

BEFORE THE
ENVIRONMENTAL QUALITY BOARD

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IN RE: PROPOSED ENVIRONMENTAL PROTECTION PERFORMANCE
STANDARDS AT OIL AND GAS WELL SITES

(25 PA CODE, CHAPTER 78)

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PUBLIC COMMENT HEARING

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BEFORE: ADAM PANKAKE, Chair
Kurt Klapkowski, Member
Scott Perry, Esquire, Member
Hayley Book, Member
John Poister, Member

ORIGINAL

HEARING: Thursday, January 23, 2014
6:00 p.m.

LOCATION: Indiana University of Pennsylvania
Kovalchick Convention and Athletic Complex
711 Pratt Drive
Indiana, PA 15705

Reporter: Cynthia Piro Simpson

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P R O C E E D I N G S

CHAIR:

Good evening, everyone. I'd like to say welcome to the Environmental Quality Board's public hearing on the Environmental Protection Performance Standards at Oil and Gas Well Sites, proposed rulemaking. My name is Adam Pankake. I am a representative of the Pennsylvania Environmental Quality Board. Joining me tonight are Scott Perry; Kurt Klapkowski, with DEP's Office of Oil and Gas Management; Hayley Book, with DEP's Policy Office; and John Poister, Community Relations Coordinator for the Southwest Regional Office.

I officially call this hearing to order at 6:00 p.m. In the event of an emergency, exits are located to my left, to my right and straight ahead. At this time, please turn off all cell phones.

The purpose of this hearing is to formally accept testimony on the proposed regulations, Environmental Protection Performance Standards at Oil and Gas Well Sites.

In addition to this hearing, the EQB will hold three additional hearings on the proposed regulations on January 27th in Tunkhannock, February

1 10th in Troy, and February 12th in Warren.
2 Information about the specific locations of this
3 hearings is available on DEP's website at
4 www.dep.state.pa.us. There are also copies available
5 of the Citizen's Guide to DEP Regulations. Inside
6 this document you will find descriptions of the
7 environmental regulatory process in Pennsylvania, the
8 Environmental Quality Board's role, and how to submit
9 comments and tips for submitting effective comments.

10 The proposed rulemaking, which was
11 adopted by the EQB on August 27th, 2013, would amend
12 25 Pa. Code, Chapter 78 to update the requirements
13 related to service activities associated with the
14 development of oil and gas wells. EQB adopted the
15 proposed rulemaking with the recommendation for a 60
16 day public comment period in at least six hearings
17 across the state. This represents a heightened level
18 of public participation, because there was usually
19 only a 30 day public comment period held for typical
20 Department rulemaking.

21 Additionally, public hearings are held
22 on the basis of public interest. And for some
23 regulations there are a few or even none that are held
24 if there is no request for hearings. Due to the
25 increased public interest in the rulemaking, EQB has

1 scheduled nine public hearings to allow ample
2 opportunity for public comment on its proposed
3 rulemaking.

4 The proposed regulatory amendment would
5 address recent statutory changes in Act 13 of 2012 in
6 codified existing practices. This rulemaking would
7 allow for the implementation of key provisions of Act
8 13, including further consideration of impacts to
9 public resources, such as parks and wildlife areas,
10 the prevention of spills, the management of wastes and
11 the restoration of well sites after drilling.

12 The proposed rulemaking also includes
13 standards affecting the construction of gathering
14 lines and temporary pipelines, and includes provisions
15 for identifying and monitoring abandoned wells closed
16 to proposed well sites.

17 In order to give everyone an equal
18 opportunity to comment on this proposal, I would like
19 to establish the following ground rules. I will first
20 call upon --- I'm sorry. I will first call upon the
21 witnesses who have preregistered to testify at this
22 hearing. After hearing from these witnesses, I will
23 provide any other interested parties with the
24 opportunity to testify as time allows. Testimony is
25 limited to five minutes for each witness.

1 Organizations are requested to designate one witness
2 to present testimony on its behalf. Each witness is
3 asked to submit three written copies of his or her
4 testimony to aid in transcribing the hearing. Please
5 place two copies in the box marked public comments to
6 my left. Hand one copy to our stenographer, who's to
7 my left as well, prior to presenting testimony.
8 Please state your name, address and affiliation for
9 the record prior to presenting your testimony.

