

BEFORE THE PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

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IN RE: REVISIONS TO CHAPTER 78 AND 78a

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BEFORE: HAYLEY BOOK, Chair

KELLY BURCH

SCOTT PERRY

KURT KLAPKOWSKI

HEARING: Thursday, April 30, 2015

6:00 p.m.

LOCATION: Warren County Courthouse

Main Courtroom

204 Fourth Avenue

Warren, PA 16365

Reporter: Shannon C. Fortsch

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ALSO PRESENT:
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STACI GUSTAFSON, DEP
CRAIG LOBINS, DEP
ERIN WELLS, DEP

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CHAIR:

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BRIEF INTERRUPTION

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OFF RECORD DISCUSSION

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CHAIR:

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management at the Department.

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Also joining us from DEP are Craig Lobins, Donna Duffy, Hope Campbell, Regional Director John Guth, Assistant Regional Director Staci Gustafson, and local government liaison Erin Wells, who are all out of our Meadville office.

1 I'm going to officially call the hearing
2 to order at 6:05 p.m. In the event of an emergency,
3 you can exit through the doors that you came in, go
4 down the stairs and out the building, or there are
5 also exits to the rear of the building as well. At
6 this time, if everyone could silence their cell
7 phones, that would be appreciated.

8 The purpose of the hearing is to accept
9 testimony on DEP's recommended changes to the
10 Environmental Protection Performance Standards at oil
11 and gas well sites proposed final rulemaking. In
12 addition to this hearing, DEP has held two previous
13 hearings. The first was yesterday, on the 28th, I
14 believe in Jefferson College in the southwest region.
15 Tonight's is obviously here in Warren. And then there
16 will be another hearing on May 4th that will be held
17 at Penn College in Williamsport. Information about
18 the specific locations of the hearings is available on
19 DEP's website. You can click on the oil and gas
20 rulemaking.

21 The purpose of this rulemaking is to
22 ensure that oil and gas operators employ effective
23 measures that not only prevent pollution, but allow
24 flexibility for the optimal development of this
25 resource. These rules focus on performance over

1 process and a commitment to responsible environmental
2 protection for oil and gas extraction activities in
3 the Commonwealth. The amendments are designed to
4 strengthen environmental controls employed by the
5 industry to ensure protection of public health and
6 safety in the environment. The rulemaking modifies
7 and updates existing requirements for service
8 activities at conventional and unconventional oil and
9 gas sites. It implements Act 13 of 2012 and codifies
10 existing policy.

11 The revisions include separate chapters
12 to address conventional and unconventional
13 development, Chapter 78 for conventional wells and
14 Chapter 78a for unconventional wells. The amendments
15 are offered to improve protection of water resources,
16 add public resource considerations, protect public
17 safety, address landowner concerns, enhance
18 transparency and improve data management. DEP
19 requests that commentators focus their comments on
20 language that has been changed from the proposed
21 rulemaking.

22 In order to give everyone an equal
23 opportunity to comment, I would --- on the proposal,
24 I'd like to establish the following ground rules. I
25 will call upon the witnesses who have pre-registered

1 to testify at the hearing. After hearing from these
2 witnesses, I'll provide --- any other interested
3 parties can testify. We will stay here until the last
4 person has their word, so if you'd like to testify and
5 you haven't registered, please see one of our staff
6 people, Donna Duffy in the back, and she'll make sure
7 we get you signed up.

8 We currently, at this point, have about
9 45 people scheduled to testify this evening. I'll
10 call your name probably three or four at a time just
11 so you know who is testifying first, who is up next,
12 and so forth, so we can keep this moving. Being
13 called down from --- it isn't as exciting as the Price
14 is Right, but we'll try to make it so. Testimony is
15 limited to five minutes. We have a very long list of
16 witnesses, so I'd ask that you guys please be
17 respectful of each other's time and wrap up when you
18 are signaled to do so after five minutes. So we will
19 also have a copy of your written testimony, so
20 anything that you are not able to speak this evening,
21 we will certainly still have on the record and be able
22 to read after the hearing.

23 Organizations are requested to designate
24 one witness to present testimony on its behalf. Each
25 witness is asked to submit three copies of their

1 testimony to aid in transcribing. Please put two
2 copies in the box labeled Public Comment, and then
3 leave one for the stenographer as well, to aid her in
4 her transcription. Because the purpose of the hearing
5 is to receive comments on the proposal, DEP Staff will
6 not be able to address questions about the rulemaking
7 throughout the duration of the hearing.

8 In place of verbal testimony, you can
9 also submit written comments on the proposal. Again,
10 the written and verbal comments hold the same weight
11 as we consider the finalization of this rulemaking.
12 So during the hearing, if you need to leave before
13 your name is called, please feel free to place your
14 written comments in the Public Comment box at any
15 time. All comments provided today, whether written or
16 verbal, will become a part of the official public
17 record.

18 All comments on this draft rulemaking
19 must be received by DEP on or before May 19th, 2015.
20 Comments should be addressed to the Department of
21 Environmental Protection Policy Office, P.O. Box 2063,
22 Harrisburg, Pennsylvania 17105. Comments can also be
23 emailed to regcomments@pa.gov or submitted through
24 DEP's online comment system.

25 Please note, too, that we have copies of

1 the Citizen's Guide to DEP Regulations available here
2 tonight. Inside, you'll find descriptions of the
3 environmental regulatory review process in
4 Pennsylvania, how to submit comments, and tips for
5 submitting effective comments. Anyone who's
6 interested in receiving a copy of the transcript from
7 today's hearing may contact DEP at 717-783-8727 for
8 further information.

9 For everyone's health and wellbeing, I
10 think we're going to take a bathroom break or a break
11 to stretch probably about after every ten people or
12 about every hour. So there are restrooms located
13 right outside the courtroom, and also downstairs in
14 the lobby where you came in. So I will announce those
15 as we go through. And at this time, I would like ---
16 there are members from our legislature who are here
17 today. So at this time, I would like to invite
18 Senator Scott Hutchinson to present.

19 SENATOR HUTCHINSON:

20 Are we dispensing with the mics, or
21 --- okay. Hi. My name is Scott Hutchinson. I'm a
22 state senator for the 21st District. And although I
23 welcome you back to Warren County, I, like many of the
24 others in this room, are very frustrated that we have
25 to be at this point in the process again. The

1 families who work hard every single day are getting
2 tired of jumping through hoops trying to defend their
3 way of life.

4 Today, I want to focus particularly on
5 the conventional oil and gas producers. And I'm not
6 going to talk about specific things within the
7 regulations. I can do that in a separate format as a
8 written testimony. But I just wanted to run down the
9 situation as I see it. Back at the last hearing on
10 these regulations, the major focus of many of these
11 folks, and mine included, of our testimony was to ask
12 for separate regulations for conventional oil and gas
13 producers.

14 We did not dwell on the particulars of
15 the changes that should have happened for the
16 conventional producers because we thought the main
17 thing was to get separate and appropriate regulations
18 for conventional producers. Before the end of that
19 process, we in the legislature, myself, my colleagues
20 here, and many others --- and as a matter of fact, a
21 majority of the legislature, approved the bill which
22 codified the fact that there should be separate
23 regulations. And we envisioned that to mean a
24 separate process, meaning the regulations could not be
25 something that already existed. It had to be

1 something that --- you start from scratch, take
2 comments on proposed changes that just pertain to the
3 conventional producers. And quite frankly, today's
4 iteration of that process is short circuiting what we
5 envisioned, and that's a shame.

6 So I'm just here to say that I think it
7 is more appropriate and it is more trustworthy if we
8 were to say, as the legislation envisioned, let us
9 develop separate regulations that deal with specific
10 new problems that have occurred in the conventional
11 industry and address those specific new problems. If
12 there aren't new problems that current regulations
13 don't address, then we don't need any new regulations.

14 So that's all I'm going to say for
15 today. I do appreciate you coming, but I wish we
16 didn't have to have this today. Thank you.

17 CHAIR:

18 Thank you. Representative Causer?

19 REPRESENTATIVE CAUSER:

20 Do you want me to use the microphone or
21 --- okay. Good evening, everyone, and thank you. My
22 name is Martin Causer. I represent the 67th
23 Legislative District in the State House of
24 Representatives, and that includes McKean, Potter and
25 Cameron Counties. I'm also the Majority Chairman of

1 the House Agriculture and Rural Affairs Committee.

2 And like Senator Hutchinson, I'm glad to
3 be here, but it's unfortunate that we have to be here
4 tonight to talk about this topic again. And as we
5 were on the way in the door and there wasn't quite as
6 many people as the last hearing that we had here, I
7 was thinking, well, I think because people are
8 starting to get weary because we come here repeatedly
9 and talk about the same things, and they're not being
10 addressed.

11 I've testified previously, and many of
12 the --- I feel as though many of the comments that I
13 provided previously were ignored by the Department,
14 and that's unfortunate. As proposed, the regulations
15 pose a serious threat to the future of the
16 conventional oil and gas industry in Pennsylvania.
17 I'm especially troubled, as Senator Hutchinson said,
18 with the Department's willful disregard to the will of
19 the legislature.

20 I was one of the individuals that
21 sponsored the legislation in the House, and I know
22 Senator Hutchinson did in the Senate, along with
23 Senator Scarnati and with Representative Rapp --- to
24 require separate regulations for conventional versus
25 unconventional operations. And last year, at our

1 budget time, we inserted language in the Fiscal Code
2 to accomplish just that, and we feel as though the
3 Department of Environmental Protection has
4 short-circuited that situation and purposely and
5 willfully went behind our back and ignored the
6 legislature in the Commonwealth.

7 The legislature is the --- the
8 legislators in this state are the people elected by
9 you to represent you in Harrisburg and make law, and
10 we feel as though the Department of Environmental
11 Protection is circumventing that, the authority of the
12 legislature. There are significant differences in the
13 way our conventional oil and gas operations are
14 drilled and operated, and clearly, we need regulations
15 that are reasonable and relevant to the industry. And
16 that's not what's being proposed here.

17 So I'm asking that the Department of
18 Environmental Protection abide by the law that was
19 passed by the Commonwealth and develop truly separate
20 regulations patterned towards separate industries.
21 Otherwise, I think we're going to have to come back
22 with legislation, and I don't think that that should
23 be necessary. It's also going to lead, I think, to
24 lawsuits that shouldn't be necessary, and it's going
25 to cause more issues.

1 I have some other questions for the
2 Department --- I know they're not going to respond
3 tonight --- but some of the questions that I think
4 deal with these regulations that need to be answered,
5 and I plan to ask them to Secretary Quigley if he ever
6 bothers to appear before the Environmental Resources
7 and Energy Committee. You know, permitting fees have
8 been declining significantly, and we all know why that
9 is. It was recently quoted that the Department might
10 need to look elsewhere for funding because of the
11 reduced revenue.

12 Well, my question to the Secretary is
13 how many inspectors have been laid off? Well, we all
14 know the question --- or the answer to the question.
15 It's zero. And what are the inspectors doing with the
16 limited activity? There's no permits being issued, so
17 what are they doing? I want to see those questions be
18 answered. With the limited activity, I think it's
19 time to cut the Department's budget.

20 Through the Environmental Resources and
21 Energy Committee, I plan to be asking these questions.
22 I think the Committee has to get more involved with
23 these regulations and through the independent
24 regulatory review process.

25 So thank you for giving me the

1 opportunity to say a few words tonight, and I look
2 forward to the answers to my questions. Thank you.

3 CHAIR:

4 Thank you, Representative.
5 Representative Rapp?

6 REPRESENTATIVE RAPP:

7 Thank you, and thank you to the public
8 for being here. I appreciate you coming again to
9 Warren County to hear testimony, although, as my
10 colleagues have stated, it's like --- here we go
11 again, another hearing to basically voice our same
12 opinions, our opinions that have gone back to the
13 impact fee itself, or the impact legislation, Act 13,
14 where many of us have testified before that it was
15 never our intent to include conventional wells in that
16 legislation. That legislation was for Marcellus, and
17 so was our understanding that any new regulations
18 coming from that legislation would be for the
19 Marcellus industry, not the conventional industry.

20 And so here we are again, more
21 testimony. And as you know, and many of my
22 constituents --- we have had many, many, many meetings
23 here in our districts, inviting staff up from DEP,
24 going on site, trying to educate people in Harrisburg
25 who really don't have a clue and didn't have a clue

1 what the difference is between conventional and
2 Marcellus, trying to educate the agency people, and a
3 lot of time and effort coming from our small business
4 people here in this room, trying to educate the Staff
5 on the difference so that you would know that there
6 needs to be a difference in those regulations.

7 The General Assembly clarified again ---
8 as Senator Hutchinson and Representative Causer
9 stated, we stated this again in the Fiscal Code of
10 just last year. Our intent was to have completely
11 different regulations, and not two separate manuals
12 that were in --- two different manuals that read the
13 same. And that's what seems to have appeared,
14 different regulations for conventional and Marcellus
15 that actually read the same. There's no need to
16 regulate the 150 year old industry with new
17 regulations, as the Oil and Gas Act of 1984 adequately
18 addresses environmental issues.

19 And anybody out there who's a
20 conventional well owner can attest to the fact because
21 of the fines that they receive from the Department for
22 any little miniscule issue that DEP believes that they
23 should be fined for. They're already regulated to
24 death. The agency has continually ignored the new
25 language under the Regulatory Review Act, as required.

1 Our conventional producers are almost all small
2 businesses, family and generational family businesses
3 who have made many attempts to work with DEP and
4 educate Staff on the industry, as I have stated.

5 Unfortunately, many of my constituents
6 now view DEP as a hostile agency with staff who want
7 to write laws instead of regulating the General
8 Assembly's laws. You want to see fit to write laws
9 instead of regulations. My constituents believe in
10 being good stewards of the land and water. They have
11 families who live here and invest for their families'
12 futures here. The agency has become hostile, issuing
13 oppressive fines with no recourse in many instances
14 other than to pay those fines without any type of due
15 process that they can actually afford.

16 Folks, we need to start again with
17 common sense regs for our conventional wells that
18 allow this industry to continue, the industry that is
19 part of the backbone of the economy in Northwestern
20 Pennsylvania. Thank you. Thank you for your time.

21 CHAIR:

22 Thank you, Representative. I'd like to
23 call Commissioner Vanco.

24 COMMISSIONER VANCO:

25 Good evening. My name's Steve Vanco,

1 and I'm a County Commissioner of Warren County. I'm
2 also a 40-plus year farmer in the county. My wife and
3 I own the OGMs on some of our land, and some we don't.
4 But we do have five conventional gas wells on our
5 property, so I am somewhat familiar with what happens
6 when a well is drilled. And Northwestern Pennsylvania
7 has a 150 year --- a lot of this will be repetitive.
8 As the night goes on, it will get worse. But
9 Pennsylvania has 150 years of experience with oil and
10 gas wells, beginning with Drake's Well in '59, 1859.
11 And I believe the second well was actually drilled in
12 Warren County. Most of these wells are operated by
13 family businesses that may span several generations,
14 as you know. These families live and work in these
15 areas where these wells are located. Some of them
16 are, figuratively or literally, in their back yards.
17 The concern for environment stewardship is important
18 to them in their daily operations, as they affect the
19 health of their families, neighbors, land and water.

20 While oil and natural gas have had a
21 tremendous economic impact in northwest Pennsylvania,
22 the cost has been --- in environmental harm has been
23 very small. The Allegheny National Forest comprises
24 513,000 acres, and approximately 92 percent of the
25 OGMs are privately owned. The ANF is located in the

1 heart of Pennsylvania's conventional oil region, with
2 Drake's Well located only 15 miles from the western
3 edge of the forest. The NFA (sic) remains a producer
4 of conventional oil today, supplying much of the crude
5 oil products refined at the Bradford ARG refinery, the
6 world's oldest continuously operating refinery. It
7 employs approximately 400 people. Today, the estimate
8 is around 12,000 wells in the National Forest.

9 Despite the long history of heavy
10 conventional drilling, the trees and streams have
11 prospered. Of the 200 --- of the 2,126 miles of
12 mapped streams within the ANF, fully 72 percent are
13 rated as high quality or exceptional value quality,
14 among the highest quality streams in the state.
15 Multiple studies on water quality since early 1980s do
16 not detect a negative impact from the quality of the
17 wells.

18 Most conventional oil and gas wells in
19 the region do not generate a large income
20 individually, but collectively, they make a huge
21 contribution to the local economy. Not only does the
22 industry support hundreds of jobs that pay well above
23 the average wages, but it supports many other jobs to
24 meet the needs of the workers and their families.
25 These hundreds of families support stores, gas

1 stations, school teachers, barbers, health care
2 workers --- in fact, the whole community. All new
3 wealth springs from the earth and the land through
4 farming, mining, drilling and manufacturing.
5 Otherwise, dollars are just dollars changing hands
6 without new dollars being added. It is said that the
7 dollar generated in a rural community multiplies
8 several times --- as much as seven times, before it
9 becomes --- leaves the community. The wealth is
10 indeed shared by all.

11 I don't have Warren County's figures,
12 but they're very similar to the numbers of neighboring
13 McKean County. A study in that county shows that
14 their conventional producers and their associated
15 drilling and completions contractors accounted for
16 2,017 jobs in 2011. Those jobs averaged nearly double
17 the rate of pay for the average rate in the county.
18 Well, Warren County's numbers would be similar. The
19 high grade Pennsylvania crude is only processed by two
20 refineries, if I am correct. This Penn Grade crude is
21 manufactured into lubricants, waxes, pharmaceutical,
22 cosmetic base stocks. It's a small but important line
23 of products, and without continued production of
24 conventional oil wells, these refineries would have to
25 close or retrofit to produce asphalt-based oils.

1 The Bradford Refinery, AGR (sic),
2 purchases Penn Grade crude from the conventional wells
3 in northwestern Pennsylvania. In 2013, they purchased
4 \$194,000,000 worth of crude. Their companies affect,
5 through workers and compensation, and --- it was
6 \$268,000,000. And the indirect effect throughout the
7 region for everyone that provided services to all the
8 individuals that work there could be multiplied many
9 more times.

10 CHAIR:

11 Commissioner, you have one minute.

12 COMMISSIONER VANCO:

13 I would like to again say that any of
14 these wells that are unconventional --- if we had not
15 had unconventional drilling in Pennsylvania, these
16 issues would have never been brought up.

17 CHAIR:

18 Thank you, Commissioner. Commissioner
19 Bortz?

20 COMMISSIONER BORTZ:

21 Thank you very much, Madame Chair. This
22 is a matter of housekeeping and understanding. The
23 submission for written comments --- the deadline for
24 that is when?

