

COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL QUALITY BOARD

* * * * *

IN RE: PROPOSED REGULATIONS FOR OIL AND GAS SURFACE
ACTIVITIES

* * * * *

BEFORE: MICHAEL D'MATTEO, Chair
HAYLEY BOOK, Member
KURT KLAPKOWSKI, Member
SCOTT PERRY, Member
BRIAN SCHIMMELL, DEP
JOHN POISTER, DEP

ORIGINAL

HEARING: Wednesday, January 22, 2014
6:00 p.m.

LOCATION: Washington and Jefferson College
Rossin Campus Center/Allen Ballroom
60 South Lincoln Street
Washington, PA 15301

Reporter: Barbara J. Jones

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency

WITNESSES: Raina Rippel, Robert Donnan, Mary Anna Babich, David Freudenrich, Judy Hughes, Joe Leighton, Cynthia Walter, Dr. Helen Hazi, Dana Dolney, Kathryn Hilton, William Thwing, Dorothy Bassett, Briget Shields, Douglas Shields, Gary Hovis, George Jugovic, John Peters, Barbara Grover, Chuck Hunnell, James Rosenberg, Dee Boyd, Jeff Walentosky, Veronica Coptis, Patrick Grenter, Ken Dufalla, Ken Gayman, Gail Neustadt, Louis Pochet, Steve Hvozdovich, Adam Garber, Anthony Berardi, John Walliser, Ron Slabe, Terri Supowitz, Robert Howard, Michael Graham, Joe Judeikis, Ron Gulla, Joni Rabinowitz, Pia Colucci, Lanie Zipco, Donald Henner

I N D E X

| | | |
|----|--------------------|---------|
| 1 | | |
| 2 | | |
| 3 | OPENING REMARKS | |
| 4 | By Mr. D'Matteo | 6 - 10 |
| 5 | TESTIMONY | |
| 6 | By Ms. Rippel | 10 - 14 |
| 7 | By Mr. Donnan | 15 - 17 |
| 8 | By Ms. Babich | 17 - 21 |
| 9 | By Mr. Freudenrich | 21 - 24 |
| 10 | By Ms. Hughes | 24 - 27 |
| 11 | By Mr. Leighton | 28 - 31 |
| 12 | By Ms. Walter | 31 - 33 |
| 13 | By Dr. Hazi | 34 - 37 |
| 14 | By Ms. Dolney | 37 - 41 |
| 15 | By Ms. Hilton | 41 - 45 |
| 16 | By Mr. Thwing | 45 - 49 |
| 17 | By Ms. Bassett | 49 - 54 |
| 18 | By Ms. Shields | 55 - 57 |
| 19 | By Mr. Shields | 57 - 61 |
| 20 | By Mr. Hovis | 62 - 64 |
| 21 | By Mr. Jugovic | 64 - 68 |
| 22 | By Mr. Peters | 68 - 72 |
| 23 | By Ms. Grover | 72 - 76 |
| 24 | By Mr. Hunnell | 76 - 80 |
| 25 | By Mr. Rosenberg | 80 - 83 |

I N D E X (cont.)

| | | |
|----|-------------------|-----------|
| 1 | | |
| 2 | | |
| 3 | TESTIMONY | |
| 4 | By Ms. Boyd | 83 - 87 |
| 5 | By Mr. Walentosky | 87 - 91 |
| 6 | By Ms. Coptis | 91 - 95 |
| 7 | By Mr. Grenter | 96 - 100 |
| 8 | By Mr. Dufalla | 101 - 105 |
| 9 | By Mr. Gayman | 105 - 107 |
| 10 | By Ms. Neustadt | 107 - 111 |
| 11 | By Mr. Pochet | 111 - 115 |
| 12 | By Mr. Hvozdovich | 115 - 119 |
| 13 | By Mr. Garber | 120 - 124 |
| 14 | By Mr. Berardi | 125 - 127 |
| 15 | By Mr. Walliser | 127 - 131 |
| 16 | By Mr. Slabe | 131 - 134 |
| 17 | By Mr. Supowitz | 135 - 138 |
| 18 | By Mr. Howard | 139 - 142 |
| 19 | By Mr. Graham | 143 - 146 |
| 20 | By Mr. Judeikis | 147 - 148 |
| 21 | By Mr. Gulla | 148 - 152 |
| 22 | By Ms. Rabinowitz | 152 - 156 |
| 23 | By Ms. Colucci | 156 - 160 |
| 24 | By Ms. Zipco | 161 - 162 |
| 25 | By Mr. Henner | 162 - 165 |

E X H I B I T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

| | | |
|---------------|--------------------|----------------|
| | | Page |
| <u>Number</u> | <u>Description</u> | <u>Offered</u> |

NONE OFFERED

P R O C E E D I N G S

CHAIR:

Good evening. I would like to welcome you to the Environmental Quality Board's EQB Public Hearing and Environmental Protection Performance Standards at Oil and Gas Well Sites Proposed Rulemaking. My name is Michael D'Matteo. I am the representative of Pennsylvania's Environmental Quality Board. Joining me tonight are Scott Perry of DEP's Office of Oil and Gas Management, Kurt Klapkowski, also of the Oil and Gas Management Office, Hayley Book of DEP's Policy Office, John Poister and Brian Schimmell, both Community Relations Coordinators at the Southwest Regional Office.

I officially call this hearing to order at 6:05 p.m. At this time, please silence all cell phones. In the event of an emergency, there are exit located throughout the doors there. And if we do have an emergency, please exit in an orderly manner. The purpose of this hearing is to formally accept testimony on proposed regulations, Environmental Protection Performance Standards at Oil and Gas Well Sites.

In addition to this hearing, EQB will

1 hold two additional hearings on proposed regulations
2 on January 23rd in Indiana, PA and on January 27th in
3 Tunkhannock, PA. Information about the specific
4 locations of these hearings is available at DEP's
5 website at www.dep.state.pa.us. There are also copies
6 available of the Citizen's Guide to DEP Regulations.
7 Inside this document you will find descriptions of the
8 environmental regulatory process in Pennsylvania, the
9 Environmental Quality Board's role, how to submit
10 comments and tips for submitting prospective comments.

11 The proposed rulemaking, which was
12 adopted by the EQB on August 27th, 2013, would amend
13 25 Pa. Code Chapter 78 to update the requirements
14 related to surface activities associated with the
15 development of oil and gas wells. EQB adopted the
16 rulemaking with the recommendation for a 60-day public
17 comment period and at least 6 public hearings across
18 the state. The EQB has recently added two additional
19 hearings and has extended the comment period to 120
20 days --- 90 days. It will end March 14th, a total of
21 90 days.

22 This represents a heightened level of
23 public participation, as there is usually only a 30-
24 day public comment period held from the typical
25 department rulemaking. Additionally, public hearings

1 are held on a basis of public interest and for some
2 regulations, there are a few or even no comments or no
3 hearings that are held if there is no interest or no
4 request for hearings. Due to the increased public
5 interest in this rulemaking, EQB has scheduled nine
6 public hearings to allow ample opportunity for public
7 comment on this proposed rulemaking.

8 The proposed regulatory amendments would
9 address recent statutory changes in Act 13 of 2012 and
10 codify existing practices. This rulemaking would
11 allow for the implementation of key provisions of Act
12 13, including further consideration of impacts to
13 public resources such as parks and wildlife areas, the
14 prevention of spills, the management of waste and the
15 restoration of well sites after drilling. The
16 proposed rulemaking also includes standards affecting
17 the construction of gathering lines and temporary
18 pipelines and includes provisions for identifying and
19 monitoring abandoned wells close to well sites.

20 In order to give everyone an equal
21 opportunity to comment on this proposal, I would like
22 to establish the following ground rules. Number one,
23 I will first call upon the witnesses who have pre-
24 registered to testify at this hearing. After hearing
25 from these witnesses, I will provide any other

1 interested parties with the opportunity to testify as
2 time allows. Number two, testimony is limited to five
3 minutes for each witness. Number three, organizations
4 are requested to designate one witness to present
5 testimony on its behalf. Number four, each witness is
6 asked to submit three written copies of his or her
7 testimony to aid in translating the hearing. Please
8 place two copies in the box marked public comments on
9 the side of the podium and please hand one copy to our
10 stenographer, right here, prior to presenting your
11 testimony. Number five, please state your name,
12 address and affiliation for the record prior to
13 presenting your testimony. The EQB would appreciate
14 your help by spelling names and terms that may not be
15 generally familiar, so that the transcript can be as
16 accurate as possible.

17 Because the purpose of the hearing is to
18 receive comments on the proposal, EQB or DEP staff
19 cannot address questions about the rulemaking during
20 the duration of the hearing, but may address any
21 questions after the conclusion of the hearing. In
22 addition to or in place of verbal testimony presented
23 at today's hearing, interested persons may also submit
24 written comments on this proposal. Written and verbal
25 comments hold the same weight when considered in the

1 finalization of this rulemaking. All comments
2 provided become part of the official public record.
3 All comments must be received by EQB on or before
4 March 14th of 2014. Comments should be addressed to
5 the Environmental Quality Board, P.O. Box 8477,
6 Harrisburg, PA, 17105-8477. Comments may also be
7 emailed to regcomments@pa.gov. That's regcomments,
8 R-E-G-C-O-M-M-E-N-T-S @pa.gov or submitted online
9 through the EQB's regulatory comments system,
10 accessible from the DEP website.

11 All comments received at this hearing as
12 well as written comments received by March 14th, 2014
13 will be entered as part of the formal record and
14 considered by the EQB and will be included in a
15 comment response document which will be prepared by
16 the Department and reviewed by the EQB prior to the
17 Board making final action on this regulation. Anyone
18 interested in receiving a copy of the transcript of
19 today's hearing may contact the EQB at (717) 787-4526
20 for further information.

21 I would now like to call the first
22 commentator. First commentator is Raina RippeL. You
23 have five minutes; okay?

24 MS. RIPPEL:

25 Hello and welcome and thank you. I see

1 some people here tonight. Again, my name is Raina
2 Rippel and it's spelled in my written testimony and
3 it's R-A-I-N-A, R-I-P-P-E-L. I serve as Director of
4 the Southwest Pennsylvania Environmental Health
5 Project. Our address is 4198 Washington Road,
6 McMurray, Pennsylvania, 15317. And that's also in the
7 written comments.

8 Again, my name is Raina Rippel, the
9 Director of the Southwest Pennsylvania Environmental
10 Health Project. And on behalf of our team of
11 researchers, public health experts, scientists and
12 community organizing professionals, I am pleased to
13 present the following testimony regarding public
14 health concerns associated with proposed regulations
15 for oil and gas surface activities. I would like to
16 acknowledge, and some are here in the audience, and
17 thank my colleagues, Jill Kriesky and Ryan Grode, for
18 helping to prepare this testimony.

19 EHP, the Environmental Health Project,
20 EHP was established to respond to individuals' and
21 communities' need for access to accurate, timely and
22 trusted public health information and health services
23 associated with natural gas extraction. Our office,
24 as I mentioned, is located in Washington County, and
25 we primarily serve community members in this area.

1 I've submitted written testimony and provided
2 additional details on the comments I will give
3 tonight. In particular, it's important to note that
4 all of our comments relate to the fact that EHP has
5 documented significant health impacts associated with
6 certain gas drilling operations including soil, water
7 and air contamination. These are linked directly to
8 many of the proposed regulations.

9 Health concerns documented by EHP
10 include respiratory, dermatological and
11 gastrointestinal symptoms. While short-term acute
12 impacts are more readily obvious to us now in relation
13 to current levels of gas drilling activity, we also
14 have significant concern for the long-term chronic
15 nature of exposure to health impacts. All of these
16 concerns deserve to be acknowledged and permanently
17 prevented where possible by strengthening regulations
18 as we've noted in our comments.

19 Specifically, I would like to point out
20 the following: Language in various sections appears
21 directly contradictory to proposed regulations in
22 other sections. I gave some details about that. Once
23 instance of that refers to proposed regulations
24 prohibiting the use of underground storage tanks
25 because these storage structures are more susceptible

1 to corrosion. I don't think I have to comment too
2 much about the fact that what has happened in West
3 Virginia recently confirms that we are very concerned
4 about containment of toxic chemicals. And that by
5 nature is a public health concern.

6 And also, language in specific sections
7 is not readily comprehensible, in terms of impacts to
8 nearby residents and for the sake of industrial usage
9 of specific facilities. Again, this is all in my
10 written comments. But I think it's very important,
11 again, from a public health perspective that we're
12 very clear on our terminology.

13 Some other comments and I didn't take my
14 time --- my timing device, but I want to repeat a
15 couple of things or pull out some things from my
16 written comments. The RCRA, Resource Conservation and
17 Recovery Act, is very important and this is from the
18 perspective of hazardous chemicals which we know the
19 issue is the process and being fully health
20 protective. Most importantly, I want to suggest and
21 strongly recommend the use of brine and flow back
22 water. That does seem to be causing health concerns
23 in some of our patient population, our client
24 population. And so we strongly encourage the use of
25 brine and flow back water to cease in terms of dust

1 suppression, deicing and road stabilization.

2 Also, a significant concern to us from a
3 public health perspective is the land application of
4 topsoil water, pit water, fill or dredged materials.
5 And I want to add onto that, that public health
6 concerns associated with the industry's practice of
7 burying onsite waste pipes --- I'm sorry, onsite waste
8 pits. The potential for toxic chemicals to leak from
9 the burial sites into the ground water presents
10 potential problems for the health of current and
11 future residents.

12 In summary, I really want to wrap up by
13 encouraging both the Environmental Quality Board and
14 the DEP to take a different approach basically.
15 Routine federal and state regulatory action limits to
16 police the industry has proven to be less than health
17 protective in our opinion, and it does not adequately
18 account for acute or even chronic exposures from one-
19 time or ongoing releases, spills or accidents. If the
20 DEP were instead to adopt a guiding philosophy of
21 exposure to monitoring and reduction, many of the
22 probable and/or worst health impacts might be avoided
23 or minimized. And that concludes my verbal testimony.
24 Thank you.

25 CHAIR:

1 Thank you. Next up is Robert Donnan.
2 After Robert is Mary Anna Babich and David Freudenrich
3 is third.

4 MR. DONNAN:

5 I'm Robert Donnan, 107 Southview Court,
6 McMurray, PA. I'm hoping the panel tonight keeps
7 comments related to the topic at hand. The compressor
8 station meeting up at Burgettstown was a joke.

9 Okay. You want to modernize the
10 regulatory program. Move the DEP into the 21st
11 Century by creating all documents in PDF format and
12 posting them online. Convert archived paper documents
13 into PDFs to save us all time. Be more transparent
14 and representative of the citizens of Pennsylvania
15 instead of the industry.

16 Okay. You want to practices to prevent
17 spills and releases. Require tracers to be used in
18 all frac fluid so that water contamination sources can
19 be easily and readily identified, saving extensive lab
20 expenses and legal fees. Provide full water tests
21 results to concerned parties and the public.

22 You want to ensure the protection of
23 public health safety and the environment. Add
24 provisions for controlling the clouds of deadly silica
25 dust that seem to billow from every frac job. Worker

1 safety is of the utmost concern here. You want to
2 protect public resources to minimize impacts. Do you
3 remember Dunkard Creek with the decimation of over
4 20,000 fish and a unique mussel population?
5 Regulations need to be added to prevent the further
6 spread of Golden Algae and you need to better enforce
7 random withdraws from any stream. Next, put an end to
8 all drilling wastewater dumping into drinking water
9 sources. Tell the drillers, don't ask them.

10 Air pollution knows no boundaries,
11 crossing state and county lines from multiple sites.
12 Aggregate air pollution sources when doing any further
13 permitting. Well site restoration reports must
14 include often omitted acreage details. Since our
15 county tax office her in Washington County has had
16 extreme difficulty removing Clean & Green
17 classifications from many of these industrial well
18 sites, some unchanged for as many as five years.

19 Ensure that all gathering pipelines are
20 included in the ONE CALL 811 system to avoid future
21 deadly accidents during excavation work. Further
22 address bentonite spill prevention since they are such
23 a common occurrence. Regulate and enforce better
24 placarding of tank trucks for emergency responders and
25 the public. Far beyond typical non-descriptive

1 residual waste placard. Ban the very toxic tea bags
2 on well pads and require all drilling waste to be
3 removed and properly disposed of. The term freshwater
4 is confusing and needs to be better defined and
5 classified. Temporary fluid pipelines need much
6 better regulation and inspection since sensitive
7 watersheds in our county have been subjected to
8 repeated spills and fish kills with tens of thousands
9 of gallons in some instance. Increase fines to more
10 appropriately fit the crimes when they occur. This
11 will work as a great deterrent as well.

12 Road spreading of brine, don't allow
13 even low levels of barium, lead and BTEXes to be
14 applied to the roads since storm drains and culverts
15 lead directly to streams. Finally, increase well
16 bonding amounts from \$2,500 per well to \$250,000 per
17 well and ensure that these bonds also work to prevent
18 orphaned wells with no one left responsible for
19 plugging them. Thank you.

20 CHAIR:

21 Thank you. Next up is Mary Anna Babich.
22 On deck is David Freudenrich and then Judy Hughes.

23 MS. BABICH:

24 My name is Mary Anna Babich and I
25 represent Dawood Engineering. We're located 11

1 Grandview Circle in Canonsburg, PA. Good evening and
2 thank you for allowing Dawood Engineering to provide
3 feedback regarding the proposed rulemaking. Dawood,
4 a Pennsylvania based corporation, is a civil
5 engineering and environmental consulting firm which
6 provides numerous services to the oil and gas industry
7 including delineation, erosion and sedimentation
8 control development and compliance.

9 The majority of Dawood's employees are
10 native Pennsylvanians who have been raised to
11 appreciate and enjoy the vast resources within the
12 Commonwealth. Therefore, as a company, we appreciate
13 the Pennsylvania Department of Environmental
14 Protection's attempts to protect our natural resources
15 by regulating the environmental effects of the oil and
16 gas industry. Pennsylvania has been recognized as
17 having some of the nation's strongest regulations on
18 oil and gas development, providing greater certainty
19 for companies seeking to do business here, and we
20 support that.

21 According to STRONGER, the State Review
22 of Oil and Natural Gas Environmental Regulations, the
23 current regulations are well managed and meeting its
24 program objectives. However, we are presenting today
25 to express our concerns with some of the proposed

1 revisions presented by the Pennsylvania DEP. Our
2 company and its employees have firsthand experience
3 with the extraordinary efforts made by the operators
4 to comply with the regulations, which protect our
5 natural resources, the Commonwealth and its citizens.
6 As a trusted advisor to our clients in the industry,
7 Dawood works with the operators to ensure worker
8 safety as well as to adhere to best management
9 practices to protect the environment. For example,
10 Dawood works with its operators to design sites that
11 will lessen the area of surface impacts.

12 According to the Energy Information
13 Administration, the Commonwealth is currently
14 producing 18 percent of the nation's natural gas. To
15 continue to develop domestic energy and eliminate our
16 dependence on foreign fuel, Dawood strongly suggests
17 that DEP be required to technically evaluate proposed
18 regulations without pressure from the citizen's groups
19 that may be unfamiliar with or unaware of the
20 scientific facts. Dawood encourages Pennsylvania DEP
21 to revise the proposed regulations in order to
22 establish justified, tactical, scientific and cost
23 effective regulations.

24 Among our many concerns with the
25 proposed regulations, we would like to highlight the

1 following which pose a particular burden to our
2 business and the oil and gas industry. Section 78.51,
3 the quality of restoring or replacing the water supply
4 will be deemed adequate if it meets the standards
5 established under the Pennsylvania Safe Drinking Water
6 Act or is comparable to the quality of the water
7 supply before it was affected by the operator if that
8 water supply exceeds those standards. Dawood agrees
9 that if an operator impacts water quality, the
10 operator is responsible for restoring or replacing the
11 water supply. However, the operator should only be
12 responsible for restoring or replacing an impacted
13 water supply to the quality of the water supply before
14 it was affected by the operator.

15 Section 78.52 states that --- which is
16 abandoned and orphaned well identification, it
17 proposes that the operator identify the location of
18 orphaned or abandoned wells within 1,000 feet measured
19 from the surface above the entire length of a
20 horizontal well bore. Identifying abandoned and
21 orphaned wells is acceptable, however, this
22 requirement must not be open ended. In its current
23 form, this regulation is unclear as to what
24 requirements will be placed on industry and has the
25 potential for undue and unnecessary added expense.

1 In closing, Dawood urges the EQB to
2 recognize the proposed regulations. Modifying and
3 revising the Oil and Gas regulations at this time
4 without providing scientifically sound and clear
5 language would be detrimental to the EQB, Pennsylvania
6 DEP, industry and the citizens of the Commonwealth.
7 Thank you.

8 CHAIR:

9 Thank you. First is David Freudenrich.
10 Judy Hughes is on deck. Joe Leighton's in the hole.

11 MR. FREUDENRICH:

12 Good evening. My name is David
13 Freudenrich. I work for WPX Energy, located in
14 Canonsburg, 6000 Town Center Boulevard, Suite 300,
15 15317. I am the construction and regulatory manager
16 for WPX Energy in the Marcellus Basin. WPX Energy is
17 one of the largest gas producers in the United States.
18 I think we may be tenth. And is active in many of the
19 other basins across the United States. We've been in
20 the Marcellus since 2009. To date, we have drilled
21 approximately 100 wells in the Commonwealth of
22 Pennsylvania. Many of our employees have over 30
23 years experience in the natural gas industry. WPX is
24 founded on a set of stringent values and we want to be
25 difference makers in our industry and in the natural

1 gas industry. Building relationships with a variety
2 of stakeholders while establishing and maintaining
3 trust is a very important value to us.