10 The EQB would appreciate your help in
11 spelling names and terms that may not be generally
12 familiar so the transcript can be as accurate as
13 possible. Because the purpose of the hearing is to
14 receive comments on the proposal, EQB or DEP staff do
15 not address questions about the rulemaking during the
16 duration of the hearing, but may address any questions
17 after the conclusion of the hearing.

18 In addition to or in place of verbal
19 testimony presented at today's hearing, interested
20 persons may also submit written comments on this
21 proposal. Written and verbal comments hold the same
22 weight when considered in the finalization of this
23 rulemaking. All comments provided become part of the
24 official public record. All comments must be received
25 by the EQB on or before March 14th, 2014, which has

1 been extended from the original comment period end
2 date of February 12th, 2014.

3 Comments should be addressed to the
4 Environmental Quality Board, P.O. Box 8477,
5 Harrisburg, PA, 17105. Comments may also be e-mailed
6 to regcomments@pa.gov or submitted online to the EQB's
7 regulatory comment system accessible from DEP's
8 website.

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

19 I would now like to call the first
20 commentator, Mary Anna Babich. And after her will be
21 Susan Oliver. Mary Ann --- Anna, I'm sorry.

22 MS. BABICH:

23 Hello. My name's Mary Anna Babich.

24 OFF RECORD DISCUSSION

25 MS. BABICH:

1 Hello. My name's Mary Anna Babich. I'm
2 with Dawood Engineering, 11 Grandview Circle,
3 Canonsburg, PA, 15317. Good evening, and thank you
4 for ---. Good evening, and thank you for allowing
5 Dawood Engineers to provide feedback regarding the
6 proposed rulemaking. Dawood is a Pennsylvania-based
7 corporation, is a civil engineering and environmental
8 consulting firm, which provides numerous services to
9 the oil and gas industry, including delineation,
10 erosion and sedimentation controls, development and
11 compliance geotechnical permitting, hydrostatic
12 testing, to name a few.

13 A majority of Dawood's employees are
14 native Pennsylvanians who have been raised to
15 appreciate and enjoy the vast resources within the
16 Commonwealth. Therefore, as a company, we appreciate
17 the Pennsylvania DEP's attempt to protect our natural
18 resources by regulating the environmental effects of
19 the oil and gas industry. Pennsylvania has been
20 recognized as having some of the nation's strongest
21 regulations on oil and gas development, providing
22 greater certainty for companies seeking to do business
23 here, and we support that. According to STRONGER, the
24 current regulations are well-managed and meeting its
25 program objectives.

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

14 According to the Energy Information
15 Administration, the Commonwealth is currently
16 producing 18 percent of the nation's natural gas.
17 To continue to develop domestic energy and eliminate
18 our dependence on foreign fuel, Dawood strongly
19 suggests that the EQB requires the DEP to technically
20 evaluate the proposed regulations without pressures
21 from the citizen groups. Dawood encourages the PA DEP
22 to revise the proposed regulations in order to
23 establish justified, practical, scientific and cost-
24 effective regulations.

25 Among our many concerns with the

1 proposed regulations, we would like to highlight the
2 following, which pose a particular burden to our
3 business and the oil and gas industry.

4 Section 78.51 states that the quality of
5 a restored or replaced water supply will be deemed
6 adequate if it meets the standards established by the
7 Pennsylvania State Drinking Water Act, or it's
8 comparable to the quality of the water supply before
9 it was affected by the operator if that water supply
10 exceeds those standards.

11 Dawood agrees that if the operator
12 impacts water quality, the operator is responsible for
13 restoring or replacing the water supply. However, the
14 operator should not be responsible for restoring or
15 replacing an impacted water supply to the quality that
16 the water --- I'm sorry, to the quality of the water
17 supply before it was affected by the operator.

18 Section 78.52a states that abandoned and
19 orphaned well identification proposes the operator
20 identifies a location of orphaned and abandoned wells
21 within a thousand feet measured from the surface
22 around the entire length of the horizontal well bore.