25 CHAIR:

1 May 19th.

2 COMMISSIONER BORTZ:

3 May 19th? Okay. So I'll keep my
4 comments brief. Thank you, Commissioner Vanco, for
5 expressing your concerns. I'll take a little
6 different approach. Commissioner Vanco, you
7 definitely did an excellent job discussing some of the
8 local issues as far as what's happening. I'll get to
9 a little bit different matter, and that is, with
10 regard to this evening, what we are to comment on is
11 the changes in the rules and the regulations.

12 Part and parcel of that dialogue is, in
13 fact, the Department's requirement to perform what's
14 called a regulatory flexibility analysis, and it's my
15 understanding that that work has not been done by the
16 Department. And why that is so germane to what we're
17 doing here this evening is, in fact, that the
18 regulatory flexibility analysis gives folks within
19 this room here an understanding as far as where it is
20 you're going to go with the application of the new
21 rules and regulations. I think with regard to that
22 uncertainty is why you're seeing such a turnout here
23 this evening. We just don't know.

24 It's one thing to have rules and
25 regulations. It's another thing altogether to see how

1 they're going to going to pan out, where the boots on
2 the ground are going to be applied. And so to your
3 part, what is required is to perform this regulatory
4 flexibility analysis. Again, it gives a better idea
5 to those people who'll be impacted by these rules and
6 regulations as far as where things are going to end
7 up. And we don't know that, because that work hasn't
8 been done.

9 And so unfortunately, I'll have to
10 concur with a lot of the frustration that's been heard
11 here already this evening. We're having additional
12 meetings, and I, for one --- it's what we do as
13 Commissioners. We have meetings. We go to things
14 like this. However, the format of those meetings ---
15 are we going to accomplish something substantive?
16 That is extremely important, that we make sure that we
17 frame the conversation of a meeting, that everyone has
18 done their part.

19 And unfortunately, I have to say you
20 haven't done yours, because in order for us to have a
21 dialogue with you, we have to know where it is that
22 you're going to --- where you're going to go. The
23 regulatory flexibility analysis would've provided that
24 for us. We don't have that at this time. And
25 unfortunately, I think you're seeing the turnout here

1 tonight is because we're deeply concerned. I'll defer
2 to those that would like to be talking later on this
3 evening, and I will be issuing some written comments
4 in addition to the verbal ones I said this evening.
5 Thank you.

6 CHAIR:

7 Okay. We are now going to begin with
8 the numbered portion of our evening, so we're going to
9 start with Joseph Thompson followed by Peter Buckland
10 and John Lendrum. Joseph Thompson?

11 BRIEF INTERRUPTION

12 MR. THOMPSON:

13 Good evening. Joseph Thompson, P.O. Box
14 329, Pleasantville, PA 16341, Devonian Resources
15 Incorporated. Good evening. My name is Joe Thompson.
16 I am a third generation representative of a family
17 business that has been in continuous operation since
18 1947. We are conventional producers of shallow oil
19 and natural gas located in northwestern Pennsylvania.
20 When I read the proposed regulation changes to Chapter
21 78 by the PA DEP, I am forced to ask the following
22 questions.

23 What has changed in the operations of
24 the conventional oil and gas industry in Pennsylvania
25 since the 1960s? The answer is nothing. If the way

1 we operate has not changed, why, then, are the
2 regulations which were promulgated in the Oil and Gas
3 Act of 1984 and updated in 2001 no longer adequate?
4 When we, as an industry collective, implore the DEP to
5 share with us what scientific and empirical data they
6 have gathered to justify these proposed changes, what
7 have they shown us? Nothing. Instead, they prey on
8 the emotions of the citizens of Pennsylvania by
9 publishing photos of spills that are already
10 violations under the current regulations. Why impose
11 more regulations when they cannot effectively enforce
12 those currently on the books?

13 When we, as an industry of small, mostly
14 family-owned businesses ask what alternatives or
15 exemptions for small businesses have been considered
16 in incurring costs of \$1.5 billion in implementation
17 and then hundreds of millions of dollars per year
18 ongoing to maintain the proposed Chapter 78 changes,
19 what is their answer? Nothing. When asked to
20 recognize the devastating financial implications of
21 their proposals, our protestations fall on deaf ears.

22 The spirit of the bifurcation of Chapter
23 78 was meant to regulate the unconventional and
24 conventional oil and gas industries separately, the
25 conventional industry via Act 223 and the

1 unconventional by Act 13. Instead, the PA DEP has
2 executed a word processing exercise in giving us two
3 identical sets of regulations labeled Chapter 78 and
4 Chapter 78a. They laugh in the face of our state
5 legislators who saw the need for bifurcation in the
6 first place, and they scoff at our conventional
7 industry as uneducated rural roughnecks and work to
8 implement unattainable regulation as a sort of
9 retribution for our audacity in trying to save our
10 jobs and maintain our rich heritage here in
11 Pennsylvania.

12 Now, there is no question that the
13 protection of the pristine waters and natural
14 resources of our Commonwealth is a noble endeavor. We
15 in the conventional industry are stewards of the
16 environment, yet we are labeled as criminals, sight
17 unseen by many in the DEP offices in Harrisburg. If
18 our activities in the conventional oil patch are so
19 detrimental, then why are the freshwater aquifers,
20 streams, creeks and rivers that course through Warren,
21 McKean, Venango, and Forest Counties among the most
22 exceptionally valued and highest quality in the state?
23 The mighty Allegheny River is an artery that the oil
24 patch follows directly from Bradford to Butler. It's a
25 national symbol of wild, uncontaminated beauty.

1 Ours is a cottage industry composed of
2 small, family-owned and operated businesses located in
3 the rural, economically depressed counties of
4 northwestern Pennsylvania. We employ the men and
5 women from communities unknown to so many in the rest
6 of the state, Titusville, Pleasantville, Oil City,
7 Bradford, Warren, Sheffield, Kane, the list goes on
8 and on. In many of these communities, ours is the
9 only industry left. We manage shoestring budgets and
10 invest what slim profits we make back into our
11 employees or our businesses. We aren't J.R. Ewings or
12 Daniel Plainviews. We are the people you bump into at
13 the grocery store. Your kids are on the same soccer
14 teams as ours. Don't confuse the Chevrons, Shells,
15 and Senecas of the Marcellus and the Utica Shale
16 plays. We are the local hardware store, and yet we
17 are treated as if we are Wal-Mart.

18 Pennsylvania's conventional oil and gas
19 industry is the oldest of its kind in the world. That
20 legacy is threatened now more than it ever has been.
21 Our industry deserves its own set of regulations, and
22 those regulations were written in 1984 and updated in
23 2001, and they work. So give them back to us as
24 written so we can do what we do best, work. Thank
25 you.

1 CHAIR:

2 Peter Buckland followed by John Lendrum,
3 and then Tim Weaver. Is Mr. Buckland here? No.
4 Okay. John Lendrum?

5 MR. LENDRUM:

6 Here's a card.

7 CHAIR:

8 He will be followed by David Dean, Mark
9 Cline Sr., then Mark Cline Jr.

10 BRIEF INTERRUPTION

11 MR. LENDRUM:

12 Good evening, ladies and gentlemen. I'm
13 glad to be with you, but I'd like to echo what we've
14 already heard. Some of us have been through this last
15 year, and we received very little in return except for
16 a slap in the face, and I'll be blunt about that. I'm
17 going to address a very specific topic that needs to
18 be bifurcated, and this is something that goes under
19 the heading of the ESCGP-2.

20 In the state of Pennsylvania, the
21 drilling of maybe eight to ten oil or gas wells on a
22 lease may cause the disturbance of five acres or more
23 of the land. If an operating company disturbs more
24 than five acres of land, no matter what the size of
25 the property, then they may be subjected to

1 violations, excessive fines, and I have personally
2 seen total work stoppage, where they come out of the
3 woodwork and the company is completely shut down. If
4 a company wishes to disturb more than five acres of
5 land, even if it anticipates that they're going to
6 disturb more than five acres, they must go through a
7 long and costly process of applying for and completing
8 what is known as an ESCGP-2 plan and permit, also
9 called an Erosion and Sedimentation Control General
10 Permit.

11 In several cases where such a permit has
12 been granted, the actual expenses --- before you even
13 do it, just to plan and put it on paper, has alone ---
14 averages between \$10,000 and \$20,000 for operators.
15 This includes detailed mapping, survey work,
16 engineering, geology planning, and actual fees to the
17 Department. The actual execution of the ESCGP-2 in
18 the field is based on regulations derived from faulty
19 logic of faceless regulators with absolutely no
20 experience in the actual oil and gas industry.

21 This is self-evident if you ever read
22 the regulations themselves. To those of you who are
23 in the business, it's no mystery. These people have
24 no idea what we actually do. The ESCGP-2 permit was
25 based on and created for the growing Marcellus and

1 Utica wells that became very profitable for very large
2 companies in the state, while the DEP has completely
3 ignored --- and here it is again --- 150 years of best
4 practice by people who live here, work here, and have
5 learned through the generations of what they're
6 actually doing.

7 The ESCGP-2 permit calls for the
8 creation of a storm water runoff system by
9 construction --- by collection --- by constructing
10 collection ditches, some of which need to be a half a
11 mile more in length, that would ultimately result in a
12 much larger impact to the natural environment and
13 alter the existing drainage of the land. Landowners
14 and farmers don't need to have ditches run all over
15 their property, which disturbs the natural drainage
16 that's going on.

17 If you go out and you take five acres of
18 land and denude the entire thing and put down hard
19 stone and build a Marcellus pit, you're going to have
20 an easy way to collect all that, just like in a big
21 Wal-Mart parking lot. When you put little spots
22 around the woods, and then you've got to take all this
23 water and move it around, you're doing more
24 disturbance than what you need to do. And anybody who
25 knows this business knows that the ESCGP-2 is like a

1 death knell. You have to spend all this money
2 upfront, and then, actually, when you implement this
3 in the field, it is sometimes more than \$60,000 based
4 on maybe a ten well project. As an exploration
5 geologist, to spend so much money just to be able to
6 go out and drill a couple wells, and then ultimately
7 maybe find out that there are no real reserves there
8 --- I don't get a refund back from the Department.

9 Now, there are laws that are already on
10 the books in the state of Pennsylvania that were
11 placed here to protect small business people. The
12 Pennsylvania Department of Environmental Protection
13 has totally ignored these laws and refuses to take
14 into consideration the economic impact of such
15 needless regulations to our industry. The ESCGP-2
16 plan has been quoted in public comment by some members
17 of the Department that it will not be bifurcated, that
18 it will not be done away with. I say this is a gross
19 misinterpretation of the laws that Senator Hutchinson
20 brought to us to protect our industry.

21 Ladies and gentlemen, I'm just a small
22 developer. I'm a third generation person like
23 yourselves. As a group of people associated here
24 tonight, these people aren't looking for handouts.
25 These people aren't looking for a government program

1 to come in and save them. They're looking for a fair
2 set of regulations so that we can go out and earn an
3 honest day's dollar, and maybe take a company and a
4 business that was given to us by our grandparents and
5 give it to our grandchildren. Thank you.

6 CHAIR:

7 Tim Weaver followed by David Dean and
8 Mark Cline Sr., Mark Cline Jr. Do we have Tim Weaver
9 with us this evening?

10 MR. LENDRUM:

11 Tim is absent today.

12 CHAIR:

13 Okay.

14 MR. LENDRUM:

15 He won't be over.

16 CHAIR:

17 Okay. Thank you. David Dean?

18 MR. DEAN:

19 Good evening. I'd like to thank the DEP
20 and our representatives here tonight for this
21 opportunity to speak again. This is the second time
22 that I have voiced my petition as a citizen of the
23 Commonwealth. The first was in January 2014 in
24 Meadville. I'd like everyone to know that I do have a
25 gas well on my property and I'm not against jobs. But

1 I have seen and I have witnessed the unconventional
2 drilling. I'm originally from southwestern
3 Pennsylvania. I now live north of Corry on Hare Creek
4 Road.

5 As far as the changes to be made in
6 regulation on the draft and final versions of Chapter
7 78 and 78a, I call for the following. Prohibit the
8 use of all open air pits, tanks, for storage of
9 treatment for drilling and fracking waste products.
10 Protect our streams, our wetlands and rivers by
11 measuring the distance from the well pad or compressor
12 station, increasing the distance to 500 feet.
13 Multiple real-time monitors must be installed to
14 detect changes in water quality.

15 All the existing pits which contain
16 fracking wastewater, drill cuttings, other substances
17 that return to the surface must be moved to closed,
18 aboveground systems within one year of this regulation
19 and not buried on the site. All waste returned to the
20 surface must be monitored, inspected and documented
21 weekly. Treatment and transport to approved disposal
22 sites must be documented with a paper trail. DEP must
23 require all contaminated water supplies to be restored
24 to either pre-drilling or safe drinking water
25 standards, no exceptions. Operators of unconventional

1 wells must locate, map document, plug all orphan and
2 abandoned wells within one mile prior to permitting
3 and spudding.

4 Honestly, though, these regulations
5 won't work. Moving an industrial complex into an
6 agricultural area neighborhoods --- which can last for
7 one year, 24/7 --- keeping families awake at night is
8 not the answer to our energy problems. We hear from
9 the industry representatives and our elected
10 politicians that this process is safe, the
11 unconventional drilling. We hear that fracking has
12 been done for 60 years, that they'll drink the
13 fracking fluids, that those who contest this are
14 environmentalists, liberals, and anti-job. I am not
15 any of the above.

16 We hear, but do we see? We see that Mr.
17 Atwood of Warren called upon Senator Hutchinson for
18 aid once his water well was contaminated, to receive
19 no help at all. We see Mr. Chris Lauff testify of
20 toxicology results of chemicals in his and his child's
21 bloodstream in Mt. Pleasant, Pennsylvania, below
22 Pittsburgh. He is now in a lawsuit. We see Mr. David
23 Headley and family lose their and enjoyment of their
24 property as related emissions from tanks in their
25 front yard cause their children suffering. They are

1 in a lawsuit. I have met these people.

2 We see George Nicklosevich of Pulaski
3 Township in Lawrence County with ethane, butane,
4 propane, and higher levels of methane in his well
5 water that he no longer drinks. The DEP is still
6 investigating for three years. We see Mr. Duffala
7 call upon the DEP for help as testing shows fishing
8 streams in Washington and Greene Counties have radium
9 far beyond safe drinking water limits. He has tried
10 again and again to work with the Fish Commission and
11 the DEP to rectify this. He's being ignored by the
12 DEP. I have met Mr. Duffala personally. He has the
13 data to show it. We see Mr. Terry Greenwood of
14 Daisytown, Washington County lose eight calves, his
15 bull that can no longer impregnate the cows, his water
16 well, and his life, as he died last year to a
17 glioblastoma tumor.

18 The avenues provided to us as citizens
19 in this Commonwealth are not working. Governor Wolfe
20 has an opportunity to listen, to see the struggling
21 reality of citizens in Dimock, Hickory, Salt Forks,
22 Avella, Pleasant Township, Pulaski Township, the
23 Woodlands, and elsewhere. Our children's health and
24 future is primary. Health care providers have called
25 for a moratorium since 2012. I know some of these

1 healthcare providers and doctors in Erie County, where
2 I live. They were ignored by the previous
3 administration. And by the way, I voted for the
4 previous administration. Exchanging our health and
5 neighborly love for a windfall does not serve us.

6 We've heard enough promises, yet we see
7 more brokenness. We ask that you follow the example
8 of New York and Maryland and create a moratorium on
9 unconventional drilling. Our Lord said, do you have
10 eyes but fail to see, and ears but fail to hear? And
11 don't you remember? Jesus called his disciples to him
12 and said, I have compassion for these people. This is
13 not compassionate conservatism. Gentlemen and
14 ladies, thank you again for your time. Where is your
15 compassion for the citizens of Pennsylvania? Thank
16 you.

17 CHAIR:

18 Mark Cline, Sr., followed by Mark Cline,
19 Jr., Jan Hendryx, and James Miller.

20 MR. CLINE, SR.:

21 My name is Mark Cline, 1 Longfellow
22 Avenue, Bradford, PA 16701. I am the president of
23 PIPP, and I'm a member of the new Conventional Oil and
24 Gas Advisory Committee. The first thing I want to say
25 tonight is all industries have spills and accidents.

1 Nobody goes to work wanting that to happen. It
2 happens. These three pictures come from the DEP's
3 files courtesy of a newspaper reporter. This spill
4 was in 2010. The good thing about the pictures is you
5 see people cleaning it up. That's what our industry
6 does.

7 The next two pictures show you what it
8 looks like a week ago. The creek is in pristine
9 condition. I'm sure you're thinking this is five
10 years ago. It should look that good. The next is
11 from a spill last July. Cline Oil got called to help
12 on the cleanup. There was eight barrels of oil that
13 went down over a hillside into a creek. When we got
14 there, the creek was already boomed, and they were
15 cleaning that up. So we worked on this part of it.
16 This is where the spill started. We put an underflow
17 dam by the creek, pumped the water up the hill, and we
18 flushed the oil down for two hours. When we got done,
19 there was not even a sheen showing. Any oil that
20 soaked into the ground, the water displaces because
21 it's heavier than oil. This is the most efficient and
22 cost effective way to clean up a spill.

23 When I talked to the landowner last
24 week, she was thrilled with the cleanup. She told me
25 she has never seen a sheen on the property, and she'd

1 let her chickens run on the property the next day.
2 There's the chickens right where the spill was.
3 There's another picture of the spill down below the
4 chickens. I mean, it's in pristine condition, and
5 that was just nine months ago.

6 The next spill happened March 19th. Oil
7 come out of a dike, ran down a ditch, and went 450
8 feet down a little stream into a bigger stream. It
9 got reported --- they all got reported. Water quality
10 showed up and said, you're digging this all up. Here
11 is what --- this is a tank dike. It's four feet high
12 up here, so down here it would've been six to eight
13 feet deep. They made them take that whole dike out of
14 there. You cannot tell me that that dike was
15 saturated when it's six or eight feet thick at the
16 bottom and four feet at the top. The only way the
17 soil was tested was with the sniffer. You can't ---
18 that's not the way to test soil. You've got to do an
19 analytical study. None was done.

20 This went across the road. It come to a
21 part of the creek which was about 200 feet long. The
22 DEP let them flush the oil down this part of the
23 creek. Look at how clean it is now. But look at the
24 way --- especially this picture --- how that creek
25 looks, because I'm going to show you what it looks

1 like now, after they dug it up. This is now what that
2 nice little creek looks like. They made them dig the
3 bottom. They made them dig the sides --- and as you
4 know, oil don't sink on water. This creek will have
5 silt in it for a long time, and it's not the company's
6 fault. They were told to do this.

