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HEARING ON OIL AND GAS REGULATIONS

April 29, 2015

Washington & Jefferson College
Washington, PA 15301

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Washington Hearing

**Testimony of: Christopher Marsh
571 Old National Pike
Brownsville, PA 15417**

Hello,

My name is Chris Marsh. I appreciate this opportunity to speak and I'd like to give my personal perspective on natural gas drilling. I'm originally from Greensburg but thought I'd like to live in the country, so I bought a house in Centerville, Washington County.

In 2010 DPS Penn, who had partnered with Chesapeake Energy, asked me to sign a lease with them, so I met with them at their offices in the city of Washington. After their slick presentation, I asked them if there were any reasons why I shouldn't go ahead and sign their gas lease, and they said there was no good reason not to, since the drilling was so far underground. At this time, like most people, I knew nothing about unconventional gas drilling, but I left their office knowing little more than when I arrived. For instance, "fracking" wasn't even mentioned by the representative. I have here a brochure they gave me, and it *does* mention "fracturing" and shows a little illustration, but it says nothing about *water* being used. Nothing, that is, about the 2 to 5 million gallons it takes to frack a single well. Nothing about the toxic mix of chemicals they pump into the ground. Nothing about the 1,400 tanker truck trips. Nothing about the open wastewater pits.

So, my introduction to the gas drilling industry began with what I consider lies of omission. But what did I expect, right?

A few years later I looked out my living room window and noticed a fire burning on the horizon. Not only could I see it, but I could hear it, roaring out there like the Eye of Sauron. Later on I noticed another one. And for the past several months I've seen, through my living room window, along with the hills and fields and trees, a huge derrick, lit up like a NASA launch pad.

When I moved to the country, little did I expect that one day I would be seeing multiple gas wells from the front of my house and listening to the droning of a third from the rear. I've watched 100 trucks drive past my house in a single day. I've seen a half-dozen derricks just on my commute to work.

And I ask myself, Who has allowed the beautiful rural neighborhood in which I live to become an industrial zone? I thought the government was supposed to protect the people from this sort of thing.

I can't believe there was such a desperate shortage of natural gas in this country to necessitate gas drilling companies coming into our very neighborhoods. Prior to this drilling frenzy, I never heard that America had a shortage of natural gas. And now I'm seeing headlines like, "Biggest Oil Glut in 85 Years"

and “Half of U.S. Fracking Companies Will Be Dead or Sold This Year”.

To me this whole thing was ill-considered, short-sighted and foolish. We now see that the reason we were given, that “America needs to become energy independent”, was a lie, since Tim Murphy just voted to allow, in his words, “the United States to export our resources and compete with OPEC”. It was all about money after all. Gee, what a surprise.

I hate to admit it, but New York was smarter than we were. They took a wait-and-see attitude, letting us be the guinea pig. And after seeing the results of natural gas drilling in Pennsylvania, decided to ban fracking throughout the entire state of New York.

I figure New York must’ve had some good reasons to make such a brave decision. I understand that at this point there are hundreds of legitimate, peer-reviewed scientific studies which indicate gas drilling and fracking pose significant public health and environmental risks and harms. But to me this isn’t about science, it’s about common sense.

For who wants to live near a fracking well? Not the people who live near the well over at Trax Farms, who are suing not only EQT, but Trax Farms, as well. Not my neighbor, Terry Greenwood, who began his retirement by having his cattle poisoned, his well water poisoned, and then was carried off himself in a short three months with a rare form of brain cancer.

And then there’s the environmental damage – the clear-cutting of woods, the disruption of animal habitats, the new roads and pipelines that cut up the landscape, the risks to our groundwater, the risks to our streams – to me it’s just not worth it.

Like you, I’ve seen the headlines – the flagrant violations and record fines. The accidents, leaks, and spills. The poisoned wells and polluted streams. The way these gas drilling companies seem to flout environmental laws and do whatever they want. The accusations that the DEP hasn’t done its job of protecting us. From all this is it obvious to me that fracking cannot be done safely.

