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JUN 15 2020

Independent Regulatory
Review Commission**Comments of the Marcellus Shale Coalition****IRRC No. 3206: Environmental Quality Board #7-542 Unconventional Well Permit Application
Fee Amendments****June 15, 2020**

The Marcellus Shale Coalition was formed in 2008 and represents the leading operators that are active in Pennsylvania's unconventional natural gas industry. Last year, our member companies produced 96% of Pennsylvania's shale gas and stand to pay the overwhelming majority of permit fees that will be raised under this final rulemaking.

It is imperative to stress that Pennsylvania's shale gas industry supports a strong and robust DEP oversight program. Doing so enhances the environmental operations of all companies and reinforces public confidence in both the industry and government regulators. To demonstrate this commitment, the shale industry actively supported prior permit fee increases in 2010 and 2014, as well as the state's Act 13 natural gas impact fee, which has generated nearly \$2 Billion since 2012 and provides critical resources to state oversight agencies, including DEP. These efforts were a collaborative process designed to find the right balance between the fees imposed on the unconventional gas industry and the services required to be performed by the Department to oversee unconventional gas operations.

For the past couple years, the MSC has offered to work collaboratively with the Department and the Governor's Office to identify a more equitable and sustainable funding mechanism for the oil and gas program. Despite these good faith attempts by industry, there has been no mutual collaboration on these proposed fees nor on any alternative funding mechanism. None-the-less, we will endeavor to seek new opportunities with the Administration and General Assembly to find equitable and fair funding mechanisms for the Oil and Gas Program.

With that said, before proceeding to approve a final rule that DEP estimated will cost Pennsylvania businesses an additional \$15 Million annually, it is important to acknowledge several critical points:

- The increase from \$5,000 to \$12,500 for an unconventional permit will result in Pennsylvania having the highest permit fee in the nation. This increase comes at a time of historically depressed natural gas prices across the nation, a concern exacerbated in PA, where producers and landowners receive 15-20% below national index prices tied to lack of sufficient infrastructure to move abundant natural gas to market – a concern exacerbated by inefficient and ever-changing permitting requirements for operators.
- We have heard that the amount of both the conventional and unconventional permit fees are roughly equal in percentage terms with the overall investment of drilling the well. This is a false and misleading equivalency. Permit fees should bear a relationship to the cost of the activity it is designed to cover (oversight of the industry it regulates); it is not a sales tax to be based on the

value of the investment. The comparison is disingenuous and should be rejected and discarded by the Commission.

- Pennsylvania's shale gas industry already pays 100% of the cost of its oversight by DEP. Since the permit fee was raised to \$5,000 in 2014, natural gas operators have paid approximately \$9.9 million annually. Combined with the \$6 million DEP receives in Act 13 Impact Fees annually, this total of nearly \$16 million annually more than covers the cost to oversee PA's shale gas industry.
- Put another way: none of the \$7,500 permit fee increase contained in this rulemaking, to be paid for only by PA's unconventional natural gas industry, actually will be used to oversee PA's unconventional natural gas industry. It will, instead, pay for the cost of the oversight of Pennsylvania's 70,000 plus conventional wells and legacy oil and gas issues.

This inequity is why our member companies continue to strongly urge DEP and the Administration to pursue a more sustainable and equitable funding mechanism for its oil and gas program; sustainable, so the agency does not need to reappear before this Commission seeking even higher permit fees, and equitable, so that the level of funding derived from the unconventional industry bears a reasonable relationship to its costs. Here are just a few options:

- Pursue an increase in General Fund appropriations to DEP's budget, or allocate a portion of the nearly \$150 million DEP already receives in General Fund money to oil and gas oversight
- Seek a re-allocation of the existing Act 13 Impact Fee (paid by unconventional natural gas operators) to apportion more than the current \$6 million annually to DEP

In closing, the MSC and its member companies strongly support ensuring that Pennsylvania's oil and gas program has the resources it needs to do its job. And while we do not seek to scuttle this proposed 150% fee increase, we do urge this Commission to encourage the Department and Administration to engage in a serious effort to identify, collaboratively, an equitable and sustainable long-term funding mechanism for this program.

Thank you.

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