7 This is pictures showing how much was
8 disturbed to get down in there. Instead of letting
9 them flush it when they let them flush 200 feet --- I
10 don't know why they made them do this, but you can see
11 how much they've reclaimed. Here's more pictures.
12 You can see --- here's the creek way over here. They
13 were way over into here, way over into there. This
14 creek is never going to look the same again. This
15 picture --- the creek is way over here, way to the
16 left. Look how far and how much was disturbed to get
17 down in there. This is what an Act 2 cleanup does.

18 Here is a picture --- you can see the
19 silt in there. You can see the silt in the water,
20 because you disturbed the creek. That's going to be
21 there forever --- not ever, but it's going to be there
22 a year or two before that creek gets back. There's no
23 little rocks back in there. It's just idiotic to do
24 that. It's asinine to have to do that. This is
25 another picture. You can see where they dug along the

1 whole sides up in here. They dug the bottom. That
2 oil was probably at that spot for ten minutes. It's
3 moving water. It ran down the hillside.

4 They dug up 590 tons of soil. That
5 would probably fill this courtroom up four feet deep.
6 They spent almost \$200,000 on this cleanup, and
7 they're not done yet. They've still got to reclaim
8 the tank battery and go back in and redo the soil,
9 because it was so disturbed. And if you have a spill
10 where you can't flush it, you should be made to be ---
11 bio-remediate it, not haul it away. This is what it
12 looks like now down below. Here's one more picture
13 showing how clean the water is. And that's not
14 because of Act 2, that's just because they cleaned the
15 creek up.

16 Act 2 is like so many of these Chapter
17 78 regs you've got coming out. They do not fit our
18 industry. They might look good on paper in
19 Harrisburg. They do not work out here in the real
20 world, just like the ESPG-2. So many of these
21 regulations don't fit. You develop the new
22 Conventional Oil and Gas Advisory Committee. I hope
23 that you truly listen to what we have to say, because
24 this Department doesn't have a clue of what we really
25 do out here.

1 And if you don't listen to us, we're
2 going to be out of business, and that'll be on you
3 guys' heads, an industry that's been here 155 years.
4 Because I don't really think you understand how bad
5 these regulations are affecting us. They are killing
6 us. And as far as the pictures you guys have, the 62
7 pictures, I've got a whole bunch of pictures showing
8 you what our industry truly looks like. That's it.

9 CHAIR:

10 Okay. Mark Cline, Jr., followed by Jan
11 Hendryx, James Miller, and Michael Genz. And after
12 Mr. Genz, we'll take a five minute break.

13 MR. CLINE, JR.:

14 Mark Cline Jr., 1386 Parkside Drive,
15 Limestone, New York. I would like to start with
16 Section 78.56e, which states that we must report the
17 location of all underground or partially buried
18 storage tanks. After working under the 1984 Oil and
19 Gas Act for 31 years, why, all of a sudden, do you
20 need to know where our buried tanks are? If they
21 would've been causing environmental harm, the
22 Department would have known by now where they are. So
23 obviously, there have been no problems.

24 Section F states that when we replace a
25 tank, it must be corrosive resistant and have cathodic

1 protection. Has there been a problem with the old
2 style tanks? Because from the year 2004 to 2010,
3 there was only one notice of violation for a leaking
4 oil tank. That is an excellent safety record for
5 seven years and approximately 12,000 oil storage tanks
6 being used, according to two refineries. There are
7 not very many industries that can show that kind of
8 excellence. The cost to comply with this regulation
9 will add quite an additional burden for the operator
10 for something that has not been proven to be needed.

11 Section H states that we will have to
12 inspect all tanks above and below ground every month.
13 Once again, where is the proof that our tanks have
14 been enough of a problem to warrant these inspections?
15 The extra cost of someone inspecting the tanks,
16 filling out forms from the Department, and keeping
17 them on file for a year will be a huge burden to the
18 operator. Most members of PIPP work other jobs
19 besides operating their wells and don't have time to
20 do unnecessary and burdensome paperwork that has
21 really nothing to do with protecting the environment.

22 Section 78.66 is about spills and
23 releases. It states you must report a spill of five
24 gallons or more. Our production water is listed as a
25 residual waste. It weighs about nine pounds per

1 gallon, which means five gallons weighs 45 pounds.
2 There are 717 hazardous materials that have a higher
3 reportable quantity than our brine water. The
4 Environmental Protection Agency states that you can
5 spill 92 barrels, which equals 3,864 gallons of 15
6 pound brine water, before you must report it.

7 When these facts were presented to
8 Deputy Secretary Scott Perry, he was asked to explain
9 how only --- we're only allowed to spill five gallons,
10 and his answer was that the EPA needs to change their
11 standards. So is he stating that the EPA is wrong and
12 the DEP is right? Well, I, along with every oil man
13 in this room tonight, are saying that you need to
14 change your standards, because they're out of touch
15 with reality.

16 Here are a few examples of these
17 hazardous materials. Ammonia, with a reportable
18 quantity of 100 pounds. It's toxic, may be fatal if
19 inhaled. For a small spill, you must isolate the area
20 immediately for at least 330 to 660 feet in all
21 direction. Hydrogen sulfide, reportable quantity is
22 also 100 pounds. It is toxic, extremely hazardous,
23 and may be fatal if inhaled or absorbed through the
24 skin. For a small spill, isolate the area 330 to 600
25 feet in all directions. Protect persons downwind for

1 --- during the day for 1 mile and at night for .3
2 miles, and wear a self-contained breathing apparatus
3 for cleanup. Phosphine, reportable quantity is 100
4 pounds. It is toxic, may be fatal if inhaled and
5 absorbed through the skin. For a small spill, isolate
6 330 to 660 feet in all directions. Protect persons
7 downwind for .2 miles during the day and .8 miles at
8 night, and wear a self-contained breathing apparatus
9 for cleanup.

10 If our production water is so bad, then
11 explain to us how must of the streams in the areas
12 where we operate, except for coal areas, are either
13 high quality or exceptional value. A study of these
14 streams that runs through the Allegheny National
15 Forest, which has tens of thousands of conventional
16 wells and gas wells in operation, says a full 72
17 percent of the 2,126 miles of mapped streams are rated
18 as high value or exceptional value. Conewango Creek,
19 which runs through Warren, was just voted the
20 Pennsylvania River of the Year.

21 Since 1984, there have been enough
22 regulations in place to protect the environment. More
23 regulations will only hurt the industry and hamper its
24 growth. Our industry does a good job protecting the
25 environment. Our industry, along with the DEP, must

1 work together to bring the few bad operators into
2 compliance. Thank you.

3 CHAIR:

4 Jan Hendryx followed by James Miller and
5 Michael Genz.

6 DR. HENDRYX:

7 Good evening. My name is Jan Hendryx.
8 I'm originally from Bradford. I live in Erie now.
9 I'm a physician, and I grew up around --- you know,
10 conventional wells, but my comments tonight are mostly
11 my concern about the unconventional regs. I know most
12 of you have been talking about the conventional stuff.
13 And I submit this comment on behalf of myself and all
14 other citizens that may be directly, indirectly or
15 potentially affected adversely by the health issues
16 around this unconventional industry.

17 The proposed new oil and gas regulations
18 state that the purpose of the update in regulations is
19 four-fold. In my opinion, number one of this, which
20 was ensuring protection of public health, safety and
21 the environment, is the first and foremost duty of
22 PADEP, the Environmental Quality Board, legislators,
23 the state executive branch, the PA Department of
24 Health, and the oil and gas companies. In my opinion,
25 these are empty words, as the actions --- or lack of

1 actions --- of you as individuals --- and I'm talking
2 primarily the DEP and legislators --- or your groups
3 speak much louder. Unconventional shale development
4 has been going on in Pennsylvania for over a decade
5 now, and you all have done next to nothing to protect
6 the citizens from the public health menace created by
7 this industry. The current proposed oil and gas
8 regulations --- revisions continue to perpetuate this
9 pattern of irresponsibility and compromise your duty
10 to the public.

11 So you might ask, in what ways,
12 referring to the unconventional regs? Adequate
13 setbacks, for example, from unconventional development
14 are not delineated in the new rules. Setbacks from
15 homes, schools, universities, and hospitals should be,
16 in my opinion, at least one mile from the well site
17 pad, impoundments, lateral trajectories, compression
18 stations and pipelines. This setback, at one mile,
19 would minimize potential exposure to and adverse
20 effects from air and noise pollution originating from
21 diesel trucks, heavy equipment, compressors, drilling
22 and fracturing, venting and flaring, explosions, frack
23 sand, hydrogen sulfide, ozone, small particles,
24 volatile organics, radon and methane migration. It
25 would also decrease the possibility of pollution of

1 fresh drinking water sources from drilling activities,
2 fracking, radioactivity and spills.

3 There should be no land spreading,
4 spraying for dust suppression or de-icing using brine
5 and post-production fluids at all, in my opinion. All
6 of you are --- all you are doing by these procedures
7 is providing a legal way to justify getting rid of
8 toxic wastes by dumping them in the environment. They
9 still get into the land and watersheds.

10 Dumping of both conventional and
11 unconventional residual frack waste into our rivers,
12 streams and on our lands needs to be stopped now.
13 People who get their drinking water and recreate
14 downstream from the facility across the river would
15 appreciate such actions. You really need to figure
16 out ahead of time how, when, and where to safely
17 dispose of the billions of gallons of post-production
18 waste fluids and radioactive drill cuttings before
19 allowing any more unconventional development,
20 especially when future projection is 100,000 plus
21 unconventional wells.

22 You need to mandate that all wastewater
23 trucks be equipped with a GPS device and monitored
24 from a central, non-government computer location to
25 assure that they are not dumping illegally into

1 streams in the middle of the night or at POTWs.
2 Drillers should be mandated to use individualized non-
3 toxic tracers in their drilling solutions, frack
4 fluids, and water, including the mine drainage,
5 treated sewage effluent, or freshwater, so there's no
6 doubt who and where the pollution is originating from.

7 Pre-drill and post-drill water testing,
8 in my opinion, needs to be mandated at a Tier Three
9 level so that any of the potentially impacted
10 individuals has data about heavy metals,
11 radioactivity, specific volatile organics and other
12 chemicals that may be poisoning them.

13 CHAIR:

14 One minute.

15 DR. HENDRYX:

16 Okay. I'm almost done. Air monitoring
17 should be performed near all sites and inside homes
18 for 2.5 and 10 micron particles at least. Volatile
19 organics should be monitored specifically. Plumes of
20 air pollution can travel a couple hundred miles and
21 are a significant potential health threat. No
22 unconventional development should be permitted within
23 a mile of abandoned and orphaned wells, as
24 communication from the hydrofracturing process can
25 cause massive pollution of the environment.

1 Specific definitions, also, of certain
2 terms need to be added in order to understand
3 regulations, including brine, flowback, produced
4 waters, properly closing a pit, centralized
5 impoundment and alternative waste management. What
6 does the term regulated substances mean? Are unknown
7 toxic proprietary chemicals exempt from this term?
8 Okay. Thank you.

9 CHAIR:
10 James Miller is next.

11 MR. MILLER:
12 I'm Dave Miller.

13 CHAIR:
14 Okay. Dave Miller or James Miller?

15 MR. D. MILLER:
16 Dave.

17 CHAIR:
18 I have James Miller.

19 MR. D. MILLER:
20 Oh, you have a James Miller? Excuse me.

21 CHAIR:
22 You're --- yeah, my apologies.

23 MR. D. MILLER:
24 Okay. Thank you.

25 CHAIR:

1 Is there a James Miller? Okay. Thanks.

2 MR. J. MILLER:

3 He can have my time to get there if he's
4 already up there.

5 MR. D. MILLER:

6 You want to switch?

7 MR. J. MILLER:

8 Sure.

9 MR. D. MILLER:

10 Okay.

11 CHAIR:

12 Okay.

13 MR. D. MILLER:

14 I'm Dave Miller, 4852 Appaloosa Court in
15 Erie, Pennsylvania. I'm a concerned Pennsylvanian,
16 just like everyone else in this room. My remarks
17 focus on unconventional gas production. I'm here to
18 learn about the conventional gas production more. We
19 have about 8,000 unconventional gas wells in
20 Pennsylvania, and some say we're headed to 100,000.

21 In order to frack one well, you need to
22 start with millions of gallons of fresh water, but
23 let's be conservative and call it 1,000,000. So those
24 8,000 wells required mixing at least 8,000,000,000
25 gallons of water with toxins that are off the charts

1 in their ability to cause cancer, brain damage and
2 birth defects. This freshwater contamination wasn't a
3 risk or an accident. It's part of the project plan.
4 The toxins are mixed in, and they can't be engineered
5 out. And if that isn't bad enough, when toxic fluids
6 flow out of the wells, they're often pumped into open
7 pits, sometimes without liners.

8 Even when the pits don't leak --- and
9 they do --- some of the chemicals that vaporize are
10 heavier than air, so they settle on the ground and in
11 valleys. If there's any regulatory message here, it's
12 that open waste and wastewater pits associated with
13 unconventional natural gas drilling should be banned,
14 as well as the insanity of spreading fracking waste on
15 roads as a de-icer.

16 There's no substitute for water, and the
17 deliberate and irreversible contamination of fresh
18 water on such a vast scale should be reason enough to
19 declare a moratorium on unconventional natural gas
20 drilling, as our neighbors in New York have had the
21 foresight to do. It's almost pointless to talk about
22 regulating an industry that hasn't drilled a tenth of
23 the wells that it wants to, and it's already running
24 circles around the DEP, the legislature and
25 communities across the state.

1 The Pennsylvania Constitution says that
2 we have a right to clean air and water, and that the
3 Commonwealth is a trustee of Pennsylvania's natural
4 resources for us and for future generations. It's
5 time for the Attorney General and the DEP to use the
6 Constitution to sue the unconventional natural gas
7 industry on behalf of Pennsylvania communities and
8 stop suing our communities on behalf of the industry.
9 Thank you.

10 CHAIR:

11 And we'll have Michael Genz. Is Michael
12 here? Okay. Then let's go to Mr. Miller, who yielded
13 his time to the other Mr. Miller.

14 MR. J. MILLER:

15 Yeah. This is the real James Miller.
16 Thank you. My name is James Samuel Miller, residing
17 at the above address in Erie, Pennsylvania, speaking
18 as an individual Pennsylvania resident. I'm 81 years
19 old, a retired Certified Clinical Engineer with a
20 Master's Degree in Electrical Engineering and over 40
21 years of experience in hospital management dealing
22 with everything from general safety regulations to
23 waste management of medical and nuclear waste. The
24 specific remarks in my statement address only the
25 proposed changes to the new Chapter 78a of Title 25.

1 I've got to interject, too, that the
2 problem is not with conventional drilling. An old
3 saying, if it ain't broke, don't fix it. That's
4 right. But on the flip side, non-conventional
5 drilling is a nightmare from the standpoint of
6 radiation safety, public health safety, and worker
7 safety.

8 And I remark specifically, number one,
9 the only reference to radioactive appears in Section
10 78a.111, under abandonment of the wells. In this
11 section, whenever a radioactive source used for
12 logging cannot be removed before capping the well,
13 paragraph D states the requirements for various
14 information on a warning plaque. I would request that
15 in addition to all that listed information, the marker
16 also include the name of the radioactive --- or the
17 radioisotope element used and the number of curies in
18 that source as of the closure date, because it's a big
19 difference whether the radioactive element has a half-
20 life of five years, as in cobalt, versus days with
21 respect to most sources.

22 Number two, from the standpoint of
23 reducing the overall health risks to workers, nearby
24 residents, and nearby communities, it is recommended
25 that the standards be revised to require that existing

1 and new open pits be equipped with a flexible,
2 non-permeable cover to prevent outgassing of radon or
3 evaporation of other toxic elements into the
4 atmosphere. The covers will also help protect
5 wildlife from contact with the fluids in the pit. The
6 requirements for visual inspection of these pits,
7 liners and covers should be changed from monthly to
8 daily until the pits can be removed as part of
9 permanently closing the well sites.

10 Number three, from the standpoint of
11 worker protection from health risks, it's recommended
12 that the standards be revised to include a measured
13 assessment of worker exposure to radioactive and other
14 toxic elements during all phases of the operation, but
15 particularly in the handling and transport of the
16 wastewater, the sludge, the filter cake and other
17 potentially harmful waste from the well, and also from
18 the various storage tanks as they're emptied. Storage
19 tank sludge can be highly radioactive.

20 Number four, the radioactivity of the
21 wastewater cannot be ignored. The Homeland Security
22 News Wire published 5 February 2013 states and
23 headlines wastewater from fracking is often highly
24 radioactive. It's a federal publication. No other
25 details appeared, but this red flag should be

1 investigated with quantitative measurements and then
2 appropriate protective equipment be supplied for
3 workers who may be exposed during routine operations,
4 transport and accidental spills.

5 CHAIR:

6 One minute, sir.

7 MR. J. MILLER:

8 Got it, one minute.

9 CHAIR:

10 One minute.

11 MR. J. MILLER:

12 I'm winding up. In conclusion, there
13 may be --- there are many new encountered
14 environmental aspects associated with fracking
15 operations here in Pennsylvania that need to be
16 addressed if the industry is allowed to continue.
17 Extensive new regulations are needed to address the
18 newly found risks to the general public health and the
19 local communities, as well as risks for workers in
20 this industry.

21 However, in my professional opinion,
22 it's not advisable to invest more time, effort and
23 money into more fracking, more natural gas
24 infrastructure, and many new safety and environmental
25 regulations at a time when the fossil fuel industry is

1 being phased out as new green energy sources come
2 online in order to reduce world climate change and
3 literally to save our planet Earth.

4 CHAIR:

5 Okay. We have Mike Leach, Burt Waite
6 and Joe Leighton before we take a break. Wait.
7 Excuse me. Is Mike Leach here? Burt Waite, I know is
8 here. So Burt, you are up next, followed by Joe. And
9 then we'll take a break, a brief break.

10 MR. WAITE:

11 Good evening. My name is Burt Waite.
12 I'm a consulting geologist in Pennsylvania, and I've
13 been doing that for the last 42 years. The regulatory
14 process for any regulation in Pennsylvania is
15 challenging at best, but this Chapter 78, Subpart C
16 process has been made even more so challenging for a
17 variety of reasons. Sweeping regulatory changes are
18 proposed to an industry that has been effectively
19 regulated for decades.

20 A new and magnificently productive new
21 play has been proven. We call this the Marcellus
22 Shale, and it is a game changer, and this was the
23 impetus for a new regulation package that
24 unfortunately spilled over to the conventional side.
25 There is a huge public and stakeholder interest in

1 this package, as evidenced by the 24,000 plus or minus
2 comments that the Department received on the draft
3 regulations. This is unprecedented.

