SGNG COMPANY

STEPHENSON GROUP NATURAL GAS COMPANY
912 McCORMICK ROAD
SMICKSBURG, PA 16256

HV
2742

March 06, 2009

Environmental Quality Board
Commonwealth of Pennsylvania
PO Box 8477
Harrisburg, PA 17105-8477

Re: Public comments; Proposed Rulemaking; Oil and Gas Wells; Title 25, Part I, Subpart C, Article I, Chapter 78, Subchapter B, § 78:15, § 78:19. (Pennsylvania Bulletin, Vol. 39, No. 7, February 14, 2009.)

Please find attached a one page summary of written comments, suggestions and objections to be provided to each member of the Environmental Quality Board prior to consideration of the final-form rulemaking with respect to the proposed regulations as set forth above.

Respectively submitted,

Gregory W. Stephenson
Vice-President
Stephenson Group Natural Gas Company

Enclosure

Cc: Mark A. Stephenson
Representative Samuel H. Smith
Senator Donald White

PARTNER

Environmental Quality Board

Public comments; Proposed Rulemaking; Oil and Gas Wells; Title 25, Part I, Subpart C, Article I, Chapter 78, Subchapter B, § 78.15, § 78.19. (Pennsylvania Bulletin, Vol. 39, No. 7, February 14, 2009.)

1. This commentator objects to the proposed rulemaking referenced above, the "regulations", in the entirety and the Board should reject the same until more stakeholders are consulted and more intensive consideration is given to general and specific variables not adequately addressed in the current form of the regulations. It is the opinion of this commentator that the current proposed fee schedule is arbitrary, capricious and unreasonable given the current national economic posture and the sharp downturn in the oil and gas industry activity at the time of this writing. These regulations only serve as an impediment to the development of the oil and natural gas resources of Pennsylvania and are in sharp contrast to the national consensus of the need to develop more domestic energy resources. However, I do wish to set forth the following comments and suggestions in the event final-form rulemaking is adopted.

2. Any new permit fees, if approved and based on well depth, should be based on the Mean Sea Level (MSL) depth of the well. Otherwise operators drilling wells located on higher ground surface elevations will pay a higher fee than operators drilling adjacently on lower ground surface elevations with both operators targeting the same formation(s) occupying the same vertical Mean Sea Level interval. In essence the operator drilling on the hill pays a higher bill for no logical reason. This disparity could be eliminated. The same is true for operators targeting the same geologic formation which occurs at widely varying depths across the Commonwealth. In this senses a "depth charge" is patently unfair.

3. The Department appears to make the contention that more staff time is necessary to review a permit application, "application", based on the depth of proposed wells which is erroneous. In fact, currently the exact same forms, notices, well location plats (maps) and other forms required by the Department comprising an application for vertical non-Marcellus shale wells are exactly the same regardless of the proposed well depth. Additional staff time consumed would be a function of application volume as opposed to the depth of wells. During periods when the Department experiences increased volumes of applications the Department receives the additional fees satisfying needed funds for additional staff. If the fee increases are considered such increases should be dedicated solely for additional staff during substantial increased application activity with the additional staff being dismissed during downturns in permitting activity. Costly permanent staff would not be required during such downturns. This would satisfy the Department's contention that one of the benefits for the regulated community of the regulations would be timely review of applications.

4. The Department's contention that the increased fees are necessary for compliance monitoring and inspection costs related to increased drilling activity is erroneous. Application fees currently collected are non-refundable. If a permit is denied or issued but well drilling is never undertaken pursuant to an issued permit there is little or no follow up required by the Department. These fees are a windfall for the Department. In fact, §78.903 to §78.906 is basically an exemption whereby the Department is not required to perform any inspections whatsoever except for certain conditions enumerated therein. The Department's inspections are solely discretionary and not mandated by statute or regulation. Lacking such mandates the Department lacks authority to request increased application fees for its inspection and compliance costs. The Department's inspection and compliance costs are not related at all to the type or depth of a well. The imposition of fees based on well depth or type for this purpose is unreasonable. During periods when the Department experiences increased drilling activity the Department has previously received additional fees satisfying funding for additional staff. If fee increases are considered such increases should be dedicated solely for temporary staff during substantial increased drilling activity with the additional staff being dismissed during downturns in drilling activity. Costly permanent staff would not be necessary during such downturns.

5. The only justification for any increased application fees may be found with respect to wells targeting the Marcellus shale (Note: Nomenclature with respect to a geologic occurrence can vary. Likewise this writer uses the term "Marcellus shale" loosely.) This justification would be limited only to the additional staff time required with respect to the water withdrawals for the drilling and completion of wells targeting the Marcellus shale. It should be noted that the Department's obligation is limited in this matter as various river basin commissions are involved in this issue. The regulations make no allowance or explanation of whether these proposed fee increases will cover any costs these commissions may purport or assert a claim to. The permitting and subsequent inspection and compliance monitoring performed by the Department for Marcellus shale wells is little or no more than any other wells.

6. In finality, the cost to the Department for processing well permit applications and the following inspection and compliance monitoring varies little based on the depth or type of well. Statutory and regulatory compliance by the permittee remains constant without regard for the type or depth of well with the Department not required to perform any specific duties incurring extra costs with respect to the type or depth of a well or whether a well is vertical or horizontal. The well operator is responsible for all costs for all types of wells, including all mapping, reporting data, environmental compliance and all other such costs with respect to all types of wells. The Department's contention that the regulations will not impose additional costs on the Department is erroneous as additional staff will certainly be required for calculating and verifying that the proper application fee has been paid and collected. The proposed fee schedule of the regulations is simply a de facto excise tax on oil and gas drilling in Pennsylvania.

Respectfully submitted, Gregory W. Stephenson, Vice President, Stephenson Group Natural Gas Company