23 Identifying the abandoned and orphaned
24 wells is acceptable, however, this requirement must
25 not be opened-ended. In its current form, this

1 regulation is unclear as to what requirements will be
2 placed on industry and has the potential for undue and
3 unnecessary expense.

4 CHAIR:

5 Ms. Babich, you have one minute.

6 MS. BABICH:

7 In closing, Dawood urges the EQB to
8 reconsider proposed regulations. Modifying the
9 revised oil and gas regulations at this time without
10 providing scientifically sound and clear language
11 would be detrimental to the EQB, Pennsylvania DEP
12 industry and the citizens of the Commonwealth. Thank
13 you.

14 CHAIR:

15 Susan Oliver is next, followed by
16 Sherene Hess.

17 MS. OLIVER:

18 Good evening. I'm Susan Oliver. I'm
19 the Manager of Community Relations for WPX Energy in
20 the Marcellus Basin at 6000 Town Center Boulevard in
21 Canonsburg here in Pennsylvania, 15317.

22 WPX is one of the largest natural gas
23 producers in the United States and is active in many
24 of our nation's basins. We've been in the Marcellus
25 since 2009 and we've drilled a hundred wells in the

1 Commonwealth. Many of our employees have over 30
2 years experience in the natural gas industry.
3 WPX was founded on a set of stringent values and we
4 want to be difference-makers in our communities and in
5 the natural gas industry. Building relationships with
6 a variety of stakeholders, while establishing and
7 maintaining trust is important to us.

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

17 Recognizing the voluminous nature of the
18 Chapter 78 regulations, I will only make a few
19 comments on items that we believe are the utmost
20 importance.

21 Initially, Section 3215(e) of Act 13
22 requires the Department to develop regulatory criteria
23 that protect public resources while ensuring optimal
24 oil and gas resource development, and respecting oil
25 and gas owner property rights. However, the proposed

1 regulations in Chapter 78, Section 15, do not
2 adequately implement or address those requirements.
3 The regulatory criteria for conditioning a permit has
4 not been provided and the draft regulations only frame
5 the Department's authority to implement the
6 conditions. If industry is required to avoid or
7 mitigate potential impacts to these resources, the
8 criteria used to assess impacts must be established
9 and provided.

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

22 Another significant issue is water
23 replacement. The main concern is the DEP proposes the
24 industry replace a water supply to Safe Drinking Water
25 Act Standards or better, even when the results of

1 predrill testing of the water supply show the water
2 did not meet these standards in the first place.
3 There's a challenge in the Commonwealth in regard to
4 private water wells, especially the lack of
5 construction standards. Our experience with predrill
6 testing in several studies, independent of natural gas
7 development, demonstrate that a large number of
8 private water wells are poorly constructed, many
9 contain iron, manganese, coliform and methane, and
10 many do not meet the criteria of the Safe Drinking
11 Water Act. Until the Pennsylvania legislature passes
12 legislation to require property owners to properly
13 construct private water wells and ensure they meet the
14 SDWA, it's unreasonable for the DEP to require the
15 industry to restore private water supply to better
16 standards than originally listed. We are requesting
17 that the operator that may impact a water supply, that
18 the DEP requires replacing the water supply to the
19 predrilled testing results.

20 Regarding waste and water management at
21 a well site, the natural gas industry has been
22 recycling or reusing water and minimizing fresh water
23 use for quite some time, and unfortunately the new
24 regulations are forcing operators to rethink this
25 option. In order to increase the amount of water

1 being reused or recycled in the Commonwealth, the
2 regulation needs to provide an avenue for the
3 operator, either through permits or DEP approval to
4 document new or reused water from one site to another.
5 In addition, Oil and Gas Division must have its own
6 regulations concerning water management, and not be
7 conflicted with or confused with that of the Waste
8 Management Division.

9 Regarding orphaned and abandoned wells,
10 identifying active, inactive, plugged, abandoned and
11 orphaned wells prior to hydraulic fracturing is
12 something the industry can work with the DEP, but not
13 to the level ---

14 CHAIR:

15 One minute. One minute.

16 MS. OLIVER:

17 --- of the proposed regulations, as they
18 lead to never-ending obligations on the part of the
19 industry for wells that are not even ours.

