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February 2, 2016

Davitt Woodwell, President & CEO
Pennsylvania Environmental Council
915-917 Union Deposit Road
Harrisburg, PA 17109

Dear Mr. Woodwell:

I read your recent letter to members of the Environmental Quality Board (EQB) and the Independent Regulatory Review Commission (IRRC) regarding the Department of Environmental Protection's Chapter 78/78a final rulemaking (*Environmental protection standards at oil and gas well sites*).

While reasonable people may disagree on the underlying merits of the myriad of changes incorporated in the final rulemaking that is currently before the EQB, I do feel it imperative to respond to some of the assertions raised in your letter to EQB and IRRC regarding the path that was forged to arrive at this point in the process. Specifically, your letter states that "*any assertion that the rulemaking has not been responsive to concerns of industry is simply wrong.*" I am sure you can appreciate that those within the industry who are bound and directly impacted by this rulemaking, will not only disagree with this conclusion, but will continue to speak for themselves as it relates to legality and legitimacy of the process employed.

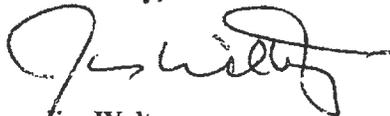
It is true that the rulemaking began moving through the regulatory process starting in December 2013 (preceded by consultation with the Oil and Gas Technical Advisory Board (TAB)). Simply tabulating, however, the length of the process, number of public hearings, public comments received, and advisory board meetings convened neither paints an accurate picture of the quality of the process utilized, nor serves as cause to dismiss reasonable concerns regarding the final product. The perfunctory assertions in your letter do not reflect:

- The spring 2015 dismissal of all members of TAB who had been integrally involved in the rulemaking process (mid-rulemaking)
- The subsequent insertion of significant, substantial, and brand new regulatory provisions and wholesale policy changes in the spring 2015 Advanced Notice of Final Rulemaking
- Failure by DEP to prepare a Regulatory Analysis Form, including cost compliance estimates, in a timely manner to accompany the public comment period, as required by the Regulatory Review Act
- Failure by DEP to draft and release for public comment all the requisite technical guidance documents and forms that will accompany the final rulemaking, as required by the Regulatory Review Act
- Lack of direct engagement and discussion by DEP with industry organizations and operators, who offer a unique, real-world perspective on the implications of the vastly new rulemakings proffered under the guise of ANFR. Indeed, of the dozens of issues discussed in explicit detail in the MSC's 164-page public comment letter of May 19, 2015, the department did not find merit in discussing, requesting additional information, or seeking to clarify their intent on a single issue

The Marcellus Shale Coalition and its members support strong, consistent environmental standards that both protect our natural resources and ensure the Commonwealth attains a competitive economic environment. We have sought to be engaged partners throughout enactment of Act 13 of 2012 as well as subsequent statutory and regulatory considerations. We have not merely said “no”; our constructive approach is reflected in the thoughtful, detailed and practical suggestions included in our individual member’s comments on this rulemaking and our very own 164 page comment document.

The MSC and our members look forward to working with key stakeholders to address the real and substantive concerns pertaining to the rulemaking as well as assuring a process that adheres to the fundamental requirements of the Regulatory Review Act.

Sincerely,



Jim Welty
Vice President of Government Affairs
Marcellus Shale Coalition

cc: Environmental Quality Board
Independent Regulatory Review Commission