4 Our team of experts has been involved
5 actively from the beginning in the public review of
6 the Chapter 78. I myself, personally, have at most of
7 the TAB meetings. Along with our trade associations,
8 we have engaged with the DEP, DCNR, TAB and all of the
9 environmental working groups involved in this
10 labor-intensive process. We respect and appreciate
11 all of those who have given their time and energy and
12 efforts in vetting the process and the proposed
13 regulations.

14 We will only speak for a few moments
15 this evening and WPX will submit a technical paper to
16 the Board before the deadline. Recognizing the
17 voluminous nature of the Chapter 78 regulations, I
18 will only make a few comments on the items we believe
19 to be of the utmost importance. Initially, Section
20 3215(e) of Act 13 requires the Department to develop
21 regulatory criteria that protect public resources
22 while ensuring optimal oil and gas resource
23 development and respecting oil and gas owner property
24 rights. However, the proposed regulations in Chapter
25 78, Section 15 do not adequately implement or address

1 these requirements. The regulatory criteria for
2 conditioning a permit has not been provided and the
3 draft regulations only frame the Department's
4 authority to implement the conditions. If the
5 industry is required to avoid or mitigate potential
6 impacts of these resources, the criteria used to
7 assess impacts must be established and provided.

8 In addition, potentially requiring
9 industry to gain clearance for species of special
10 concern may significantly limit our development
11 opportunities and/or create costly mitigation
12 solutions, which would be in conflict with Section
13 3215(e) as it pertains to ensuring oil and gas
14 development and property owner rights. If the
15 Department's goal is to protect the Commonwealth
16 resources as they specifically relate to containing
17 species or species of special concern, an industry has
18 a right to know the locations of such resources in
19 order to avoid or mitigate any potential impacts.

20 Another significant issue is water
21 replacement. The main concern here the DEP proposed
22 to the industry to replace water supplies to Safe
23 Drinking Water standards. We're proposing that we
24 restore it to existing conditions. In regard to the
25 waste and water management at a well site, the natural

1 gas industry has been recycling and/or reusing water
2 and minimizing fresh water use for quite some time
3 now, and unfortunately, regulations are forcing
4 operators to rethink this option. In order to
5 increase the amount of water being reused/recycled in
6 the Commonwealth, the regulations need to provide an
7 avenue for the operator, either through permits or DEP
8 approvals, to document, move or reuse water from one
9 site to another. Perhaps, a permit by role. In
10 addition, Oil and Gas Division must have its own
11 regulations concerning water management and not be
12 conflicted with or confused with that of the Waste
13 Management Division. Regarding orphaned or abandoned
14 wells --- I see my time is up. Thank you for the
15 opportunity to speak.

16 CHAIR:

17 Thank you. The remainder of your
18 comments will be in your written testimony. The fifth
19 speaker is Judy Hughes. Joe Leighton is on deck.
20 Cynthia Walker is in the hole.

21 MS. HUGHES:

22 Good evening. I'm Judy Hughes, 1515
23 Yorktown Drive, Lawrence, Pennsylvania. Tonight I am
24 speaking for the League of Women Voters of
25 Pennsylvania, a grassroots organization that promotes

1 political responsibility and acts on selected issues
2 such as natural gas operations in our Commonwealth.
3 We thank you for providing this opportunity for
4 informed civic participation.

5 Our advocacy is based on our statewide
6 positions on natural gas extraction from Marcellus
7 Shale and pipelines. The League supports requiring
8 the use of best practices, comprehensive regulation
9 and adequate staffing across government agencies to
10 provide the maximum protection of public health and
11 the environment in all natural gas operations. We
12 also act based on the Pennsylvania Constitution that
13 provides each of us the right to clean air, pure water
14 and the preservation of our natural resources.

15 This evening we address a portion of
16 Section C Environmental Protection and Performance
17 Standards beginning with Temporary Pipelines for Oil
18 and Gas Operations. We commend the Department for
19 including these pipelines based on the results of our
20 study in Lycoming County. We recognize that pipelines
21 are the safest way to transport hazardous liquids and
22 gases if they are appropriately installed and
23 monitored with adequate precautions taken. Strict
24 accountability standards as well as monitoring and
25 enforcement are needed by outside agencies, not the

1 operators. Relative to their construction and ongoing
2 maintenance, we suggest the following changes.

3 Eliminate the word temporary, as these
4 lines may be in place for decades before the well site
5 is restored due to multiple wells and multiple
6 refrackings on a given site. Replace the words, to
7 the extent practicable with to comply with best
8 practices at the time of installation so the joints
9 and couplings are not incorporated in the crossing of
10 watercourses or ponds into which toxic substances
11 might escape. Shut off valves should not only be
12 installed on both sides of temporary crossings, but
13 also every 50 feet along the line to limit
14 contamination in the event of a rupture. These
15 locations must be included in an emergency response
16 plan and monitored on an ongoing basis to assure
17 working order.

18 Discharge limits of 1,000 barrels of
19 fluid needed for a shut-off valve are too high,
20 particularly in areas of exceptional quality and high
21 quality streams. Because of varying pressures and the
22 potentially highly toxic content in the lines, 100
23 barrels would provide greater protection for our
24 waters. Highly visible flagging every 75 feet or less
25 must be supplemented with motion sensitive devices

1 with light and/or sound to prevent damage by wildlife,
2 off-road vehicles, cross country skiers, hunters and
3 others.

4 Records of pressure testing and daily
5 use must be available to DEP as well as repairs.
6 Monitoring the contents must be done to assure to
7 public that flammable materials, even when mixed with
8 other fluids, are not being transported through
9 temporary pipelines. Restoration must be completed to
10 the highest standards to the original state to
11 mitigate degradation and prevent changes to the
12 hydrogeology over the long term.

13 And finally, the location and contents
14 of fluids transported through the pipelines as well as
15 timelines for use must not only be provided to the
16 Department on request, but automatically to all
17 emergency responders in the area and County
18 Conservation District personnel. At this time, our
19 studies indicate that pipelines will have a far
20 greater impact on our environment than previously
21 assumed. Thus, we urge your thoughtful consideration
22 and thank you.

23 CHAIR:

24 Thank you. Having some minor technical
25 difficulties with the stenographer's equipment. Okay.

1 You're on the clock.

2 MR. LEIGHTON:

3 Good evening. My name is Joe Leighton,
4 300 North 2nd Street, Harrisburg, Pennsylvania. I am
5 the Associate Director of the Associated Petroleum
6 Industries of Pennsylvania, a division of the American
7 Petroleum Institute, a national trade association that
8 represents all segments of America's oil and natural
9 gas industry. Its more than 580 member provide most
10 of our country's energy.

11 API is also a standard setting
12 organization. For 89 years, API has led the
13 development of the petroleum and petrochemical
14 equipment and operating standards. These standards
15 represent the industry's collective wisdom on
16 everything from drill bits to environmental
17 protection. API maintains more than 650 standards and
18 recommended practices. Many of these are incorporated
19 into state and federal regulations. API supports the
20 strong environmental safeguards and stewardship and
21 commends DEP on the regulatory oversight program.
22 However, we do have concerns with several provisions
23 contained in the proposal rulemaking that we plan to
24 outline in detail in our written comments. In the
25 interest of time, I will highlight some general

1 comments that we have and provide comments that
2 address control, storage and disposal of production
3 fluids, including beneficial reuse of fluids.

4 In general, we suggest that language be
5 added to clarify the effective date for new
6 requirements that a well be constructed prior to the
7 date of grandfathering. There are also a number of
8 definitions and sections of text that refer the reader
9 to other statutes of regulations. This causes the
10 reader to search elsewhere to find other statutes or
11 regulations and look them up before being able to
12 understand what Chapter 78 requires. This is not user
13 friendly and does not facilitate regulatory
14 understanding and compliance.

15 For the purposes of Chapter 6, Section
16 78.57(c), (d), (f) and (g), it is not clear, at what
17 point, if any, flowback water is to be considered
18 brine or other fluids produced during the operation of
19 a well. For the waste regulations, flowback waste is
20 generated for 30 days after fracturing. After that,
21 it's considered production fluids. The manifold and
22 security requirements especially become cumbersome if
23 intended to apply during the initial flowback period.
24 The API suggest that Section 78.58 add language to
25 encourage the beneficial reuse of fluids. The

1 language in my testimony will be included in the
2 formal written comments that will be submitted to the
3 EQB.

4 But to summarize, API suggests that the
5 Department should authorize the beneficial use of
6 what's generated upon the request of an operator as
7 long as certain conditions are met. There are four
8 conditions. One, the well site fluids where the
9 fluids are to be reused is permanent and monitored.
10 Two, the Department's given prior notice by the
11 operator. Three, there is an approved water
12 management plan that meets the requirements of Section
13 78.69 and the operator conducts processing in
14 compliance with the approved plan. Four, the operator
15 has prepared and maintained a site specific
16 preparedness, prevention and contingency plan or PPC
17 that meets the requirements of Section 78.55.

18 Likewise, API believes that an operator
19 should be authorized to manage beneficial use fluids,
20 stored and registered impact or above ground storage
21 tanks, which meet relevant Chapter 78 requirements.
22 When processing and beneficial reusing fluids at a
23 well site, API believes that an operator should be
24 deemed to have been --- to have a residual waste
25 processing permit by rule under Article 9. However,

1 in the event that the Department terminates them, then
2 the potential activity harms or threatens to harm the
3 health, safety or welfare or results in pollution, API
4 then believes the Department should be authorized to
5 require that an operator obtain individual or general
6 permits.

7 Again, thank you for the opportunity to
8 testify this evening. API and its member companies
9 will continue to engage policy makers as we work
10 together to strike a balance between a strong
11 regulatory framework, economic development and the
12 continued safety and development of our natural
13 resources. Thank you.

14 CHAIR:

15 Thank you. Speaker number seven is
16 Cynthia Walter. Dr. Helen Hazi is on deck.
17 Lisa Besantis is in the hole.

18 MS. WALTER:

19 My name is Cynthia Walter. I live at
20 916 Essex Drive in Greensburg, Pennsylvania,
21 Westmoreland County. I am here to thank you for
22 serving in this capacity. And I've handed out to each
23 of you a diagram showing --- the rest of you can see
24 --- the relative wealth of our state from various
25 industries. You see on the lower side, \$22 million

1 associated with gas wells. We see on the right side
2 \$329 billion associated with tourism, farms, dairy,
3 great hunting, fishing, wildlife, et cetera.

4 So I have here a milk carton and I would
5 like to draw your attention to why we are all here.
6 We are here because the words environmental quality.
7 We are not here for the words that we just heard a few
8 previous speakers say. With regard to replacement of
9 water, they said it would be an unnecessary --- I'm
10 looking at abandoned wells, it would be an unnecessary
11 burden. It would be an inconvenience. It would be a
12 --- let's see if I can use phrases from previous
13 speakers. It would be, you know, a burden. There was
14 a couple of mentions --- the gentleman before me
15 mentioned something about it being cumbersome. Well,
16 okay, maybe these regulations that you guys have
17 proposed are a bit of a burden, but look at what we
18 have to preserve.

19 Pennsylvania is the fourth in the nation
20 in its milk production. Any contaminations from the
21 pipelines that we previously mentioned, any
22 contamination from this, quote, beneficial reuse, if
23 that is stored --- if that previously used frack water
24 is stored with its contaminants of heavy metals, of
25 possible radioactivity, heavy salts and so forth, if

1 that is stored in above ground wells, above ground
2 pits, as is currently in the newest regulations, the
3 ones you've proposed, this is at risk.

4 Right now we have no system for
5 regularly measuring milk quality and quantity in
6 relationship to gas well drilling activities, surface
7 or underground. Your regulations now are addressing
8 the associated surface activities. And I have 20
9 suggestions. And by the way, the earlier speaker who
10 mentioned that are citizens groups are not scientific,
11 all of my regulations are based on science. I have
12 several scientific publications. I am peer reviewed
13 published scientist. And my 20 regulations that are
14 based --- 20 comments on the regulations are all based
15 on science and engineering and those suggestions are
16 all happening in the field now in other parts of the
17 world and other parts of this country.

18 So I fully agree that we need to pay
19 attention to water quality. I know that you guys will
20 do your homework. I know you will think about milk.
21 You will think about our drinking water. And you will
22 look at those changes and regulations that you will
23 make to make things even stronger. Thank you.

24 CHAIR:

25 Speaker number eight is Dr. Helen Hazi.

1 Lisa Besantis is on deck. Margaret Henry is in the
2 hole.

3 DR. HAZI:

4 Good evening. My name is Dr. Helen Hazi
5 and I am a resident of 1900 Triphammer Road, South
6 Park, PA in Allegheny County. And what I want to
7 address today is the specific provision of the Act
8 that has to do with waste disposal. And I want to
9 point out two items that are missing. One has to do
10 with the handling, monitoring and storage of
11 radioactive waste, which is a result of the fracking
12 wastewater as well as the drill cuttings. And second,
13 waste disposal in landfills, which is one of the
14 industry accepted methods of disposal of this waste,
15 this fracking waste into our water mains.

16 Current language under the Act calls
17 this waste contaminated, this is found in 78.62, yet
18 classifies it as residual waste. If you go up and
19 down our highways on 43, on 79, you will see daily
20 residual waste trucks that are hauling this material
21 to other locations, including my landfill and I reside
22 within a mile of that landfill.

23 Since fracking fluid and drill cuttings
24 contain Radium-226, radioactive material, provisions
25 should be made for safe handling and disposal.

1 Radium-226 has a half-life of 1,601 years and will
2 forever remain to impact the health of the residents
3 and the environment. The Act fails to mention Radium-
4 226, TENORM or the radioactive nature of waste. In
5 fact, radioactive is found once in the document in
6 Section 28.123 regarding laws maintained on the well
7 itself.

8 Radiation should be addressed since the
9 Solid Waste Management Act, which is referred to in
10 the document as Section 78.58(d), has limited
11 provisions for handling radiation. In fact, the only
12 provision that's related to radiation concerns the
13 guidance on radioactive monitoring of solid waste
14 processing and disposal facilities. That specifically
15 is documented under 250-3100-001. And it was only
16 offered by the DEP as a best management practice in
17 the absence of any regulation. This guidance is
18 dated, it was written in 2004, only handles small
19 quantities of TENORM, did not anticipate the nature
20 and volume of fracking waste disposed in landfills and
21 carries no regulatory authority.

22 While an earlier gentleman indicated
23 that the industry is recycling, not according to my
24 landfill. Last year alone, the landfill took in over
25 a quarter of a million gallons of fracking fluid and

1 thousands of tons of drill cuttings. So DEP regulates
2 specific landfills in the state with the accepting of
3 this radioactive waste. We also know that this
4 radioactivity is not monitored at the well site, nor
5 is it monitored before it goes into trucks for hauling
6 away. The chemicals within this fracking fluid are
7 hand monitored, but the radiation or radioactivity is
8 not.

9 I have recommendations for two areas.
10 One in the area of radiation. This should include the
11 monitoring and labeling of waste disposal of and
12 stored onsite at well. First of all, one, temporary
13 and permanent impoundments, storage tanks, pits and by
14 other means and, two, to transport to permanent sites
15 such as landfills and injection wells. Centralized
16 impoundments should be monitored for Radium-226 and
17 other markers of radiation. It should be listed with
18 the other parameters in Section 78.59c(h)(6). Drill
19 cuttings that are radioactive should not be disposed
20 of, spread on, or incorporated into the soil as
21 provided in 78.61(b) nor in the pits at 78.62 and
22 78.63.

23 CHAIR:

24 Okay. Thank you very much. Your time
25 is up. Speaker number nine is Lisa Besantis. Is Lisa

1 here? Okay. We'll move to speaker number ten, which
2 is Margaret Henry. No Margaret Henry? Move to
3 speaker 11, which is Dana Dolney. After Dana will be
4 Kathryn Hilton and then William Thwing.

5 MS. DOLNEY:

6 Thank you for giving us an opportunity
7 to speak tonight.

8 CHAIR:

9 You're welcome.

10 MS. DOLNEY:

11 It is very difficult for me not to get
12 emotional, and you would say, why would you be
13 emotional at a hearing like this. But I work with
14 affected families. And the reason, unfortunately, I
15 work with affected families is because the DEP, and
16 I'm not saying that they're not trying to do their
17 job, but they are unfortunately unable to do the job
18 that they should be doing, which is protecting the
19 public health and safety.

20 Over the last three and a half years ---
21 and left me clarify something. I'm an individual this
22 evening. I'm a member of many organizations. I have
23 started two nonprofits in conjunction with some other
24 people in this area to help affected families. And
25 also, this should be great importance to you, to

1 provide independent air and water testing to families
2 who are in harm's way.

3 And I have to go and provide independent
4 --- note that word, independent, because they no
5 longer trust the DEP. That's very sad that we're
6 sitting here tonight talking about all of these
7 regulations, but the facts on the ground here in
8 southwest PA is that there aren't enough boots on the
9 ground. For the DEP, they only have two people in the
10 whole county to come and check on 30, 40, 50 different
11 complaints. So you are in turn when it's your turn,
12 not when the emergency dictates.

13 So when I started seeing these
14 situations again and again and again and again --- and
15 although I know this is not the norm of the industry,
16 it happens more than anyone in the industry and anyone
17 or the DEP is willing to admit. And so what we did to
18 raise money to offset these various expenses, air and
19 water testing, because, you know they're not cheap, is
20 that we had to compile a storybook, because the people
21 can't get their stories told. Now, many people are in
22 litigation and their stories can't be told. But those
23 brave souls that gave given us permission to share
24 their stories did so with the knowledge that the money
25 that we raised from selling these at five bucks a

1 piece here and there all goes towards providing for
2 basic water and air filters for homes for providing
3 air and water testing when they don't know what's
4 going on.

5 So I want to share with you the story of
6 the person who brought me into this in the first
7 place. So the headpiece, which you --- and I'll give
8 you any information you like. I will include it in
9 the testimony, but if you would like to pull their DEP
10 file, please do. I challenge you to pull this file on
11 this home and then you will understand why so many of
12 us are here tonight with the concerns that we have.

13 So they couldn't come this evening, so
14 I'm going to share their story very quickly with you.
15 We've been residents of Fayette County for 28 years.
16 We had owned our current residence for seven years.
17 Our rural community in Springfield Township was a
18 serene, safe, picturesque small town situated along
19 the Monongahela and Cheat Rivers, nestled in the
20 Allegheny Mountains. Life here was quiet. This was a
21 beautiful place to live and raise our family far from
22 the bustle of the city. This was before the drilling.

23 First, we noticed the gas activity when
24 bulldozers invaded our main roads to build access
25 roads for the well pads. It began only about six

1 weeks after we signed on the land, having bought the
2 mineral rights, but without the oil and gas rights.
3 They didn't know what was coming down the pike, like
4 many of us.

5 Since coal mining was the issue around
6 here and there has been little to no activity in the
7 gas field, we were made not to worry about potential
8 for development and moved ahead with the plans to
9 build our dream home. This was before anyone knew the
10 name Marcellus. Yet, in seven years time, the man who
11 owns the rights has put four shallow wells and one
12 Marcellus well and a pipeline across the property. We
13 had no idea they could do this to the land or to us.

14 The truck traffic is constant. Land
15 damages were, of course, immediate. Trucks, noise,
16 dust and nomadic workers followed. Then came the
17 pollution of our air and water, then deforestation,
18 destruction of our fruit trees. They even managed to
19 burn ten acres of ground with a brush fire set by used
20 motor oil from a bulldozer's oil change. Every hour,
21 once an hour it sounds like a landing jet visits our
22 once quiet farm as the well sells.

23 We have even had multiple leaking wells
24 for over a year, ignored by operators, and now we have
25 a spring 200 feet from our house which is now so rich

1 with gas it can be set on fire. Doctor visits have
2 become commonplace.

3 There's so much more to this, but I
4 don't want to get --- because I know I only have five
5 minutes here.

6 CHAIR:

7 Okay. Thank you because your time is
8 now up. Okay. Thank you very much for your comments,
9 and I'm sure your written comments will be taken ---.
10 Next speaker is Kathryn Hilton. After Kathryn is
11 William Thwing and Dorothy Bassett is in the hole.

12 MS. HILTON:

13 Kathryn Hilton, K-A-T-H-R-Y-N
14 H-I-L-T-O-N, Mountain Watershed Association, Melcroft,
15 Pennsylvania. The Mountain Watershed Association is a
16 grassroots membership organization dedicated to
17 protecting, preserving and restoring the Indian Creek
18 and greater Youghiogheny River watersheds. In 2003,
19 we became home of the Youghiogheny Riverkeeper,
20 expanding our vision into the larger Youghiogheny
21 River watershed. We have a unique approach in that we
22 pursue on the ground restoration of past damage while
23 also advocating on local issues as well as regional
24 and national issues that have a local impact. We
25 currently have over 1,000 members and submit these

1 comments on behalf of our organization and our
2 membership.