My position is, therefore, that we need to follow New York’s lead and put an immediate stop to fracking gas in Pennsylvania.

Thank you.

Andrea Stapleford

Jett Oil, LLC

1370 Jackson Ave.

Warren, PA 16365 (814) 723-3445

My name is Andrea Stapleford. I reside in Warren, Pennsylvania, which is located in northwest Pennsylvania. I am proud to be a Washington native and a 1981 graduate of Wash High.

I am an attorney by trade, and I am also part owner of a small oil company headquartered in Warren. Our oil company drills conventional, or shallow, wells, and we are a small business with less than 500 employees. We, also, own the first oil well that was fracked in Warren County, Pennsylvania. This particular well was fracked in the early 1960's, and there have been no problems with this well since its inception. This well is located approximately 100 feet from the banks of the Allegheny River – the same Allegheny River that flows into Pittsburgh. No one – in Warren or in Pittsburgh or anywhere in between – has suffered any detriment from this well in the 50+ years since it has been fracked.

In addition, my husband is the owner of another oil company, also headquartered in Warren and also having less than 500 employees. The company that my husband owns and operates was started by his grandfather in the 1930's.

Despite the misguided information that has been provided in the media and by various regulatory agencies, the hydrofracturing process – which has been used for decades - is extremely safe.

Permit me to tell you a little about Warren. Warren is a small city located on the Allegheny River. Warren is also surrounded by the Allegheny National Forest. We live in a beautiful, environmentally rich area, and no one appreciates these natural attributes more than the oil and gas producers do. Despite these attributes, Warren's population is shrinking, and we are experiencing the departure of large industries. The one industry that has remained constant, however, and which has historically provided secure and stable jobs, is the oil and gas industry.

However, the conventional oil and gas industry is suffering as a result of the intrusive and overreaching regulations which DEP is imposing on conventional oil and gas producers. There have been layoffs suffered in the conventional oil and gas industry because the small companies are being trampled by DEP regulations – regulations that are suited for and were implemented to address issues relating solely to the unconventional drillers – not the conventional drillers. These regulations are neither appropriate for nor are they tailored to address issues in the conventional oil and gas industry.

The high cost of the new DEP regulations will only add to the burden from which the conventional industry is suffering. The proposed regulations will have a serious negative impact on future drilling plans. For example, less wells are being drilled, and further layoffs are planned as a result. These layoffs lead to far-reaching economic problems not only for the producers, but, also, to every person whose life is touched, directly or indirectly, by someone employed in the oil and gas industry. This, in turn, can lead to the demise of an area which once thrived thanks to the oil and gas industry.

Did you know that in the late 1800's, Bradford, Pennsylvania – a town, much the same size as Warren and which is close to Warren in northwest Pennsylvania, – was the world's largest producer of oil? We should all be proud to have such a viable industry in our state which would

enable us to be self-sustaining to a large part if it were allowed to operate efficiently and effectively and without being overregulated.

To be specific with regard to the 2015 regulations:

- The 2015 regulations are overreaching and burdensome to an industry which is crucial to the functioning of every citizen's daily life.
- The 2015 version of the regulations is more complex than the 2013 version.
- Some of the sections of the 2015 regulations are very complex and difficult to interpret which in turn makes them difficult to implement. Examples of this are the regulations relating to central impoundments and site restoration.
- The 2015 regulations lack a proper financial analysis of costs by DEP. Financial impact is one of the key areas on which we are to be able to give comment. It is impossible to comment on the regulations when this key component is missing.
- The 2015 regulations lack an analysis of alternatives for small businesses. It is impossible to comment on the regulations when this key component is missing.
- The law requires that the regulations allow for "optimal" development of Pennsylvania's oil and gas resources, and I emphasize the word "optimal". The complexity of these regulations is unnecessary and burdens the conventional oil and gas producers in a manner which is anything but optimal.
- DEP has failed to state what is inadequate about the current regulations. As a result, it is impossible to comment on the proposed regulations if we are uninformed about the goals for change that DEP is seeking.