20 We thank you for your efforts and desire
21 to continue to work and seek better and efficient ways
22 to regulate our industry and safeguard Pennsylvanians
23 environment. WPX is committed to this regulatory
24 review process and we appreciate and respect the
25 communities in which we operate and are dedicated to

1 protecting Pennsylvanian's environment. We look
2 forward to continuing to work with the DEP and other
3 interested parties to finalize the Chapter 78
4 provisions. Thank you.

5 CHAIR:

6 Next is Sherene Hess, followed by Jan
7 Milburn.

8 MS. HESS:

9 Good evening. I'm Sherene Hess at 234
10 Geesey Road in Indiana. As President of the Indiana
11 League of Women Voters, I'm proud that, as a result of
12 our work and consensus by members throughout the
13 Commonwealth, we have a position from which I speak
14 this evening on behalf of the League of Women Voters
15 of Pennsylvania.

16 The League is a staunch supporter of our
17 Constitutional rights to clean air, pure water and the
18 preservation of our natural resources. We further
19 advocate for the use of best practices, comprehensive
20 regulation and adequate staffing across government
21 agencies to provide the maximum protection of public
22 health in the environment in all aspects of the
23 operations associated with the development and
24 distribution of oil and natural gas.

25 Tonight we address water management

1 plans. We advocate that the implementation
2 requirements adopted by the more stringent regulations
3 of the Delaware River Basin be imposed on the
4 Susquehanna and Ohio Basins and the Great Lakes
5 Consortium. In addition to serving as important
6 aquatic habitats and tourist attractions, all of these
7 rivers and lakes are sources of drinking water for
8 millions.

9 Withdrawal and reuse plans need to be
10 addressed both individually and cumulatively to
11 determine environmental impacts on the waters.
12 Because of recent weather extremes and the large
13 volumes of water withdrawn by unconventional natural
14 gas drilling, the expiration date of such plans, we
15 believe, should be introduced from five years to two
16 years.

17 To underscore water protection,
18 suspending and revoking a water management plan should
19 be triggered by any violation without warning and
20 without a chance to comply. Reason for denials by the
21 Department should also include cumulative impact of
22 withdrawals within the basin.

23 Further, the industry should bear the
24 burden of proof that a plan will not adversely impact
25 water quality within the basin. And operators must be

1 site-specific in their plans and be held accountable
2 for their actions.

3 The League believes that the road
4 spreading of brine for dust control, road
5 stabilization and the prewetting and anti-icing and
6 de-icing operations should be prohibited. While using
7 natural brine may be more appealing than adding rock
8 salt to fresh water, it does come with significant
9 liabilities.

10 First, its salt content is variable. As
11 defined, brine content can range from three-and-a-half
12 percent to 26 percent sodium chloride.

13 Secondly, salt stays in the soil for
14 years until leached out by water. Soils with high
15 salinity dehydrate roots and prevent absorption of
16 necessary nutrients. Salt can act as an herbicide.

17 Thirdly, brine from conventional wells
18 may contain other chemicals, like corrosion
19 inhibitors, whose safety may be untested. The
20 regulations only require that free oil be separated
21 from the brine before spreading. Without
22 comprehensive testing and treating of brine to meet
23 established safety standards, the risk of poisoning is
24 too high.

25 Fourthly, because of increasing needs

1 and the cost to dispose of brine, there is a natural
2 tendency to overuse brine on road surfaces that may
3 not need treatment. This creates unnecessary hazards.
4 While such brine has been limited to conventional
5 wells, this may be difficult to monitor and enforce
6 based solely on the required paperwork and/or notice.

7 Fifthly, specific to de-icing, the brine
8 should not be mixed with coal ash that creates
9 additional hazards, and those that use brine for such
10 purposes should not be deemed to have a residual waste
11 permit by rule.

12 Finally, annual plan approval, rate and
13 frequency of application and other requirements are
14 not adequate to allow this practice. And it seems
15 highly probable, given the magnitude and cumulative
16 impact of such brine spreading, that it will enter
17 bodies of water or water forces or eventually
18 infiltrate our groundwater, which we consider to be
19 the life source of future generations.