4 The process is ripening at the IRRC
5 deadline --- as the IRRC deadline approaches, so that
6 there's now a time crunch approaching. Parts of Act
7 13 were ruled unconstitutional and are under legal and
8 serious review right now, and we all wonder where and
9 when it will end up. The legislature required
10 bifurcation of the conventional and unconventional
11 operations, leading to a hasty separation of the two
12 sides of the industry.

13 As this process was occurring, a new
14 administration took control of Harrisburg. The
15 longstanding Technical Advisory Board, the Oil and Gas
16 Technical Advisory Board, was severely shaken up, and
17 all new members appointed. And the makeup of the
18 Board has been modified in recent weeks. A new
19 advisory committee was formed and is getting its feet
20 on the ground concerning conventional operations.

21 This is all happening when the economic
22 health of the industry is in peril, and conventional
23 activity is down 80 percent in the state and
24 unconventional activity is down some 30 percent and
25 continues to drop. It would be wonderful if we could

1 all take a deep breath, regroup, step back. And while
2 this does not appear likely, that is exactly what I'm
3 suggesting to you here tonight, and I offer both
4 general and very specific reasons why I think this is
5 appropriate.

6 The current draft of the regulation goes
7 beyond the word and the intent of Act 13 with respect
8 to conventional operations. The current regulations
9 largely ignore the intent of the bifurcation
10 legislation by proposing many changes to the existing
11 Chapter 78 provisions for conventional operations.
12 The current regulations are overly prescriptive and
13 burdensome to the industry without justification for
14 needed protection of the environment. It was recently
15 documented by the Department that violations have
16 dropped from an average of 18 percent per inspection
17 to 8 percent per inspection conducted, indicating that
18 the existing regulatory program is working.

19 The proposed regulations fail to present
20 a regulatory flexibility analysis for small businesses
21 as required by law. There are a dozen or more forms
22 referenced in the proposed regulations that have not
23 yet been drafted or disseminated by the Department,
24 and were not included in the Advanced Notice of Final
25 Rulemaking. The industry and other interested parties

1 should not be required to accept these forms as
2 satisfactory in the final regulations without a chance
3 for review and comment.

4 There are a number of very specific
5 modifications to the regulations that I think are
6 appropriate if we can't step back and take a time to
7 regroup. In the interests of time, I will not go
8 through those here tonight publicly, but they are
9 included in the --- in my handout or in my written
10 comments, and I'll leave them for you to digest later.
11 Thank you.

12 CHAIR:

13 Joe Leighton?

14 MR. LEIGHTON:

15 Good evening. My name is Joe Leighton,
16 and I am the Associate Director of the Associated
17 Petroleum Industries of Pennsylvania. API-PA is a
18 division of the American Petroleum Institute, a
19 national trade association that represents all
20 segments of the --- of America's technology-driven oil
21 and natural gas industry. Its more than 625 members
22 provide most of the nation's energy and are backed by
23 a growing grassroots movement of over 25,000,000
24 Americans. The industry supports 9.8 million US jobs
25 and 8 percent of the US economy, and since 2000, has

1 invested over \$3,000,000,000,000 in US capital
2 projects to advance all forms of energy. Our members,
3 who own and operate conventional and unconventional
4 wells in Pennsylvania, have a direct interest in this
5 Advanced Notice of Final Rulemaking.

6 API is also a standard setting
7 organization. For over 90 years, API has led the
8 development of petroleum and petrochemical equipment
9 and operating standards. API maintains more than 650
10 standards and recommended practices. Many of these
11 are incorporated into state and federal regulations,
12 and increasingly, they're being adopted by the
13 International Organization for Standardization. API
14 encourages and participates in the development of
15 state regulations that provide environmental
16 safeguards and stewardship, and commends DEP on their
17 regulatory oversight program. However, we have
18 concerns with several provisions, and as such, we are
19 providing comments on the Advance Notice of Final
20 Rulemaking. Since both Chapter 78 and 78a are very
21 similar, my comments apply to both chapters.

22 The definition of other critical
23 communities includes many not clearly specified plant
24 and animal species that are not listed as threatened
25 or endangered by a public resource agency, as well as

1 other --- numerous other undefined geographical areas,
2 geographical --- geological formations, natural
3 features, and natural communities. The complete lack
4 of regulatory definition or criteria of these many
5 terms embedded in the definition would allow the
6 designation of any species by the Pennsylvania Fish
7 and Boat Commission, Game Commission, water purveyors,
8 municipalities and school districts, without going
9 through the regulatory review process. This
10 delegation of power should not be done by regulation,
11 but should require legislative action under the
12 various enabling statutes for those entities.
13 Consequently, it is recommended that these definitions
14 be deleted unless and until legislative action
15 provides the necessary clarity.

16 The definition of public resource agency
17 includes water purveyors, which can include public
18 utilities, community water associations, individuals
19 and other entities that are not public. In subsection
20 5f and g, the term public resource agency is referred
21 to in a number of instances. It is recommended that
22 the list of public resource agencies in 15f be limited
23 to and consistent with those provided in Section 3215c
24 of Act 13. 15f.1 provides distance limitations of
25 disturbances to the well from specific public

1 resources. This is inconsistent with Section 3215c of
2 Act 13 that lists the distances for wells and not well
3 sites. It is recommended that this section be changed
4 to be consistent with the statute.

5 As noted, the definition of public
6 resource agency includes parties that are not public
7 entities. Notification requirements and standing to
8 file comments are being provided to them without
9 justification. It is recommended that these
10 provisions should not --- only be provided to truly
11 public resource agencies within defined legal
12 jurisdictions.

13 Section 3215e of Act 13 requires the
14 development by regulation of criteria for the
15 Department to use for conditioning a well permit based
16 upon its impact to public resources identified in
17 subsection C and for ensuring optimal development of
18 oil and gas resources and respecting the property
19 rights of oil and gas owners. The process proposed in
20 15f.2 does not provide criteria as required by
21 statute. The statements in 15g indicate that DEP will
22 consider impacts to the public resource function and
23 use without providing any criteria for use by DEP,
24 whether or not --- or the operator is not consistent
25 with the legislative intent. Without criteria, it is

1 questionable whether DEP is authorized to condition a
2 well permit for activities related to public resource
3 protection. It is strongly recommended that DEP
4 develop such criteria and promulgate those required
5 --- those criteria in regulation as required by Act
6 13.

7 Thank you for the opportunity to testify
8 this evening. API and its member companies stand
9 ready to continue to work with DEP on striking a
10 balance between environmental protection and economic
11 development. Thank you.

12 CHAIR:

13 We're going to take a brief five minute
14 break, reconvene at 7:30. After the break, it will be
15 Brad Bawden, Arthur Stewart, followed by David Clark.
16 SHORT BREAK TAKEN

17 MR. BAWDEN:

18 Thank you. Brad Bawden, P.O. Box 285,
19 West Hickory, PA 16370. My name is Brad Bawden. I'm
20 a well tender at Cameron Energy Company. We produce
21 conventional oil and gas wells. My wife and I have
22 two kids together. My job at Cameron supports my
23 family. Every year, my production declines due to the
24 natural depletion of an oil well. In order to stay
25 employed, my employer drills several new wells a year,

1 enabling me to continue to have full-time work. If
2 new wells cannot be drilled, my job evaporates with
3 the depletion of oil wells.

4 The regulations we are testifying about
5 will lead directly to that evaporation of my job. It
6 will not be realistic to drill new wells under these
7 regulations. These regulations will bring large new
8 costs that are not necessary. One of the worst costs
9 in the 2015 changes is about storm water management.
10 We would now have think about our well sites as though
11 they were Wal-Mart parking lots and hire experts for
12 thousands of dollars to do calculations that are silly
13 for our small sites. We already bring our new well
14 sites back to vegetation right after they are built.
15 It is wasteful to require all this paperwork and
16 expert study, and it's those very kinds of costs that
17 will put us out of our jobs.

18 I'm very disappointed the DEP did not
19 take into consideration that my employer and all of
20 the oil and gas companies in our community are small
21 businesses. The DEP should've looked at alternatives
22 for small businesses because it's what the law
23 requires and because it makes sense. What we do now
24 with our roads and locations works well. I see those
25 roads and locations every day, and regardless if it's

1 raining or the snow is melting, we are not having the
2 kind of impact the complicated regulations are geared
3 toward.

4 My family and I are already worried
5 about the effects of low oil prices. Lots of my
6 friends in other oil and gas companies are already
7 laid off. Our industry is already struggling, and the
8 way you have approached the regulations does not show
9 any concern about the financial impact. In fact, I
10 could not find any financial estimate from you about
11 your storm water requirements. I strongly urge the
12 DEP to stop and do the financial analysis, and to stop
13 and look at alternatives for small business so that
14 the end result will not create the loss of job for
15 myself or the loss of work to any of my fellow
16 employees. Thank you.

17 CHAIR:

18 Arthur Stewart, followed by David Clark,
19 Gary Hubbard, then Glenn Weaver.

20 MR. STEWART:

21 My name is Arthur Stewart. I'm
22 secretary of the Pennsylvania Grade Crude Oil
23 Coalition, PGCC, and my remarks are made on its
24 behalf. PGCC has three general comments about the
25 regulations revealed in 2015. First, PGCC is shocked

1 at the number of new burdens added, as well as the
2 complexity of same. Second, PGCC asserts the
3 procedure used to arrive at the proposed regulations
4 is fatally flawed. Third, the number and magnitude of
5 the burdens is so large that PGCC has not completed
6 its study. PGCC concludes the time for comment is not
7 adequate.

8 Concerning that comment, PGCC notes the
9 new provisions are complicated and make reference to
10 numerous regulatory provisions outside of Chapter 78.
11 Not only is this inconsistent with the expectation of
12 simplicity contained in the Regulatory Review Act, it
13 means that we have not had time to fully analyze the
14 consequences of the new burdens. In 2013, PGCC spent
15 several months compiling a 60-page cost analysis. It
16 is impossible to do similar work in the compressed
17 timeframe allowed this spring.

18 Concerning procedure, PGCC observes that
19 Act 126 of 2014 requires EQB to promulgate proposed
20 regulations relating to conventional oil and gas wells
21 separately from proposed regulations related to
22 unconventional gas wells. This process was not
23 followed. Instead, the separate conventional rule was
24 crafted by merely separating the Chapter 78 revision
25 that was already published for public comment in 2013.

1 This failure of process deprives citizens of the
2 statutory steps required under law. The Commonwealth
3 Documents Law requires an agency to give public notice
4 of its intention to promulgate or amend regulations.
5 The law contains several safeguards not honored with
6 the amendments before us.

7 The Regulatory Review Act requires a
8 statement of the need for the regulations. When the
9 proposed 2013 regulations were issued, DEP's statement
10 of need focused on the burgeoning unconventional oil
11 and gas industry. When the 2015 changes were unveiled
12 a month ago, there was no statement of need. Without
13 a statement of need for revised conventional
14 regulations, it's impossible to meaningfully comment
15 on whether the proposed conventional regulations meet
16 a real need or even a legislative purpose.

17 The Regulatory Review Act also requires
18 the DEP to provide an estimate of costs for the
19 proposed regulations. PGCC has already commented on
20 the inadequacy of the DEP's financial analysis that
21 accompanied the 2013 proposed regulations. When the
22 2015 changes were published, the DEP provided no
23 financial analysis. Nevertheless, those 2015 changes
24 involve many new burdens. When we take into account
25 that in 2013, the DEP failed to provide a financial

1 analysis of over 80 percent of the proposed
2 provisions, and that in 2015 the DEP made no financial
3 analysis of the newly introduced provisions, we see
4 that the DEP performed a financial analysis of
5 virtually none of the new provisions now being
6 proposed for the conventional industry. The failure
7 to analyze these provisions is not in accord with law
8 and makes it impossible to engage in a meaningful
9 comment process. Stated another way, it's impossible
10 to comment upon a financial analysis that does not
11 exist.

12 The Regulatory Review Act also requires
13 the DEP to conduct a regulatory flexibility analysis
14 that examines alternatives suitable for small
15 businesses. The Act requires specific consideration
16 of small business alternatives in the following areas
17 --- compliance standards, reporting and schedules.
18 The Act also specifically directs the DEP to consider
19 exemption of small businesses from all or any part of
20 the requirements.

21 This regulatory flexibility analysis has
22 never been performed for the separate conventional
23 regulations and the many new burdens introduced in the
24 2015 version. PGCC offered to meet with DEP to
25 discuss the very types of alternatives contemplated

1 for small businesses. While a meeting was promised,
2 none occurred.

3 I want to spend my remaining time
4 commenting on at least one of the burdens newly
5 introduced in 2015. Historically, when disturbing
6 five acres or less, oil and gas activities have been
7 exempt from the complicated storm water analysis in
8 Chapter 102.8, sub G. Under the 2015 regulations,
9 however, all conventional drilling sites would be
10 subject to that analysis. The analysis must be
11 performed by certified professionals and PGCC is in
12 the process of obtaining quotations from engineering
13 firms for compliance. Ballpark estimates put the new
14 cost at several thousand dollars per well. This is an
15 untenable cost, made more so by the lack of any
16 statement of need for this new burden.

17 Remarkably, the 2015 changes are much
18 broader than the storm water provision. PGCC counts
19 over 30 new obligations contained in the new
20 conventional regulations. PGCC will discuss those in
21 more detail in written comments, which it is
22 submitting. However, all of the proposed changes are
23 tainted by the serious procedural failures. The only
24 way to correct the failures is to begin a fresh
25 process for conventional oil and gas regulations that

1 launches with a statement of need for why changes
2 should be made to the existing conventional oil and
3 gas regulations.

4 And I depart from the script for a
5 moment and tell you that when I walked in this
6 evening, I was handed a document that is the estimate
7 of one of the firms that we've reached out to. For
8 just the storm water analysis portion of the 2015
9 changes, instead of being just several thousand
10 dollars as we had estimated, the range for the
11 engineering alone, per well, is \$10,000 to \$15,000.
12 That's apart from the cost that it would take to put
13 the management practices in place. And I'll say at
14 \$10,000 to \$15,000 per well, when we're talking about
15 a well that our study provided to you in 2013, shows
16 there's an average cost of \$120,000, you're talking
17 about 10 percent to the bottom line just with
18 additional engineering costs, and for an industry
19 that's currently losing money that 10 percent to the
20 bottom line is hopelessly impossible today and will
21 basically --- even when times were good at \$90 of oil
22 and \$5 or \$6 gas, it would consume the profit that is
23 in those wells. And we've provided all of you all
24 that information in those 60-page financial analysis,
25 and --- as contrasted with your 2 page analysis. And

1 we haven't even seen what you estimate the storm water
2 costs are. We're certainly deserving of those things.
3 That's why this process has to stop and go back to the
4 beginning, because that failure is replicated over and
5 over again.

6 CHAIR:

7 David Clark, Gary Hubbard, Glen Weaver,
8 followed by Brynn Howard.

9 MR. CLARK:

10 Good evening, everyone. My name is
11 David Clark, and I'm a second generation oil man. I'm
12 here speaking on my own behalf tonight, and I'm
13 writing to express my opposition to this illegal
14 rewrite of the Chapter 78 regs. I urge you to vote no
15 to these copy and paste regulations that are in direct
16 opposition to the spirit and legislative intent of the
17 2014 bifurcation legislation. Please vote no to this
18 attempt by DEP to destroy the communities that have
19 been a part of the oil region since 1859. Please
20 reject this misuse of power and public trust that was
21 granted to them to serve Pennsylvanians and allow
22 conventional wells to operate under the effective
23 regulations in place before the passage of Act 13 of
24 2012.

25 The legislature heard the difference,

1 and understood the path that the DEP was on would
2 unnecessarily decimate communities all over our state
3 and wipe out countless beneficial Pennsylvania
4 businesses. The legislature acted quickly and
5 decisively to mandate DEP to properly propose
6 regulations for the conventional industry. The
7 mandate by the legislature was to start the process
8 over and legally propose regulations that were based
9 on need. At the first COGAC meeting, the DEP was
10 asked to produce the regulatory analysis that was used
11 to frame up the new conventional regulations.

12 Instead of producing a properly
13 generated regulatory analysis, we heard the DEP
14 spokesman that day tell us that the need for the 2015
15 rules were now to be based on a few pictures, pictures
16 that were somehow subsequently leaked to the press.
17 And because of that stunt, we know that those pictures
18 do not reflect the overall compliance rate, which is
19 around 99 percent if you take that average over the
20 last decade.

21 The mandate by the legislature was to
22 start over and legally propose regulations that were
23 developed using an accurate cost analysis so that any
24 needed changes would not become deleterious to small
25 businesses, and if needed, to develop alternatives so

1 any associated costs to those small businesses could
2 be managed and jobs would not be lost to unneeded
3 standards. Instead, DEP has purposefully rejected
4 this statutory obligation to properly complete a
5 regulatory flexibility analysis for the 2015
6 regulations altogether.

7 Moreover, as Arthur has already said, we
8 have this 2015 copy and paste version, numerous new
9 obligations that weren't even in the combined
10 regulations a year ago. It would now seem that a
11 properly conducted regulatory flexibility analysis and
12 a properly completed regulatory cost analysis have
13 both been magically transformed into an emotional
14 analysis. It would now seem that the procedure to
15 conduct such an emotional analysis is to play on the
16 fearful emotions of those who truly don't understand
17 the problem or have the expertise to provide an
18 adequate solution. This tide of fear was apparently
19 fueled by the DEP, and now they have incorporated the
20 liberal media to distribute what I'm going to call a
21 Cinerama of fear.

22 With the passage of the Regulatory
23 Review Act, also known as the Small Business Act by
24 the legislature, the regulators are now also mandated
25 to do the hard and arduous work of determining the

1 economic impact of the proposed 78 regs on small
2 businesses like ours in the state of Pennsylvania.
3 This is to be done in conjunction with the bifurcation
4 legislation of 2014, and it has become abundantly
5 clear that the necessary level of due diligence to
6 comply with these laws were not done, let alone
7 considered.

8 I urge this Board not to be a part of
9 any regulation that breaks the existing laws of
10 Pennsylvania. And we should have every reason to
11 expect the DEP and our EQB to desire to be willing to
12 comply fully with the laws of Pennsylvania, as we
13 conventional operators have been expected to do for
14 decades. The only reasonable course of action, due to
15 your own non-compliance with these statutes, would be
16 to cease and desist, and then to exempt all
17 conventional activities from this proposed rulemaking.

18 Who are those in our government that
19 have so abused and misused the power granted to them
20 to this outrageous extent? They were granted power to
21 promulgate needful regulations to protect our
22 environment using science and nonbiased
23 professionalism. Instead, they have again betrayed
24 their office to produce yet another set of proposed
25 regulations that have little or no basis in fact or in

1 law to decimate an industry that it would seem they
2 deem unwanted. I suppose they're still proud of their
3 work, even though they should be ashamed.