My request, on behalf of all conventional oil and gas producers, is that DEP **stop** the current process and go through a thorough and necessary examination to determine if there is even the need for change, prepare the proper financial analysis, and review the alternatives for small, conventional oil and gas producers.

A. Bruce Grindle
President



OIL & GAS MANAGEMENT, INC.

P.O. Box 1204 • Mt. Pleasant, PA 15666
(724) 925-1568 • Fax: (724) 925-8106 • Cell: (412) 480-7882
email: abgrindle@aol.com

April 29, 2015

Environmental Quality Board
PO Box 8477
Harrisburg PA 17105-8477

RE: Comments to Proposed Regulations 25 PA Code Chapter 78 Subchapter C- Presented at the Public Hearing held on April 29th 2015 in Washington, Pa.

To EQB Members,

My name is Bruce Grindle and I am here tonight to testify as Co-Founder and President of Oil & Gas Management, Inc. and as Vice President of the Pennsylvania Grade Crude Oil Coalition (PGCC) regarding the revisions to 25 Pa Code Chapter 78 & 78a Subchapter C.

My partner and I founded our company in 1990 and we now own and operate approximately 300 conventional wells in southwestern Pennsylvania with a staff of only seven people. We strive to be good environmental stewards and corporate citizens. The vast majority of conventional wells are drilled and operated by small locally owned companies just like ours, many of which are family owned businesses.

The Pennsylvania Grade Crude Oil Coalition (PGCC) was formed in the summer of 2013 by 20 producers and refiners of conventional oil and gas to advance local economies and energy independence by promoting conventional oil and gas production in a safe and environmentally sound manner. We now have over 100 members, all of which are small businesses.

The proposed regulations are wide-ranging and extremely complex. As proposed, they have created confusion as to how they will operate with both the regulator and the regulated community. The hallmark of good regulation is simplicity and clarity.

In accordance with the requirements of the Regulatory Review Act, as amended on June 29, 2012, the Department is required to evaluate the negative impacts to small businesses that would result from proposed regulations, perform a regulatory flexibility analysis that would provide for the establishment of less stringent compliance requirements for small businesses and give consideration to the exemption of small business from all or any part of the proposed regulations where it is consistent with health, safety, environmental and economic welfare.

Although, the Regulatory Analysis Form submitted with the regulations did make some estimates as what the costs to the Conventional industry would be, the analysis falls woefully short of the actual costs that would be incurred. In addition, there are no substantive recommendations for mitigating the impact on small businesses or serious consideration given to the exemption of small business from all or any part of the new requirements contained in the proposed regulations.

The procedure for promulgating this new rule (25 Pa Code Chapter 78a Subchapter C) for Conventional Oil and Gas Operations is fundamentally flawed for the following reasons;

1. The Department has not provided evidence along with supportive data that would demonstrate there is a compelling need for sweeping revisions to the regulations for the Conventional Oil and Gas Industry.

In the comments to the proposed rule provided by the Independent Regulatory Review Commission on April 14, 2014, the IRRC made the following recommendation;

7. RRA Section 5.2(b)(3)(iii) - Need for the regulation.

Section D of the Preamble to this rulemaking relates to background and purpose. It notes the following: "The 2012 Oil and Gas Act contains new environmental protections for *unconventional* wells and directs the Board to promulgate specific regulations. For these

reasons, the [EQB] initiated this proposed rulemaking." (Emphasis added.)" Commentators representing the conventional oil and gas industry believe this rulemaking will have a serious negative impact on their businesses. While we understand that EQB has the authority to amend its regulations relating to conventional wells, we ask for a detailed explanation of why more stringent regulations for the conventional oil and gas industry are needed at this time. Has EQB witnessed an increase in environmental mishaps or violations from conventional well operators? What problem is EQB attempting to correct through this proposal with respect to conventional wells?

2. The Department has not complied with the requirements of the Regulatory Review Act.

Once again in the comments to the proposed rule provided by the Independent Regulatory Review Commission on April 14, 2014, the IRRC made the following recommendation;

9. RRA Sections 5(a)(12.1) and 5.2(b)(8) - Whether a less costly or less intrusive alternative method of achieving the goal of the regulation has been considered for regulations impacting small business.