20 We urge you to err on the side of
21 caution. And we thank you for your consideration of
22 these comments.

23 CHAIR:

24 Thank you. The next commentator is Jan
25 Milburn, followed by Joe Leighton.

1 MS. MILBURN:

2 Jan Milburn, Greensburg Westmoreland
3 Marcellus Citizens' Group. I represent an
4 organization of over 350 residents, primarily in
5 Westmoreland County. The proposed standards do not
6 serve to sufficiently protect the environment or the
7 health of the citizens of Pennsylvania. Over 1,600
8 residents thus far entered their names onto the List
9 of the Harmed, avowing that after drilling operations
10 began in their area, they or their families became
11 ill. Several doctors are trying to determine
12 causation of health problems and found chemicals used
13 to frack in the blood of their patients.

14 Research corroborates all the facts. A
15 Colorado School of Public Health study indicates that
16 people who live within one half mile of frack
17 operations have an increased risk of disease due to
18 exposure to toxic chemicals, both cancerous and
19 noncancerous. They found chronic health risks were
20 great, in order of prevalence, for neurological,
21 hematological, respiratory disease and developmental
22 effects.

23 Dr. Currie of Princeton looked at PA
24 birth records of infants born within 2.5 kilometers of
25 frack sites. Their likelihood of low birth weight

1 increased by more than half. Their chances of a low
2 apgar score doubled.

3 Researchers Bamberger and Oswald list
4 instances of animals with neurological, reproductive
5 and acute gastrointestinal problems after being
6 exposed to frack chemicals. They report that scores
7 of animals died over several years. In Northern PA,
8 140 cattles were exposed to wastewater when an
9 impoundment was breached. Seventy (70) cows died, the
10 remainder produced only 11 calves, only three of those
11 survived.

12 Mead, of the Academy of Natural
13 Sciences, found that as the density of well pads
14 increases, the types of insects in the stream
15 decrease.

16 The University of Missouri just recently
17 found that water samples collected from drilling beds
18 in regions of Colorado exhibited anti-estrogenic,
19 anti-androgenic and estrogenic activity.

20 Disrupting the endocrine systems of our
21 born and yet unborn children is a serious business
22 with the potential to lead to a multitude of diseases
23 and developmental disruption, yet in the State of PA
24 we have well sites located within two miles of at
25 least 190 daycare facilities, 223 schools and five

1 hospitals.

2 Water. Predrill data should be made
3 available to the public. Contaminated drinking water
4 should be restored to the quality as tested prior to
5 drilling, including if it was superior to the
6 standards of the Safe Drinking Water Act. The
7 proposed amendments state the presumption of liability
8 does not apply to pollution from well construction
9 activities. Presumption should apply to those
10 activities.

11 Over 161 letters of determination have
12 been sent out by the DEP, indicating that those water
13 sources were contaminated by fracking. In just two
14 years DEP reported 241 violations of environmental
15 regs at well sites within two miles of our daycare
16 centers, 40 violations within two miles of our
17 schools.

18 Pits. Temporary or permanent, storing
19 waste of any form, including flowback water or
20 contaminated drill brine should not be permitted
21 anywhere in the State of Pennsylvania. Standards
22 state that residual waste, including contaminated
23 drill cuttings, may be disposed of onsite.

24 The U.S. Department of the Interior
25 advises of pits. Open production pits are to be

1 discouraged. Closed tanks and systems minimize waste,
2 entry by wildlife, fugitive air emissions, and it
3 reduces the risk of soil and water contamination.
4 Costs may be reduced with the use of tanks.

5 Waste pits are banned in New Mexico.
6 Antero, Chief and Rex have moved to closed loop.
7 Andarko uses closed loop in PA. The EPA Star Program
8 recommends a closed loop system. But these newly-
9 proposed regs allow the continuance of the use of
10 frack pits. This invites further pollution and
11 contamination of waters.

12 Presently DEP permits leakage of
13 potentially toxic chemicals from the pits. There
14 should not be any legally allowed leakage of fluids
15 onto surrounding land areas.