3 First, we believe additional comment
4 opportunities are necessary in order to spur
5 significant public discourse regarding the topic of
6 oil and gas regulations. Notices could and should
7 have been sent to every township official in areas
8 where drilling activities are occurring in order to
9 heighten local awareness of the opportunity to
10 comment. The Department has an obligation to ensure
11 meaningful public participation in a way that is
12 inclusive of those who are most affected. Additional
13 public hearings in areas with heavy drilling activity
14 should be scheduled and we appreciate that there are
15 two more that are scheduled.

16 We would like to offer our support for
17 the submittal of electronic permit applications. Our
18 organization is located in Fayette County. Travelling
19 to the Southwest Regional Office in order to conduct
20 permit reviews is expensive in terms of staff time and
21 resources. Electronic filed permits should be made
22 available to the public upon request to limit the
23 burden of public and interested organizations.

24 We likewise support the provision that
25 will require permit applicants to consider the impact

1 of a well site on public resources. The Laurel
2 Highlands, Greater Allegheny Bike Passage, the
3 Youghiogheny River all draw visitors from across the
4 world. The consideration of the state parks,
5 protected species, natural amenities and tourism-
6 generated features is quite welcome.

7 Open storage pits of any kind should
8 never be allowed. A pit lined with plastic has the
9 inevitability of failure. For example, WPX
10 contaminated the well waters of at least one family in
11 Donegal Township, Westmoreland County with the tearing
12 or forming a hole in a liner for wastewater. For over
13 a year, the impacted family has been utilizing a
14 temporary storage source of water and DEP has yet to
15 issue its determination, in spite of having ample
16 water tests that show an increase in barium after the
17 drilling activity began. From our review of oil and
18 gas compliance reports, including inspector comments
19 from site visits and violations issued, problems with
20 waste pits are very common. Eliminating these pits
21 would allow inspectors to spend more time monitoring
22 other areas of concern and would remove waste pits as
23 a source of contamination.

24 A more complete suite of parameters must
25 be established for baseline testing in order to

1 protect the health of Pennsylvania residents. This
2 suite should be a standard used by all drilling
3 companies across the Commonwealth. A pre-drill test
4 for E. coli and chloroform will give the water user
5 important data, but is not testing for parameters that
6 will indicate contamination from industrial activity.
7 Testing for radioactivity, barium and strontium and,
8 commonly used chemicals in the drilling, hydrologic
9 fracturing initial process of a well is critical for
10 accountability. In a November 2013 meeting with the
11 DEP, Oil and Gas staff in Harrisburg even acknowledged
12 that water contamination cases are the most serious
13 issue this Department faces. It's also a massive
14 public health risk, and such the DEP should require
15 operators to obtain ample baseline data.

16 Regarding the restoration of
17 contaminated private water supply, any oil and gas
18 company that has contaminated a water supply should be
19 required to restore it to at least the State Water
20 Drinking Act Standards. And if the water supply was
21 exceeding those qualities, then they should also
22 exceed those qualities when they replace it.

23 To take a company at their insistence of
24 operating in good faith or being a good neighbor is
25 not enforceable by either this Department or the water

1 consumer. And the track record of every single
2 operator's actions in Pennsylvania shows that these
3 statements are distractions that have no factual
4 basis. We can take the fact of WPX's contamination in
5 Donegal Township. For over a year, they had no
6 concern for finding a permanent solution. And in
7 meetings, they have obfuscated the truth by saying
8 there has been no case of contamination by fracking,
9 which is irrelevant in this case.

10 CHAIR:

11 Okay. Thank you.

12 MS. HILTON:

13 Additionally, unethical behavior by
14 operator Chevron and Redstone's Springfield ---.

15 CHAIR:

16 Thank you. Sorry, your time is up.

17 MS. HILTON:

18 Thank you very much. I wrote too much.

19 CHAIR:

20 Next up is Mr. William Thwing. Dorothy
21 Bassett and Briget Shields are up after Mr. Thwing.

22 MR. THWING:

23 My name is William Thwing. I live at
24 610 Luzerne Street, Johnstown, Pennsylvania. I am
25 United Church of Christ Pastor and past President of

1 Pennsylvania Interfaith Power and Light. Interfaith
2 Power and Light is a nationwide organization with
3 14,000 congregations in 39 states. We work with Faith
4 Communities here in Pennsylvania and across America
5 solving the problem of climate change by advocating
6 for clean and renewable energy and using it.

7 Natural gas is a non-renewable fossil
8 fuel and greenhouse gas which has a --- in the 20 year
9 time horizon, is between 75 and 106 times more potent
10 than carbon dioxide. It is already the second major
11 contributor to climate change after carbon dioxide.
12 The International Energy Agency predicts that natural
13 gas production will triple by 2035 with over a billion
14 wells drilled worldwide. One hundred thousand of
15 those wells are scheduled to be drilled right here in
16 Pennsylvania, in other words, ten percent of world
17 production.

18 Pennsylvania is already the second
19 largest producer of natural gas in the United States,
20 and therefore, the second largest producer in the
21 world. Gas production in other countries is still in
22 its infancy. We invented the process for extracting
23 unconventional shale gas here in Pennsylvania at Penn
24 State University, and in many ways, our state was the
25 guinea pig for new techniques and technologies related

1 to the development of natural gas nationwide and
2 worldwide. What we do here in Pennsylvania will be
3 copied all over the world. Therefore, it is essential
4 that we get it right. It is essential we get it right
5 and that we use the very best practices that are
6 available. If we get it wrong, then it's going to be
7 wrong all over the world. And we, Pennsylvanians,
8 therefore, are going to bear the primary
9 responsibility for creating a worldwide climate
10 changing catastrophe which will not only cripple our
11 nation, but will cause worldwide chaos, suffering and
12 death and which has a potential for literally
13 destroying our civilization, causing mass extinctions,
14 possibly turning our whole planet into a wasteland.
15 It's a very big gamble with very big stakes of
16 biblical proportions, biblical proportions.

17 Therefore, if we do it at all, we better
18 do it right. Pennsylvania's Department of
19 Environmental Protection is a linchpin and a primary
20 actor in that process. Doing it right means absolute
21 rigorous adherence to best practices regulated by law,
22 promulgated and enforced by the Pennsylvania
23 Department of Environmental Protection.

24 There are two resources for best
25 practices which are immediately available to the

1 Pennsylvania Department of Environmental Protection,
2 which you've probably already seen and used. Both
3 documents are readily available online. The first of
4 these documents --- resource documents is the
5 International Energy Agencies 2012 study entitled,
6 Golden Rules for the Golden Age of Natural Gas. These
7 best practices were formulated by energy experts and
8 environmental experts across the world representing,
9 among others, Exxon Mobil, Chevron, Shell, BP,
10 American Petroleum Institute, U.S. Department of
11 Energy, U.S. Environmental Protection Agency, all of
12 whom are active --- currently active participants in
13 Marcellus Shale right here in Pennsylvania.

14 The second resource for best practices
15 is the Center for Sustainable Shale Development, CSSD,
16 of the Appalachian Basin, based right here in
17 Pittsburgh. The CSSD's performance standards released
18 in March 2013 provide a number of measures which can
19 and must be adopted by the DEP in the Environmental
20 Quality Board's Proposed Rulemaking for Environmental
21 Protection Performance Standards at Oil and Gas Well
22 Sites. Although the proposed changes to Chapter 78
23 include some of the CSSD's 15 Water Performance and
24 Air Performance Standards, they fall very short on
25 many of the details.

1 As the International Energy Agency's
2 study emphasizes, industry performance standards are
3 not enough to ensure compliance with best practices.
4 Stringent government regulation is essential.
5 Pennsylvania Interfaith Power and Light, which
6 represents a growing number of congregations and
7 people across the Commonwealth of all faith
8 traditions, urges Pennsylvania Department of
9 Environmental Protection, get it right. We do not
10 want an Administration or DEP controlled by lawless,
11 wildcat drillers from outside of our state controlling
12 our resources for the wrong --- financial gain and
13 then externalizing the long-term environmental impact
14 damages on the citizens of Pennsylvania. We want
15 unconventional shale development in Pennsylvania done
16 responsibly, lawfully, following the best practices,
17 again, towards the Constitution of Pennsylvania.
18 Thank you very much.

19 CHAIR:

20 Thank you. Speaker number 14 is Dorothy
21 Bassett. Briget Shields is on deck. Douglas Shields
22 is in the hole.

23 MS. BASSETT:

24 Thank you. My name is Dorothy Bassett.
25 I live at 5 Ida Street, Imperial, Pennsylvania. Thank

1 you for giving me the opportunity to comment on the
2 proposed Oil and Gas regulations. Having gone through
3 them with a fine-toothed comb, I have more comments
4 and questions than I would be able to cover in five
5 minutes. This being the case, I'll touch on some
6 major points right now and send a written follow-up
7 document with my far more detailed questions and
8 comments.

9 Having said this, given the number of
10 questions that I have, and I'm sure that others have
11 as well, I would recommend extending the comment
12 period to at least 120 days, so that the DEP has a
13 chance to review and respond to all of the questions
14 and so that the public can respond from a place of
15 fuller understanding of the document and its
16 implications.

17 To begin, under definitions, I would
18 also like to see definitions of freshwater, since this
19 is not truly unadulterated water as might be assumed
20 by the term itself. I would like to know what
21 substances are and are not acceptable to be included
22 in freshwater. Brine, since this is beyond just salt
23 or salt water, I would like to have a clear
24 articulation of the chemical composition of what the
25 document is referring to as brine. Since I am

1 assuming that this will also apply to the other shale
2 formations and not just Marcellus, there should also
3 be definitions of the other formations in the area
4 such as the Utica and Upper Devonian. In the section
5 on pre-drilling, the preoperation survey, it should
6 indicate that testing analysis should be done for the
7 full array of drilling chemicals, heavy metals and
8 other substances from below the surface both for the
9 pre-drilling water test and for subsequent water
10 tests. The full and complete results of these pre-
11 drilling and subsequent tests should become public
12 knowledge in general and shall certainly be provided
13 to the residents living on the property for their
14 consideration within 30 days.

15 Under the section on pits and
16 impoundments, it indicates that at least two feet of
17 freeboard space be allowed. This is only two inches
18 more than two sheets of this paper placed end to end.
19 This is not adequate space to prevent potential
20 overflow of the impoundments nor of the standby tanks
21 or pits. Even with a person continually present at a
22 well site, a fence should surround all impoundments.
23 Many of these impoundments are too large for one
24 person to ensure that no wildlife or children get too
25 close or fall in. Bird nests should also be mandatory

1 in order to keep wildfowl out.

2 Tests for liner compatibility. It is
3 essential that it be demonstrated that liners will not
4 be dissolved by the chemicals they contain. How will
5 these be tested in advance when impoundments contain
6 drilling chemicals, water, heavy metals and other
7 substances from below the surface and when no one
8 seems to know the chemical compounds and reactions
9 that are formed among all of this and when
10 impoundments are often used for chemicals from
11 multiple wells and each well may have a different
12 cocktail of chemicals used, which then produces yet
13 more unknown compounds and chemical reactions? It
14 seems inevitable that liners will eventually fail due
15 to chemical assault, to say nothing of tears from
16 equipment, wildlife and seam failure.

17 While the regulatory efforts in this
18 document seem to be focusing on the prevention of
19 water pollution, which is an excellent step, there
20 needs to be as much, if not more, emphasis on air
21 pollution from these impoundments. High levels of
22 VOCs are common from these installations. Given their
23 close proximity to residences, people will be exposed
24 24/7 to fumes coming off of these installations. This
25 is clearly unsafe and unwise. Steps must be taken to

1 dramatically reduce or eliminate entirely the fumes
2 being emitted from these impounds and pits. More to
3 the point, however, impoundments should not be
4 permitted at all in the Commonwealth of Pennsylvania.
5 They're not industry best practice and they're not
6 allowed in some other states. The risk that they
7 bring to groundwater and also to the air is just too
8 substantial.

9 Regarding the disposal of wastewater,
10 sludge and drill cuttings, it should be noted that in
11 addition to the toxic chemicals and heavy metals these
12 contain, radioactivity is also a concern. To allow
13 disposal of these materials 200 feet from a building
14 or water supply or 100 feet from a stream is less than
15 responsible and will result in unnecessary soil and
16 water contamination. Given the toxic and radioactive
17 nature of these materials, they should not be disposed
18 of on or in the land or water and should be dealt with
19 as hazardous, radioactive waste.

20 A couple of surface installations that
21 are notable for their absence in this document are
22 compressor stations and pig launchers. Both of these
23 emit significant amounts of toxic fumes and, once
24 again, are permitted close to occupied buildings and
25 communities. The regulations should take these

1 compressor stations, pig launchers and similar
2 facilities into consideration as well, sharply
3 limiting the level of emissions permissible at any
4 time, including spikes, and making continual air
5 monitoring mandatory, with results available to the
6 DEP and to the public real-time via the internet.

7 Finally, I note that in the regulatory
8 analysis, costs and benefits to the state government
9 and to the industry are detailed. A key stakeholder
10 group has been omitted from this analysis, namely the
11 residents living in close proximity to oil and gas
12 surface installations. A number of the costs of the
13 drilling and processing activities have been thus far
14 externalized to them, including, in many cases, their
15 ongoing purchase of drinking water, the purchase of
16 air purifying equipment for their homes, medical care
17 in response to chemical or heavy metal exposure, loss
18 of property values and, in some cases, their complete
19 relocation. A complete analysis of these costs and
20 benefits of the proposed regulations should also
21 include those of these stakeholders as well. Thank
22 you.

23 CHAIR:

24 Speaker number 15 is Briget Shields
25 followed by Douglas Shields, then Michael Arnold.

1 MS. SHIELDS:

2 Hello, my name is Briget Shields and I
3 reside at 2329 Tilbury Avenue in Pittsburgh, PA. You
4 were introduced to the book that we have published
5 about the harm to victims, and I'm just going to read
6 a quote from our book, from Louis Allstadt, former
7 executive vice president of Mobile Oil. He ran the
8 company's exploration and production operations in the
9 western hemisphere before he retired in 2000. Both
10 horizontal drilling and fracturing have been around
11 for a long time. The industry will tell us this over
12 and over. It's been around over 60 years, things like
13 that. That is correct. What is different is the
14 volume of fracking fluid and volume of flowback that
15 occurs in these wells. It's 50 to 100 times more than
16 it was used in conventional wells. The other
17 difference is that the rock of the target zone is not
18 necessarily impervious the way it was in conventional
19 wells.

20 To me, that last point is at least as
21 big as the volume. The industry will tell you that
22 liner in between the zone that's been fracked is not
23 going to let anything come up. But there are already
24 cases where methane has made it up into the
25 atmosphere. Sometimes through old wear, well bores,

1 sometimes through natural fissures, we don't really
2 know how much gas is going to come up over time. It's
3 a point most people haven't gotten. It's not just
4 what's happening today. We're opening up channels for
5 gas to creep into the surface and into the atmosphere,
6 and methane is much more potent greenhouse gas in a
7 short-term, less than 100 years than carbon dioxide.
8 Because of the harms people have been --- that has
9 been done to people, environmental groups have risen
10 up across the world.

11 I think the main question is, how fast
12 can these movements educate enough people about the
13 dangers of fracking and its impact on global warming.
14 It will take masses of people to mandate action from
15 politicians to offset the huge amount of money that
16 the industry is using to influence lawmakers, a world
17 scale version of those standing room only town hall
18 meetings. Something has to wake up the general
19 public. It will either be education from
20 environmental movements or some kind of climate
21 disaster that no one else can ignore.

22 We've all been privy to the accident
23 that happened recently in West Virginia. The train
24 cars that are carrying the toxic chemicals are taking
25 them through downtown Pittsburgh on a daily basis. I

1 am asking the DEP for regulations that we have put in
2 in writing, to me, they don't make sense. And it's
3 part of your job to protect the citizens. If they
4 were and not protect the industry and their multi-
5 million dollar corporations, I don't think any of us
6 would be here tonight. So I would ask that each of
7 you read our shale field stories starting to be
8 released in 50 states on January 30th. And we would
9 appreciate you extending the comment period and also
10 making these hearings a little more accessible for
11 larger areas than just down around Pittsburgh or
12 Philadelphia and larger cities. Thank you.

13 CHAIR:

14 Douglas Shields.

15 MR. SHIELDS:

16 Thank you. Prior to specific comments
17 on the proposed regulations, it is important to point
18 out to the Pennsylvania Environmental Hearing Board
19 that consideration of any new regulations is
20 inappropriate at this time. Since shale gas
21 exploration and exploitation means by use of hydraulic
22 extraction process, they have never been appropriately
23 vetted for implementation from the start. The
24 Commonwealth did not perform any meaningful due
25 diligence by way of environmental impact studies, both

1 as built and natural environment, nor did they conduct
2 any public health impact studies or any other due
3 diligence designed to answer this question: How are
4 the people of the Commonwealth of Pennsylvania
5 impacted by virtue of the fact that Pennsylvania sits
6 atop the second largest gas field in the world? No
7 one answered that question. No one did anything to
8 inform us as to what that --- the answer to that
9 question.

10 Without answering any regulations
11 promulgated by our institutions, the government cannot
12 legitimately be responsive to the health, welfare and
13 safety of the people. That is the primary function of
14 our government. A government whose ultimate authority
15 rests with us, we the people, you're not here to judge
16 us, we are here to judge you.

17 The health, welfare and safety of the
18 people is paramount throughout this process, but it
19 was ignored in the legislative process. On December
20 19th, however, 2014, the Pennsylvania Supreme Court
21 rendered a landmark decision requiring key provisions
22 attached to Pa. 13 unconstitutional. The Court also
23 remanded other crucial matters that have a direct
24 impact on the regulations you're reconsidering back to
25 the Commonwealth for hearings on the merits of the

1 cause of actions filed by a physician, challenging the
2 gag order, and an environmental advocacy group in
3 their effort to prevent clear harm to the community if
4 drilling is allowed.

5 Another quote that is notable to the
6 opinion of the Pennsylvania Supreme Court states, by
7 any responsible account, the exploitation of the
8 Marcellus Shale Formation will produce a detrimental
9 effect on the environment, on the people, their
10 children and future generations, and potentially on
11 the public purse, perhaps rivaling the environmental
12 effects of coal extraction. That's not just talking
13 at the bar over a beer. That's in a Pennsylvania
14 Supreme Court Decision that you're going to have to
15 abide by that you have not had the benefit of up until
16 the 19th. These regulations were promulgated well
17 before that and they were promulgated under the
18 premise that Act 13, the guiding principal of the
19 regulation, was legitimate. It is not. It is not
20 right to consider the regulations.

21 And they also, not only rule on the
22 zoning and other matters, but they also breathe life
23 into the Pennsylvania State Constitution, Section
24 Number 27 of Article 1, that asserts that, we the
25 people, not only have political rights, but

1 environmental rights as well. Now, these are not
2 legislative or regulated away from us. The Court's
3 decision now clearly defines the important of this
4 important constitutional provision that laid dormant
5 for 43 years. It breathed life in it. It has a
6 profound effect on everything that you're considering
7 right now.

8 The proposed regulations that you've
9 asked the people to comment on on this process are ---
10 were developed on the premise of Act 13. We know that
11 it is crippled as an Act.

12 We also know you are required by law the
13 right to reject these regulations because they are not
14 right. The PA DEP must go back to the drawing board
15 and apply the provisions of the constitutionality of
16 any proposed regulation. During the development of
17 Act 13, the State Assembly did not seek public comment
18 at all. There was no informational hearings. There
19 were no notices to people like me or to elected
20 officials about any of this stuff. No indication to
21 do anything.

22 So here we are now. And now we'll look
23 at this flawed regulatory comment process. The
24 regulatory process is a very detailed and a
25 complicated one. How is an ordinary citizen to

1 comment on something they have no information provided
2 by their institutions on? This is a tough business,
3 the regulatory side. I among Pennsylvanians have
4 received no detailed information from our elected
5 representatives, PA DEP, and there were no
6 informational meetings sponsored by the Commonwealth
7 to inform us what's at stake. How can we offer
8 comments on something the government has yet to tell
9 us about? It's impossible.

10 And in my conclusion, I have comments
11 directed on point to the regulations you're
12 considering. But the participation process is fatally
13 flawed. Key omissions were made. The venues are in
14 sparsely populated areas to miss the City of
15 Pittsburgh and Philadelphia. Gee, how did that
16 happen? You know, come on. I was a former elected
17 official and president of a city council. I am well
18 acquainted with the tactics employed by the oil and
19 gas industry and other special interests to gain our
20 system. I take great offense to that and I hope you
21 do, too. And I hope you go back and tell them the
22 Supreme Court ruled, go back and do it again.

23 CHAIR:

24 Thank you. Speaker 17 is Michael Arnold
25 followed by Gary Hovis and George Jugovic. Is Mr.

1 Arnold here? Michael Arnold? Not seeing Mr. Arnold,
2 we'll move forward to Gary Hovis.

3 MR. HOVIS:

4 Good evening. Thank you for the
5 opportunity to present the following remarks from the
6 perspective of a shallow conventional oil and gas
7 operator, which the adoption of these new regulations
8 will impair. And what I'm really saying is one rule
9 doesn't always fit all.