4 In closing, I ask you, our state's
5 Environmental Quality Board, please do not put your
6 good name and reputation on the line for those that
7 were too lazy to do their job properly. Respectfully,
8 Dave Clark.

9 CHAIR:

10 Gary Hubbard? Is Mr. Hubbard here?
11 Okay. Glen Weaver? Brynn Howard? After Brynn will
12 be Brianna Howard, Judy Saf and then Melissa Troutman.

13 MS. BRYNN HOWARD:

14 Good evening. My name is Brynn Howard.
15 I am the daughter of Ted Howard, President of Howard
16 Drilling, Inc. I am 15 years old and a freshman at
17 Smethport Area High School. I enjoy working in the
18 office at Howard Drilling a few hours a week. I
19 currently file, make PDFs of old records and do any
20 task that's asked of me. I plan to attend a four year
21 college to better my education with a business or
22 accounting degree and have hopes to contribute to the
23 business with my hidden talents.

24 Howard Drilling is a third generation
25 small family-owned company that has been in the oil

1 and gas business way before I was born. Howards have
2 taken a lot of pride in providing a steady job, good
3 health insurance and a pension plan to its employees.
4 If we are forced to comply with these with these
5 proposed regulations, I fear something will have to
6 go. Three months ago, there was a big layoff of
7 employees, and it was sad to see these employees go.
8 As for most of them, I got to know them very well.
9 What will happen to them if they can't find another
10 job because of these new regulations?

11 I can't help but notice all the fuss
12 going on with the proposed laws that have a negative
13 impact on this industry. Our small community is
14 already feeling the stress from all the recent
15 layoffs. How can you expect a business that's already
16 limping along under the current economic conditions to
17 be slapped with more regulations? What will it like
18 --- what will it be like for me when I'm ready to
19 enter the workforce? There's already no youth
20 retention in northwestern Pennsylvania. I hope that I
21 don't have to leave my home, the only place I know.
22 Thank you.

23 CHAIR:

24 Thank you, Brynn. Brianna Howard?

25 MS. BRIANNA HOWARD:

1 Good evening, ladies and gentlemen. My
2 name is Brianna Howard, and I am speaking as a
3 concerned citizen of the Commonwealth of Pennsylvania.
4 My family has been drilling and producing oil and gas
5 in Pennsylvania for four generations. My life has
6 been surrounded by this incredible industry, and as a
7 ten year old, I could tell you more about the history
8 of drilling in this state than most adults. As a
9 young adult, I have developed a passion for this state
10 and its natural beauty. I have been around drilling
11 sites my entire life and believe that they are some of
12 the most beautiful places in our forests. The oil and
13 gas industry works hard to preserve and protect the
14 environment in which they work in, because they too
15 have been raised to love and appreciate its beauty,
16 just as I have.

17 As a college student traveling home for
18 holidays and special occasions, such as today, I come
19 home to a place that makes me feel both filled with
20 joy and disappointment. I see an area with a loss of
21 energy and a dire need for a rejuvenated spirit. I
22 believe that the oil and gas industry is the key to
23 restoring our small Pennsylvanian towns to their
24 former glory. Not only does this industry provide
25 countless good paying jobs, but it helps the towns

1 that those workers live in. Local restaurants,
2 stores, gas stations and any other small business that
3 you can imagine are benefitted by the oil and gas
4 industry. These locally earned dollars are spent
5 locally, which is what this area's economy desperately
6 needs.

7 As a friend and family member of many
8 employed by a business involved in this industry, I am
9 worried about my loved ones' futures. I fear that if
10 these regulations are passed, they will struggle to
11 provide for their families and have the means to live
12 a prosperous life. These regulations aren't just
13 hurting small businesses. They are hurting sons and
14 daughters and the elderly parents of hardworking men
15 and women who depend on the livelihood of their
16 children to help take care of them in their old age.
17 I encourage those who are trying to pass the
18 regulations to ask anyone in this room tonight if they
19 know anyone who has been recently laid off from a
20 conventional oil and gas job. The answer will be yes.

21 At this time, if you know someone who
22 has been laid off from a conventional oil and gas job,
23 please raise your hand. By looking around this room,
24 you will see the already evident burden that has been
25 placed on the industry. Do we really need more jobs

1 to be lost over expensive regulations? The answer is
2 no. For small businesses to carry the financial
3 burden of these proposed regulations is impossible.
4 The people that just raised their hands in this room
5 will not be the ones who know someone who someone who
6 has been laid off. They will be the ones who no
7 longer have a job.

8 There have been tens of thousands of
9 wells drilled along the Allegheny River. Anyone who
10 has seen this river know of its water --- of its clear
11 water and roaring beauty. How is it possible that the
12 river that has maintained its beautiful state if the
13 wells drilled along it have done so much terrible
14 damage? It's because those wells have not done
15 terrible damage to the river. This area is one of the
16 most beautiful in the state, and it has the most
17 conventional wells drilled.

18 We've been drilling here for centuries
19 and the land --- if --- the land is still as beautiful
20 as it ever was. The negative propaganda surrounding
21 the oil and gas industry leads most uneducated people
22 to believe that we are causing poisoned water and
23 destroying the environment, which is simply not true.
24 I believe in this state. I believe in the oil and gas
25 industry. Please consider these people and the rest

1 of the people that aren't here tonight that will be
2 hurt by these regulations. Thank you.

3 CHAIR:

4 Thank you. Judy Saf, followed by
5 Melissa Troutman and Derek Soyke --- excuse my
6 pronunciation of that --- and then David Stein.

7 MS. SAF:

8 Good evening. My name is Judy Saf. I
9 have been employed by Howard Drilling since 2002.
10 Howard Drilling has been in the oil and gas business
11 for more than 50 years. My daughter, nieces, and
12 nephews are fourth generation to work for Howard
13 Drilling. I fear that there will be nothing left for
14 the fifth generation. Between the poor economic
15 conditions and the proposed regulations, I fear that
16 our fifth generation will be donating our equipment to
17 the local museum instead of operating it.

18 In 2002, my day was entirely consumed
19 with completing a job that gave me a sense of being
20 productive. In the course of the past few years, my
21 job has totally been dictated by the newly enacted DEP
22 laws. I cannot tell you how the new rules and
23 regulations will affect those who actually do the
24 drilling, fracking and well tending, but what I can
25 tell you is that they will have a negative effect on

1 the bottom line of our profit and loss statements.
2 The DEP reports that I currently deal with are all
3 time consuming, detailed and in my opinion, only a few
4 are necessary, but mostly to justify the jobs of the
5 DEP. In 2014, we drilled 30 wells and fracked 22 and
6 had 136 inspections. So far this year, we have
7 drilled 4, fracked 8 and had 44 inspections. The
8 ratio of wells drilled and fracked to inspections has
9 increased thus far, not a good indicator for the rest
10 of the year.

11 With advance notice of Chapter 8 --- 78,
12 Conventional Oil and Gas wells, referring to the
13 283-page document, I don't see where there is going to
14 be any less reporting, paperwork or less time spent on
15 mandates. I strongly urge the Pennsylvania General
16 Assembly to work with the PGCC, PIPP and any other
17 conventional well producers and/or groups to work
18 together to pass regulations that are fair and not
19 detrimental. PGCC and PIPP members are hardworking,
20 conscientious and dedicated to getting a job done, and
21 they want to keep this conventional oil and gas well
22 industry thriving.

23 Without the oil and gas industry in
24 northwestern Pennsylvania, what would we do for jobs?
25 According to the Pennsylvania Department of Labor and

1 Industry's latest historical data posted on their
2 website, the top 50 employers by county, both McKean
3 and Warren's biggest employers are healthcare
4 facilities and government agencies, meaning federal,
5 state, local and schools. Ranked the number five
6 employer for McKean County is the McKean --- I'm
7 sorry, the American Refining Group, and number five
8 for Warren County is the United Refining Company.
9 These two refineries have been operating for more than
10 100 years, providing good jobs and benefits for local
11 residents. The proposed regulations will not only be
12 a hardship on the producers, but ultimately have a
13 negative impact on our refineries, consumers and our
14 communities.

15 This year, I am the President of Penn
16 York Oil and Gas Affiliates, Association of Desk and
17 Derrick Clubs. Our most important purpose is to
18 promote education to the general public about energy
19 industries. As President this year, my goal is to get
20 a foothold on the thresholds of our schools, which is
21 very hard to do due to the state curriculum. With the
22 help of the Essay Committee and other members, the
23 Committee is currently working on field trips to two
24 local schools to the Penn Brad Oil Museum in Bradford,
25 PA. The museum has preserved our history and will

1 provide an educational experience for all those who
2 attend. I strongly believe that the survival of this
3 industry depends on educating not only the youth, but
4 the public as well. Our youth needs to understand
5 that a pump jack or a tank battery in the woods is a
6 good thing, not a threat to the environment.
7 Educating, not mandating, is the answer. Thank you.

8 CHAIR:

9 Melissa Troutman? No Melissa this
10 evening? Derek Soyke?

11 MR. D. MILLER:

12 He's not here.

13 CHAIR:

14 He's not here? Okay. David Stein?
15 David Stein will be followed, then, by James Murphy
16 and Michael Arnold.

17 MR. STEIN:

18 I want to thank the EQB for taking this
19 hearing. I'm David Stein. I'm from Lakewood, New
20 York, which is across the border. I work pretty
21 extensively with the oil and gas industry across
22 northwestern Pennsylvania. The comments that I had
23 prepared about a year ago related to the economic
24 impact of Chapter 78, subchapter C, about the economic
25 impacts of the conventional industry, specifically as

1 it respects McKean County. And you know, I think
2 everybody in this room has some sense of this, but
3 when I started really doing analysis work of how
4 important the conventional industry is to McKean
5 County in particular, it became beyond just kind
6 rattling.

7 It was downright frightening, the level
8 of importance that the conventional industry has to
9 that county, and it concerns me that we've --- we're
10 establishing new regulation without doing the economic
11 analysis. If you look at publicly available data
12 sources, personal incomes resulting from mining,
13 including fossil fuels in McKean County, it exceeds
14 that from healthcare and social assistance agencies.
15 It exceeds that from government, and it exceeds that
16 from all industries with the exception of
17 manufacturing. But if you put the refinery into the
18 fossil fuels category, then it is by far and away the
19 largest sector in McKean County.

20 The typical job in McKean County
21 associated with fossil fuel extraction pays more than
22 double the average wage for average wage earners in
23 McKean County. Again, I'm going to go off script
24 here, in that we've talked tonight --- I think a
25 number of people brought up the question of need for

1 regulation. I work in the insurance industry, and one
2 of the things that I think people might be surprised
3 to learn is our ability to get environmental insurance
4 for conventional and even nonconventional producers
5 service contractors is getting better than ever.

6 The claims activity that we see on the
7 insurance side isn't supported by the hyperbole that
8 we see in the media or what we see in terms of what we
9 get out of the proposed regulation. We would expect
10 that if we're really sort of approaching impending
11 doom, that we would be seeing increased activity. In
12 fact, our claims activity has never been cleaner on
13 the environmental side. And then, the same thing is
14 true on the worker safety side. The industry is a
15 better industry, and --- you know, and we need a
16 strong regulator. There's no question about it.

17 But I'm hoping that the EQB will examine
18 the need for regulation for the conventional industry,
19 and then also weigh that against the impact. And
20 while the impact may not be great across the
21 Commonwealth, the specific impacts in McKean, Warren,
22 Elk, Venango Counties would be devastating. I don't
23 know. I kind of went off topic there. But I'll
24 conclude my remarks, and I'm going to submit written
25 testimony as well.

1 CHAIR:
2 James Murphy? Okay. Michael Arnold?

3 MS. SAF:
4 I'm sorry. Mr. Arnold asked to be
5 excused.

6 CHAIR:
7 Okay. Jim Hovey?

8 MR. HOVEY:
9 I was taken off.

10 CHAIR:
11 Taken off? Okay. Thank you. Chuck
12 Shrader? And Mr. Shrader will be followed by Steve
13 Pratt, David Hill, and Doug Jones.

14 MR. SHRADER:
15 Good evening. My name is Chuck Shrader.
16 I live here in Warren, and I have since 1978.
17 Currently, I work as an independent contractor in the
18 oil and gas industry, but my business career
19 background is 34 years as a community banker here in
20 Warren County. The majority of that time was spent
21 working with small business, and I can assure you that
22 rural small businesses face a myriad of challenges
23 every day. Most small business folks just want to get
24 up and go to work, but when faced with limited staffs,
25 meeting payrolls, the ever changing economic

1 environment and currently, the changing regulatory
2 issues, that can't always be the case. I'm personally
3 familiar with countless hours of time and energy ---
4 and by extension, money --- spent exploring and
5 interpreting changes associated with the proposed new
6 regulations.

7 A major challenge currently facing small
8 businesses engaged in producing oil and gas is the
9 increased burden imposed upon conventional operators
10 generating site-specific PPC plans proposed in 78.55.
11 Now, most conventional operators employ a generic PPC
12 plan that meets the requirements of the existing
13 78.55. Among other items, the generic plan lists
14 company contacts, internal spill cleanup resources,
15 and also lists outside contractors that might be
16 called upon to assist in the response.

17 This information has been and still is
18 sufficient on how to handle material and respond to
19 releases or threatened releases compared to the
20 unconventional site. Number one, because conventional
21 well and tank sites are extremely small compared to
22 the unconventional, and by extension, the volumes that
23 could be released from accidental spills from a
24 conventional site are extremely small in comparison to
25 the unconventional site. There are fewer hazardous

1 materials on site at conventional versus
2 unconventional, as well. The proposed regulation
3 elevates the burden substantially by requiring site
4 specific plans that meet the requirements of 25 Pa.
5 102.

6 Now, Pennsylvania, for now, at least, is
7 fortunate enough to have a number of conventional oil
8 and gas production sites. The positive effect on the
9 economy is obvious, and much of this production is
10 managed and operated by small business owners. It is
11 important to note that these conventional pads are
12 highly similar, not having unique chemicals from site
13 to site compared to the unconventional producers.
14 Critical information of who to contact, where to
15 locate cleanup resources is generally provided to the
16 very same contractor from site to site.

17 Costs to the conventional operators to
18 initiate site-specific PPC plans will, at a minimum,
19 be staggering, with little, if any, measureable
20 benefit. Certainly, today's low commodity prices
21 emphasize that point. And moreover, virtually every
22 conventional well operator is a small business entity.
23 Pennsylvania law requires DEP analysis to consider the
24 disproportionate burden the proposed site-specific
25 change would impose on small business, and to

1 specifically consider whether less stringent
2 requirements are more balanced.

3 I'd like to congratulate the
4 conventional oil and gas producers of Pennsylvania. I
5 avidly fish trout streams in Warren, Forest, McKean,
6 and Elk Counties. The streams are clean and the
7 aquatic insect life is more abundant every year. I
8 urge the DEP to work with the industry and other
9 stakeholders across the Commonwealth to ensure that we
10 provide a reasonable, competitive path forward for
11 long term conventional oil and natural gas
12 development. Thank you.

13 CHAIR:

14 Next up is Steve Pratt? Steve? David
15 Hill?

16 MR. HILL:

17 I'm here.

18 CHAIR:

19 Okay. Thank you, Mr. Hill. David Hill
20 will be followed by Doug Jones, Shane Kriebel and the
21 third and final Mr. Miller, Mark Miller.

22 BRIEF INTERRUPTION

23 MR. HILL:

24 I am Dave Hill, a fourth generation oil
25 and gas drilling contractor. I am here tonight to

1 testify regarding the revision to 25 Pa. Code Chapter
2 78 and 78a, subchapter C. I am currently retired from
3 contracting, but I serve as a consultant for various
4 companies throughout northwestern Pennsylvania. I own
5 in fee 102 acres of land, on which I operate 18 oil
6 and gas wells. I also live on this land and drink
7 water from our water well. I belong to PIOGA, PGCC,
8 and the New York State Oil Producers Association. I
9 am a graduate of the Pennsylvania State University,
10 and my son is also a Penn State petroleum engineering
11 graduate, which makes us a five generation oil and gas
12 family.

13 I believe that I have come full circle
14 in the oil and gas industry. As a teenager, with my
15 father as a mentor, I learned to operate and drill
16 using the cable tool rig. After my college
17 graduation, I was asked to teach the Oil and Gas
18 Production Career and Technical Course at Bradford
19 Area High School. After three years, I returned to my
20 family business and operated Hill Drilling for 31
21 years, with three rotary drilling rigs in southern
22 Pennsylvania, Ohio, New York and West Virginia.

23 Now, I have returned to operating cable
24 tool rigs, and in recent years, I have drilled my own
25 ten wells. I am presently drilling the 11th well. My

1 neighbors have expressed their appreciation for my
2 efforts in not only restoring eight non-producing
3 wells drilled in the '60s, but for constantly striving
4 to improve the land on which I drill. My role as a
5 consultant has reacquainted me with many owners and
6 operators in northwestern Pennsylvania. It has also
7 given me the opportunity to review and study current
8 and proposed oil and gas regulations.

9 The conventional industry has been a
10 part of the western Pennsylvania landscape and is a
11 major component of its economic engine for over 150
12 years. Now, in an effort to regulate a new and quite
13 different unconventional industry that arrived here in
14 Pennsylvania only a few short years ago, these same
15 local conventional operators are being forced to
16 comply with regulations that were crafted to deal with
17 the unique and challenging issues associated with the
18 drilling and development of the unconventional wells.

19 These proposed regulations that were
20 developed for unconventional oil and gas operations
21 are inappropriate for conventional operations, and
22 impose a disproportionate regulatory and economic
23 burden on small business, such as my own and other
24 conventional operators. Because many shallow oil and
25 gas wells produce only small quantities of oil and

1 gas, the cost of proposed regulation in many cases
2 will make these wells economically unfeasible to drill
3 and operate. In addition, the proposed regulations
4 are wide-ranging and extremely vague, and will require
5 costly attorney fees for their interpretation.

6 The DEP must consider the cumulative
7 impacts of this ever-increasing set of rules, permits
8 and policies on conventional operations. With low
9 natural gas and oil prices, the conventional
10 operations will be further negatively impacted,
11 causing unemployment for many businesses associated
12 with the oil and gas industry. Remember, as I learned
13 in my college biology class, a smart parasite never
14 kills its host.

15 Following several public meetings and
16 recommendations presented in 2014, the Bifurcation
17 Bill was passed through the House and Senate and
18 became law. Why are our new governor and the newly
19 organized Department of Environmental Protection
20 failing to recognize the separation of conventional
21 and unconventional regulation? Please honor the law
22 to comply with the regulations that are appropriate
23 for the conventional oil and gas operations. Thank
24 you.