Section 5(a)(12.1) of the RRA (71 P.S. § 745.5(a)(12.1)) requires promulgating agencies to provide a regulatory flexibility analysis and to consider various methods of reducing the impact of the proposed regulation on small business. Commentators, including legislators, do not believe that EQB has met its statutory requirement of providing a regulatory flexibility analysis or considering various methods of reducing the impact the proposed regulation will have on small business in its responses to various sections and questions on the RAF. While we appreciate the effort put forth by EQB to meet its "small business" obligations under the RRA, we agree that more information is needed in the RAF. We ask EQB to provide the required regulatory flexibility analysis for each section of the proposed rulemaking.

3. The Department has not complied with Act 126 of 2014.

The Act requires the Department to “promulgate proposed regulations and regulations under 58 Pa.C.S. (relating to oil and gas) or other laws of this Commonwealth relating to conventional oil and gas wells separately from proposed regulations and regulations relating to unconventional gas wells. Act 126 also requires that all regulations under Pa C.S. 58 differentiate between Conventional oil and gas wells and Unconventional gas wells. The General Assembly adopted Act 126 to address the impropriety of regulating conventional and unconventional oil and gas operations as a single industry. Simply dividing the rule into separate subchapters in the middle of the current rulemaking process does not follow the statutory procedures for the promulgation of a separate rule for conventional oil and gas operations.

The Department must stop the current process, start from the beginning and do the necessary examination of need for change, financial analysis, and alternatives analysis for small business. It must also follow the statutorily mandated procedure for the promulgation of a separate rule for conventional oil and gas operations.

Sincerely,

A. Bruce Grindle

President & Co-Founder Oil & Gas Management, Inc
Vice President Pennsylvania Grade Crude Oil Coalition
Citizen



OIL & GAS MANAGEMENT, INC.

A. Bruce Grindle
President April 29, 2015

Cathy A. Kirsch
Vice President

Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Department of Environmental Protection Policy Office
400 Market St.
P. O. Box 2063
Harrisburg, PA 17105-2063

RE: Comments on Advance Notice of Final Rulemaking for revisions to 25 PA Code Chapter 78, Subchapter C by DEP, at an April 29, 2015 Public Hearing hosted by DEP at Washington & Jefferson College, Washington, PA

Dear Sir or Madam,

My name is Cathy Kirsch and I am here to testify as co-owner and Vice President of Oil & Gas Management, Inc. In 1991 Oil & Gas Management, Inc. was incorporated by my partner and I as a Pennsylvania S corporation. As owners of a small business, we are proud of the 300 conventional gas wells that we own and operate on leases and lands that we own in southwestern Pennsylvania. We currently employ seven full-time employees, who are all residents of Pennsylvania.

During my 38 years in land management, I always had ongoing lease, right of way and well permit projects for conventional well drilling programs to work on until the proposed new regulations were published for review. The regulatory complexities and compliance costs arising out of Chapter 78, Subchapter C, and the changes proposed by DEP, are having a devastating effect on the conventional industry.

With reduced drilling operations, costly regulatory compliance and low oil and gas prices, the small conventional operators are struggling to stay in business and retain their employees. In order to reduce costs we are not hiring new employees and contractors, purchasing supplies and materials are on an as needed basis, and the majority of our unoperated oil and gas leases are being surrendered jointly by Oil & Gas Management as the conventional lessee and the unconventional lessee. The loss of rental income by lessors is increasing in many areas and the negative cost burden of the proposed regulatory compliance on existing conventional wells will eventually result in premature plugged wells and loss of royalty income and free gas for home use by lessors.