10 I'd like to talk for a moment about
11 Pennsylvania Crude, Penn Grade Crude. Most people
12 think that crude oil was first discovered in
13 Pennsylvania on August 27th of 1859 by Colonel Edwin
14 Drake in a well that was drilled to 69 and a half feet
15 deep. And it was a brand new mineral for the white
16 man's use. However, crude oil has been seeping up
17 through the crevices in the ground for eons before the
18 white man came to America. The local Indians would
19 skim it off the surface of the water on Oil Creek and
20 then use it for medicinal purposes. So it wasn't just
21 coincidence that Colonel Drake built his well where he
22 did.

23 The Penn Grade Crude produced in Western
24 Pennsylvania is also found in the western tier of New
25 York, the eastern part of Ohio and in West Virginia,

1 but is unique. This crude is a paraffin based medium
2 in comparison to crude oil found throughout most of
3 the rest of the U.S., including the crude from
4 Marcellus and Utica Shale and others and around the
5 world, which is mainly an asphalt or a tar based
6 crude. In addition to making excellent motor oils,
7 lubrication greases, gasoline, kerosene, fuel oil and
8 diesel fuel, Penn Grade Crude generates over several
9 hundred different uses in different products, many of
10 which are found in our homes for everyday uses. These
11 include waxes, furniture polishes, hand and skin
12 lotions, cosmetic creams and wax used in food items
13 such as M&Ms and Hershey's candies to dilute and
14 soften the chocolate and for many other products
15 including a wide range of plastics we use in our
16 everyday lives.

17 In the early days of our country, most
18 homes were heated with firewood, which was readily
19 available from the surrounding ports. On the plains
20 where trees were seldom seen, buffalo dung became a
21 ready resource of fuel. As time progressed and the
22 demand for nighttime lighting around town and cities
23 increased, man came up with the idea of using whale
24 oil for burning in street lights. This became quite
25 an industry. But at the expense of killing off a

1 large number of whales in the world, today many of
2 these are still endangered species. Of course, for
3 home lighting, the primary light source was candles
4 made from animal fat. Today, these candles are made
5 from the waxes of Penn Grade Crude.

6 So where does this leave us for the
7 energies of the future? Wind and solar power can
8 supplement major energy sources, but are problematic
9 and inconsistent. Hydro power can also supplement,
10 but it's not the total answer. Problems and concerns
11 come with the nuclear power which was once considered
12 the solution for our future. The problem is the
13 challenge of what to do with the spent fuel. That
14 leaves us, us, one of the major industrial nations in
15 the world, with few options for the near future. We
16 have low sulfur coal, we have fuel oil and one of the
17 greener energies is natural gas as a viable answer for
18 the foreseeable future, unless, of course, we want to
19 go back to firewood and buffalo dung. By the way, how
20 many people walked here this evening? Came in a horse
21 and buggy? Okay. Thank you.

22 CHAIR:

23 Speaker 19, George Jugovic followed by
24 John Peters and then Barbara Grover.

25 MR. JUGOVIC:

1 Good evening. My name is George Jugovic
2 and I'm the Chief Counsel for PennFuture. I work out
3 of our Pittsburgh office. We'll be submitting, you
4 know, detailed written comments on the proposed
5 regulations. I wanted to note that I saw that the
6 Environmental Quality Board and Secretary Abruzzo
7 extended the public commentary for these regulations
8 from 30 days to March 14th and want to thank you for
9 doing that. I think it will be better a better end
10 product at the end of this process.

11 I've spent more than 25 years practicing
12 energy and environmental law. And for seven of those
13 years, I prosecuted environmental criminal cases for
14 the Office of the Attorney General's environmental
15 crimes section. And I've also acted as DEP's regional
16 director for a period of time for the southwest
17 regional office, so I do have background and
18 experience for reviewing the regulations with a ---
19 viewing them through the lens of enforceability. If
20 the regulations, in my mind, aren't clear and concise
21 and are not enforceable by the agency, then they're
22 not worth the paper that they're written on. If they
23 are, on the other hand, then they would provide a very
24 strong basis for ensuring protection of our
25 environment.

1 So let me recognize, first of all, that
2 there are significant portions of the regulatory
3 package that we, PennFuture, supports. For example,
4 we support the requirement that any water, other than
5 clean water, that's transported through temporary
6 pipelines would be done so through pipelines that are
7 located above ground rather than below the ground. We
8 think that's a very positive regulation. We also
9 support the prohibition on using what we call
10 structures to store brine and other produced fluids.
11 We strongly support the need for increased security to
12 prevent vandalism and unlawful and unexpected
13 discharges from storage tanks at the facilities. And
14 we support the ban on disposal of residual waste
15 generated during the fracking of unconventional gas
16 wells at the well site.

17 That said, there are concepts that need
18 improvement and measure that can be improved in --- as
19 we go through this process. Perhaps foremost on that
20 list in our view is the Department's continued
21 sanctioning of waste disposal at well sites. The
22 draft regulations would allow well operators to
23 continue disposing of the drill cuttings and residual
24 waste in pits at the well sites as long as they comply
25 with certain environmental protection standards.

1 While the Department is --- and we recognize that the
2 Department has tightened and increased regulations on
3 this practice, the Agency has provided insufficient
4 evidence to support that these regulations, these
5 improvements will adequately protect the environment.

6 There is no public notice, for example,
7 associated with disposal of residual waste at well
8 sites. There is little public transparency about what
9 is disposed at these sites and the location of these
10 mini landfills. The sites are allowed to be located
11 only 20 inches above fresh drinking water. And
12 there's no long-term monitoring associated with these
13 sites. In our view, the protections are --- no other
14 person and few other industries in Pennsylvania are
15 offered this convenience. Even the power industry
16 must dispose of its fly ash, in other words fuel
17 waste, in double-lined landfills with long-term
18 monitoring and closure plans. I have seen the state
19 prosecute individuals for dumping and burying
20 household trash in their backyard or constructing
21 demolition and filling the landfills with that much
22 debris from a torn down house. And yet, these
23 regulations didn't propose to sanction an entire
24 industry disposing of its waste on its back 40. There
25 would be very little difference if the Agency were to

1 enact regulations allowing steel mills or dry cleaners
2 to dig holes in their backyards and bury the residual
3 waste at that time.

4 At the very least, let me just conclude
5 by saying that we would encourage the Department not
6 to continue to authorize the practice, but if they
7 did, there are things that can be done to improve the
8 enforceability of the requirements associated with the
9 sampling, for example, of the waste. That is my
10 written comments. So thanks for the opportunity to
11 testify.

12 CHAIR:

13 Thank you. Speaker number 20 is John
14 Peters followed by Barbara Grover and Chuck Hunnell.

15 MR. PETERS:

16 Good evening. I want to say to the
17 Board I gain a new appreciation for the task before
18 you and what you're doing here. God bless you. You
19 can move forward with the wisdom to come up with the
20 right decision.

21 My name is John Peters. I am a resident
22 of Ross Township in the North Hills area of
23 Pittsburgh. I have been a Pennsylvania resident since
24 1966. My wife Patty and I have three adult children.
25 All were born, raised and reside in Allegheny County.

1 We have a six-year-old grandson and a three-year-old
2 granddaughter, both born in and residing in the North
3 Hills of Pittsburgh. I'm a sales representative for
4 BioBlend Renewable Resources, a manufacturer of
5 biodegradable lubricants for commercial and industrial
6 use. Our products are made with environmentally-safe
7 vegetable oils and additives, contain no regulated
8 substances and are no more toxic than cooking oils.

9 The natural gas and oil industry is an
10 important market for my company and we support the
11 exploration and production in Pennsylvania and
12 throughout the U.S. I'm also a member of Pennsylvania
13 Independent Oil and Gas Association, but I have not
14 been asked by nor am I speaking on behalf PIOGA or any
15 of its other members.

16 I also support protecting our
17 environment. I live here. My children and
18 grandchildren live here. I believe protecting the
19 environment is the right thing for all of us to do.
20 I'm the guy on the golf course when he finishes the
21 water bottle and there's no recycling bin, I save that
22 in my golf bag and take those home, so they can be
23 recycled and repurposed. I also believe that the oil
24 and gas industry and a healthy environment can
25 coexist.

1 My observation is that the oil and gas
2 producers are working hard to comply with the
3 regulations and most take steps above and beyond state
4 requirements in order to minimize their environmental
5 impact. I'll give you an example. Why? Well, they
6 live here, too, as do their wives and children and
7 friends and neighbors. And those that have moved here
8 from other states and bring their families with them,
9 they live here. And they also want to be good
10 corporate citizens. I see this and hear this.

11 The example I'm going to cite of them
12 going above and beyond the state requirement is a
13 product called a rock drill lubricant, which is used
14 in drilling portions of the well floor. Traditional
15 rock lubricants are made from petroleum oil and
16 chemical, which are potentially harmful. However,
17 most producers in Pennsylvania use vegetable oils like
18 rock drill lubricant. The state did not mandate this.
19 Rather, producers choose to use it. Why? It protects
20 the groundwater. This is a voluntary decision on
21 their part. This is an example of good corporate
22 citizenship. Can we all agree to that?

23 There are other such examples. However,
24 there are more opportunities to replace potentially
25 harmful products with biodegradable, non-toxic

1 alternatives. But there is, however, a significant
2 obstacle that I wish to present to the Board. The PA
3 DEP does not formally recognize biodegradable or non-
4 toxic or ultra-low toxic products as different or less
5 of an environmental hazard. Therefore, there's no
6 reduction in the civil penalty granted, at least not
7 officially. An example of this is, a drilling
8 contractor decided to switch a drill rig from
9 petroleum oil-type hydraulic fluid to a vegetable
10 oil-type, biodegradable, non-toxic hydraulic fluid.
11 When they informed the DEP field representative of the
12 change, they were told, it doesn't make any
13 difference. If you spill it, your fine will be the
14 same.

15 These are two quite different
16 substances. Petroleum hydraulic fluid meets the
17 definition of hazardous substance as found in the PA
18 Storage Tank and Spill Prevention Act, Act 32. Most
19 of these fluids contain a substance called zinc
20 dialkyl dithiophosphate, don't ask me to spell it,
21 what's known as ZDDP. It's common in many oils and
22 other lubricants. It is a hazardous substance that's
23 deemed toxic to fish, for example. On the other hand,
24 vegetable oil is not a hazardous substance. It's not
25 listed in Act 32, and vegetable oil based hydraulic

1 fluid, at least those produced by my company, contain
2 no ZDDP or any other toxic substance.

3 So I ask the following questions. Which
4 of these poses an environmental risk, the petroleum or
5 the vegetable oil product? Then wouldn't it support
6 the mission of the DEP to encourage the use of
7 biodegradable products, rather than discourage their
8 use? So why don't be people switch to the
9 biodegradable products anyway? Why don't we all do
10 it? Well, because one, it requires making a change
11 and people by nature resist change. And the other is
12 there's no certainty that it reduces their liability.
13 The state, I believe, has unintentionally eliminated
14 the second of these incentives, that being, reduced
15 liability.

16 CHAIR:

17 Mr. Peters, your time's up.

18 MR. PETERS:

19 Is that it?

20 CHAIR:

21 Yes. Thank you. Sorry to cut you off,
22 but five minutes. Next speaker is Barbara Grover
23 followed by Chuck Hunnell and James Rosenberg.

24 MS. GROVER:

25 Good evening. My name is Barbara

1 Grover. I live at 5526 Wilkins Avenue, Pittsburgh,
2 15217.

3 Strengthening regulations for the gas
4 and oil industry is sorely needed and I will address
5 three areas of your proposed regulations. Water, in
6 my opinion, is the most critical issue, but has only a
7 finite amount, the water suitable for human
8 consumption and your regulations must ensure that the
9 current, fragile water supply is available as safe
10 drinking water for current and future generations.
11 With respect to the source of the fresh water needed
12 for drilling, I will repeat what several other
13 speakers have already said. It is to define fresh
14 water used in the oil and gas operations so that
15 companies that mix contaminated fluids with clean
16 water cannot avoid regulations on the use and disposal
17 of polluted substances.

18 You need to require the water
19 surrounding the proposed sites be tested prior to
20 drilling, according to criteria you, the DEP, the
21 Environmental Quality Board, establish. You need to
22 require that toxic waste water be restored by the
23 driller to Safe Drinking Water Act Standards and
24 require all the pre-drilling data be available to the
25 public. Please do not leave the water testing time

1 and place in the hands of the drillers. Do not allow
2 them to restore the water only to the quality of the
3 water prior to drilling. As you well know, 30 to 70
4 percent of toxic water remains underground. We need
5 every drop that returns to the surface be safe for
6 human beings.

7 Another concern related to water is the
8 storage of the toxic wastewater. You know from your
9 own records, the violations that the liners in those
10 pits leak because of inadequate anchorage or the pit
11 overflows because of heavy rains or other reasons.
12 The toxins in the wastewater will contaminate soil,
13 streams, seep into aquifers. In addition, the toxins
14 evaporate into the atmosphere before the wastewater's
15 hauled away, which results in air pollution. I
16 strongly suggest that your regulations prohibit
17 drillers from using open pits for storage of
18 wastewater, drill cuttings and all other substances
19 that return to the surface with the fracking fluid and
20 require drillers to use only closed system storage.

21 In addition to my water concerns is the
22 disposal of brine, drill cuttings and residual waste.
23 These carry known hazardous substances and I suggest
24 that you prohibit onsite processing of the shale drill
25 cuttings. Cuttings require through thorough analysis

1 a special handling of the drill cuttings. Apply
2 regulations to --- formally to disposal of all drill
3 cuttings, no matter where they were obtained.
4 Prohibit onsite burial of waste pits. And prohibit
5 the use of brine for dust suppression and deicing or
6 road stabilization. Those are --- many people have
7 mentioned them already.

8 Another issue is the identification of
9 orphaned and abandoned gas and oil wells. I strongly
10 support this measure. It's a significant step in
11 reducing the chance of problems occurring from the
12 intersection of new and old wells. And the
13 regulations should include identification of all
14 existing wells before a site is determined and new
15 well construction and drilling occur. Please require
16 that all these orphaned and abandoned wells,
17 regardless of status, meet the State Safety Standard
18 prior to new well construction.

19 My final recommendation, you've already
20 addressed. I was going to say, I own a car, I could
21 get here in an hour, it was convenient for me to come
22 and speak, but many people didn't. So, thank you.
23 You have extended the comment period and added more
24 public hearings. I think that's a good thing. I
25 certainly think more people --- you have to be as

1 informed as possible.

2 Strengthening our current regulations
3 and enforcing them, that is a major point that is
4 essential to meeting your responsibility as the
5 Department of Environmental Protection. We are still
6 living with and paying for the hazardous practices of
7 the coal industry that were allowed in the past
8 century. Please learn from that mistake and require
9 the gas and oil industry to meet high standards to
10 protect the water we drink that we need to survive,
11 the air we breathe and the land we live on. Thank
12 you.

13 CHAIR:

14 Thank you. Number 22 is Mr. Chuck
15 Hunnell followed by James Rosenberg and then Dee Boyd.

16 MR. HUNNELL:

17 Charles Evans Hunnell, 2248 Oak Forest
18 Road, Waynesburg, Pennsylvania. Good evening. My
19 name is Charles Hunnell. I am a retired high school
20 teacher of U.S. History and Economics. My home is in
21 Greene County. I own 136 acres of land, the property
22 our family moved to when I was 12 years old. I have
23 my own water system consisting of a spring and a well.

24 We're in trouble in our state and our
25 local region of Washington, Greene and Fayette

1 Counties. Our leaders and regulators have welcomed in
2 unconventional slick water drilling and have permitted
3 them to proceed with outdated regulations and with
4 less than strenuous oversight. Citizens in each of
5 our counties have suffered from this rush to new jobs
6 such as, for example, exposure to carcinogenic and
7 other gases from well sites, condensate tank vents and
8 venting associated with the increased number of
9 compressor stations just starting to be constructed.

10 Family members have become sick due to
11 exposure. Home potable water, both private and
12 public, has been tainted by flowback and produced
13 water. Water authorities have to face the problem of
14 increased bromine and trihalomethane. Home water
15 systems have been contaminated. Farmers have lost
16 livestock and families have lost pets when farm ponds
17 and streams have been tainted with flowback and
18 produced water.

19 We're just at the beginning of this
20 process and many of our citizens have suffered because
21 of an apparent lack of concern for the safety and
22 health of the people of Pennsylvania by our government
23 and by the involved industries. I have read DEP lab
24 reports that verify that four sites on Greene County
25 streams have been polluted through mine discharges of

1 Alpha Resources' Emerald Mine and Cumberland Mine, not
2 with typical mine discharges, but with excessive
3 levels of bromine, strontium and chlorides, which are
4 byproducts of unconventional slick water drilling.
5 DEP's Clyde Mine discharges the same excessive levels
6 of the same chemicals. Greene County's Smith Creek,
7 Whitely Creek, Frosty Run and Ten Mile Creek continue
8 to receive the same unregulated discharges with no
9 apparent concern for the health and safety of the
10 citizens. How are unconventional slick water drilling
11 flowback and produced water chemicals coming out of
12 the mine discharges? Why is no one in our government
13 or the industries concerned with this?

14 These discharges have already affected
15 water quality of local authorities. Citizens have had
16 to boil water and authorities have been out of
17 compliance because of high levels of bromides and the
18 increase of trihalomethane. We have no knowledge of
19 what the long run problems for our citizens may be
20 with continued exposures to these chemicals in our
21 water. We need to be concerned with radiation
22 associated with flowback and produced water. The Duke
23 study released in October 2013 stated that radiation
24 was a problem that was identified in sediment at
25 Blacklick Creek in Indiana County. Why has the DEP

1 not responded to requests to come to Greene County
2 hotspots and run radiation tests? Since the DEP has
3 shown that flowback and produced water is being
4 discharged through mine discharges, do we not have to
5 be concerned with the health and safety of miners?
6 Are miners being exposed to all the flowback and
7 produced chemicals and radiation? How about the
8 workers at the drill sites? Should we not be
9 concerned with the health and safety of the gas and
10 oil workers who may be exposed to flowback and
11 produced water and radiation?

12 Our neighbors in West Virginia are
13 experiencing the end results of a lack of active
14 regulation and industry concern in the current water
15 crisis that has impacted 300,000 citizens. Do we not
16 have a potential water and air crisis ahead of us?
17 Without government, industry and regulation concern,
18 are citizens in our countries and the Monongahela
19 Valley and Pittsburgh not potentially in danger? We
20 need modern regulations written specifically for
21 unconventional slick water drilling and applied
22 equally to all forms of drilling.

23 The industry is here. We are going to
24 keep our communities, our people in our communities
25 and our culture by insisting that the process only

1 moves forward provided the health and safety of all
2 Pennsylvanians are protected or will we relegate our
3 children to a future in a state transformed into a
4 green chemical wasteland? On specific proposed
5 changes ---.

6 CHAIR:

7 Thank you, sir. Your time is up.

8 MR. HUNNELL:

9 Thank you very much.

10 CHAIR:

11 Speaker 23 is James Rosenberg. Followed
12 by Dee Boyd and then Ron Alvarado.

13 MR. ROSENBERG:

14 James Rosenberg, 555 Davidson Road,
15 Grindstone, Pennsylvania, 15442, from Fayette
16 Marcellus Watch. And thank you very much for the
17 opportunity to testify in person on proposed 25 Pa.
18 Code Chapter 78 Oil and Gas Rules. This testimony
19 will reflect only some of my concerns, which will be
20 spelled out in more detail in written comments.

21 First, let me express my strong support
22 for the new provisions requiring those constructing an
23 unconventional gas well to do a survey for orphan and
24 abandoned wells. This is long overdue and
25 commendable. The oil and gas industry's opposition to

1 this provision is disgraceful. There are, however,
2 many defects in the rules as drafted. Section 78.1
3 definitions, the external definition of regulated
4 substance is a problem. What is the actual workday
5 operator of a well to know about just what is
6 regulated? The word brine is a simple word that
7 everyone can understand. Its replacement by regulated
8 substance is unfortunate. Also, although there is a
9 definition of freshwater impoundment, there is no
10 definition of freshwater. Is water reclaimed from
11 acid mine drainage fresh water? There is no
12 definition of unconventional formation. This is a
13 recipe for trouble.

14 78.66(b), replacement of five gallons of
15 brine by five gallons of regulated substance as the
16 criterion for a reportable spill is very problematic.
17 Suppose a well operator spills 300 gallons of
18 material, self-assesses that the material contains one
19 percent regulated substance and thus, under the rules,
20 is really only a spill of three gallons of regulated
21 substance and, thus, not reportable. Is this allowed?
22 There is nothing in the new rules that precludes this
23 interpretation. This is a major loophole, which
24 completely guts spill reporting.

25 78.51(c), exclusion of well site

1 construction from the rebuttal presumption of
2 liability for contaminating a water supply is an
3 outrageous loophole which must be stricken. This is
4 contrary to the intent of the statute and the
5 Environmental Quality Board is both exceeding its
6 authority and making new and profoundly unfortunate
7 law with this provision. Who determines whether well
8 site construction or some other aspect of oil and gas
9 operations was responsible for contaminating a water
10 supply? What exactly is the boundary between well
11 site construction and well construction? This
12 provision is simply outrageous.

13 78.51(g), requiring the Department to
14 consider the impact of a permit on optimal development
15 of the oil and gas resources is profoundly improper.
16 This turns the Department into the agent of the
17 applicant. How is the Department supposed to evaluate
18 what is optimal for the applicant? The word optimal
19 must be stricken.

