only a landowner may withdraw surface water for domestic use and not for industrial use or for sale.**

Sections 78.51 and .52:

Pre-drilling water testing and the replacement and cleaning up of contaminated water supplies:

- Operators should be required to restore contaminated drinking water to a quality that meets Safe Drinking Water Act standards, no matter what the quality of the water prior to drilling. If the quality of a water supply prior to drilling was above these standards, the operator must restore the water to that higher standard; otherwise, good water supplies will be degraded.
- All drillers should be required to use a consistent list of parameters for pre-drill water testing. The parameters should be as comprehensive as possible, but at a minimum match what DEP uses when it conducts full contamination investigations and to ensure that complete baseline data is available.
- All drillers must make pre-drill data available to the public, while protecting individual homeowners' privacy, through an online platform, which DEP must establish immediately.

Enough is enough. The Pennsylvania Oil and Gas Act and amendments and the new regulations do not work. Even with the presumption of pollution from drilling and fracking by a drilling operator – the law does not replace the contaminated water for the community or resident's individual water well in a timely manner. Even with the presumption of guilt and a finding of pollution by the PADEP, the process is allowed to be dragged out by a driller's legal apparatus while the agency PADEP steps back and allows the guilty driller to stonewall the individual water well owner.

On Thanksgiving day of 2012, in Pleasant Township, Warren County, PA, conventional driller Waste Treatment Corporation violated the property rights of Edwin and Karen Atwood by drilling and fracking a conventional oil and gas well only 250 feet from their home and water well. The PA DEP has determined that the operator contaminated their water well and issued an order to provide the Atwoods with clean water and to date, the law has not been enforced over 16 months later. This has reduced the property value of their land and home and the quiet enjoyment of where they live on land zoned "R1 Residential" in Pleasant Township of Warren County, PA.

This is another example from Legislator Rapp's district on why regulation of conventional oil and gas drilling must be brought into the 21st century despite Rapp's failure to protect the public trust.

Sections 78.56, .57, .58, .59:

Open pits, impoundments and processing of drill cuttings:

- No open pits, or “frack pits”, should be allowed on well sites; no hazardous substances in pits.
- No onsite processing of drill cuttings; these cuttings can contain toxic and radioactive materials.
- No mixing and storage in open impoundments of “reused” or “recycled” water from fracking and drilling with clean water for use in additional operations; “freshwater” is not defined, leading to “freshwater” impoundments with regulations that do not address their hazardous contents.

Sections 78.60, .61, .62, .63 and 78.70:

Disposal of drill cuttings, “brine”, and residual waste:

- No burial or land application of drill cuttings. The PADEP is creating the opportunity for thousands upon thousands of future “superfund” sites if it allows this toxic and often radioactive waste to be buried on well sites. I don’t want this hidden pollution buried in my community or my backyard or farm field and not near my water supplies!
- No burial of waste pits for the same reason.
- No spreading of brine or flowback for dust suppression, de-icing or road stabilization. Spreading these dangerous and often radioactive fluids on roads provides a pathway for pollution of our streams and groundwater and can poison wildlife and kill vegetation.
- No land application of tophole water, pit water, fill, or dredged material from drilling and fracking. The chemicals and sediments in this material should not be allowed to emit to the air we breathe, be mixed with the soil we grow our food in and our children play in, or to mix with our drinking water and streams.

Section 78.52(a)

Orphaned and abandoned gas and oil wells:

- I agree these wells should be identified but they must be identified before any site disturbance and recorded publicly, plugged and sealed according to state safety standards PRIOR to well site construction and testing of area water wells and intakes should be done by the operator to assess any pollution caused by the orphaned or abandoned well. These wells are a serious safety hazard in Pennsylvania and there should be every precaution taken to find them, avoid communication between new wells and old to avoid blowouts, accidents and well casing failure. These old wells that are pollution threats should be plugged.

Please consider my input on these important regulatory changes.

Respectfully submitted,

/ ~ S ~ /

William M. Belitskus
Board President
Allegheny Defense Project
117 West Wood Lane
Kane, PA 16735
(814) 778-5173
mbproact@penn.com