25 CHAIR:

1 Mr. Jones is making his way down. He's
2 followed by Shane Kriebel, Mark Miller and Len Elder.
3 Just a status update, we are coming up on number 33 of
4 the 45 individuals so far.

5 BRIEF INTERRUPTION

6 MR. JONES:

7 My name is Douglas Jones. I live at 508
8 North Perry Street, Titusville, Pennsylvania. I'm an
9 oil and gas professional with nearly 35 years
10 experience in conventional oil and gas operations. My
11 experience covers nearly all aspects of the business.
12 I would like to open with a few general comments on
13 the Chapter 78c rewrite. The Department has not
14 engaged the conventional industry in these rewrites.
15 The result is a fatally flawed regulation. The
16 Department has not given the industry enough time to
17 analyze the implications of these regulations. Many
18 of these changes are so open-ended and sweeping that
19 we cannot possibly understand the financial impact of
20 the changes.

21 One issue that fills me with trepidation
22 is the numerous new reporting and notification
23 requirements. In a time when the industry is faced
24 with nearly unprecedented challenges, the Department
25 is piling on requirements that will force increased

1 staffing to comply with these new reporting and
2 notification requirements. The phrase, quote, on
3 forms provided by the Department, end quote, fills me
4 with dread, because of seeing what the Department can
5 sometimes do with new forms. It also appears the
6 Department is moving to paperless reporting entirely,
7 as I do not see provisions for offline reporting
8 written into these regulations. I object to that on
9 behalf of the many small operators who do not have the
10 technological means or money to do so.

11 I have a few specific comments on the
12 regulations. The definition of other critical
13 communities is so expansive and far-reaching that the
14 impacts cannot be understood at this point in time.
15 The addition of so many different possibilities
16 presents the probability of very large financial
17 impacts that we cannot assess. As an aside, I would
18 say that if the Department expands this definition,
19 the conventional oil and gas operator in Pennsylvania
20 should be at the top of the list.

21 Section 78.52a, regarding areas of
22 review, is vague and onerous. What exactly
23 constitutes compliance with this section? What
24 constitutes GPS coordinates? Is it a field survey of
25 coordinates or points off the map? Does the

1 Department claim the power to specify to operators
2 what the accuracy of the GPS unit is supposed to be, a
3 \$50 unit or a \$10,000 unit? What if a surface parcel
4 not under control of the operator is included in the
5 area of review and the owner of that parcel refuses
6 access? Are we then subject to violations for failure
7 to comply?

8 Regarding Section 78.57a, the Department
9 has indicated that it will not be a part of the final
10 regulations. If that is the case, I appreciate that
11 fact. If that is not the case, I will be saying my
12 goodbyes to Pennsylvania on the day that these
13 regulations become final. I will quite literally be
14 out of business in Pennsylvania. The sections
15 regarding freshwater impoundments and construction
16 requirements imposed therein will end those
17 impoundments for conventional operators. Frack ponds
18 will simply be too expensive to build.

19 Section 78.67 regarding borrow pits
20 seems to tie pit usage to a specific well and requires
21 registration of pits. I ask, who bears the
22 responsibility for communal pits that are used by
23 numerous operators simultaneously or over the course
24 of the pit's life? We need more information. Item D
25 requires inspection of pits by qualified personnel. I

1 don't even know what that means.

2 In conclusion, there are more points
3 that I could bring up and object to. The Department
4 has done itself a disservice with these revisions and
5 may yet destroy the conventional industry in
6 Pennsylvania, along with the thousands of jobs it
7 provides. Thank you.

8 CHAIR:

9 Okay. Thank you. Shane Kriebel is up,
10 followed by Mark Miller, Glen --- Len Elder, and
11 Shantel English.

12 MR. KRIEBEL:

13 Good evening to the DEP, our
14 representatives, and the fellow colleagues of the
15 Industry. My name is Shane Kriebel and I'm providing
16 comments on behalf of the Pennsylvania Independent Oil
17 and Gas Association, probably better known as PIOGA,
18 as well as myself. I want to thank the DEP for giving
19 us the opportunity to speak this evening so that our
20 voices and concerns are heard.

21 I'm a third generation natural gas and
22 oil producer, such as many in this room, working as a
23 production/business manager for our small, family-
24 owned conventional gas company, located in Clarion,
25 Pennsylvania. I've been in the natural resource arena

1 all 42 years of my life, but have been in the business
2 for about 16 years. I must say I've seen a lot in
3 those 16 years, from the natural gas commodity price
4 starting at around \$2.50, increasing to \$12, and now
5 back to where it's at today, at a gross commodity
6 price of \$2.50. I don't even want to touch the net
7 price. It's ugly, as most of you know.

8 I've had the privilege of seeing the
9 Commonwealth become a hot area for Marcellus Shale
10 development. This, to me, has been a blessing and a
11 curse. The blessings include bringing jobs back into
12 the Commonwealth and injecting money into the state
13 economy --- in other words, growth and prosperity for
14 Pennsylvania. The simple fact is that PA is now
15 considered a hotbed energy resource area for helping
16 the country take steps towards energy independence.
17 The curse is more proposed regulation for the smaller
18 producer. Much of the additional regulation proposed
19 by the DEP is unnecessary for a conventional producer
20 and is questionable at best for a shale producer.

21 Honestly, what has happened in the last
22 ten years to warrant a total revamping of the
23 regulations for the conventional producer? We believe
24 the current regulations as they exist today are very
25 suitable and should be followed and enforced. I also

1 understand the conventional producers aren't
2 environmentally benign, but what industry really is?
3 The point is, we all should operate under smart and
4 common sense regulations. We, the small gas
5 producers, care about the environment because we live
6 here, we work here, we have families here, and we
7 strive to be good stewards of the environment, for we
8 are ultimately responsible for our actions in the end.

9 I'm a proud father of four boys, and I
10 would love for any one of them to carry on the family
11 business or join the industry in some form or fashion.
12 I'm fearful, though, that that may not happen when I
13 look at the current landscape. We are experiencing a
14 valley, a downturn in the industry, and there are
15 numerous small companies striving to survive these
16 tough times. As I mentioned before, low commodity
17 prices coupled with high service costs, and now added
18 addition --- added proposed regulations?

19 Where's the benefit of these
20 regulations? Where's the economic impact analysis or
21 regulatory flexibility analysis? Any time there's a
22 new regulation put into motion or put in place,
23 there's a cost associated with it. Please don't
24 misunderstand me. I don't believe --- excuse me. I
25 believe there should be smart regulation, and it

1 should be based on scientific merit and fact, not
2 regulation that could have a crippling effect on our
3 industry with little to no --- or little or no ---
4 with little to or no merit.

5 The Department has clearly not taken a
6 serious look at the economic impact of these
7 proposals. Their impact on small business is
8 staggering in scope. Given the current economic
9 realities for this industry in Pennsylvania, our state
10 regulators are either deliberately attempting to turn
11 conventional development and companies such as mine
12 into dinosaurs, or they are completely ignoring the
13 impacts these proposed regulations will have on our
14 small businesses. Neither bodes well for the future
15 of Pennsylvania's conventional producing industry,
16 Pennsylvania's economy or the nation's energy
17 independence. Neither represents sound public policy.

18 In closing, I again want to thank the
19 DEP for the opportunity to speak this evening. Most
20 importantly, it is imperative that the DEP and the
21 industry work together. We truly can't have one
22 without the other, and I strongly urge the DEP to
23 consider the economic impacts and the benefits, if
24 any, that these proposed regulations will have on our
25 small conventional businesses. Thank you.

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CHAIR:

Mark Miller followed Len Elder, Shantel English, and Dean Johnson.

MR. M. MILLER:

Good evening. My name is Mark Miller, and I'm a licensed professional geologist in the Commonwealth of Pennsylvania. I have 25 years of environmental consulting experience, working extensively within the Department's Act 2 program. I would specifically like to comment on the reporting and remediation of spills and releases portion of the regulations. My comments apply both to the conventional and unconventional, as there's essentially no difference between the two sets.

Section 78.66c2, remediating releases greater than 42 gallons. The proposal is that the operator must enter into the Act 2 Program and follow the Chapter 250 regulations, and then demonstrate attainment with one or more of the remediation standards. The Department is going above and beyond the Chapter 250 or the Act 2 regulations. These additional requirements that I'll summarize below are going to cause a needless burden and add needless cost to the operators.

78.66c2iii, within 180 days to complete

1 site characterization. Chapter 250, or the Act 2
2 Program, has no provisions that site characterization
3 be completed within 180 days. Why is this imposed on
4 the oil and gas industry alone? No other industry
5 that enters into the Act 2 Program is submitted to
6 this requirement.

7 78.66(c)(2)(v), within 45 days,
8 submittal of a remedial action completion report per
9 245.311(a) requirements. The 245 requirements are the
10 regulations that apply to regulated aboveground and
11 underground storage tanks like you'd find at your
12 Sheetz, at your corner gas station. Chapter 250 or
13 Act 2 has no provisions that a Remedial Action Plan be
14 submitted within 45 days of submittal of a site
15 characterization report.

16 In fact, within the Act 2 Program, one
17 can submit a Notice of Intent to Remediate, entering a
18 site into the Act 3 Program, and the next report that
19 could be submitted to the Department is the final
20 report. Again, why is the oil and gas industry being
21 held to a different Act 2 Process than everyone else
22 that enters into the program?

23 Portions of the Chapter 245.311(a)(7)(i)
24 addresses scheduling. This requires that schedules
25 need to include initiation and completion dates for a

1 project. Chapter 250 or Act 2 requires no time frame
2 commitments. You can work at your own pace, and when
3 the project is completed, you submit your final
4 report. Again, why is the oil and gas industry being
5 held to a different Act 2 process than everyone else?
6 78.66(c)(2)(vi), Remedial Action Progress Reports.
7 There is no Chapter 250 or Act 2 provisions for the
8 submittal of a quarterly Remedial Action Progress
9 Report. Again, why is the oil and gas industry being
10 held to a different Act 2 process than everyone else?

11 It appears that the Department is
12 requiring oil and gas operators to enter into the Act
13 2 program. It appears that the Department is not
14 satisfied with the Chapter 250 requirement alone, and
15 is trying to incorporate more stringent requirements
16 upon the oil and gas operators. Again, why is the oil
17 and gas industry being held to a different Act 2
18 process than everyone else? This document here is the
19 Department's Land Recycling Program, or Act 2,
20 transmittal sheet for plans, reports, and submissions.
21 If you submit an Act 2 report, you've got to submit
22 this. There is no box on this form for --- to check
23 for the submittal of site characterization reports,
24 for Remedial Action Plans or Remedial Action Progress
25 Reports.

1 This clearly illustrates that the
2 Department is singling out the oil and gas industry
3 and requiring that they go above and beyond the normal
4 requirements of the Act 2 Program. By doing so, the
5 Department adds additional requirements that no other
6 industry that enters the Act 2 Program must follow,
7 and this causes a needless burden and adds unnecessary
8 costs to the operators. Thank you.

9 CHAIR:

10 Len Elder, followed by Shantel English,
11 Dave Johnson and Solomon Clark.

12 MR. ELDER:

13 Good evening. My name is Len Elder, and
14 I'm an active supervisor for Licking Township in
15 Clarion County. It's my pleasure to be here tonight
16 representing my township and its royalty owners. As
17 you know, there's an impact fee imposed upon
18 unconventional well production. These fees are then
19 divided amongst the local municipalities and these
20 added revenues do greatly benefit our communities.

21 Further regulations, such as those being
22 presented in Chapter 78, will only impinge upon and
23 hinder the growth of unconventional well drilling.
24 Placing these same regulations on conventional well
25 drilling and production will have devastating

1 consequences on the small producers. Current law
2 provides adequate regulations for safe and effective
3 drilling production. I have seen no negative
4 environmental impact from oil and gas production in my
5 area.

6 The funds generated from oil and gas
7 production are much needed for local townships. We
8 have been able to purchase needed equipment to
9 maintain roads without further burdening the
10 taxpayers. I've even seen the petroleum companies
11 that's drilled in the area make road improvements and,
12 in some cases, have even paved roads. This is
13 something that the townships could not afford to do on
14 its own.

15 I'm also speaking on behalf of the
16 royalty owners in our local communities. These are
17 the average hardworking folks, many of whom are
18 farmers who are already struggling to make ends meet
19 and maintain their farms. The oil and gas revenues
20 that they receive is a much needed boost in their ---
21 in these dire economic times. It's helped them get
22 out of debt, pay their taxes, construct new buildings,
23 purchase new equipment and then the list goes on and
24 on. All of these things help our local economy, in
25 turn benefitting everyone whether they receive

1 royalties or not. Thank you.

2 CHAIR:

3 Shantel English, Dean Johnson, Solomon
4 Clark, and Christina --- no last name.

5 MS. ENGLISH:

6 Good afternoon. I'd like to first off
7 start off by saying thank you. My name is Shantel and
8 I am a student at the University of Bradford ---
9 Pittsburgh for petroleum technology and environmental
10 science. So in other words, I love both the
11 environment and driving my Mercury Cougar. Is
12 fracking as harmful to our environment as society has
13 been led to believe? There has been many frightening
14 allegations concerning the impacts that fracking
15 brings, but how much truth lies behind the
16 controversy?

17 Many people believe that fracking has
18 been a leading cause of many things, like
19 contamination of drinking water, earthquakes and
20 completely destroying our ecosystem. Sorry. I'm
21 nervous. Okay. That has all caused a halt in
22 production, bringing severe difficulties to both
23 businesses and families. This land has sustained our
24 communities upon natural gas and oil extraction for
25 over 100 years, and it should continue until a more

1 efficient source of energy is discovered, without
2 killing birds --- see, you can see wind tunnels show
3 no birds mercy --- destroying hundreds of square miles
4 every day just to keep up with supply and demand, and
5 of course, requiring dozens of rare earth mined
6 minerals just for one solar panel.

7 As according to EPA.Gov, fracking is a
8 very efficient way of extracting resources. A hole is
9 drilled miles deep below the water table. Fresh
10 water-based fluid is released, both bringing the
11 cuttings back up to the surface and to stabilize the
12 durability of the wall. Casing is then cemented,
13 creating a barrier, avoiding any leakage into the
14 water table. The hole is then double, triple checked
15 for undesired zones. Then perforating charges are
16 sent to the bottom to puncture the casing and the
17 formation.

18 A mixture of 99.5 percent sand and water
19 and .5 percent of scary additives --- which can also
20 be found in broccoli --- is released, to finish
21 separating and wedge the formation apart with the sand
22 grains, allowing resources to freely flow up the well.
23 The fluid is then safely recovered, recycled or safely
24 disposed of. Once completed, the well is open and
25 ready for use for up to 40 years. When the life of

1 the well is finished, the land is fully restored back
2 to its natural state. This process is called
3 reclamation.

4 Now, before they can even step foot on
5 the decided site, dozens of permit approvals are
6 required, delaying production and revenue for a
7 minimum of five months. The EPA has tested all
8 harmful allegations made against fracking and all have
9 come back negative. There's no sign of harmful
10 chemicals in our drinking water that wasn't there
11 previously before. People are not catching cancer and
12 the land is fully restored back to natural.

13 Is fracking what America should be most
14 concerned about restricting? Or should we be more
15 concerned with properly educating the public
16 concerning the low risks and high yields? It's clear
17 we benefit a great deal from fracking, and as humans,
18 we easily fall victim to propaganda. I live in
19 Bradford at the end of Tar (phonetic) Valley, and
20 that's in Allegheny National Forest. There's wells
21 everywhere, and I took this picture the other day of
22 deer, clearly not sick. Well, in conclusion, my point
23 being is, I don't see the fracking problem.

24 CHAIR:

25 Dean Johnson, Solomon Clark, Christina,

1 and Tyler Martin.

2 MR. JOHNSON:

3 Well, my name is Dean Johnson, a
4 resident of Warren County, Pennsylvania. I reside at
5 731 Frantz Road, Warren, PA 16365. My family owns a
6 400 acre farm and farms an additional 300 acres in
7 Glade Township. We grow some small grains and produce
8 mostly hay for feed and mulch. Also, our 400 acre
9 farm is open to all public hunting. We sell a large
10 percentage of our produce, approximately 35 percent,
11 to several local oil producers in the form of small
12 bales of mulch hay and straw. We also sell seed oats
13 that are mixed in with grass seed that helps their
14 seedlings get established quicker and acts as a nurse
15 crop. Every producer that we deal with does an
16 outstanding job restoring the land.

17 We have conventional shallow wells on
18 our property that has supplied us with natural gas and
19 oil for the last 40 years. Most of the land that we
20 rent also has conventional shallow wells. Along with
21 being active in the community, I have served on the
22 Warren County Conservation District Board of Directors
23 for the past 32 years. During this time, I have seen
24 many changes, most notably the establishment of the
25 Department of Environmental Protection, DEP, from the

1 old Department of Environmental Resources, the DER.
2 There's a much better working relationship with
3 conventional shallow well producers today than there
4 was with the old confrontational DER. As a District,
5 we used to receive many oil and gas complaints. Those
6 have all but disappeared today.

7 Back in the '70s and '80s, there was a
8 huge difference in the way oil producers worked, but
9 through cooperation and education, the wells and the
10 well sites of today are designed to prevent damage to
11 the environment and especially water quality. Streams
12 of the past that maybe would be muddy with oil
13 activity are now crystal clear and streams of high
14 quality fishing.

15 I would like to thank the Department of
16 Environmental Protection for this opportunity to
17 testify on the amendments to Chapter 78 and 78a. The
18 separation of conventional wells --- shallow wells,
19 Chapter 78, and unconventional deep wells, 78a, was
20 greatly appreciated, but I think you've missed the
21 point. The conventional shallow well producers have
22 been doing an outstanding job with the current DEP
23 regulations. We are people who live in the community
24 and want to be good neighbors and do what is right for
25 the environment. It is our land, and we want to be

1 good stewards.

2 All of the amendments you've mentioned,
3 number one, improving protection of water resources,
4 two, public resource considerations, three, protect
5 public safety, four, address landowner concerns, five,
6 enhance transparency, and six, improve data
7 management, are currently addressed in your current
8 regulations. It appears that another way to slowly
9 shut down an industry through regulation that provides
10 many jobs to the area.

11 I would hope that a more thorough and
12 transparent explanation of your changes would be
13 forthcoming. The 120 pages of amendments to Chapter
14 78 that I read were very confusing. I hope this isn't
15 way for environmental activists to have a more of a
16 say in the oil industry than the men and the women who
17 work in the industry every day and are true active
18 environmentalists. Thank you.