20 78.57(a), open top structures shall not
21 be used to store brine and other fluids produced
22 during operation of the well. This is commendable,
23 but the well should be replaced by a well. Produced
24 water from some other well should not be stored in an
25 open top structure either. And this provision must

1 make it clear that a pit is an open top structure.
2 And hydraulic fracturing chemicals should not be put
3 into open top structures either. Altogether, pits
4 should only be used for actual fresh water.

5 There are several deficiencies of the
6 rules as they affect other stakeholders. Consider the
7 plight of a surface owner who is not the owner of gas
8 rights. There should be a requirement that surface
9 owners be notified of spills. There should be a
10 requirement that the surface owners get consent for
11 onsite waste disposal methods.

12 78.56(a)(11), determination that a pit
13 bottom is 20 feet above seasonable high groundwater
14 table, should be done by an accredited, independent
15 professional, as is done with pre-drilling water
16 tests. Or consider county emergency management
17 personnel, there should be a requirement that they be
18 given a copy of the PPC plan, since they are directly
19 affected by it. Thank you.

20 CHAIR:

21 Thank you. Next speaker is Dee Boyd,
22 followed by Ron Alvarado.

23 MS. BOYD:

24 Hi, my name is Dee Boyd. I live in
25 Burgettstown, 149 Dinsmore Road. I'm also a retired

1 nurse. And I know I met many, many people here in PA
2 that have been affected by fracking. Some of them are
3 friends that have been affected and family members.
4 And some of those family members are --- they have
5 children that's been affected also. I've seen
6 children with nosebleeds and GI problems.

7 And then I've also lived on a farm about
8 20 years ago that has pristine well water with about
9 ten other homes on this private land that also had
10 pristine well water. And now, those homes do not have
11 well water and the ones that do have well water, they
12 do not drink it. And in fact, two of those homes have
13 water hauled in now because they have no well water.
14 And this has been like just recently. The original
15 farmhouse, they were 100 years old and now it has no
16 well water because it had nothing coming up in it. So
17 they cannot have any well water and they had to drill
18 another well.

19 I'm a little bit nervous, so I
20 apologize. But with that being said, my concerns are
21 --- so the bottom line here is that safety is not
22 being practiced by the Industry. Not only that, but
23 the citizens out of the state do not know the whole
24 truth of this Industry, and therefore, they're --- in
25 dangers that they and their loved ones are in.

1 If it's the cleanest fossil fuel, then
2 why not expose the extraction process, or better yet,
3 the 7,500 gallons of chemicals that are used per one
4 well and the effects of said chemicals on the human
5 body?

6 First and foremost, the most important
7 thing is our precious resource; our water. It's being
8 contaminated at alarming rates from the chemicals
9 used, to the methane and other natural compounds that
10 come up during the drilling process itself. How many
11 citizens know to get their water tested prior to
12 drilling? And unless an animal becomes ill or the
13 animal becomes sick, it's too late. The burden of
14 proof is on landowners. This needs to be changed.

15 New regulations need to be imposed on
16 these companies to ensure over --- ensure our rights
17 for clean, safe water. And once our water is
18 affected, the well has --- if it has contaminated
19 someone's water, should be shut down and find out what
20 the source of that is. Also, what are these companies
21 going --- are they going to do with this chemical
22 radioactive laden water? Now, you're proposing we
23 dump it on our roads, in our cities, towns and rural
24 areas. Are we going to have this poison on our yards?
25 Are we going to be breathing it in? It's going to be

1 on our cars and our children's going to be getting
2 doses of poison every day from these chemicals and the
3 radiation.

4 This is what I propose that you do.
5 Tell the public what's exactly in this water that you
6 propose to dump on our roads. That the chemicals can
7 cause confusion, anemia, rapid pulse, nervous system
8 damage, leukemia and cancer, damage to reproductive
9 systems, birth defects and more. Eventually, this
10 dumping process will end up in all of our waterways.
11 Why not let the public vote on whether or not they
12 want this poison cocktail dumped on their roads?

13 This is our state and our country. We
14 all live here. The Gas and Oil Industry will not be
15 here forever and what will be left with it --- what
16 will be left with the ---? I'm sorry, I'm so nervous.
17 What will be left with it in its wake? It's up to us
18 to inform the public so they know the truth of the
19 process of the fracking and what it will do to our
20 water and what it will do to the public and the
21 citizens that live in this country and so that they're
22 not being fooled by the propaganda that these
23 individuals are telling us. And if people --- if one
24 person --- if it was just one person that got ill,
25 these industries should be shut down and find out why

1 people are getting ill. Thank you.

2 CHAIR:

3 Thank you. Next speaker is number 25,
4 Mr. Ron Alvarado. Is Mr. Alvarado here? Okay. Not
5 seeing Mr. Alvarado, we're going to take a five minute
6 break. We've got approximately 20 more speakers
7 registered to speak tonight. So I'm going to take a
8 little five minute break to give you guys a chance to
9 stretch your legs and do whatever business you may
10 need to do. Okay? We'll reconvene in five minutes.

11 SHORT BREAK TAKEN

12 CHAIR:

13 Okay. I'd like to call the hearing back
14 to order. We will continue with the testimony.
15 Speaking now is number 26, Mr. Jeff Walentosky
16 followed by Veronica Coptis and then Patrick Greuter.
17 Okay.

18 MR. WALENTOSKY:

19 My name is Jeff Walentosky,
20 W-A-L-E-N-T-O-S-K-Y. 5001 Julia Way, McKees Rocks,
21 PA. Once again, I appreciate the opportunity to be
22 here just to speak, appreciate the opportunity to be
23 in the --- I am here to testify as an interested
24 citizen of the Commonwealth, regarding the proposed
25 rulemaking of Chapter 78, Subpart C.

1 I'm a lifelong Pennsylvania resident, in
2 Western Pennsylvania resident. I've been employed as
3 a licensed professional geologist for over 23 years
4 for a groundwater environmental consulting firm
5 located in Western Pennsylvania, which acts as an
6 unbiased third-party consultant to the Oil and Gas
7 Industry. Our company maintains membership with the
8 Marcellus Shale Coalition, the Pennsylvania
9 Independent Oil and Gas Association. As a member of
10 PIOGA, I currently sit on as the --- serve as the Well
11 Construction Subcommittee Chair which is part of the
12 Environmental Committee. As part of my chairperson
13 responsibility, I had the privilege of attending and
14 participating in the Oil and Gas Technical Advisory
15 Board workgroup public hearings on the proposed
16 Chapter 78 revisions this past summer on behalf of
17 PIOGA.

18 I would certainly like to commend the
19 Departments, Industry representatives and interested
20 parties for all the hard work and very, very long
21 hours that's been expended to get these draft
22 regulations in place to where we're at today.
23 However, it is definitely apparent that there are
24 significant improvements and modifications that need
25 to be made to various portions of the rulemaking.

1 Like others here, I will be submitting a detailed
2 comment letter prior to the end of the tentative
3 prescribed commentary period.

4 Tonight, I do have a few general
5 comments and a few specific comments to offer. First,
6 my general comments. I do feel that there is a
7 significant difference between the
8 traditional/conventional and unconventional well
9 drilling and stimulation operations. The land
10 disturbance footprint, waste management activities and
11 water usage on conventional well operations is
12 significantly different and entails a small percentage
13 of activity in comparison to unconventional operators.

14 Industry representatives did meet with
15 DEP officials on a few occasions to discuss the
16 fundamental differences in these operations and the
17 impact the proposed regulations would have on
18 conventional oil and gas operator; yet the Department,
19 we feel --- I feel, has not really adequately
20 addressed this issue.

21 The proposed Chapter 78 provisions
22 proposed a significant, financial impact to the
23 conventional and unconventional law rendered without
24 adjusting environmental benefits. The review of the
25 initial cost-benefit analysis regarding the extraction

1 provisions indicates the cost calculations were very
2 much understated. And we've created far reaching
3 impacts, especially to the traditional small
4 conventional operator, was limited and understaffed.
5 The Department references some forms for completion
6 within the proposed regulations. These forms in ---
7 these forms should be provided for the review as part
8 of this comment period and throughout the draft
9 process.

10 During the TAB workgroup meeting in
11 2013, there were four issues of concern and discussed;
12 public resource protection, protection of water
13 supply, abandoned and orphaned well identification and
14 waste management on well sites. Although there were
15 significant discussions between the work groups, there
16 were no changes made throughout the regulations as a
17 result of those meetings.

18 Three specific comments to end up on
19 that I feel is --- that are very significant.
20 Protection of water supplies. In the past, the
21 Department of State is one of the few in the United
22 States that has no drilling and the construction
23 standards for new and existing residential water
24 supplies. Past proposed legislation in Pennsylvania
25 has not been successful in affording the residents of

1 the Commonwealth assurance that proper practices and
2 guidelines are followed to minimize the risk of
3 drinking water contaminants. Without this legislation
4 in place, it's unreasonable for the Department to
5 expect the Industry to be obligated to restore water
6 supplies back to an applicable, safe drinking water
7 standard if the supply did not previously meet these
8 standards.

9 CHAIR:

10 Thank you, sir.

11 MR. WALENTOSKY:

12 Thank you.

13 CHAIR:

14 Thank you. To the 27, Veronica Coptis,
15 followed by Patrick Greuter and then Ken Dufalla.

16 MS. COPTIS:

17 I am Veronica Coptis. I live in
18 Carmichaels, Pennsylvania at 408 Springtown Road, also
19 called North 88 Road. And I live in a community, if
20 anybody's familiar with Carmichaels, there's a lot of
21 heavy shale activity going on there. I, myself, have
22 an active rig 1,000 feet from my front porch, a
23 completed rig 450 feet from my back porch and many
24 more throughout in the area.

25 And we all have some questions about we

1 got here today, so I just want to ask a question of
2 how many of you took a small drink of a glass of
3 water? Today, how many of you took a breath of air?
4 Which is everybody in this room. So if you don't have
5 clean air and clean water to drink, it's really not
6 going to matter what our type of transportation was to
7 get here today.

8 So I really just want to commend the DEP
9 for updating the oil and gas regulations, especially
10 for those like me, who are living so close to this
11 activity and holding a public hearing to our input
12 because we really do care what's going to be done to
13 better to protect us. And I think these changes are a
14 step in the right direction, but I think they can go
15 much further to protect the people from the impacts
16 that are living in communities like this, really
17 disruptive right now.

18 So here are some suggestions I have or
19 maybe you can improve upon the suggested regulations
20 that have been put in place. In terms of your
21 pre-drill water testing and the restoration or
22 replacement of contaminated water supplies, I think
23 the DEP should require an operator to restore
24 contaminated drinking water that meets the Safe
25 Drinking Water Act Standards, no matter what the

1 quality of the water before. Everybody in this
2 country has a right to community waters. All drillers
3 should use a consistent list of parameters to
4 pre-drill water tests, which DEP must establish before
5 the proposed regulatory changes. Right now, it's kind
6 of --- when, how and what technique they want to do to
7 do a pre-drill water test. And that can deal with ---
8 and this pre-drill data should be made available to
9 the public.

10 Standards for frack pits and
11 impoundments. I think that we should prohibit
12 operators from using open pits for storage of
13 regulated substances including wastewater, drill
14 cuttings, other substances like gels and cement that
15 return to the surface after fracking or that are
16 needed before fracking and storage. Many of these
17 spills lead to other problems involving pits that have
18 occurred statewide. This is one of the most possibly
19 contaminated water resources in the region, as well as
20 the air impacts and evaporation. It's happening with
21 various communities here in Pennsylvania. And that
22 waste should only be stored in closed systems. And
23 this is what is required in many other states in the
24 country, so these operators are operating in
25 Pennsylvania. They're operating in other countries

1 (sic), too. They're able to abide by --- states,
2 sorry. They're able to abide by in those states and
3 there would be no ---.

4 We should prohibit the onsite processing
5 of drill cuttings, which often contain hazardous
6 substances and radioactive materials. We should
7 define freshwater and hazardous waste. When you're
8 driving on a road and you see a truck carrying
9 residual waste, residents have no clue if it's waste
10 water, freshwater. There should be a way to identify
11 what that is. If you take water from a tank that has
12 a hazard placard, that other tank should not be ---
13 when it goes through the hose to an individual waste
14 tank. And there's a lot of unclear definitions that
15 allow operators to avoid these regulations and the
16 disposal of substance.

17 The only other thing I would add is if
18 these regulations are passed and if we're not going to
19 allow them to --- there's going to come in already
20 constructed in this state. But those should not be
21 grandfathered in under the old law and I think ---. A
22 lot of people have talked about disposal of brine and
23 those kinds of residual waste. I know a lot of what
24 has been said before in the other testimony, the
25 identification of orphaned and abandoned wells, I

1 think that it's great that you're going to make them
2 identify the existing wells. I think they should have
3 them --- these wells and they should do it more than
4 just from the --- but as far out as well drilling.

5 And then, all of these regulations are
6 great only if they're enforced. And so I really want
7 to state in here with some other people that we don't
8 have enough movers on the ground to regulate the ---
9 that the Industry is going. So unless you hire more
10 people to enforce it and use strong enforcement, we're
11 going to have the best regulations on paper and the
12 worst in effect. And so in Washington County, we've
13 already seen way too many times the lack of
14 enforcement from environmental regulations that was
15 mentioned before. So I'm going to leave it on the
16 fact that --- and what, in fact, we're supposed to be
17 doing and I think we're making steps in that
18 direction. And the Pennsylvania DEP's mission is to
19 protect Pennsylvania's air, land and water from
20 pollution and to provide the health and safety of its
21 citizens for a cleaner environment.

22 CHAIR:

23 Thank you. Next speaker is
24 Patrick Grenter, followed by Ken Dufalla and then
25 Kenny Gayman.

1 MR. GREENTER:

2 Thank you for the opportunity to comment
3 on the proposed changes to the Chapter 78 Oil and Gas
4 regulations. My name is Patrick Greenter and I am an
5 environmental attorney and the Executive Director of
6 the Center for Coalfield Justice, which is located
7 just down the road here in Washington on 24 South Main
8 Street. First, let me start off by thanking you for
9 extending the comment period and adding several
10 locations for more comments. I think it's commendable
11 by the many of the other previous speakers stating the
12 value and the importance of significant and meaningful
13 public input of these regulations.

14 The Center for Coalfield Justice was
15 founded in 1994 by individuals organizing against the
16 harm and destruction of resulting longwall coal
17 mining. We have since expanded our mission to help
18 folks impacted by the fracking industry as well. CCJ
19 has more than 1,000 members and supporters, most of
20 whom live here in the crosshairs of the fossil fuel
21 extraction industry, Washington and Greene counties.

22 While I commend the Board for
23 recognizing the need to adopt revised environmental
24 protection from a performance standard, it is
25 important to note that the proposed standards are far

1 weaker than what the law requires. Regrettably, it
2 appears that the authors of the proposed rulemaking
3 have ignored several fundamental issues related to oil
4 and gas development. Rather they wrongly prioritize a
5 narrow aim of fast tracking and accommodating the
6 extraction of the Commonwealth's oil and gas
7 resources.

8 The regulations related to residual
9 waste are unlawfully inadequate. The DEP's own
10 studies have shown extensive and significant
11 environmental pollution and harm resulting from faulty
12 pits. For some reason, despite all of this, the DEP
13 has proposed allowing onsite burial of pits. In fact,
14 the DEP only requires these very pits to be 20 inches
15 above the seasonal high groundwater table. In New
16 Mexico, very strict, that barrier has to be 25 feet;
17 20 inches here.

18 Also, the DEP is only proposing setback
19 requirements for these very pits in regards to streams
20 flowing year round, rather than protecting
21 intermittent streams as well, which is contrary to the
22 Clean Stream Law. Why the DEP would fail to recognize
23 the persistent threat that these pits pose to the
24 environment, we have helped --- to comprehend it.
25 Clearly, all of these must be prohibited.

1 Also, under the proposed regulations,
2 DEP would allow brines and conventional gas wells to
3 be spread on roads with dust suppression and de-icing.
4 Brine spread on the roadways can make it's way through
5 storm water runoff, into nearby waterways and
6 wetlands. Brines have the potential to push salinity
7 loads far above any naturally occurring conditions,
8 which could impact the quality and uses of nearby
9 waters. The proposed regulations are not only
10 imprudent, but they are contrary to the existing
11 regulations.

12 The beneficial use of brine or dust
13 suppression has never approved under the Solid Waste
14 Management provisions. Furthermore, the Department
15 has already attempted to issue a beneficial use
16 general permit that would have allowed gas well brines
17 to be use for both dust suppression and de-icing.
18 However, as a result of concerns about health and
19 water quality, the DEP withdrew that general permit.
20 Now, the proposed revisions of Chapter 78 would allow
21 brine to be used for both dust suppression and de-
22 icing, precisely what was attempted with the failed
23 attempt earlier.

24 BRIEF INTERRUPTION

25 MR. GREENTER:

1 In addition, these revisions would be
2 unlawful if adopted because they would establish a
3 permit by rule approval process, which is prohibited
4 under Chapter 287 regulations. Another glaring
5 deficiency in the proposed regulations is that the
6 parties do need to investigate water pollution. The
7 proposed Act 78 regulations require the Department to
8 investigate a claim and determine whether the
9 pollution or a diminution of a water supply was caused
10 by well site construction, drilling, alteration or
11 operation.

12 This is particularly alarming because
13 this set of activities is much more limited than the
14 activities defined in the oil and gas operations in
15 the proposed regs. The Department wants to define oil
16 and gas operations to include well location
17 assessment, seismic operations, construction,
18 drilling, hydraulic fracturing, completion,
19 production, operation, alteration, plugging, site
20 restoration, water withdrawals, residual waste
21 processing, water and other fluid management and
22 storage, construction, installation, use, maintenance
23 and repair of oil and gas pipelines, natural gas
24 compressor stations, natural gas processing plants,
25 facilities performing equivalent functions. And I

1 could go on that list, but I'm not going to keep going
2 though.

3 Despite the fact that all of those
4 activities that are defined in oil and gas and may be
5 relevant to the Department's investigation of water
6 pollution, they are only limiting their investigation
7 to those previous four that I listed. This proposed
8 revision is fundamentally flawed and must be revised
9 to include all of the activities including the
10 definition of oil and gas operations.

11 Finally, to put this, Pennsylvania is
12 pot-marked by old abandoned wells, some known and
13 unknown. Now the existence of these wells presents a
14 possible migratory pathway for harmful fracking
15 fluids. While we appreciate the Department's efforts
16 to address this issue --- or attempt to address this
17 issue, it is important though that --- there are a lot
18 of things --- regulation training. If the operator
19 alters the abandoned well by fracking, then it must
20 plug the well. And the written testimony will cover
21 the rest.

22 CHAIR:

23 Thank you.

24 MR. GREENTER:

25 Sorry for talking so quickly.

1 CHAIR:

2 Mr. Ken Dufalla, followed by
3 Kenny Gayman and Gail Neustadt.

4 MR. DUFALLA:

5 I'd like to thank you all for coming
6 tonight, especially the DEP and everybody here from
7 the --- and from the Conservation Services. We're all
8 here to --- we all require and we all do business.
9 Let me introduce myself, my name is Ken Dufalla. I am
10 Vice President of the Izaak Walton League of America,
11 Pennsylvania Division and President of the Harry
12 Enstrom Chapter of Greene County. I reside at 46
13 Middle Street, Clarksville, Pennsylvania.

14 Proposed changes to the Oil and Gas
15 regulations. The Izaak Walton League of America,
16 herein referred to as the League, is the fourth oldest
17 conservation organization in the United States. The
18 League is a non-profit organization with over 48,000
19 members and volunteers across the United States. Our
20 goal is to ensure that America's natural resources are
21 protected, managed, and used in a sustainable manner
22 for future generations to come. The organization has
23 always and will always support the proper and safe use
24 of our natural resources. The League has never
25 opposed the proper extraction and use of our natural

1 resources.

2 However, the use and removal of our
3 natural resources must be accomplished in a manner
4 that is safe to humans and the environment. The
5 current extraction of the natural gas and oil supplies
6 has failed to meet these qualifications of safety.
7 Numerous incidents of contamination and unsafe
8 practices by the extraction industry have endangered
9 both the health and safety of the people and the
10 environment.

11 With these failures in mind, the League
12 supports the proposed changes to the PA Oil and Gas
13 Regulations as submitted by the groups from Berks Gas
14 Truth, Clean Water Action, Delaware Riverkeeper
15 Network, Earthworks, Clean Air Council, Damascus
16 Citizens for Sustainability, Inc. and the
17 Sierra Club, Chapter of Pennsylvania.

18 We the League have an additional
19 recommendation to these proposed regulation changes.
20 In Sections 78.60, 78.61, 78.62, 78.63, and 78.70,
21 wherein the issue of disposal of brine, drill cuttings
22 and residual waste is referenced, we recommend the DEP
23 should include the following statement: Prohibit the
24 disposal of any flowback water or any materials
25 associated with the drilling industry into current

1 coal mines, abandoned coal mines, slurry impoundments,
2 coal mine discharges and coal refuse piles.

3 With these new amendments in place, one
4 must also consider the enforcement of these
5 regulations. In October or November 2013, SourceWatch
6 released a study entitled Pennsylvania and Fracking.
7 The study was compiled from DEP reports and other
8 sources that showed the number of new wells increase
9 from 36,000 in 2000 to 71,000 in 2010, an average of
10 3,500 wells per year.