The conventional oil and gas industry has been a part of the landscape for over 150 years and was previously governed by oil and gas regulations that made regulatory, environmental and economic sense for over 30 years. In an effort by the DEP to regulate the unconventional industry, the DEP

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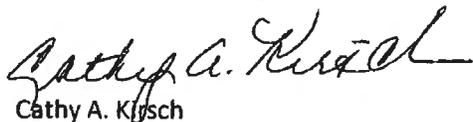
included both the conventional and unconventional industries in the rulemaking even though DEP acknowledges the differences on its website as follows: "Compared to conventional oil and gas development, unconventional well development involves larger wells sites and centralized storage facilities, mobile wastewater processing, large volumes of water for hydraulic fracturing activities and new pipeline systems". In addition, the conventional wells have production rates and economic returns lower than the unconventional wells, which does not justify overregulation of the conventional industry.

The 2015 version of the new regulations are harder to understand than the 2013 version. Some of the sections of the 2015 version are so complex that it is difficult to understand the requirements for central impoundments and site restoration. In the past we had regulations that were easy to follow and the majority of the permitting and regulatory compliance work was performed in-house. Now it takes a team of attorneys to try to interpret the new regulations and the inconsistencies. These outside services increase the cost of operations. Unfortunately we are unable to comment on the financial impact, because the regulations lack a proper financial analysis of costs and alternatives for small businesses. By letter dated July 18, 2013 the Oil and Gas Technical Advisory Board advised the Environmental Quality Board, that the DEP has not critically analyzed or accommodated the anticipated impact of the proposed rules on small businesses under the Regulatory Review Act. The Regulatory Review Act, as amended on June 29, 2012, requires DEP to provide a comprehensive analysis of the actual costs that small businesses would incur as a result of the new regulations, including the legal, accounting and consulting compliance cost that would be incurred (Act 76 of 2012, Act of June 29, 2012, P.L. 657, No. 76; and 5). Under the statute the DEP must also consider the establishment of less stringent compliance requirements for small businesses throughout Chapter 78. These omissions by the DEP should stop the current regulatory process in order to do the necessary examination of the need for change, financial analysis, and alternatives for small businesses.

In addition, the passage of Act 126 requires all regulations promulgated in 58 Pa. C.S. relating to oil and gas, to differentiate between conventional oil and gas wells and unconventional gas wells. Separating Chapter 78 into two distinct chapters in the middle of the current rulemaking does not follow the statutory procedures for the promulgation of a separate rule for conventional oil and gas operations.

It is difficult for me to understand why the DEP has not fully complied with the Regulatory Review Act and Act 126, other than an attempt to use costly regulations to eliminate small businesses from drilling and operating conventional wells in Pennsylvania. We hope that this is not the case and that the DEP will comply with both Acts and the law requiring regulations that allow for "optimal" development of Pennsylvania oil and gas resources.

Sincerely yours,



Cathy A. Kirsch
Vice President

Adam Benford
607 Hilton Circle
Oakdale, PA 15071

Hello and thank you for having me. My name is Adam Benford and I live in Collier Township, Allegheny County, Pennsylvania. I've been living and working in the Commonwealth for 6 years. I am an avid outdoorsman and a proponent of responsible industrial and resource development in the Commonwealth. I am here today to express my disapproval and opposition of the Chapter 78 revisions.

Presently, I am a Landman with PennEnergy Resources, a Pittsburgh area Exploration and Production Company. Health, Safety and Environmental Stewardship are at the heart of our company's Core Values. Having worked in the industry for over eight years, I have found these values to be consistent with most of the other operators in the Commonwealth. Since our inception in late 2011, PennEnergy acquired leases on 80,000 acres across three counties in Western Pennsylvania, paying over \$115 million to landowners. Currently, we have 22 unconventional wells in production with intentions of turning more wells in line in the near term. Through this work we have had a positive impact on the infrastructure in our operated areas by rebuilding two bridges and upgrading over 10 miles of roads.

The oil and gas industry has provided me and literally thousands of other individuals with an amazing opportunity – the ability to stay in the region and build a life. I can remember 10 years ago working a dead-end job with \$3 in my checking account. I can promise you it was not a fun place to be. Through hard work and a desire for knowledge, the industry has enabled me to grow both personally and professionally. I have seen the same effect first hand with hundreds of locals who have taken the initiative to get the necessary training to jump head first into our business. My hope is that these same opportunities will still be available to my four year old daughter when she is ready to enter the work force.