16 The proposed regs will not prevent the
17 flooding, spills and leak violations that are commonly
18 occurring in Pennsylvania.

19 Stating a required footage of freeboard
20 provides very little protection. Violations due to
21 the overflow of freeboard are occurring on a regular
22 basis. Companies repeatedly are charged with the same
23 violations. The fines are limited or nonexistent.

24 The American Nurses Association passed a
25 resolution stating that the frack chemicals in our

1 water supplies are linked to cancer, kidney, liver and
2 neurological damage. These operations are not limited
3 to industrial areas in most of the state. This is
4 occurring on farms, woodlands, parks and next to our
5 homes, schools, hospitals and daycare centers. PA
6 communities are divided between those who easily seek
7 wealth and those fighting to preserve the quality of
8 life in their communities. Frack pits, toxic
9 chemicals, heavy metals, radioactive cuttings do not
10 belong in the areas where people live and raise their
11 families.

12 CHAIR:

13 Ms. Milburn, you have one minute.

14 MS. MILBURN:

15 These regs will have a direct affect on
16 the health of our children and our grandchildren,
17 Please do not allow the state to be lowered to the
18 status of Kanawha's cancer valley or Louisiana's toxic
19 land state. The gas industry wants exemptions from
20 sections of the Clean Air, Superfund, RCRA, Safe
21 Drinking Water and Clean Water Act, plus Right to Know
22 and Toxic Breathing Inventory, putting millions of
23 dollars into fighting health and environmental
24 regulation. We encourage you to provide meaningful
25 changes in performance standards that were written

1 decades prior to the advent of the hydraulic fracking
2 process, which is nothing like the drilling of shale
3 and gas wells. Thank you.

4 CHAIR:

5 The next witness is Joe Leighton,
6 followed by Gary Hovis.

7 MR. LEIGHTON:

8 Good evening. My name is Joe Leighton.
9 I am the Associate Director of the Associated
10 Petroleum Industries of Pennsylvania, Commission of
11 the American Petroleum Institute, a national trade
12 association that represents all segments of America's
13 oil and natural gas industry. It's more than 580
14 members, providing most of our nation's energy.

15 API is also a standard-setting
16 organization. For 89 years, API has led the
17 development of petroleum and petrochemical equipment
18 and operating standards. These standards represent
19 the industry's collective wisdom on everything from
20 drill bits to environmental protection. API maintains
21 more than 650 standards and recommended practices.
22 Many of these are incorporated into state and federal
23 regulations.

24 API supports strong environmental
25 safeguards and stewardship, and commends DEP on their

1 regulatory oversight program; however, we do have some
2 concerns with several provisions contained in the
3 proposed rulemaking that we plan to outline in detail
4 in our written formal comments. In the interest of
5 time, I will highlight a few areas.

6 In Section 78.66, API believes that
7 clarification is needed regarding Act 2 requirements
8 for spills onto pad material versus off pad onto
9 native soils.

10 Section 78.66(b)(5), we believe that any
11 responsible party should also be able to decontaminate
12 equipment. The current language suggests that
13 decontamination is limited to an operator. API-PA
14 suggests that the language be revised to state that a
15 responsible party is also able to decontaminate
16 equipment.

17 Throughout Section 78.66, the timeline
18 is indicated as 15 business days. We suggest that
19 78.66(c)(3)(ii) be revised to be consistent with the
20 other 15 day notification provisions within the
21 section.

22 In regard to borrow pits. Section
23 78.67(a) requires an operator of a borrow pit to
24 operate, maintain and reclaim the site in compliance
25 with the environmental performance standards of non-

1 coal mining regulations and with the erosion and
2 sedimentation control regulations and other applicable
3 laws. It is suggested that either these, quote, other
4 applicable laws, be identified or that this all-
5 encompassing reference be deleted.

6 In Section 78.67(c)(2), it's very
7 confusing and seems to create an elaborate methodology
8 in determining what type and when certain permits may
9 be required for restoration. It seems to require the
10 operator of a borrow pit that no longer meets the well
11 permit/registration and bonding requirements of the
12 Oil and Gas Act to obtain a non-coal surface mining
13 permit unless an exemption applies.