11 In response to this gas drilling
12 upsurge, DEP increased its staff by 130 new employees,
13 65 of which were inspectors. Each of these new
14 inspectors would be responsible for approximately 538
15 new wells. This number seems monumental for one
16 person. The investigative group ProPublica reviewed
17 records from 48 wells in 2011. They found that of
18 these 48 wells, most were inspected, 42, at least
19 once. Six of the wells were never inspected at all.
20 That's 12.5 percent. None, zero percent, of the wells
21 were inspected during the fracking process. If these
22 numbers are projected to include the numbers of new
23 wells since 2000 to 2010, it would mean that
24 approximately 729 wells were never inspected. This
25 does not include the wells drilled before the year

1 2000 or after 2010.

2 With these facts, one must conclude that
3 more employees are needed to protect humans and the
4 environment. Since 2009, the number of deaths to the
5 gas field workers, current gas field workers, has
6 increased by over 100 percent. This is an obvious
7 need for both better regulations and better
8 enforcement of these regulations. One other important
9 factor is that when violations occur or are suspected
10 by the public, the DEP must respond immediately. Too
11 often the response is either not forthcoming or not
12 investigated 'til days after the event.

13 Enclosed are several requests, which you
14 have, made by the League's Harry Enstrom Chapter,
15 Greene County, PA that have fallen on deaf ears. The
16 League stands ready and capable of aiding the
17 regulatory agencies in any way. The Harry Enstrom
18 Chapter of the League has developed a water quality
19 monitoring program and has three years of water
20 testing data available upon request.

21 Finally, in support of the rulemaking
22 process and the importance of the proposed new changes
23 in the regulations, we recognize that the general
24 public needs more time to be able to participate in a
25 more meaningful way. We, the Izaak Walton League of

1 America, respectfully request the following; the
2 public comment period should be expanded to 120 days
3 minimum to allow for the public review and more
4 hearings should be set up in the counties affected by
5 oil and gas extraction. Thank you so much for all of
6 your time.

7 CHAIR:

8 Thank you. Next speaker is
9 Mr. Kenny Gayman. Kenny will be followed by Gail
10 Neustadt and then Louis Pochet.

11 MR. GAYMAN:

12 Good evening. My name is Ken Gayman. I
13 live at 112 Oak Drive, Jefferson, PA in Greene County.
14 I have a farm in Washington County several miles from
15 here. I am also the President of the Shawnee
16 Washington County Chapter of the Izaak Walton League.
17 And the reason why I'm here tonight, I want to see the
18 proposed to be put into oil and gas. I'm the
19 chairperson of the Historic and Ethics Program at the
20 Shawnee Chapter of Washington County in the area of
21 --- I also am a member of the State of Pennsylvania
22 Archaeology Society. I'm a member of the Mon-Yough
23 Chapter 3 Archaeology and History Club attached to
24 California University. I'm a member of the
25 Archaeological Conservancy for the state of

1 New Mexico.

2 Proposed changes to the Pennsylvania oil
3 and gas regulations. All drillers make pre-drill
4 available data to the public along with the placement
5 of well pads and compressor stations and where the
6 pipelines are going to be placed. Known as Chapter 78
7 of the Pennsylvania Code, 13, the Oil and Gas law
8 passed in 2012, there are no provisions in the Oil and
9 Gas Act to protect any archeological and historical
10 sites.

11 The drilling companies should hire a
12 certified archaeologist to do surveying before any
13 well pads, compressor stations, impoundment ponds,
14 pipelines and roads leading to the well pads to
15 determine that they are not going to destroy any
16 archaeological or historical sites.

17 There are several laws in existence
18 right now that --- placing protection on all
19 archaeological and historical sites. There are
20 federal laws, state laws, the National Historical
21 Code, Section 106 of that law, Grave Protection Act,
22 Freedom of Religion Act and Burial Protection Act,
23 House Bill 506 passed by the U.S. Senate protecting
24 archaeological and historical sites in New Mexico.
25 And the Pennsylvania Constitution in Pennsylvania

1 Article 1, Section 27 states in there protection of
2 these sites for this generation and generations to
3 come.

4 I recommend a provision to be adopted
5 into the Oil and Gas Act to protect these sites, for
6 myself and all the people of Pennsylvania. Refer to
7 Section 78.51 and 78.52; all well pads, compression
8 stations, impoundment ponds, pipelines and roads
9 leading to the well pads be a minimum of 500 feet near
10 these sites. And I am an American and I'm a combat
11 veteran. So this is my right. And this is
12 everybody's right here. It is our right to have these
13 laws and regulations to protect these sites. Thank
14 you very much.

15 CHAIR:

16 Thank you. Next speaker is
17 Gail Neustadt. She'll be followed by Louis Pochet and
18 Steve Hvozdoch.

19 MS. NEUSTADT:

20 Thank you. I'm Gail Neustadt. I live
21 at 1503 Grand Cypress Lane in Presto, PA in Allegheny
22 County. I want to thank Washington Jefferson for
23 hosting this and thank you, the Board, for their
24 efforts in drafting the proposed regulations. I'm not
25 going to go over --- I have three pages which I timed

1 myself and it almost took five minutes. But what I
2 have to say has been said repeatedly this entire
3 evening. So I'm not going to belabor it.

4 But I do want to say that although I
5 live in Allegheny County, and although Allegheny
6 County has few if any unconventional wells and despite
7 Pittsburgh's ban on fracking, we are surrounded by
8 this developing new industry. Air and water, of
9 course, you know, don't stay in the same place.
10 Clouds form, they move and what develops miles away
11 eventually is dumped as rain and dust elsewhere.
12 We've seen in recent years, months, weeks and now also
13 on a daily basis, repeated accidents. What happens in
14 one place could cause a dire consequence in others
15 and, in fact, globally.

16 When I sat down to write my comments I
17 was going to start out by saying that the proposed
18 regulations fall short in many respects. And I've
19 been hearing all of these comments all evening long.
20 So not only is each regulation lacking, but I think
21 that there are others that are needed. For instance,
22 I don't think anything was said, and correct me if I
23 missed it, a lot of people are knowledgeable
24 throughout this. But I don't think anything was
25 mentioned about the well basins. These cement

1 casings, about 50 percent of them, already start out
2 with cracks, which allow a methane migration. And so,
3 that doesn't get serviced, the waters, and I don't
4 need to ---.

5 Another thing is that really, really
6 bothered me that was said repeatedly was the use of
7 flowback water for recycling purposes. I don't think
8 so. That's hardly recyclable. And we're taking all
9 of the gunk that is coming back up out of the wells
10 and releasing it because it's so highly toxic and we
11 don't even know what all the chemicals are because
12 it's a secret sauce. We're not allowed to know. And
13 they're using it to salt our roads to product --- it
14 makes no sense.

15 But ultimately, to say those things,
16 really it doesn't speak to what my feelings truly are.
17 Because what I should say hasn't been said here yet
18 tonight and unfortunately, a lot of people are gone,
19 but I don't think this is a difficult task. It's
20 easy. Simply ban fracking. Have you ever seen the
21 movie, The Gremlins? They let the cat out of the bag
22 too early. They told us three things; you can't do
23 this, this or this. And all three things happen and
24 all these nasty things are happening without the
25 regulations. And even with them, bad things are going

1 to happen. And it's just human, it's human accidents.
2 So I don't think that right now we're ready for this
3 type of energy.

4 I want to also restate Article 1,
5 Section 27 of the Pennsylvania Constitution. I'll
6 read the whole thing. We've got a little piece of it
7 tonight. Quote, the people have a right to clean air,
8 pure water, and to the preservation of the natural,
9 scenic, historic and esthetic values of the
10 environment. Pennsylvania's public natural resources
11 are the common property of all the people, including
12 generations yet to come. As trustee of these
13 resources, the Commonwealth shall conserve and
14 maintain them for the benefit of all the people.

15 Folks, this is not happening. We have
16 unconventional gas industry being allowed to grow
17 unrestrained. It's been given carte blanche access to
18 our land, our homes and our health. It has fostered
19 an unprecedented breakdown in the fabric of
20 neighborhood cohesiveness. Our elected officials have
21 turned their backs on the PA voters who entrusted
22 them. And many citizens have been made sick by
23 tainted water. Air pollution and with it lung
24 conditions have increased. To say that our
25 environment's scenic, historic and esthetic values are

1 being preserved is a lie. Rather they are being
2 undermined, and I mean that both figuratively and
3 literally. And how can our elected officials say that
4 PA's natural resources are the property of all the
5 people when division between mineral rights owners and
6 surface rights owners is rampant? But I'm going to
7 end now ---

8 CHAIR:

9 Thank you.

10 MS. NEUSTADT:

11 --- with my two favorite songs.

12 CHAIR:

13 Thank you, ma'am. Your time is up.

14 MS. NEUSTADT:

15 The Answer is Blowin' in the Wind and
16 Let the Sunshine in.

17 CHAIR:

18 Okay. Next speaker is Mr. Louis Pochet,
19 followed by Steve Hvozdovich and then Kristen Cevoli.

20 MR. POCHE:

21 Thank you. My name is Louis Pochet. I
22 live in Westmoreland County at 915 Essex Drive in
23 Greensburg. You did a good job at pronouncing my last
24 name. Most people butcher that. Anyway, I am a
25 retired chemist and spent many years working with

1 companies in documenting and working with their waste
2 management chain. What I find here in this industry
3 is that there's a heck of a lot more laxity than I've
4 ever seen in the manufacturing sector.

5 Frankly, I find myself concerned with
6 the environmental laxity that DEP appears to have
7 adheres to them, not so far in addressing, the
8 potential issues of harm to the environment that can
9 be collateral damage of the natural gas, fracking
10 industry.

11 And I found something and I wanted to
12 add this. I found something, first of all, it was in
13 the paper, the Wall Street Journal. It says, for U.S.
14 Drillers, Less Cash. Apparently in the last couple of
15 years, last year, 2013, they spent \$50 million more in
16 North America --- on this industry that they had to
17 take in. And apparently the money is coming in from a
18 lot of foreign sources and it's running dry, which is
19 one of the reasons why this industry, if it's going to
20 survive here in the state, has got to export stuff out
21 of the state. So forget about the real ability to
22 have chemical industry developments here in the State
23 of Pennsylvania. That's sort of a joke, I think, from
24 my standpoint as a chemist.

25 But anyway, to continue, the main

1 concern has to be our water supply. And particularly,
2 after the really tough situation that occurred down in
3 Charleston, West Virginia, we've talked about that
4 several times. Today's Journal of Chemical &
5 Engineering News, the Trade Journal, says about this,
6 dated the 20th, toxicity unknown. Lack of hazard data
7 hampers response to chemical spills in West Virginia.
8 I see this, frankly, if we don't even understand what
9 chemicals are being used, we scapegoats that are going
10 to be seeing nothing but continued problems down the
11 road in other --- it may take this generation and the
12 following generation down the tubes.

13 Anyway, if we continue with this, the
14 --- we have to at --- for example, open pits and
15 wastewater impoundments, which were lacking,
16 obviously, in West Virginia, from the standpoint of
17 the impoundment capability, I wonder how frequently
18 does that happen here in Pennsylvania as well. They
19 all have a tendency to fail at some point in time,
20 either due to poor construction or by forces of
21 nature, rain, for example, tornadoes and whatever.
22 But we need --- it must be appreciated somewhere
23 between one million and seven million gallons of water
24 are needed to frack a single well. And that may be
25 fracked six to seven times in its lifetime to restore

1 it to some sort of life. Now, water obviously has
2 been abundant here in Pennsylvania, compared to the
3 Western part of the United States, but it still has to
4 be considered a really valuable resource and it must
5 be protected from inadvertent mishaps.

6 Now, I think it was mentioned here
7 earlier today that one of the possibilities where
8 we're going to see something like 100,000 wells in the
9 state of Pennsylvania. PA is what; about 45,000
10 square miles. If you divide that, that's basically
11 two wells every --- well, basically two wells every
12 square mile, a little less than that. That's a lot of
13 wells, a lot of potential for having problems
14 developing with our water supply.

15 An additional concern has to be the
16 radioactive waste that's generated from oil and gas
17 operations. This is radon country and radon gas will
18 be released in the drilling process as well as
19 contamination of the shale waste. We all may recall
20 that several years ago, Interstate 99, the portion
21 between Altoona and Penn State, was held up for years
22 because no one wanted to take the sulfur pyrite
23 contaminated shale fill that was being produced in the
24 road cuts. Eventually, they brought in some --- if
25 you do a Bing on it, they brought in some companies

1 from across the U.S. that did help to mitigate that
2 and they were able to continue eventually.

3 But the shale waste itself, the pyrite,
4 is a source of sulfur and sulfur with water combines
5 to form sulfuric acid. That's certainly not something
6 you want to see in your water supply.

7 It is extremely important that EQB and
8 DEP act solely not in the interest of the gas
9 industry, but primarily in the interest of the
10 citizens of the State of Pennsylvania and preserving
11 our environment. This includes proper regulation ---.

12 CHAIR:

13 Thank you, sir.

14 MR. POCHE:

15 Oh, my time is up? Well, thank you very
16 much.

17 CHAIR:

18 Next speaker is Steve Hvozdovich
19 followed by Adam Garber, not Kristen Cevoli, and then
20 Anthony Berardi.

21 MR. HVOZDOVICH:

22 Good evening. My name is
23 Steve Hvozdovich. I am a Marcellus Shale Coordinator
24 for Clean Water Action. Our Western PA office is
25 located at 100 Fifth Avenue in Pittsburgh.

1 Clean Water Action welcomes the
2 Department of Environmental Protection's decision to
3 update chapter 78 of the Oil and Gas Act and views it
4 as a potential step toward better protecting our
5 health, safety and environment. However, DEP needs to
6 strengthen many of the vital regulations being
7 proposed.

8 Prior to publication of the regulations,
9 Clean Water Action worked with other organizations to
10 provide feedback to the Technical Advisory Board, the
11 Environmental Quality Board and DEP. We identified
12 areas that we believe required additional focus,
13 including those pertaining to the use of open pits and
14 impoundments, identification and closure of abandoned
15 wells, restoration or replacement of contaminated
16 water supplies and pre-drill water supply sampling
17 requirements. These areas are the focus of my
18 comments tonight.

19 We learned in 2013 through a Scranton
20 Times news article that DEP issued determination
21 letters concluding that natural gas drilling
22 operations had impacted at least 161 water supplies
23 statewide. Note the water supplies in PA are being
24 negatively affected, is extremely important that
25 Section 78.51 addressing the restoration and

1 replacement of contaminated water be maintained to
2 require that operators restore water supply to at
3 least the quality that meets Pennsylvania Safe
4 Drinking Water Act Standards, no matter what the
5 quality of the water prior to drilling. If the
6 quality of the water supply prior to drilling was
7 above these standards, the operator must restore the
8 water to meet the higher standards. Otherwise, good
9 water supplies will be degraded.

10 DEP leaves it up to the drillers to
11 decide when, where and how to conduct water quality
12 tests before drilling starts. It is important that
13 the provisions in Section 78.52 dealing with pre-drill
14 water testing ensure that affected homeowners are
15 treated fairly and that they and DEP have enough
16 information to determine whether operators are
17 responsible for any changes in water quality.

18 Under this Section, DEP should require
19 that all drillers use a consistent list of parameters
20 for pre-drill water testing, which DEP must establish.
21 The parameters should, at minimum, max what DEP uses
22 when it conducts full contamination investigations. A
23 lack of data on contaminants like methane, ethane and
24 benzene means that responsibility for contamination
25 can be avoided and left unaddressed, as evidenced by

1 the resolution to some of the 161 water contamination
2 cases. In addition, all pre-drill data collected
3 should be made available to the public through an
4 online platform while protecting individual
5 homeowners' privacy.

6 The proposed regulations continue to
7 allow the use of open pits and impoundments for
8 temporary storage of regulated substances including
9 wastewater, drill cuttings, and cement and gels that
10 return to the surface after fracking. Open pits and
11 impoundments have the potential to contaminate
12 groundwater and surface water and many spills, leaks,
13 and other problems involving pits have occurred
14 statewide.

15 These mounting violations and potential
16 for pollution have already led some companies to
17 transition away from pits and standardize the use of
18 closed loop systems, which utilize tanks to store
19 wastewater. States like Illinois have seized on this
20 movement and put into law requirements that hydraulic
21 fracturing fluid, hydraulic fracturing flowback and
22 produced water at well sites be stored in above-ground
23 tanks during all phases of drilling.

24 Pennsylvania's continued acceptance of
25 open pits and impoundments poses continued

1 environmental risks. According to Finding III.4 of
2 the State Review of Oil and Gas Environmental
3 Regulations report, known as STRONGER, the DEP's
4 experience with pits has shown that although their use
5 is decreasing, many liner failures still
6 occur with pits. STRONGER recommends that DEP
7 consider adopting regulations or incentives for
8 alternatives to pits to prevent the threat of
9 pollution to the waters of the Commonwealth. Sections
10 78.56, 57, 58 and 59 pertaining to standards for open
11 pits and impoundments should be amended to prohibit
12 operators from using open pits and impoundments for
13 storage of regulated substances.

14 I see my time is growing very thin, so
15 you have my additional comments on some of the
16 specific statutes. But I also wanted to say that,
17 given the in-depth nature and the importance of
18 Chapter 78 provisions as well as the impact of the
19 recent PA Supreme Court Decision upon Act 13 of
20 regulatory provisions, we applaud the DEP for
21 extending the public comment period and adding
22 additional public hearings, which will provide an
23 important aspect of the regulatory process which is
24 public input. Thank you.

25 CHAIR:

1 Thank you. Next speaker is Adam Barber
2 --- or Garber, I'm sorry.

3 MR. GARBER:

4 No problem.

5 CHAIR:

6 Followed by Anthony Berardi and then
7 Maxine Fisher.

8 MR. GARBER:

9 And thank you for the opportunity in
10 allowing me to make testimony. My colleagues are
11 stuck in Philadelphia due to the weather.

12 CHAIR:

13 That's fine.

14 MR. GARBER:

15 My name's Adam Garber and the Field
16 Director for PennEnvironment, a statewide, citizen
17 based environmental advocacy group with over 100,000
18 supporters throughout the Commonwealth. Our office in
19 the Western part of the state is at 1831 Murray Avenue
20 in Pittsburgh, Pennsylvania. I will be submitting, as
21 many people have said also, a more detailed comments
22 of the Chapter 78 regulations. And I want to focus on
23 a few pieces. But before I do, I would like to thank
24 the DEP for extending the public comment period and
25 having two additional hearings, I think, as Steve just

1 said, that the comment public comment process is the
2 most important part of this. We would urge you,
3 concerning the momentous nature of the regulations, is
4 the best opportunity to deal with the damages from the
5 drilling industry to consider extending another 30
6 days to make a fuller and complete process.

7 Before I talk specifically about some
8 key pieces of the regulation, as folks know, fracking
9 in Pennsylvania is one of the biggest threats faced in
10 Pennsylvania today. We've seen 700,000 acres of our
11 public land leased, 161 documented cases of drinking
12 water contamination, 1.2 billion gallons of wastewater
13 produced in Pennsylvania containing toxic and
14 radioactive chemicals, all putting our air and water
15 and our public lands at risk.

16 In recent years, the gas drilling
17 industry committed over 4,300 fracking violations in
18 the state. And recently, even the Pennsylvania
19 Supreme Court warned against the dangers of fracking
20 stating by any responsible account, the exploitation
21 of the Marcellus Shale Formation will produce a
22 detrimental effect on the environment, on the people,
23 their children and the future generations, in striking
24 down large sections of Act 13.

25 The danger continues to mount more and

1 more. Pennsylvanians are speaking out against this
2 dangerous process. And just this past year, over
3 100,000 Pennsylvanians called for moratorium on
4 fracking until our environment and our public's health
5 recover. Given everything we have seen,
6 PennEnvironment firmly believes that this fracking
7 frenzy has to end. And that the families who have
8 been caught up in the wake of the Oil and Gas
9 Industry, who have seen their drinking water
10 contaminated and their health put at risk, any small
11 measure to reduce the risk is welcome.

12 For my testimony, I'd like to
13 specifically talk about the regulations and proposed
14 language around the wastewater pits in the
15 Commonwealth. During the informational webinars the
16 DEP presented on the proposed regulations, they stated
17 that the new proposals would prohibit the use of open
18 pits for the storage of produced water, found in
19 Section 78.1 and 78.56 to 78.64.

20 PennEnvironment fully supports the ban
21 to the dangerous practice of storing fracking
22 wastewater in open air pits. This wastewater contains
23 toxic chemicals that have been linked to a variety
24 negative of health effects. The chemical components
25 of fracking fluids, for example, can lead to cancer,

1 endocrine disruption and neurological immune system
2 problems.

3 Wastewater brought to the surface by
4 drilling can contain substances such as volatile
5 organic compounds with potential impacts on air
6 quality and human health. And the practice of storing
7 such substances in open air pits is an egregious
8 threat to the environment and our health. The
9 wastewater pits can, and do, fail. And when they do,
10 they may put the quality of our drinking water at
11 risk, present hazards to wildlife and the environment
12 and the local community. In some cases, they are so
13 volatile that they can even catch on fire or explode,
14 as was the case in Hopewell Township where a holding
15 pond explosion put the lives of nearby residents and
16 their property in danger.