Additionally, we have seen a hugely positive impact on small businesses throughout the region. Hotels, restaurants and convenience stores are all thriving. It doesn't take an economist to understand that many of their successes can be directly attributed to the oil and gas industry.

Very recently, however, I have seen the scary proposition of companies slowing down due to this depressed commodity price environment. I personally know dozens of people sitting at home without jobs. I am citing this situation to make a plea to you to not make this unnecessarily cumbersome on the industry – there is too much at stake for Pennsylvanians and our country. The regulations currently in place are sufficient

Chapter 78 Proposed Rulemaking Hearing – April 29, 2015, Washington, PA

Adam Benford
607 Hilton Circle
Oakdale, PA 15071

and not overly burdensome like those being proposed. I want to make it very clear that I am not opposed to regulating our industry. In fact, I think it is extremely important to watch over the industry to protect human health and our environment. My question is, why don't we focus on enforcing the world class regulations Pennsylvania already has in place as opposed to piling on tedious and, ultimately, expensive standards? Why has the DEP not performed the required cost-benefit analysis or attempted to understand the impact these regulations will have on small businesses? Why does it seem as though the industry has to play by a different set of rules? Other industries are held to a much lower standard. Why are we, the industry, not allowed to review the comments for the proposed rulemaking even though it is required by law? Are you going to be able to enforce all of these proposed regulations? If so, from where is that money going to come? In my humble opinion, the DEP is way out of bounds on a number of issues as it relates to this rulemaking.

Pennsylvania is blessed with some amazing layers of rock thousands of feet beneath us. The Commonwealth needs to remain competitive. If the industry cannot operate efficiently and effectively, the major players will pack up and go elsewhere. Please leave Chapter 78 alone – the cost is too great for current and future working Pennsylvanians.

Good evening my name is Doug Mehan. I live in Crawford County, Meadville, Pennsylvania and work in the natural gas industry for PennEnergy Resources, a small, private, Pennsylvania based company located in the Pittsburgh area. My personal values include a strong commitment to the protection of human health and the health of the environment. I have worked in manufacturing, environmental consulting, and the oil and gas industry for over 30 years helping companies comply with state and federal environmental regulations. I have performed environmental compliance audits both internally and externally throughout PA, the US and Internationally. I have also designed and implemented environmental management systems, which are designed to go beyond basic compliance requirements.

PennEnergy has been in business since 2011. We have grown from 2 to over 30 employees. Our activities help employ hundreds of Pennsylvania citizens in good paying jobs. PennEnergy has invested over \$300 million in southwest Pennsylvania to date; with over \$115 million going to local landowners in the form of lease bonuses. We are welcome in the communities in which we operate and have already significantly improved existing infrastructure in many areas and will continue to do so as we develop our acreage.

PennEnergy insists upon 100% compliance with all applicable rules and regulations and, we have the outstanding environmental performance record to support this. **We support responsible regulations that truly protect our environment**, as do most other operators in the state. Our industry is already very well regulated by PA DEP, US EPA, OSHA, ACOE, and others and the Pennsylvania regulations have served as a model for states across the nation. These regulations have been reviewed and praised by the independent STRONGER board (State Review of Oil and Natural Gas Environmental Regulations). While there may be operators in the past, or even currently, who have not performed well with respect to protection of the environment, this is not about a need for more regulations, but rather **compliance and enforcement of existing regulations**.

My day-to-day job for PennEnergy involves the specific details of environmental compliance and reporting, with the ultimate responsibility of protecting human health and the environment. I collect and report our operational data related to waste, air emissions, and water. Most of the current regulations are necessary to protect the environment. However, most of the proposed regulations **will not provide any further protection to human health or the environment**.