19 CHAIR:

20 Solomon Clark, Christina, Tyler Martin,
21 and Ken Kane.

22 MR. CLARK:

23 My name is Solomon Clark and I aspire to
24 become a third generation oil man. I'm 17 years old
25 and I've always dreamed of continuing on our, quote

1 unquote, family farm. But these copy and paste
2 proposed conventional regulations are a threat to my
3 dream. I know from working in our business that these
4 regulations will bring a lot of unwarranted new
5 expenses. How will we pay for these new expenses? I
6 think these new expenses will lead to fewer jobs and a
7 smaller tax base in my town, which will mean even more
8 cuts to my school.

9 I want to talk about schools, because
10 our school district has already been forced to make
11 unprecedented cuts to our educational and
12 extracurricular budgets. In the last three years, the
13 school district has cut its extracurricular funding by
14 one half, and the community now has to raise half the
15 money. Who in my community is currently paying to
16 field my football, basketball, baseball, track --- and
17 track teams? I personally invite the members of this
18 Board to come and see for yourselves whose has the ---
19 whose names are on the banners of my gym and on the
20 fence around my football field.

21 It is the banner that my family business
22 paid for. It, along with all the other banners around
23 it were paid by other small businesses in our
24 communities, businesses that are interwoven with our
25 family business and represent the independent, can-do

1 spirit that has made our country the best place in the
2 world. No business should have to deal with
3 unreasonable regulations, but unreasonable regulations
4 are particularly hard for a small business.

5 I call the regulations unreasonable
6 because they are a fixing a problem that doesn't
7 exist. Our towns in the oil region are surrounded by
8 thousands of conventional oil wells, and at the same
9 time, we are also surrounded by the highest percentage
10 of high value trout streams in the state. The
11 majority of oil wells around this community were
12 drilled in the last 30 years under Act 223. The most
13 remarkable change during the last 30 years is that the
14 water quality in the streams surrounding our
15 communities have increased in and around our part of
16 the state. This is just one way the conventional oil
17 and gas industry has already demonstrated we are
18 adequately regulated.

19 If the unconventional oil and gas
20 industry had not moved out to Pennsylvania, we would
21 not be here tonight. Act 13 would have never been
22 created or adopted, and my future would not be in
23 peril. Please refuse to be part of these misdirected,
24 unneeded and very damaging regulatory controls. The
25 regulations that were in effect before the

1 unconventional industry came to Pennsylvania already
2 contained some of the strictest environmental
3 standards in the United States.

4 These new regulations are not needed to
5 protect my family, neighbors and friends. What is
6 needed is to have you vote no so our communities can
7 be protected by (sic) this vindictive, devastating,
8 copy and paste rewrite. Take a look for yourself at
9 the job my family and other shallow operators have
10 done, conventional operators who have already provided
11 the environmental stewardship necessary for the
12 sustained beauty you see all around you.

13 And what is thanks that the DEP gave to
14 the hardworking people in this room tonight? They
15 supplied pictures to the newspaper of problems that
16 were already accommodated for in Act 223 some 31 years
17 ago. The Department tried to paint all the
18 hardworking people in this room as polluters and
19 evildoers so they could do what they want. That would
20 be like taking pictures of kids in my school who have
21 gotten in some trouble and made some bad mistakes, and
22 then take their pictures and have them printed in all
23 the newspapers all over the state to show what bad
24 kids they are today.

25 Well, it won't work. Sure, there has

1 been some problems, but I heard in the last election
2 that government that works knows how to protect we
3 good people, while it deals properly with problem
4 situations. We need our shallow conventional industry
5 to be strong now, more than ever. It is helping to
6 save our schools in my community. Please think about
7 what you are doing before you unnecessarily destroy
8 the lives of thousands of people living in small towns
9 like mine for no reason. Respectfully, Solomon Clark.

10 CHAIR:

11 Christina? Tyler Martin? Okay. Mr.
12 Martin will be followed by Ken Kane and Christian
13 Zavinski.

14 MR. MARTIN:

15 Thank you. Good evening. My name is
16 Tyler Martin and I am currently employed at a
17 conventional oil and gas company. I grew up hunting
18 and fishing in this region. My interest in the
19 outdoors led me to study Geographical Information
20 Technology and Environmental Geoscience at Slippery
21 Rock University. I chose that career because I care
22 about water quality, good management of trees and
23 wildlife.

24 I started my career as a wetland
25 delineator working for unconventional shale companies

1 in both Pennsylvania and Ohio. I did that work for
2 three years --- excuse me, and walked hundreds of
3 miles of pipelines, delineated hundreds of wetlands
4 and watercourses in both Pennsylvania and Ohio. I
5 moved from that career to work at home in the
6 conventional industry. I now work on environmental
7 controls, timber management and mapping.

8 With my experiences on both sides of the
9 industry, the unconventional and conventional, I can
10 attest they are truly apples and oranges. The
11 economic and environmental impacts are on very
12 different scales. To give you a taste of that
13 difference in impact, I have compared my records from
14 unconventional and conventional wells. I found that
15 just one unconventional well pad and supporting
16 infrastructure is equal to roughly 70-plus
17 conventional wells and their supporting
18 infrastructure.

19 With that being said, the proposed
20 conventional regulations still read as though geared
21 to complexity and scope of the unconventional side of
22 the industry. When the 2015 version of the
23 regulations were issued, very few of the burdens were
24 removed, and many new burdens were added. The process
25 leading to the 2015 version was flawed. Instead of

1 ever asking what changes needed to be made to the
2 existing conventional regulations, the DEP wrote the
3 2013 regulations with the focus of the unconventional
4 industry. The 2015 regulations are simply more of the
5 same.

6 An example of the unrealistic and
7 impractical requirements found in the 2015 version is
8 the site restoration and returning a drill site to
9 original contours. Conventional drill sites are in
10 hilly Pennsylvania countryside, where the control ---
11 where the contour is changed to gain flat ground
12 required to operate. This broad, sweeping 2015
13 standard will be impossible in many cases and
14 extremely expensive in all cases to implement. I ask
15 this question in regards to this original contour
16 requirement --- where is the statutory authority for
17 such a requirement to be imposed? Again, this is just
18 one small tip of the proverbial regulatory iceberg.

19 In my opinion, the Department has failed
20 to meet their obligation to state a need for change.
21 That very obligation is to be met and based in facts
22 and science. I am shocked at the failure to address
23 the differences in scale between unconventional and
24 conventional oil and gas. I spend the majority of my
25 time at multiple conventional well sites on a daily

1 basis. In my opinion, the existing conventional
2 regulations are working well. The conventional well
3 sites are environmentally sound. It's one thing to
4 incur enormous regulatory costs if a clear goal is
5 being achieved, but that clear goal is absent.

6 I am fortunate to work in the woods
7 every day, and every day I see that a harmonious
8 existence can be achieved between conventional oil and
9 gas and the sound care of the environment I studied in
10 college. Before we make wholesale changes to
11 regulations that are working, the DEP needs to state
12 why it is proposing changes. The DEP did not do this
13 as to conventional oil and gas. The result of this
14 failure is a set of proposed regulations that is not
15 geared to conventional operations and which will have
16 a crushing financial impact on the industry. Thank
17 you.

18 CHAIR:

19 Next, we have Ken Kane followed by
20 Christian Zavinski, Dean Dean Holden, and the last
21 individual that's currently registered, Jim Bolinger.

22 MR. KANE:

23 Good evening. Thank you for the
24 opportunity to address you this evening. My name is
25 Kenneth Kane. I'm the President of Generations

1 Forestry, Incorporated. Generations Forestry is a
2 forest consulting company located in Kane, McKean
3 County, Pennsylvania. Generations Forestry is
4 involved in the forest management of approximately
5 250,000 acres of forest land, mostly located in
6 northern Pennsylvania.

7 I was born and raised in Kane,
8 Pennsylvania and chose to move back to Kane shortly
9 after graduating from Penn State. I have been
10 involved in rural community activities, including
11 service as a school director throughout three decades.
12 The area I live in and work has been providing natural
13 resources to society since the time of settlement,
14 over 150 years ago. In practicing forestry in this
15 resource-rich region for over 30 years, I have worked
16 with many conventional oil and gas producers.

17 Though I have not gotten along with all
18 of them all of the time, I can honestly say I never
19 felt that one of them got out of bed in the morning
20 with the intention of harming the environment. They
21 all want to produce a resource desired by our society.
22 I have worked diligently with oil and gas producers
23 throughout my career in reducing the impact of
24 resource extraction on the environment through
25 smaller, better placed well locations, pipelines and

1 access roads.

2 I'm concerned that if the proposed rules
3 are implemented, the landscape will experience more
4 disturbance. I believe the rule implementation will
5 require a larger footprint on the landscape, causing a
6 larger and longer overall impact than has been
7 historically experienced. I urge you to reconsider
8 implementing the proposed rules. The language and
9 potential interpretation of those proposed rules are
10 threatening and intimidating to an industry composed
11 of small, mostly family owned and operated businesses.

12 These small traditional oil producers
13 are producing the same oil fields that fueled this
14 country's energy needs through two world wars, all the
15 while improving the quality of the water resource of
16 the region. I see no reason to implement new, more
17 complex regulations on this vital industry. In simple
18 terms, if it is not broken, do not try to fix it. The
19 2015 regulation adds municipalities and school
20 districts to the list of public resource agencies
21 charged with managing public resources. Believe me,
22 as a former school director, the responsibilities of
23 public education are complicated and challenging
24 enough that you need not add public resources to
25 school directors, who serve as non-paid public

1 officials.

2 I have respect for the late hour and
3 time. I'll cut the rest of my remarks short, but I
4 will offer my services to the Committee should they
5 need me to serve in any capacity or have questions.
6 Thank you very much.

7 CHAIR:

8 Sir, can you state and spell your name
9 for the record?

10 MR. ZAVINSKI:

11 Yeah. My name is Christian Zavinski.

12 CHAIR:

13 Thank you.

14 MR. ZAVINSKI:

15 It's Z-I-V --- see, I'm going to spell
16 it wrong, Z-A-V-I-N-S-K-I.

17 CHAIR:

18 Thank you. All right.

19 MR. ZAVINSKI:

20 Now, I have nowhere near the experience
21 that many of these men and women here have. Also,
22 with the late hour, I'm going to keep this pretty
23 short, because at this point, if you don't get it, I
24 don't think you're going to get it. I've had the
25 unique experience to work in the oil fields with

1 Pennsylvania crude, and I've also worked as a land
2 agent for the Marcellus Shale pipeline. It didn't
3 take me very long to understand the difference. If
4 you guys have ever had a chance to set foot on a
5 Marcellus pad or an unconventional --- or a
6 conventional pad, I think it would explain itself.
7 They're simply asking for regulations for themselves
8 and for others --- for unconventional.

9 If anything, what I think is going on is
10 this just adds to the pessimism of politics. To have
11 this keep going on and on and on, it's why people get
12 so frustrated. Our local representatives have done an
13 amazing job asking you, bringing our --- what's the
14 word, what we want to you. And it just --- it makes
15 no sense to me that we keep having these meetings.

16 So it is my wish that we --- I tried to
17 wing it to make it that simple. But I mean, that's
18 really about all I have to say on the matter. So
19 thank you for your time, and hopefully, after which
20 occurred tonight, we can all come to an agreement.
21 And hopefully, we can get our own set of regulations.
22 Thank you.

23 CHAIR:

24 Next is Dean Holden to be followed by
25 Jim Bolinger. And Dean, please state and spell your

1 name and address for the record.

2 MR. HOLDEN:

3 I'm Dean Holden, P.O. Box 216, Tiona,
4 Pennsylvania. I'm a third generation oil man. I see
5 the DEP is making regulations faster than anybody can
6 keep up with them, and I believe they've got a little
7 ahead of theirselves (sic). They got more problems
8 than Carter's got little liver pills. I mean, 1984,
9 we orphaned wells, which nobody could find the owners.
10 It was in a state of greed to take care of these wells
11 and monitor for water contamination, casing
12 contamination.

13 And so far, the state will not
14 acknowledge --- check. And you grow --- walk up on a
15 well and don't have a tag on it, you're pretty darn
16 sure it belongs to the DEP, and they're supposed to be
17 checking. If there's oil around the well and you
18 don't see a dumpster and HAZMAT sitting there, that's
19 pretty sure it belongs to the DEP. If you see a truck
20 --- you people are in charge of thousands of wells to
21 watch and monitor. If there are as many diapers
22 (phonetic) in the back of a DEP truck they're
23 shoveling, and you people can hold us to standards
24 which are almost impossible --- double stringing
25 wells, new regulations every day --- and absolutely no

1 acknowledgment of the wells you have in rivers that
2 you agreed to take care of, besides people's water
3 wells --- they're virtually everywhere.

4 And if you want to know which one
5 belongs to you, it's the one the DEP walks by and
6 passed to check yours. And who is responsible for
7 these wells? We signed them over. The DEP agreed
8 these are orphaned wells. We'll keep an eye on them.
9 But you haven't kept an eye on anything. That's all I
10 have to say.

11 CHAIR:

12 Mr. Jim Bolinger, you've got to speak
13 your name and address for the record.

14 MR. BOLINGER:

15 You got it.

16 CHAIR:

17 Spell your name.

18 MR. BOLINGER:

19 My name is Jim Bolinger, it's
20 B-O-L-I-N-G-E-R, and I'm here tonight representing ARG
21 Resources, an oil and gas producer who operates in Elk
22 County. Throughout the process of rulemaking by the
23 DEP, the industry continually asked why existing
24 regulations needed to be changed. This is a question
25 that I believe DEP failed to answer during the initial

1 phases of this process. It has resurfaced again in
2 this phase. The explanation provided to industry
3 representatives by the head DEP officials after the
4 initial comment period was that there have been
5 changes in technology that warrant new regulations.

6 The industry was quick to ask the
7 question, be --- can you be more specific? What has
8 changed? No specific reply was given that could be
9 backed up with facts. Anyone who is involved in this
10 industry on the conventional side knows that there
11 have been no significant changes in our practices,
12 technologies, chemistry, et cetera, for at least ten
13 years, if not longer. The current regulations have
14 been revised within that time frame.

15 During the period of this revision,
16 industry representatives went back to the DEP again
17 and asked, why the need for change? The DEP's answer
18 this time came through a newspaper article in the
19 Pittsburgh Post-Gazette dated April 19th, 2015, in
20 which they submitted photos that explained their
21 justification. I quote from this article. The State
22 Department of Environmental Protection is prepared to
23 show them in full color. Regulators have compiled
24 hundreds of photos taken by field inspections in
25 recent years to document violations at traditional

1 shallow well sites.

2 I believe that it was their way of
3 trying to sway public opinion, as a review of these
4 photos by anyone in the industry with any knowledge
5 quickly shows the majority, if not all of these
6 issues, could be addressed with the existing
7 regulations. The DEP even proved its point by a quote
8 in the same article which states these photos were
9 taken by inspectors with the Pennsylvania Department
10 of Environmental Protection to document violations of
11 environmental laws and rules at the state's
12 traditional shallow well sites. If these pictures
13 already document violations, then why the new --- or
14 how are new regulations justified?

15 Last night, I attended the Washington,
16 PA DEP public hearing with the new proposed changes on
17 Chapter 78. Unfortunately, due to the distance from
18 my work and the late hour, I had to leave after about
19 60 percent of the scheduled speakers had given their
20 comments. During the hearing, I found myself
21 concentrating on the non-industry commenters. I put
22 them into four categories, those who support the
23 industry for various reasons, those who are opposed to
24 the industry for various personal experiences, those
25 who are against the industry in general with no

1 logical reasons, and those that had comments for
2 tighter regulations and pointed to specific areas of
3 the regulations.

4 I found myself drawn to the last
5 category, since I felt they had taken time to actually
6 read and try to understand the regulations. Of that
7 group, the majority had issues with frack pits,
8 unknown chemical usage, air quality, noise, radiation
9 and location setbacks from schools. I feel all these
10 areas are valid concerns, but most of them are not
11 addressed by the new regulations. My main take away
12 from this is that all of these --- or most of these, I
13 will say in this case, to be sure --- people in that
14 last category made comments like our comments apply to
15 Chapter 78a regs or these comments do not apply to
16 conventional operators.

17 So clearly, they see the difference
18 between the two sides of the industry. Other facts
19 that they brought out were --- by non-industry
20 speakers --- were the fact that New York has a
21 fracking ban. None of them referred to the fact that
22 this only applies to unconventional operations. I
23 believe the change in public opinion is the effort of
24 many in this industry, including many in this room, to
25 educate the public on the differences between

1 conventional and unconventional operations.
2 Conventional operations have been taking place in the
3 state for over 150 years in some of the most pristine
4 wild areas of the state. We explained the majority of
5 these conventional operators are small businesses
6 owned and operated by the citizens of the
7 Commonwealth.

8 Another display of the Commonwealth
9 citizens' heightened awareness to the difference in
10 the industry segments is Highland Township, Elk
11 County, PA's ordinance approved on January 9th, 2013,
12 and amended a few days ago, March 12th, 2015, which
13 established a Bill of Rights for the citizens of
14 Highland Township. This ordinance bans the deposition
15 of waste from exaction of shale gas within Highland
16 Township. This ordinance was particularly interesting
17 to me since my company operates approximately 1,500
18 conventional wells in this township.

19 In the last few weeks, this ordinance
20 has been challenged by Seneca Resources, who have
21 plans for a deep injection well in the area. How did
22 the citizens react to the challenge? They amended the
23 ordinance to better clarify the definitions, but
24 continued to ban the waste from shale activities only,
25 with full knowledge of the shallow conventional oil

1 and gas industry existing in their back yards,
2 literally, for hundreds of years. They did not see
3 the need to limit conventional activity.

4 The industry's educational process not
5 only focused on the public, but also on our
6 legislatures in Harrisburg. With their heightened
7 awareness of our industry and the issues they faced,
8 they passed a bill late last year instructing the DEP
9 to create separate regulations for the conventional
10 and unconventional segments of the industry. It
11 appears ---.

12 CHAIR:

13 One minute. But keep going.

14 MR. BOLINGER:

15 Okay. I'll summarize then. But I feel
16 the DEP has failed in its rulemaking process on many
17 fronts, the first and foremost of which is the
18 justification for need for these changes. I suggest
19 the EQB and the DEP should withdraw these proposed
20 changes and return to the regulations already in
21 place. Thank you.

22 CHAIR:

23 We have come to the end of the list of
24 those individuals who have requested to give testimony
25 this evening. Is there anyone additional who would

1 like to provide remarks?