17 Sadly, after a complete analysis of the
18 proposed regulations, it is clear that the current
19 language does not result in the elimination of the
20 destructive and dangerous practice of open storage
21 pits. Sections 78.1 and 78.59a to 78.64 of the
22 proposed regulations, when taken in conjunction,
23 continue to allow open, and even buried, storages of
24 fracking wastewater, contrary to the statements of
25 DEP. Allowing for the continued use of centralized

1 impoundment pits and temporary wastewater pits is
2 allowing this dangerous practice to continue.

3 Well call on the DEP to completely ban
4 the use of all pits for the storage of wastewater,
5 drill cuttings, residual waste and other contaminated
6 substances in these proposed regulations, whether it's
7 permanent or temporary holding ponds. Instead, the
8 DEP should be ensuring that produced wastewater,
9 flowback and other contaminated fluids are stored in
10 closed loop systems, with a secondary containment, and
11 a leak detection system. And this must happen without
12 exceptions in order to better protect our health and
13 out environment.

14 We thank you, again, for the opportunity
15 to testify tonight. And we'll be submitting
16 additional comments on the rest of the regulations.
17 Thank you.

18 CHAIR:

19 Thank you. Next speaker is
20 Anthony Berardi and he'll be followed by Maxine
21 Fisher, then John Walliser.

22 AUDIENCE MEMBER:

23 What number are we on?

24 CHAIR:

25 We're on number 35.

1 MR. BERARDI:

2 Hello, I'm Anthony Berardi. I live at
3 940 Northeast Drive, Irwin, Pennsylvania, 15642. And
4 I have to apologize for everybody here, including
5 myself; my wife is a stenographer and I know how fast
6 people are talking, so I'm sure you'll have an
7 interesting ---.

8 Anyhow, I have been in the industry the
9 last four years and I'm an independent service
10 operations landman. Every day I wake up grateful for
11 this incredible resource below our feet. However,
12 increased or a complex regulatory environment will
13 hamper this entire industry and all of its cascading
14 opportunities.

15 I, as well as my co-workers, am on the
16 frontlines everyday keeping people informed and
17 handling matters directly attributed to our local
18 drilling activity. This hands-on approach allows us
19 to combat issues quickly and efficiently without the
20 need for micromanaged legislation. If this same
21 approach is echoed throughout the industry, we can
22 help stay in front of the need of excess governing.

23 Our most important duty is to try to
24 keep people informed and satisfied with our
25 operations. We introduce ourselves to landowners as

1 part of a notification process during the initial
2 construction of a well site. We do this to all the
3 homes nearby. This usually starts the, what I call,
4 the rest-easy process. We not only answer any
5 questions but also extend our direct contact
6 information for any round-the-clock concerns. We also
7 keep the residents informed of every phase of the
8 activity.

9 In the last four years, I've noticed
10 that the more knowledge residents have about the
11 drilling process, the more at ease they are with our
12 operations. The fear of the unknown is usually the
13 biggest obstacle for people to get over when talking
14 about drilling. Making personal contact with the
15 neighbors and knowing that they can call us anytime is
16 great peace of mind. Having such a strong company
17 behind our work also helps tremendously.

18 Throughout the course of our week, we
19 have issues we have to take care of. We don't let
20 these issues go unresolved. Our prompt attention
21 helps to maintain a positive persona in the industry
22 in the areas we work. Whether it's a damaged mailbox
23 or a hazardous road condition, we jump on it ASAP.
24 This is vital. We are in people's back yards, front
25 yards and side yards. They know, however, when the

1 construction, drilling and fracking is over, things
2 will get back to normal. We pride ourselves on the
3 fact that we may have to come back into the area in
4 the future, so it is important that we maintain a
5 positive relationship with our neighbors.

6 If you are a resident near an existing
7 or proposed well, you, more than anyone else, have the
8 right to your opinion. If you have an issue, make
9 sure you voice it to the company directly involved
10 with the activity. Don't let the issue fester; give
11 the company a chance to address your problem.

12 The Oil and Gas companies are here to
13 stay. They want to do things right. They have a lot
14 of money invested and are putting food on a lot of
15 tables. Please let them continue to have this
16 opportunity without over-regulation. Lastly, keep an
17 open mind and please stay informed. Thank you.

18 CHAIR:

19 Thank you. Next speaker is
20 Maxine Fisher. I'm not seeing Maxine here; we'll move
21 forward to the next speaker, John Walliser. And
22 following John Walliser will be Ron Slabe, followed by
23 Terri Supowitz.

24 MR. WALLISER:

25 John Walliser, Pennsylvania

1 Environmental Counsel. 2124 Penn Avenue, Pittsburgh,
2 Pennsylvania. And I will also be speaking for
3 Andrew Williams from the Environment Defense Fund, who
4 was scheduled to speak after me, but wasn't able to
5 attend because of the weather.

6 We appreciate the opportunity to provide
7 brief comments on the Department of Environmental
8 Protection's proposed amendments to Chapter 78; please
9 note that we will be providing more comprehensive
10 written comments as well.

11 We are nearly two years removed from
12 passage of Act 13, a law that has since been partially
13 invalidated by the Pennsylvania Supreme Court,
14 directly affecting elements of this regulatory
15 proposal. PEC recognizes the extensive challenge set
16 before the Department in fulfilling new protections
17 afforded by the law while also meditating on the
18 Court's decision.

19 Nonetheless, we are far better off with
20 promulgation of the expanded protections contained in
21 this rulemaking than to further delay action. We urge
22 the Department, after carefully considering public
23 input, and with due regard to the Supreme Court's
24 decision with respect to the import of the
25 Environmental Rights Amendment, to finalize this

1 proposal. Without question, the Department will need
2 to promptly revisit its regulations when the Courts
3 conclude their adjudication of the law. But we should
4 not sacrifice critical improvements that have been
5 under review now for almost two years.

6 With that said, I'd like to offer a few
7 quick observations on the proposed rulemaking. We
8 commend the Department for taking the initiative to
9 respect pre-hydraulic fracturing assessment under
10 Section 78.52a and 78.73 of the proposal. We will
11 need these provisions to be strengthened to expand the
12 scope of the operator's analysis of potential fluid
13 conduits and the impacted strata, and to require
14 operators to verify avoidance or mitigation of
15 identified hazards prior to hydraulic fracturing.

16 While we support the principle that use
17 of mine influenced water can offset freshwater
18 consumption when performed pursuant to proper
19 safeguards, we believe Section 78.59b, which permits
20 storage of mine influenced water in designated
21 freshwater impoundments, fails that protection
22 standard. At a minimum, the safeguards for storage of
23 mine influenced water should equal those required for
24 wastewater.

25 We recognize the Department may consider

1 allowing temporary storage of brines or produced water
2 to facilitate recycling in future hydraulic
3 fracturing. If so, storage should only occur at
4 permitted and bonded well sites with robust leak
5 detection, secondary containment, capacity and time
6 limit measures.

7 For Water Management Plans, Section
8 78.69, in the Ohio River Basin, we urge the Department
9 to follow the lead of the Susquehanna River Basin
10 Commission's Low Flow Protection Policy to reduce
11 adverse impacts to aquatic resources through better
12 siting and timing of withdrawals.

13 The protection of Public Resources was
14 directly addressed by the Supreme Court decision, and
15 we believe Sections 78.15(f) and (g) should be
16 redrafted. We maintain, as we have expressly
17 advocated in the past, that the Department should
18 expand upon on the list of, and analysis required for,
19 identified Public Resources, and that there should be
20 a presumption of permit conditions or denial where
21 analysis determines probable impact. These standards
22 should be mandatory for both conventional and
23 unconventional operators.

24 As part of a broader examination of Act
25 13 and its implementation after the decision of the

1 Supreme Court, we again question basing the
2 distinction between conventional and unconventional
3 operations and the application of differing protection
4 standards solely on a depth of extraction. The risks
5 of hydraulic fracturing are arguably greater in
6 shallow formations. While the Department may not have
7 liberty at the moment to revisit this distinction in
8 protection standards, we should be prepared for such
9 reassessment pending resolution with a legislative or
10 judicial of the law. Thank you for your
11 consideration.

12 CHAIR:

13 Thank you. Next speaker is
14 Mr. Ron Slabe, followed by Terri Supowitz and Florence
15 Johnson.

16 MR. SLABE:

17 My name is Ron Slabe and reside at 516
18 Angelcrest Drive, Upper Burrell, Pennsylvania and I am
19 here representing Upper Burrell Citizens Against
20 Marcellus Pollution. Let me begin by first asking
21 that additional locations be designated for commenting
22 as well as the comment period extended. The issues
23 before us are too great for such a short period for
24 public access and comment.

25 Let me start by saying that it is an

1 environmental travesty to allow the existence of open
2 pits or impoundments, be they permanent or temporary,
3 and all should be banned. These frack pits are a
4 source of toxins and cancer causing agents that
5 pollute through leakage, spillage and the evaporation
6 into the air of volatile organic compounds, thus
7 contaminating water, soil and the air we breathe. In
8 so far as leakage alone, DEP's Alan Eichler describe
9 these pits as, quote, the most serious issue we've
10 encountered with pollution, end quote. And indeed,
11 frack pits are one of the most dangerous environmental
12 hazards and aspects of the oil and gas industry and to
13 allow their continued existence in our Commonwealth is
14 unconscionable.

15 The flowback and/or produced water
16 stored in such pits contain the chemical pollutants
17 used in the fracking process as well as strontium,
18 barium, heavy metals and radioactive substances
19 brought back from the shale layer. Such pits are
20 uncovered and unfenced, allowing domestic animals and
21 wildlife to wander into these cesspools or be
22 attracted to them due to the heavy concentrations of
23 brine within. Even fencing will do little to deter
24 deer from entering the frack pit areas nor is bird
25 netting a feasible means of keeping wildlife out. The

1 only solution is to ban frack pits completely.

2 In place of such impoundments, all gas
3 drilling companies should be required to use some form
4 of a closed loop system. New Mexico and Illinois have
5 either banned the use of open storage pits or require
6 closed loop systems. The U.S. Interior Department
7 strongly encourages closed systems and tanks since
8 they, quote, minimize waste, prevent entry by wildlife
9 and fugitive emissions affecting air quality and
10 reduce the risk of soil and groundwater contamination,
11 end quote.

12 In the same vein, the burying of drill
13 cuttings and their processing should also be
14 prohibited since they often contain hazardous
15 substances and radioactive materials. All such
16 cuttings should be first tested for radioactivity and
17 disposed of properly. Moreover, the burying of pit
18 liners, a common practice, should also be prohibited
19 and their proper removal and disposal strictly
20 regulated.

21 Further, all orphan wells should first
22 be identified and plugged before drilling can occur on
23 a site. Such wells can be a source of methane
24 migration and a form of groundwater contamination and
25 must to first identified and monitored strictly

1 through DEP onsite inspections and assessment. There
2 should be no residual waste such as brine and
3 wastewater used on Pennsylvania roadways, even when
4 coming from conventional drill sites. Such brine can
5 contaminate ground water, streams, rivers, soil and
6 vegetation.

7 Pre-drill water testing must be
8 comprehensive with a baseline established for water
9 quality. The proposed regulation fails to specify
10 parameters for the pre-drill test of a resident's
11 water quality and leaves too much discretion in the
12 hands of the drillers rather than the hands of the
13 DEP. Furthermore, contaminated drinking water must be
14 restored to the Safe Drinking Water Act Standards and
15 not just to pre-contamination conditions.

16 Lastly, all such regulations should
17 apply not only to unconventional drillers but to
18 conventional drillers as well. Since more and more
19 conventional or shallow well drillers are using
20 hydraulic fracturing methods, it is imperative that
21 they also be included in all the DEP proposed
22 regulations. Thank you for your time and your
23 endurance. That's it.

24 CHAIR:

25 Thank you. Terri Supowitz followed by

1 Florence Johnson and Bob Howard.

2 MS. SUPOWITZ:

3 I will give you copies. You'll get
4 e-mailed copies of this testimony.

5 CHAIR:

6 Thank you.

7 MS. SUPOWITZ:

8 I am Terri Supowitz. I live at 310 Hay
9 Street in Wilkinsburg, 15221. The mission today for
10 the Department of Environmental Protection is to
11 protect Pennsylvania's air, land and water from
12 pollution and to provide for the health and safety of
13 its citizens through a cleaner environment. And let
14 me begin by saying that really, you can't protect the
15 environment and frack at the same time. And I
16 believe, from the bottom of my heart, that fracking
17 needs to be banned and I believe it will be. Not
18 today, maybe not tomorrow, but it will be.

19 There will be no State of Pennsylvania
20 left. The work that you are doing to revise these
21 regulations is the most important work that you will
22 do in your lifetime. You are saving Pennsylvania; it
23 is possible. You are saving our nation and you are
24 saving our land, and our planet, doing the best work
25 that you have ever done.

1 The State of Pennsylvania does not
2 belong to the oil and gas industry. The State of
3 Pennsylvania doesn't --- politicians who owe their
4 electoral offices to the oil and gas industry. The
5 State of Pennsylvania does not belong to the frackers
6 who want to make a quick buck --- to the residents.
7 The State of Pennsylvania belongs to the people who
8 live here, work here and raise their children here.

9 The oil and gas industry is not like any
10 other industry. What you have learned here in
11 relation to the regulations is really just the tip of
12 the iceberg. It is so complex and --- I have been
13 studying it through the years. I am not a scientist.
14 I think there's scientists who have been studying this
15 would say the same thing, that there are just so many
16 unknowns. And we have to find out what those are. We
17 can't do studies. The State of Pennsylvania doesn't
18 want to be an experiment. People live here. This is
19 not, you know --- nothing, you know, there's no life.

20 Fracking is a cancer spreading all over
21 the state. It is more harmful than any other industry
22 to everything around it, to everything that comes in
23 contact with it. This is more harmful to the air,
24 soil, water and the health of the people, animals and
25 plants. We are talking about the health of the entire

1 planet. Pennsylvania is just one state out of the
2 United States. All water is connected; all air is
3 connected.

4 What other industry has a broad negative
5 impact? And what is worse that it has been regulated
6 less than any other industry with huge loopholes. How
7 is that possible? Make that as --- from the
8 beginning, oil and gas, they have their own rules.
9 Just look what they have for a loophole. How many
10 other industries do not have to comply with the Clean
11 Water Act? We are suffering from the economic ---
12 that the oil and gas industry would go elsewhere.
13 Where are they going? This is where the gas is;
14 they're not going to go anywhere else.

15 The regulation, in my opinion, need to
16 go further and not just dealing with the tip of the
17 iceberg. They need to benefit the residents and
18 protect the environment, not protect and benefit the
19 oil and gas industry. The oil and gas industry has
20 had a free pass in Pennsylvania. We get that --- this
21 thing of fracking is the next best thing to sliced
22 bread. He's wrong. Fracking is morally wrong, it is
23 terribly dangerous and the residents of Pennsylvania
24 are suffering the consequences.

25 The regulations have to be titled with

1 no wiggle room; no exemptions, no exceptions. No
2 wiggle room for the oil and gas companies to get out
3 of their responsibilities to the community, the
4 environment and the residents. The most rigorous
5 oversight of inspection on a regular basis, which will
6 mean hiring tons of additional people ---. The fines
7 have to be raised up so they won't pay the industry to
8 ignore regulations. Right now, the fines are probably
9 so low that the oil and gas can afford to continue to
10 pollute and just pay fines because they are probably
11 lower than the cost of rectifying this problem.

12 I want to suggest that we have a hearing
13 in every county in the state of Pennsylvania. That's
14 how important it is. And that we set it back for 120
15 days and maybe 240 days.

16 In conclusion, the Pennsylvania
17 Constitution says that the people have a right to
18 clean air, pure water and the natural, scenic,
19 historic and esthetic values of the environment.
20 Pennsylvania's public natural resources are the common
21 property of all the people, including generations yet
22 to come. As trustee of these resources, which is you,
23 the Commonwealth shall conserve and maintain them for
24 the benefit of all the people.

25 CHAIR:

1 Thank you. The next speaker is Bob
2 Hayward.

3 MR. HOWARD:

4 Howard (corrects pronunciation).

5 CHAIR:

6 Howard, I'm sorry. It was handwritten,
7 so I couldn't read it.

8 MR. HOWARD:

9 That's all right. Ladies and gentlemen,
10 thank you for taking public comments related to
11 proposed changes to Pennsylvania's oil and gas
12 regulations. First, I am not a member of the gas or
13 petroleum industry. I'm not a member of an
14 environmental interest group. I am not being paid to
15 address you. I am an average citizen that will
16 benefit directly from lower costs to heat my home.
17 I'm an average citizen that will benefit from the
18 expanded economic activity supplying more jobs and
19 community tax revenues.

20 I am here to request rational
21 regulations based upon the facts and cost benefit
22 analysis. I am here to ask you to resist any
23 temptation to pander to special interest groups. I am
24 asking you to respond to the needs of the average
25 citizen for inexpensive energy, energy to heat our

1 homes and energy to create new job opportunities in
2 Pennsylvania while protecting our environment.

3 I am here to ask you not to be bullied
4 by zealots asking you to believe the worst that can
5 happen, will become the average. We citizens realize
6 that economic activity has risks associated with it.
7 It was really not that long ago that our
8 great-grandfathers were warned that George
9 Westinghouse's alternating power and light were much
10 too dangerous and that people would be electrocuted
11 daily in the streets and that on a daily basis, homes
12 heated with natural gas would blow up and burn to the
13 ground. Do people get electrocuted? Yes. Do homes
14 blow up? Yes they do.

15 But what if regulators had overreacted
16 to warnings and fears and regulated electricity and
17 natural gas use out of existence or made it so
18 expensive that only a few could afford it? Thousands,
19 and perhaps millions, would be at risk from breathing
20 candle soot and smoke from burning wood. Improved
21 technology and reasonable regulations provide barriers
22 between us and danger and yet, electricity and natural
23 gas are affordable and safe for the masses.

24 Now is not the time to over-regulate
25 with new regulations that will make energy more

1 expensive for the average citizen, curtail job
2 creation, and continue our dependency on imported
3 energy from a volatile Middle East.

4 Because of natural gas from Marcellus
5 shale, prices have fallen and many of us, especially
6 the poor, have saved hundreds of dollars heating our
7 homes this winter. Perhaps environmental zealots live
8 on trust funds, but the average citizen, many retired
9 in our region, are on fixed incomes and cannot afford
10 unnecessary and expanded regulations.

11 Now is not the time to establish new
12 barriers to economic development and job creation.
13 Unnecessary and expanded regulations related to
14 special concerned species raises questions about the
15 list generation and efforts to mitigate impact. We
16 need reasonable regulations and not a full employment
17 act with a legal professional. Regulation needs to
18 consider the human cost of destroying jobs that will
19 deprive thousands of trained apprentices and workers
20 low on the totem pole a chance at a decent wage.

21 Regulation must consider the impact on
22 the individual's mineral rights and the owner's
23 ability to optimally develop his or her own gas
24 rights. We the citizens do not benefit from the
25 illegal taking of private property rights by over

1 regulation. Class action suits by the citizens
2 deprived of their property rights do not --- are
3 costly to the public and stall economic activity.

4 We want the use of modern and developing
5 technology to protect our environment and expand
6 economic opportunities for the next generation. We do
7 not want regulations that lock in existing
8 technologies for the benefit of existing companies. I
9 have had the opportunity to tour several drilling and
10 fracking sites. It is clear to me that today's
11 technology is capable of delivering gas at an
12 acceptable risk. I want the DEP to ensure best
13 practices and not certain company practices that will
14 reduce industry competitiveness.

15 It is time to regulate --- it is time to
16 retain reasonable regulations that provide cheaper
17 energy, more jobs and protection of property rights.
18 Please be aware that the average citizen doesn't have
19 time to run to hearings all over the state. All we
20 ask is for reasonable regulations and a DEP that
21 considers the average citizen's needs in its decision
22 making. Thank you.

23 CHAIR:

24 Thank you. Next speaker is
25 Florence Johnson.

1 AUDIENCE MEMBER:

2 She's gone.

3 CHAIR:

4 She left? okay. Debbie Lamber? Is
5 Debbie Lamber here? We'll move forward to
6 Robert Smetzer. Robert Smetzer? Mike Graham.

7 MR. GRAHAM:

8 I'm Michael Graham. I'd like to thank
9 you for the opportunity to present here this evening.
10 I live at 7880 Steubenville Pike, Oakdale, PA. The
11 conventional oil and gas wells I own and operate are
12 located in Armstrong, Butler, Allegheny and Washington
13 counties. Some of the wells I own and operate were
14 drilled before 1900. These wells have provided a
15 valuable, economic resources to owners, operators,
16 employees and associated businesses for a substantial
17 period of time. Some of these wells still provide
18 free gas to homeowners in accordance with the original
19 leases.

20 My testimony this evening on behalf of
21 the Pennsylvania Independent Petroleum Association and
22 is to express our opposition to the passage of these
23 regulations as published in the Pennsylvania Bulletin.

24 Shallow oil and gas wells, conventional
25 wells, have operated in this state for over 150 years

1 and regulations governing those wells have been more
2 than adequate to protect the environment while
3 allowing producers to operate profitably through most
4 of those years. Be assured that the legacy wells that
5 produce small amounts of oil and gas will not
6 withstand the cost of the individual regulations.