14 Further, they can get a two-year
15 extension on the restoration requirements approved, if
16 there's a borrow pit along with the well site in nine
17 months of completing drilling. Supplies and equipment
18 can also stay at the site if the land owner approves
19 and the supplies and the equipment are maintained
20 within the containment system that meets the very
21 detailed restricted requirements of an unconventional
22 well site.

23 This construct seems to be required.
24 Section 3273.1 of the law says that they do not have
25 to comply with the non-coal mining law if they have a

1 well permit/registration and bonding and comply with
2 those Chapter 78 regulations. It is strongly
3 recommended that this process and requirements be
4 simplified.

5 In regard to pre-wetting and anti-icing.
6 Section 78.70a(q) requires the Department to be given
7 at least a 24-hour notice prior to roadspreading.
8 Weather events, such as freezing rain, are difficult
9 to predict. There are many instances where the
10 Department has years of experience with operators who
11 conduct roadspreading operations and does not need to
12 inspect all activities. It is recommended that the
13 prespreading notice be modified to allow the
14 Department to waive this requirement.

15 Section 78.73(d), this section requires
16 an operator who alters an orphan well during hydraulic
17 fracturing to plug it. Section 3203 of the Oil and
18 Gas Act of 2012 defines alteration as an operation
19 that changes the physical characteristics of a well
20 bore.

21 CHAIR:

22 Mr. Leighton, one minute.

23 MR. LEIGHTON:

24 Thank you. While hydraulic fracturing
25 into a nearby unknown orphaned well or abandoned well

1 may cause fluids to appear at the surface, the
2 definition is not consistent within the regulations;
3 therefore, API suggests that this section ought to be
4 deleted or modified.

5 In addition, other issues in this
6 section should include the radius of influence and
7 responsibility, if there is one other nearby operator.

8 Again, thank you for the opportunity to
9 testify this evening. API and its member companies
10 will continue to engage policy leaders of all levels
11 to work together in order to strike a balance between
12 stronger regulatory framework, economic development
13 and the development of our natural resources. Thank
14 you.

15 CHAIR:

16 Thank you. The next speaker is number
17 six, Gary Hovis, followed by Mark Cline.

18 MR. HOVIS:

19 Good evening. My name is Gary Hovis,
20 President of the Pennsylvania Independent Petroleum
21 Producers, located in Bradford, Pennsylvania. Thank
22 you for the opportunity this evening to present the
23 following remarks from the perspective of the Shallow
24 Conventional Oil & Gas Industry of Pennsylvania.

25 Our organization was founded in 1985, 29

1 years ago, in response, at that time, to the State's
2 legislative Act 223. Our type of well has been
3 continuously produced since 1859 in the western
4 counties of Pennsylvania.

5 Beginning several years ago, a new
6 energy formation was discovered deep below the surface
7 in Pennsylvania, extending across the state from the
8 northeast to the southwest. An exploration frenzy
9 began and after several years of development the state
10 legislature realized they needed to develop new
11 regulations to cover the cost, development --- to
12 cover the development and production of this new-found
13 source of energy from the Marcellus and Utica Shales.

14 The drilling stimulation and production
15 is much more involved than that of the conventional
16 stripper wells already in existence across Central and
17 Western Pennsylvania. Consequently, new procedures
18 and regulations were generated to cover these new and
19 nonconventional wells and that effort became law in
20 Act 13 in February of 2012.

21 This legacy class of conventional
22 shallow wells is an entirely different animal than the
23 deep conventional --- unconventional well that this
24 Act 13 set out to regulate. Here are some of the
25 major differences. Shallow wells can be drilled and

1 stimulated in a number of days; require a fraction of
2 the surface area disturbance; require less than .6
3 percent of the frack water, and uses minimal truck
4 traffic to the well site of that required by the
5 Marcellus-type well. It doesn't require stoned and
6 topped access roads due to excessive truck traffic.
7 And well sites can be restored in a matter of days.