2 MS. DUFFY:

3 There was a gentleman who was in the
4 back. Sir, please come forward.

5 CHAIR:

6 Please state and spell your name and
7 address for the record.

8 MR. MCDANIEL:

9 Hi. I'm Steve McDaniel, 418 North
10 Chestnut Street, Derry, PA. Hi, everyone. I'm glad
11 to be here to talk to you tonight. I'm 62 years old,
12 started in the oil and gas business when I was 18, so
13 you do the math. I've heard some of the politicians
14 ask at the other meetings, you know, how is this going
15 to affect our --- you know, our business? I've been a
16 supervisor for --- I've lost track of the years.
17 These guys, good, hardworking people, just like these
18 young people in this audience. You know, they're
19 looking at losing their jobs. We cut these people's
20 hours. We get a guy that goes somewhere else to work,
21 we don't replace him.

22 This is going to affect the Pennsylvania
23 economy. You know, this morning, I looked at the Trib
24 Review. US Steel lays off X number of people. Pick
25 it up and look at it. They're being affected by the

1 Marcellus cutting back and the oil drillers out there
2 in North Dakota. This state can be in some really
3 serious trouble with the jobs that can be lost.

4 You know, there's environmentalists in
5 here. I listened to some of yinz (sic) talk. I want
6 to set the record straight. I'm not here to defend
7 the DEP, but through the years working --- I've worked
8 in Ohio. I've worked in Pennsylvania. These guys are
9 doing their job. I worked for a company several years
10 ago --- it would've been probably 15 --- in the coal
11 bed methane. And I heard somebody say --- well, DEP
12 didn't do anything about these people's water. This
13 farmer drilled a well, and evidently --- I don't quite
14 understand that end of the laws, but he didn't go by
15 the Health Department on casing the well off and he
16 drilled into the top seam of coal.

17 And we were in coal bed methane, so
18 we're setting there, and we're up on the hillside not
19 expecting that illegal well. We drilled down, fracked
20 our zones, get a call from DEP. And he said, hey, you
21 guys fracked into these people's water well. So we
22 had to go out, DEP --- and you know, I agree with what
23 they had our company do. Now, it's not the company I
24 work for now. Those people sold out. But we had to
25 take --- go figure the depth of this illegal well, and

1 it was drilled down into that coal seam.

2 DEP, through the state regulations that
3 was in place then and is in place right now --- we
4 drilled in a new well and we plugged that illegal well
5 to get these people good water. Now, it probably
6 wouldn't meet your new regulations you guys want to
7 come up with because it was drilled in the Blairsville
8 area where all that coal stuff was drilled. But we
9 drilled in the new well and we plugged that one to
10 prevent that water aquifer from being polluted again.

11 And there's owners here --- I've been an
12 employee my entire life, but there's owners here
13 that's my age, you know, or older than me that's
14 worked in this business for years, and they're not
15 dead yet. You know, this oil and gas out there, it's
16 really --- it's been great. I've raised a family.
17 I've played --- paid child support to a family in
18 Ohio. I've got a son I adopted here. You know, I've
19 supported my family, and these poor young people here
20 today, tonight --- if yinz don't take into
21 consideration --- your regulations are working. You
22 know, plus I --- the conventional wells are not like
23 these unconventional. And believe it or not, I like
24 the unconventional, because we have cheap energy, and
25 that's what made this country. You can hear all this

1 crap you want to hear about what made America great,
2 and yes, it was the melting pot, but it's because we
3 had cheap energy, you know?

4 And you know, the company I work for
5 now, they're great people, but they're struggling.
6 And the guys, we sit around at the shop, you know, and
7 we talk about --- how can these people keep going?
8 They're third generation, and you say to yourself,
9 there's no way in hell I'd do this, not with what you
10 guys are going through now. You know, I live in the
11 town of Derry, and like everybody else that lives in a
12 borough, you have to keep your sidewalks clean. I
13 bought 600 pounds of salt this last winter. It's been
14 a terrible winter.

15 And I looked at myself and I thought,
16 okay, 600 pounds of salt I put on that sidewalk. Now,
17 if I spilled five gallons of saltwater, if I don't
18 report it, I'm a criminal. So how many gallons ---
19 five gallons plus water? I am frustrated, but I'm
20 telling you, I've worked with your people. They're
21 tough. Sometimes, I think they've been brainwashed in
22 college, some of these new guys that come out. But
23 once they find out that my company and I care as much
24 about the environment as they do ---.

25 We had a spill here a few years back.

1 And you know, the guys start out going, oh, my God, I
2 can't believe this. But you know, I respect him, he
3 respected me, and we got it cleaned up. And I know
4 this happens every day in this state, in this area,
5 because all you got to do is --- let's go fishing or
6 let's go on a hike. You know, yeah, you can pick out
7 the lawbreaker. You will find him, but I'm telling
8 you what, you pass --- you do this 78, you're still
9 going to have lawbreakers.

10 CHAIR:

11 Thank you, Mr. McDaniel. Thank you.

12 MR. MCDANIEL:

13 You have --- and I love you
14 environmentalists. I'm not against what you believe,
15 but I'll tell you what --- you know, this country was
16 built on energy. And you know, if you really want to
17 clean the air and stop this supposedly global warming,
18 which turned into climate change, stop a volcano from
19 happening. Thank you. I'm sorry.

20 MR. ESCH:

21 It's getting too loud. Robert Esch, 77
22 North Kendall Avenue, Bradford, Pennsylvania.

23 MS. BURCH:

24 Hayley, there'll be another guy, then,
25 who wants to speak up.

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CHAIR:

Okay.

MS. BURCH:

A couple of minutes.

CHAIR:

Okay. I can hear them with that ---.

MR. ESCH:

Say it again?

CHAIR:

Yeah.

MR. ESCH:

All right. Over?

CHAIR:

Well, yeah.

MR. ESCH:

I'm representing ---.

CHAIR:

No, your name. We need your name and
address.

MR. ESCH:

Robert Esch, 77 North Kendall Avenue,
Bradford, Pennsylvania.

CHAIR:

Spell your last name.

MR. ESCH:

1 E-S-C-H. I represent the last and only
2 remaining Pennsylvania Grade refinery in the
3 Commonwealth of Pennsylvania. Earlier tonight,
4 there's been lots of references about the Bradford
5 refinery, and I'll say for the most part, they've been
6 fairly accurate. But for the record, on economic
7 impact, I'd like to correct one statistic. If we
8 combine the direct and indirect economic impact of the
9 Bradford refinery, that number is closer to the half a
10 billion dollar a year mark.

11 With the other discussion tonight, I
12 think we've covered most of the other issues that are
13 really relevant to the refinery operations. So I'd
14 like to talk about an impact that's not been
15 acknowledged by the DEP or the public that speaks
16 against our industry. Our industry's contribution
17 goes well beyond the jobs for the direct and indirect
18 economic impact that we provide. The leadership
19 contributions from our owners, our managers and our
20 employees must also be considered.

21 And I speak specifically about those who
22 came before us at the Bradford refinery and those that
23 represent our businesses today. And the actions that
24 I'm going to refer to happen in all of our communities
25 in northwestern Pennsylvania, those that are fortunate

1 enough to have oil and gas resources in our
2 communities. Our industry has advocated for,
3 supported, and helped fund and build things like
4 hospitals. The Bradford Regional Medical Center
5 recognizes our support for its early beginnings and
6 its continued financial support today.

7 We support and fund and build schools.
8 Our industry was instrumental in bringing the
9 University of Pittsburgh to Bradford in northwest
10 Pennsylvania. We strongly support the pre-K through
11 12 school systems in our region. We even represent
12 the birth to age five population of our region with a
13 voice on the Pennsylvania Commission of Early
14 Learning.

15 Our industry has helped established the
16 expansion of the Bradford Water Authority, so critical
17 to our own operation and the economic development of
18 our region. We've helped support the Bradford Flood
19 Authority, again, an infrastructure that's
20 significantly important to our operations and the
21 other businesses that are operating in our community.
22 We help build airports. The Bradford Regional Airport
23 owes its early beginnings and its current success to
24 the oil and gas industry.

25 We build highways. Our industry

1 advocated for, helped fund the last eight miles
2 connecting Bradford to the New York state border in
3 the 1920s. We advocate and help funding community
4 housing. We are a key supporter of the Housing
5 Redevelopment Authority in the community, in the
6 County. We chair and we sit on most nonprofit
7 organizations in our community.

8 Simply put, we build communities.
9 Despite what some think, we do not put our communities
10 at risk. We're here tonight, and we will continue to
11 come every night, night after night, responding to a
12 risk, and that risk is the over-regulation of our
13 industry. Thank you.

14 CHAIR:

15 What's your name, sir?

16 MR. WAGNER:

17 Jim Wagner, Cherryville (phonetic).

18 CHAIR:

19 Please state your name, spell your last
20 name, and state your address into the record.

21 MR. WAGNER:

22 I'll try to get my last name right. Jim
23 Wagner, W-A-G-N-E-R, 331 Gregerson (phonetic) Road,
24 Cherry. Good evening, people of the Commonwealth,
25 representatives of the legislature, regulators,

1 representatives of the executive branch --- and we're
2 in a courthouse. We got all four branches of
3 government represented. What happened tonight seems
4 to be a rehash of the last time we were here. A few
5 new situations. Howard was not laying off back then.
6 Things were looking good.

7 Did anything we say back then affect the
8 regulations that are being discussed now? Who has the
9 authority to affect the regulations? The things that
10 we said ---. There was a law written. You guys
11 sponsored the law. How many pages is that? I don't
12 know. Not many. Regulations --- how many pages of
13 that? We're still working on that. Who has the
14 authority here? The law was written. The authority
15 was given to the regulators. You're saying they're
16 not following the letter of the law. Who can hold
17 them accountable?

18 AUDIENCE MEMBER:

19 The people of the Commonwealth do.

20 MR. WAGNER:

21 Who holds the legislature accountable?

22 AUDIENCE MEMBER:

23 The people of the Commonwealth of
24 Pennsylvania.

25 MR. WAGNER:

1 So I'm not here to bash DEP and the
2 regulators. I'm not here to bash the legislators. I
3 don't know what I'm going to say and I don't know how
4 it's coming out. I didn't rehearse it. But where's
5 the problem at, gentlemen and ladies?

6 AUDIENCE MEMBER:

7 The people of the Commonwealth.

8 MR. WAGNER:

9 So let's start doing our part, getting
10 involved in government, helping these people out ---
11 and you're saying maybe you pass the regulations off
12 to the executive branch. You have no authority
13 anymore? I think not. Who pays your salaries?

14 AUDIENCE MEMBER:

15 The people of the Commonwealth.

16 MR. WAGNER:

17 You work for it. You're the taxpayers.
18 Who pays your salary? Who's getting paid here
19 tonight? Not me. Anybody here getting paid tonight?
20 So let's work on that. Let's talk to the legislators,
21 and we got to have some recourse somehow. I don't
22 know all the legalities of it, but the same thing has
23 happened.

24 It reminds me of the mining industry I
25 was told about today --- coal mines, strip mines.

1 They come in and needed regulations. That was a big
2 operation. The little gravel pit guys, they had to go
3 by the same regulations as the big strip mines. The
4 little gravel pit guys couldn't afford it. They got
5 shut down. Hopefully that's been solved. I see some
6 little gravel pit guys coming around now. Is that
7 going to happen to us, though? Think about it. Thank
8 you very much for your time. Have a wonderful
9 evening.

10 MR. CURTIN:

11 I think he summed it up pretty good for
12 all of us.

13 CHAIR:

14 Please state your name and spell it, and
15 state your address for the record.

16 MR. CURTIN:

17 Thomas Curtin, C-U-R-T-I-N, 8 High
18 Street, Clarion, Pennsylvania. And I promise to be
19 brief. I can know --- see people out there, women
20 only, you know, for a long time. I had to walk out of
21 the woods tonight, so I'm ready to go home. But some
22 things just need to be said, underlined, circled ---.
23 I guess primarily now, we're down to our legislators.
24 We're in your hands.

25 My background in this business goes back

1 to my great grandfather, who came over in 1887. And I
2 don't know where he got the money, because he had
3 lived through the potato famine, but he ended up ---
4 he owned an oil lease down in Cherry Run years ago.
5 And those of you who fish the south branch are
6 familiar. He settled along there. On his way here,
7 had lived in the area around Elk (phonetic) and did
8 --- and got into some background.

9 But I see the gentleman in the back here
10 --- he owns several wells right around where my great
11 grandfather did years ago. But that's in the 1880s.
12 And I guess one of the points I want to make --- when
13 you go out of here tonight, look up and down this
14 beautiful street out here, Market Street, and east and
15 west of it. In the --- a few years ago, a former
16 teacher here who became a professor at Pitt did his
17 thesis, and he wrote about the history of the oil
18 business in the Industrial Age.

19 Keep in mind, Pennsylvania --- we were
20 the crucibles for the Industrial Age. We provided the
21 coal, we provided the oil, we provided the iron, and
22 all vital parts of it. It came from this state. The
23 people that we brought in from all over the world ---
24 many of us are descendants of those people, living
25 here now. We saw this industry developed. Sometime

1 in the 1960s and '70s, they started calling the oil
2 industry the largest industry in the world, because
3 not only did we produce --- there was oil and gas. We
4 produced chemicals of all sorts.

5 And to my knowledge, that has not
6 changed. Bear witness, we have a thriving refinery
7 right here, still working in Warren. But they're
8 becoming a little more scarce throughout the nation.
9 We obviously need those refineries. I want to
10 sympathize with the gentleman who talked about the
11 sand --- not the sand --- the salt and the
12 ridiculousness to some of the regulations that are
13 dumped upon us. You know, you follow a salt truck and
14 you say, oh, my goodness, if I spill that much
15 saltwater on the ground, there would be 17 agencies
16 with people here telling me what I should be doing
17 about it and what it's going to cost me.

18 I compare it to --- they want to
19 regulate --- our State Department of Transportation
20 --- several of you people own your own trucks for your
21 businesses, you have to go through some pretty
22 rigorous licensing and insuring regimens. Should we
23 also have to go through those same regimens to license
24 our pickups and our cars?

25 CHAIR:

1 You have one minute, Mr. Curtin.

2 MR. CURTIN:

3 We need to give thought to --- well, you
4 know, put the club down and try to go at this from a
5 logical point of view. If you're trying to destroy
6 business, then you're well on your way to it. And if
7 you're willing to carry that --- I started to tell you
8 about the street up here, these beautiful homes. This
9 gentleman that did the paper pointed out that in the
10 1880s, 51 percent of Texas Oil Company --- or we all
11 grew up knowing it as Texaco --- 51 percent of that
12 stock was owned within two blocks east and west of
13 here. We do have an investment in the industrial and
14 economic past of this nation, and I hope we still have
15 one in the future. Thank you for your time and thank
16 you for coming.

17 CHAIR:

18 Do you want five?

19 MR. HARVEY:

20 Yes.

21 CHAIR:

22 Okay. Please state your name, spell
23 your last name, and state your address for the record.

24 MR. HARVEY:

25 Sure. Sam Harvey, S-A-M, H-A-R-V-E-Y.

1 Address is 504 West Third Avenue, Warren,
2 Pennsylvania. Actually, that house was built by a
3 Rockwell who owned part of that Texaco stock, at a
4 coincidence. I'm here today. I hadn't planned on
5 speaking, and I will be submitting written testimony.
6 But as I was sitting out here, it occurred to me that
7 there's a serious flaw in Chapter 78.66. And I want
8 to paint a picture, and that'll explain what I think
9 that flaw is.

10 Imagine we had a 50-gallon drum here, a
11 standard blue drum bigger than a Gatorade container
12 that you dump on someone's head at a football game,
13 but not much. If you took that and you put two thirds
14 of a cup of salt into it, went out in the middle of
15 the woods on your own property, and your kid kicked it
16 over, what would be the proper response to cleaning
17 that up? The proper response would be probably to do
18 nothing.

19 However, if you have 1,000 parts per
20 million and you spill 43 gallons of it, under these
21 new regulations, you're required to have a site ---
22 you're required to remediate it. The remediation is
23 much more environmentally damaging than the actual
24 spill in the first place. That doesn't mean that if
25 you have an oil and gas spill, you shouldn't be

1 penalized. Accidents are going to happen. But you
2 should not just blindly have the same limit for all
3 the different regulated substances. If you spill a 50
4 gallon jug of toluene in front of somebody's front
5 step, that should require a cleanup.

6 And I got out of order here.
7 Unfortunately, I wasn't prepared to speak today. But
8 I have an undergraduate degree in Environmental
9 Geosciences. I have a graduate degree in Hydrogeology
10 from Virginia Tech. Before I got into the oil
11 industry, I worked for the USGS Water Quality Division
12 in Richmond, and I worked at the US Department of
13 Energy Berkeley National Laboratory on two different
14 remediation projects. My plan was to be in
15 environmental remediation.

16 I have a lot of education on this, and
17 it's --- I've been in the oil industry for about 12
18 years now. It is completely unjustified to have the
19 same limit, which is 42 gallons, for the different
20 regulated substances, and that goes to show there was
21 no science or thought between that --- or put into
22 that. Each time a spill happens, the --- there should
23 be some common sense that's applied to how that spill
24 needs to be cleaned up.

25 And removing the dirt and putting it ---

1 when the ground is not impacted and the intended use
2 of the ground is not impacted, and that pollution does
3 not affect the waters of the Commonwealth or anybody's
4 property negatively, removing the soil and putting it
5 in a landfill is more environmental dangerous --- or
6 it's slightly environmentally dangerous than just
7 leaving it be. Tilling the soil, and getting
8 revegetation would be the proper remediation procedure
9 to anyone that actually cared about remediating the
10 groundwater --- or remediating --- I'm sorry --- the
11 soil in the spill.

12 The existing regulations are simply ---
13 or the regulations in Chapter 78.66 are simply there
14 to be punitive. And I'd also like to point out that
15 the DEP already is acting like these are the
16 regulations. They have a policy that reads exactly
17 like 78.66. So they've already made these regulations
18 without following the procedures, and there is
19 wasteful nonproductive remediation and paperwork and
20 expense.

21 And I've got the advantage of having
22 this kind of background, so at least I'm not
23 completely intimidated by the paperwork. But there's
24 a lot of people that have a few wells, and I can't
25 imagine how they're going to deal with this, because

1 when you deal with thousands of thousands of barrels
2 of fluids, you are, at some point, going to have small
3 spills. Thank you.

4 CHAIR:

5 Anybody else who's interested in
6 providing testimony this evening? Okay. Hearing
7 none, on behalf of the Department, I'd like to thank
8 everyone for coming this evening, and I officially
9 adjourn the hearing at 9:35. Thank you very much.

10 * * * * *

11 HEARING CONCLUDED AT 9:35 P.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings,
hearing held before Chair Book was reported by me on
04/30/2015 and that I Shannon C. Fortsch read this
transcript and that I attest that this transcript is a
true and accurate record of the proceeding.



Court Reporter