7 Issues such as reference to Act 2
8 procedures for cleanup of spills at oil and gas well
9 sites will impose excessive and unnecessary costs to
10 the oil and gas operator and are not justified by a
11 clear environmental benefit. Secondly, the obligation
12 to return land to approximate original condition that
13 existed prior to well site construction disregards the
14 ability of operators and land owners to agree on site
15 restoration.

16 Third, the requirement for PPC plans
17 creates an unnecessary burden for small operators.
18 Plans would be similar for each well site, yet
19 frequent updating would be required for the plans to
20 be meaningful. Most of these old legacy wells are
21 hardly noticeable today. And the sites after being in
22 existence for 50 to 100 years are water sites in most
23 locations.

24 Fourth, the pit requirement for a slope
25 no steeper than two horizontal and one vertical for

1 conventional wells, which are small and contain less
2 than 100 BBL of fluid, and are used for a short period
3 of time, one to two days, results in substantial
4 larger areas of disturbance and greater costs without
5 benefit. Five, the requirement for conventional wells
6 to retain soil scientists for certification of pit
7 bottoms relative to the reasonable ground water table
8 adds a significant cost for operators. A performance
9 standard would be appropriate.

10 The reporting and remediating of
11 releases is respected to protect the environment;
12 however, modifications are required to eliminate
13 unnecessary costs to the operator. The quantity of
14 releases and various alternatives for remediation need
15 to be considered. Seven, the obligations related to
16 special concern species result in a process which
17 could be never ending, costly, and possibly without
18 authority or benefit.

19 Eight, the protection of tanks from
20 unauthorized acts of third parties is nearly
21 impossible when that unauthorized party decides to
22 vandalize equipment and tanks. Measures that fit the
23 circumstances, tank sizes, location secondary
24 containment signing, and locks where appropriate, need
25 applied at the operator's discretion rather than

1 mandated by regulation.

2 Given the number of tanks, manways,
3 plumbing and valves that have been installed during
4 the existence of the industry a regulation cannot
5 address all the variables without resulting in the
6 need to replace tanks and tank containment facilities
7 and in many instances --- tank containment facilities
8 in many instances. Modifying tanks by drilling or
9 welding to secure locking devices would require
10 expensive cleaning, use of inert gases to secure lock
11 in devices to prevent explosion at a substantial cost.

12 CHAIR:

13 Thank you, sir. Your time is up. Thank
14 you.

15 MR. GRAHAM:

16 All right.

17 CHAIR:

18 Thank you. We'll read the rest of it
19 into the record.

20 MR. GRAHAM:

21 You will?

22 CHAIR:

23 Yes.

24 MR. GRAHAM:

25 Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIR:

John Brunner? Not here? Oh, okay. Ron Brunner --- John Brunner?

OFF RECORD DISCUSSION

CHAIR:

Next name is Joe Judeikis.

MR. JUDEIKIS:

My name is Joe Judeikis, J-U-D-E-I-K-I-S. I live at 105 Mingo Church Road, Finleyville, PA, part of Washington County. And I don't represent any special interest here. Regulations are necessary to ensure industries are provided the necessary governmental guidance to conduct themselves in a responsible manner. Regulations are typically written in blood, so to speak, in that they are intended to prevent the reoccurrence of negative events having already occurred or those having an extremely high probability of occurring.

Over-regulation is a dangerous phenomenon that occurs when regulators, through totally honorable intentions, raise the noble purpose of regulations beyond their legitimate need to that of creating a perfect world. This dangerous departure from real regulatory needs has a much more detrimental

1 effect than no regulation at all as it can literally
2 kill an industry.

3 As such, I ask the Environmental Quality
4 Board and DEP to revisit their proposed regulatory
5 package and subject each section to the litmus test of
6 Reality versus Perfect World. If there is adequate
7 past history to support a section, then so state this
8 specific history and adjust the measured regulatory
9 response as deemed appropriate. However, if the basis
10 for requirements in each specific section serve rather
11 to create a perfect world as opposed to a measured
12 response for preventing reoccurrence of a negative
13 event, then these sections must, by definition of a
14 truly needed regulation, be deleted.

15 Propaganda regarding the environmental
16 effects of drilling are rampant in both camps. It is
17 the role of good government to seek out the truth and
18 act on the facts, not emotions of a vocal few. Thank
19 you for the opportunity to share my assessment and
20 suggestions. Thank you.

21 CHAIR:

22 Thank you. Next speaker is Ron Gulla.

23 MR. GULLA:

24 Good evening. My name is Ron Gulla. I
25 live at 302 Linden Creek Road, Canonsburg,

1 Pennsylvania. I am here tonight as a concerned
2 citizen, dedicated to the protection of public health
3 and the environment from impacts caused by oil and gas
4 drilling.

5 Before raising a number of substantive
6 issues, there are two procedural points. First, the
7 comment period established by the Board currently is
8 60 days. This is grossly inadequate. The comment
9 period should be extended to at least 120 days to
10 afford the public adequate time to comment. Second,
11 additional hearings should be held so that there is at
12 least one hearing in each county that has been or will
13 be impacted. It is unconscionable to us that there
14 are no hearings in several of the most heavily
15 impacted counties such as Bradford, Butler and
16 Susquehanna. The best way for this Board to learn
17 that negative impacts may occur is to hear directly
18 from those heavily impacted to date.

19 Turning to the substantive issues, I
20 want to highlight four important aspects of the
21 proposal. First, the protection of drinking water
22 supplies requires further revisions. Documents
23 obtained from the Oil and Gas Division of DEP show
24 that through 2012, at least 161 drinking water wells
25 have been contaminated by oil and gas development

1 activities. What must be required is that existing
2 water quality be documented before any development
3 activity takes place. Pre-development water testing
4 should involve a comprehensive and consistent set of
5 parameters. The required parameters must be far more
6 inclusive than merely the primary and secondary Safe
7 Drinking Water Act Standards. Both DEP and agencies
8 and other states have identified hundreds of different
9 chemicals that have been used in hydraulic fracturing
10 fluids. Drinking water wells should be tested for the
11 broadest spectrum of chemicals known to be used in
12 fracking operations.

13 When contamination of drinking water
14 wells does happen, the oil and gas well operator must
15 be required to restore that drinking water to at least
16 the water quality standards required for public water
17 supplies. If the pre-construction water quality was
18 better than these standards, then the operator must be
19 required to restore that quality at a minimum.

20 Secondly, it is well known that there
21 are hundreds of thousands of orphan and abandoned oil
22 and gas wells spread across the Commonwealth. Each of
23 these wells is a potential conduit for contamination.
24 Before any development should be allowed, the
25 applicant for a permit should be required to conduct

1 an onsite survey extending at least one mile from the
2 edge of the proposed site, one mile radially from any
3 horizontal well bore and one mile from the end of each
4 well bore to identify orphan and abandoned wells. The
5 permit application must document that such a survey
6 has been performed and any wells identified have been
7 properly plugged.

8 Third, the regulations should prohibit
9 the use of open pits or impoundments for storage of
10 fluids, drill cuttings and other wastes. Anything
11 less than closed loop fluid management should not be
12 allowed. These restrictions should not only apply to
13 new operations, but be applied to continued use of
14 existing pits and impoundments as well.

15 Fourth, the regulations should include a
16 comprehensive waste management system such as that
17 adopted under Subtitle C of the Federal Resource
18 Conservation and Recovery Act. Although the RCRA
19 program now has limited application to the oil and gas
20 industry at the federal level, there is no restriction
21 in federal law that precludes a state from applying
22 more stringent waste management requirements. It is
23 essential that there be a true cradle to grave waste
24 management program applicable to oil and gas
25 development.

1 Five, as it considers these proposed
2 regulations, this Board should apply standards for its
3 review and a policy for a decision that is fully
4 faithful to its trust responsibilities under the
5 Environmental Rights Amendment of the Pennsylvania
6 Constitution.

7 As the Supreme Court recently stated in
8 striking down parts of Act 13 as unconstitutional; the
9 benchmark for decision is the express purpose of the
10 Environmental Rights Amendment to be a bulwark against
11 actual or likely degradation of our air and water
12 quality.

13 As trustee, the Commonwealth has a duty
14 to refrain from permitting or encouraging the
15 degradation, diminution or depletion of public natural
16 resources, whether such would occur through direct
17 state action or indirectly because of the state's
18 failure to restrain the actions of private parties.

19 CHAIR:

20 Thank you. Next speaker is Joni
21 Rabinowitz.

22 MS. RABINOWITZ:

23 My name is Joni Rabinowitz and I live at
24 7721 Edgerton Avenue, Pittsburgh, Pennsylvania, 15221.
25 I believe this current horizontal gas drilling is the

1 most serious issue facing our state, in fact facing
2 all of humankind, that I have ever experienced in my
3 lifetime, which is 72 years. People are dying all
4 over the world and we're turning a blind eye to them
5 because we didn't seek the probability.

6 Before I begin, I want to ask for two
7 changes in your procedure. First that the public
8 comment period be extended to 120 days at a minimum
9 and second, that more hearings be held in all the
10 affected counties. Two, for the purposes of these
11 regulations are to ensure the protection of public
12 health, safety and the environment and to protect
13 public resources, to minimize impact from gas and oil
14 drilling. I think we would all agree that extending
15 extraction of fossil fuels doesn't do either of these.
16 And by and large, these regulations are relatively
17 weak and DEP doesn't have enough staff to enforce
18 them.

19 Regarding the issues in the first place
20 of my concerns about the amount of water available all
21 the way around the planet. It is finite and I'm
22 worried about this. I've studied all across the world
23 and the United States to see how lucky we are here in
24 Pennsylvania. Water is the only thing required to
25 keep life going.

1 One of my concerns is the section which
2 prohibits fluids from within 100 feet of certain
3 bodies of water. Intermittent, ephemeral streams,
4 streams which do not run all year long, also need to
5 be protected under the Clean Streams Act. Wildlife
6 and plant life are volatile are not protected by these
7 regulations.

8 Another one of my concerns is wildlife
9 and forests. Our civilization has developed over
10 hundreds of thousands of years. There's a growing
11 rapid relationship between all beings here on earth.
12 Each has a purpose and a relationship with others.
13 When we mess with that, we're messing with the geology
14 and we're messing with the geology of the deep earth,
15 we take a big chance at ---.

16 Already, massive drill cutting has
17 devastated huge sections of our old forests. Planted
18 grass, even planting trees does not substitute for an
19 old grown forest. Fortunately, having spent much time
20 in the woods, marveling at all the plant life and the
21 details of the environment, I don't think it's
22 possible to mitigate the growth of this industry
23 perpetrates on that environment. I don't see anything
24 in these proposed regulations to adequately extend our
25 wildlife, our low lands and their residents. Also, I

1 don't think regulations apply to our state parks and
2 conservation district, but we use up all of our ---.

3 Many aspects of this gas industry are
4 not being discussed and addressed by these regulations
5 as far as I know. These include the amount of
6 freshwater they're using --- how long it's taking for
7 the condition of the workers, the lack of training as
8 well as emergency workers, compressor stations, the
9 containment tanks --- and more. Here are a few
10 issues. Still nothing. We don't hear nothing about
11 that.

12 They give the word to the DEP, but when
13 you ask the DEP for copies of them, they say they
14 don't have them --- whether we request, we're not
15 getting them. We hear about it --- but nothing more.
16 Shouldn't the company be responsible for fixing the
17 problem and ensuring that doesn't happen again? This
18 incident has a 5 to 14 percent failure rate in the
19 first year. Any other industry with such a failure in
20 the first would be out of business. A recent document
21 --- shows that the main resources completely failed in
22 the operation, despite being required to do so by the
23 industry's own standards. DEP demands it unless we
24 get this. And lastly, according to a recent study by
25 the --- we are one of the few states, along with

1 Atlanta, we're totally --- regulations and
2 inspections, mainly because of the law that people are
3 not in --- we need to fix that.

4 In closing, I want to say that I haven't
5 completely studied this document and I don't
6 necessarily understand all of it either. I'm just a
7 regular citizen with no special --- in any of these
8 areas. I have learned, though, about the destruction
9 from this industry. When I'm on my deathbed, I want
10 to be able to say that I did my best to save the
11 planet from annihilation. Thank you.

12 CHAIR:

13 Next speaker is Pia Colucci.

14 MS. COLUCCI:

15 I think everybody recognizes this
16 bottle. This is Periot (phonetic); it comes from
17 France. France has banned fracking ---. And I, an
18 average citizen, and my gas prices in my house have
19 never --- so I don't know. My name is Pia Colucci.
20 I'm at 4725 Wallingford Street, Pittsburgh, 15213. I
21 thank you, Pennsylvania Environmental Quality Board,
22 for holding this hearing today. But I was sadly
23 surprised that the nearest meeting place to Pittsburgh
24 was an hour away. I am confident that the meeting ---
25 had it been held in the city, we could have had more

1 participants.

2 But be assured, that each of us that
3 were here and are still here, against fracking, are
4 speaking for hundreds more. We are their voice
5 tonight and we take that responsibility very
6 seriously.

7 We do ask that you extend this hearing
8 time to 240 days and increase it to every county in
9 the state. Because as a realtor, I know that people
10 move around and we are not just in Allegheny County or
11 just Washington County. Maybe next year, I will move
12 to a county that is affected. So we should have in
13 every single county a hearing so people can be
14 informed as to what's going on.

15 It must be the fracking industry's
16 nightmare come true, that the timing of this water
17 hearing is in the middle of an ongoing crisis where
18 300,000 West Virginians are struggling with a chemical
19 spill polluting the water. I cannot imagine the horror
20 to find out that my family and myself would have been
21 drinking toxic water for a week before it was
22 announced not to touch it. And I reiterate, not to
23 touch it. Only use it to flush the toilets, which is
24 what I think about this industry. Flush it down the
25 toilet.

1 Stop for a second and imagine that
2 you're looking at your child, knowing they drank that
3 polluted water for a week and that you didn't know it.
4 Now what? No one is really sure what that chemical in
5 question will do to the human body, which brings me to
6 the fact that no one knows what chemicals are used by
7 frackers as they pump millions of gallons of toxic
8 brew, under pressure, into our Earth, in order to
9 extract natural gas that is then sold and shipped
10 abroad. Frackers will not divulge the poisons they're
11 using, citing proprietary formulas.

12 This is why it is paramount to protect
13 our streams, weather or not they will continuously
14 year round, our creeks, rivers, natural depressions
15 that include vernal ponds, which are a seasonal
16 wetland used for spawning, lakes, wells, ponds and any
17 other natural or manmade body of water. The toxic
18 brew used by frackers is lethal to human consumption.
19 When contamination occurs to wells, waterways or any
20 other water source, frackers response always leaves
21 the likely possibility that humans that consume that
22 water before that water ban is announced or toxic
23 laden water is discovered.

24 It is no secret that trucks dump their
25 water loads, their wastewater loads into creeks in the

1 cloak of night. That is documented. It is human
2 nature to take an easy road versus following the law.
3 And the laws are flawed, in any case. Holding ponds
4 are breaking the law of our state in my and many
5 people's opinions.

6 The Constitution of the State of
7 Pennsylvania states in Section One, Inherent Rights of
8 Mankind, possessing and protecting property and
9 reputation, and of pursuing their own happiness. In
10 Section Two, as we have heard multiple times tonight,
11 that people have a right to clean air, pure water and
12 to preserve preservation of the natural, scenic,
13 historic and esthetic values of the environment.

14 Another notable timing event is the
15 release of Rich Fitzgerald's Live Well Allegheny
16 campaign of January 21st. He states, and I quote,
17 this is a new day and a new Allegheny County. Our
18 residents are seeking an active, health lifestyle and
19 are taking proactive steps to improve their health.
20 Not only are they focused the physical health, but on
21 their general well-being. We want to do everything
22 that we can to encourage that interest. Under the
23 leadership of Dr. Hacker and the Board of Health, the
24 Live Well Allegheny campaign will stimulate our
25 community and make better decisions for the health and

1 well-being of all of our residents, end quote.

2 None of that is possible without clean,
3 reliably safe water. It is our job as citizens to
4 demand it and the job of our government to enforce it
5 vigilantly and strictly. There is no room for
6 fracking in this right. Fracking is and always will
7 be an inherently dangerous and destructive practice,
8 in an industry that is outdated and toxic. The day of
9 the fossil fuel is over and the dawn of renewable
10 energy is here. Let's protect our one and only
11 spaceship as if our lives depended on it because they
12 do. Thank you.

13 CHAIR:

14 The next speaker is Beth Wallace.

15 Beth Wallace?

16 AUDIENCE MEMBER:

17 Just left.

18 CHAIR:

19 Not here, okay.

20 AUDIENCE MEMBER:

21 No.

22 CHAIR:

23 At this time, that is the last of the
24 registered speakers. At this time, I would like to
25 open the floor up to anybody else who would like to

1 provide any additional comments or testimony. Is
2 anybody here that would like to provide any other
3 testimony? Can I get your name? Laney Zipco?

4 MS. ZIPCO:

5 Yes. My only request is that you
6 address the fact that the oil and gas industry would
7 not reveal the chemicals. A lot of people have said
8 that we need to have pre-drilling water testing. You
9 cannot do that if you don't know what chemicals there
10 is. Because water companies, testing companies don't
11 go out and drill for every --- they have like 500
12 chemicals they use. You can't afford to do that.

13 So what they need to do is either
14 address that and tell the landowners what they're
15 using. And you should want to know because they're
16 disposing of that. And if they won't tell them, then
17 they have to pay for the water to be tested. They'll
18 tell them after a couple of tests because it's very
19 expensive.

20 CHAIR:

21 Could you please state your name for the
22 record?

23 MS. ZIPCO:

24 Lanie Zipco (phonetic).

25 CHAIR:

1 Okay. Thank you.

2 MS. ZIPCO:

3 I'm a landowner also. But I'm also a
4 public official. I just need to address this.

5 CHAIR:

6 Please state your name for the record,
7 sir.

8 MR. HENNER:

9 My name is Donald Henner (phonetic).
10 Tell you how I kind of got involved here. I found out
11 that Range Resources was going to put a well about 300
12 feet from my house. So I started with DEP and I'm
13 really happy about the changes in Act 13. But as you
14 can imagine, I often have opposition from Range and
15 various sources. Ultimately, I was successful in
16 getting them to move the well site a thousand feet
17 after much ado.

18 Now, this was in the middle of my farm.
19 So this was in the middle of a farm, so why it has to
20 be next to a row of houses' property lines is beyond
21 me, but that's where they decided to put it. They
22 ultimately may move it. It has not been drilled yet.
23 I probably will move before that happens. At least, I
24 hope I do.

25 In review of the regulations that were

1 currently regulations, they were completely
2 inadequate. They were clearly based on an old
3 drilling style, things that were not updated, most of
4 them weren't. But even some of the fundamental
5 things, you would say, okay, is this the guy that has
6 a pond here or whatever. Do you have that pond?
7 Well, I don't use that pond. Nobody even knows what
8 it was going to be. There was all kinds of problems
9 with the regulations, tons of problems. The townships
10 were completely inadequate to handle it. They didn't
11 have the expertise to handle it. I'm telling you the
12 zoning board members don't have the expertise.

13 I've been involved in aviation safety
14 for almost 50 years. I'm the director of safety for a
15 major helicopter company, the world largest. I know a
16 little bit about safety and I know a little bit about
17 regulations. I deal with one of the most regulated
18 industries in this country, aviation. And by the way,
19 we have a lot of regulations and some days I hate
20 them, but what do we also have, a very safe industry.
21 You don't even give a second thought when you get on
22 an airplane, do you? Don't even give it a second
23 thought.

24 You folks really need to --- you work
25 for us. You really need to look at this very, very

1 seriously. The regulations that most of these
2 townships have are completely inadequate, so we rely
3 on you. You're the next step up, so please take this
4 seriously. It is a problem. It is a very big
5 problem. And if you think drilling sites and some of
6 those things are a problem, visit one of these
7 compressor stations. They have five or six diesel
8 locomotives running full steam completely outside of
9 PA regulations. And they will be here forever, for as
10 long as gas is coming out. So what about those
11 compressor stations? They're going to be there for a
12 long, long time making a lot of noise. A thousand
13 feet from my house I had a coal shaft that ran for
14 years. It finally got shut off when they closed the
15 84 Mine. I could just imagine having a compressor
16 station in my backyard. Thank you for your time.

17 CHAIR:

18 Is there anybody else who would like to
19 provide any testimony for tonight's hearing? Seeing
20 none, I'd like to just remind everybody that the
21 public comment period has been extended to 90 days.
22 And the public comment period now closes on March
23 14th, 2014.

24 UNIDENTIFIED SPEAKER:

25 What about location, new location?

1 CHAIR:

2 Two new locations and I was getting to
3 that. The next two hearings, February 12th is in
4 Warren County at the Warren County Courthouse. And
5 February 10th in Bradford County at Troy High School.
6 Two additional hearings, public hearings. One is
7 Warren County at the Warren County Courthouse on
8 February 12th. The second is on February 10th in
9 Bradford County at Troy High School. If there's no
10 other commentators present, on behalf of the EQB, I
11 hereby adjourn this hearing.

12 * * * * *

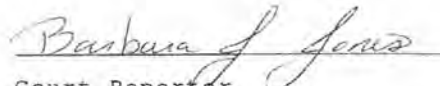
13 HEARING CONCLUDED AT 10:00 P.M.

14 * * * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chair D'Matteo was reported by me on 1/22/2014 and that I Barbara J. Jones read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.


Court Reporter