For example, rock removed from the borehole is required by the PA DEP to be analyzed for specific waste chemistry (including heavy metals, pesticides and PCBs!) with the results reported annually, and the waste descriptions, volumes, and destinations being reported every 6 months. Many of the analysis are not components of the drilling fluids and do not occur naturally in the environment. The proposed requirement is that the waste descriptions, volumes, and destinations must be reported monthly, instead of every 6 months (or annually for reporting of hazardous wastes in other industries). How we must handle waste rock, nor the analysis, will not change. To put this in perspective, other industries in Pennsylvania are only required to report this information on an annual basis. And incidentally, the drilled rock samples are generally the same as those found on the surface.

The proposed requirements contain standards applicable only to the oil and gas industry. There is no justification for singling out one industry for burdensome rules that do not apply to other industries or that provide no additional protection to the environment. More importantly, the details of "how to comply" with many of these proposed regulations have NOT been developed by the PA DEP.

For example, the proposed requirements contains a section on noise that no other industry is required to meet... that I'm aware of, and that authorizes PA DEP to shut down operations if they believe noise controls are inadequate, but there are no details provided as to what specific requirements or standards would apply or at what distances those determinations would be made.

With regard to storage tanks, rather than providing an incentive to recycle and reuse our wastewaters by facilitating temporary storage of those waters at centralized locations, the proposed requirements for those storage tank locations are so extensive, and beyond what would be required for tank storage in other industries, that they will actually be a major disincentive for recycling and reusing that water.

In addition, there is a proposed requirement to identify and monitor Pennsylvania's numerous abandoned and unidentified oil and gas wells during our drilling and completion activities. Estimates for the number of these wells are unknown and have been reported between 300,000 to 1,000,000. Almost all are very shallow and would therefore not be influenced by unconventional well completion activities that are conducted much deeper. PA DEP is well aware that detailed records on these old abandoned wells are often not available, but there will be general knowledge that the wells in certain areas were all shallow, nevertheless in those situations, the proposal would require us to make an unreasonable assumption that those wells were drilled much deeper than they were and undertake the significant time and expense to identify and unnecessarily monitor those wells during our well completion operations.

Conversely, the current Chapter 78.88 unconventional well Mechanical Integrity (MIA) program is a positive example of a balanced requirement where inspections are required to be conducted quarterly yet reporting is performed annually.

Finally, it appears that members of the regulated community are being negatively impacted by not being allowed to review the comment and response document from the proposed rulemaking that PA DEP is required by law to share.

We remain committed to protecting human health and the environment through the **existing** framework of environmental regulations, and these proposed new rules do very little to further that commitment.

Thank you

April 29, 2015

Mr. Jeffrey P. Walentosky, P.G.
5001 Julia Lane
McKees Rocks, PA 15136

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

RE: Comments to Advanced Notice of Final Rulemaking - 25 PA Code Chapter 78, Subchapter C
Public Hearing held in Washington, PA

Environmental Quality Board Members:

My name is Jeff Walentosky and I am here today to testify as an interested citizen of the Commonwealth, regarding the advanced notice of final rulemaking for Chapter 78, Subpart C – Environmental Protection Performance Standards. I am a lifelong resident of western Pennsylvania. I've been employed as a licensed professional geologist for 25 years for a geologic and environmental consulting firm located in western Pennsylvania, which acts as an unbiased third party consultant to oil/gas industry.

Our company maintains membership with the Marcellus Shale Coalition (MSC) and the Pennsylvania Independent Oil and Gas Association (PIOGA), Pennsylvania Grade Crude Coalition (PGCC) and the Pennsylvania Independent Petroleum Producers (PIPP).

Despite receiving over 24,000 comments during the draft rulemaking phase, it is apparent that there are still significant improvements and considerations that need to be made to various portions of this Advanced Notice of Final Rulemaking (ANFR) package. Here are a few general comments I would like to offer:

General Comments

While the bifurcation of the conventional and unconventional regulations are certainly a step in the right direction, the end result of the proposed final rulemaking packages has not adequately addressed previous concerns that were provided as part of the draft comment period in 2014. This calls into question whether or not the comments submitted as part of the draft rulemaking process were given full consideration as part of this ANFR. I feel that given the significant volume of comments produced as part of the draft rulemaking phase of Subchapter C, should have provoked further communication, which would have produced additional dialogue and clarity between the Department representatives and all stakeholders.

There continues to be question on whether the Department considered the far reaching economic impacts that will be created by these regulation packages, especially to the traditional, small conventional operator with limited available staff and resources.

The Department continues to reference forms and guidance documents for completion within many parts of the ANFR. These forms and guidance documents must be provided for review as part of this comment period.

Specific Comments

Here are just a few specific comments I would like to discuss:

Protection of water supplies (78.51 and 78a.51) – as a professional geologist, I have been involved in hundreds of water supply investigations relating to the development and use of residential, industrial and community water supplies within the Commonwealth of Pennsylvania and several nearby states. This state is one of the two in the United States that has no drilling and construction standards for new and existing residential water supplies. Past proposed legislation in Pennsylvania has not been successful in affording the residents of the Commonwealth assurance that proper water well installation practices and guidelines are followed to minimize the risk of drinking water contaminants. Without this legislation in place, it is unreasonable for the Department to expect the oil/gas industry to be obligated to restore water supplies back to applicable safe drinking water standards if the supply did not previously meet these standards or possibly an improved water quality. There is a great deal of potential for the misuse of this provision, given that there are many parts of the Commonwealth where background concentrations in groundwater do not meet associated drinking water standards. The proposed restoration standards should be made to meet “pre-drilling” or “baseline” water quality and water quantity.

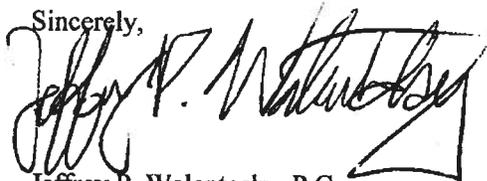
Area of review (78.52a and 78a.52a) – formerly abandoned and orphaned well identification - the identification procedure in this section of the proposed regulation outlines a very difficult process. As I have stated in previous discussions with Department representatives, most operators completed its “due-diligence” in order to avoid potential environmental impacts and communication with abandoned/orphaned wells. The introduction of a map finder identification tool will be helpful to the operators. However, the use of a questionnaire with adjacent property owners will likely cause some issues from the standpoint of property access issues (if wells are identified) or lack of accurate knowledge or reliance of questionable information regarding the existence of abandoned/orphaned wells. Once again, this issue has been discussed for over two years, yet the proposed questionnaire to be used with this regulation has not been produced for review.

Reporting and remediating releases (78.66) – the Department issued the Oil and Gas Spill Policy in September 2013. While there are still consistency issues, I feel the Department was heading in the right direction in 2014 to give some clarity to the policy regarding necessary testing parameters and procedures to operators and to the Department’s in-house staff members to ensure consistent understanding of the necessary measures. However, it appears that the Department will likely dismantle the current program and require all operators that experience a spill or release to enter the “voluntary” Act 2 program. In addition, as part of this proposed regulation, the Department has created submittal timeframes for oil/gas operators within this section that are not found in any current part of the Act 2 program. This certainly holds the industry to a higher standard than all other industries, which utilize the Act 2 program. Existing law fully addresses spills by this industry or any other and if consistency is still needed, revision of the policy, not the regulation, is the appropriate avenue.

Noise Mitigation (78.a41) – while I applaud the Department for addressing a nuisance issue frequently brought up by the general public, as written, these standards are very vague with little to no details that are shared regarding standards or definition in the ANFR. While the Department cites utilizing noise mitigation guidance from Alberta, Canada, the Department should be consulting with the Occupational Health and Safety Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH) regarding available guidance, direction and potential mitigation measures. In short, the Department is reaching for guidance in the wrong places in order to address a non-environmental concern.

This concludes my verbal remarks. I would like to thank the EQB and PA DEP representatives for holding these hearings and the opportunity to present my testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey P. Walentosky". The signature is written in a cursive style with a large, stylized initial "J".

Jeffrey P. Walentosky, P.G.
Interested Citizen