8 Let's comment more specifically to a
9 couple of these points. Surface area disturbance, a
10 typical well pad for a shallow well can be 50 by 50
11 feet, or in some cases, 50 by a hundred feet. So
12 we're talking 2,500 to 5,000 feet. Typical Marcellus
13 well sites are five acres or somewhere in the
14 neighborhood of 200,000 square feet or greater than
15 roughly eight times as much area. And that doesn't
16 include the space required for storing frack water.

17 Another typical comparison here is the
18 water requirements for fracking a shallow well.
19 Typically it's around 25,000 gallons. The minimum
20 water required for a Marcellus well is at least
21 4,000,000 gallons, more than 160 times that of the
22 shallow well. And the shallow well can be fracked in
23 less than a day, where a nonconventional well might
24 take weeks or even months.

25 One of the most onerous threats to the

1 shallow stripper well industry today is a proposed
2 change of Chapter 78 regulations under the new Act 13.
3 These regulations are now out for comment and being
4 considered in these series of hearings across the
5 state. This is a case where one size doesn't fit all,
6 and I stress that. One case doesn't fit all. We
7 recommend several regulations for these two very
8 different types of wells.

9 The new Chapter 78 regulations can apply
10 to the unconventional deep gas and oil wells, and the
11 previous Chapter 78 regulations can apply to the
12 conventional oil and gas wells as they have for years.
13 If this doesn't happen, it could sign the death
14 warrant to our conventional shallow oil and gas
15 industry and have a far-reaching impact on other
16 related industries. This would affect our refineries,
17 fracking companies, seismic logging companies, well
18 service companies, water trucking companies, water
19 treatment facilities, oil field supply companies and
20 many secondary and tertiary companies, like
21 restaurants, hotels, insurance companies, banks,
22 freight companies, hardware stores. And the list goes
23 on and on. Thank you for your attention and your
24 time.

25 CHAIR:

1 Thank you. The next commentator is Mark
2 Cline, followed by Lisa Besantis.

3 MR. CLINE:

4 Good evening. My name is Mark Cline, 1
5 Longfellow Avenue, Bradford, PA. I am a fourth
6 generation oilman. The first thing I want to do is
7 read the first sentence of the DEP handout given at
8 these hearings.

9 In 2012, Governor Corbett signed the
10 2012 Oil and Gas Act, Chapter 32 Act 13 of 2012, which
11 significantly revised Pennsylvania's oil and gas laws
12 to address unconventional well development in the
13 Commonwealth.

14 I believe that sentence alone says it
15 all. The conventional operators are not meant to be
16 in these regulations. The unconventional and
17 conventional industries are completely different in
18 many ways. The site of our locations are different.
19 The amounts and types of waste products are different.
20 The areas underground affected by the wells are
21 different. The truck traffic and amounts of water
22 used for frack jobs in both industries are extremely
23 different. I believe the biggest difference is the
24 amount of money the unconventional industry has to
25 build their roads, make their locations and drill

1 their wells.

2 We in the conventional industry just
3 don't have that much money available. We have to work
4 with small budgets, but then again, we don't need the
5 wide limestone covered roads, the five acre locations,
6 the huge drill rigs that can drill not only deep
7 vertically, but also horizontally for great distances.

8 I have seen some of the Marcellus
9 locations after the wells have been put into
10 production. They do a great job of reclaiming the
11 land. When we get done drilling and fracking one of
12 our conventional wells and reclaim our locations, you
13 can drive down the road right beside them and not even
14 know they are there. We leave a very small
15 environmental footprint. We try very hard not to
16 disturb any more lands or trees than possible.

17 At the hearing in Meadville last
18 Wednesday, there was a lady there from the Oil City
19 Water Authority. She was concerned about drilling too
20 close to the watershed. Does she not know that there
21 were already hundreds of wells drilled there many
22 years ago? Their water is still high-quality water
23 despite the old wells.

24 The City of Bradford watershed is
25 covered with old wells. One reservoir has at least

1 two dozen old wells under the water. Bradford has
2 some of the best drinking water in this state. Since
3 1986 there have been over 300 new wells drilled on the
4 Gilbert Lane reservoir's watershed without any
5 problems. Our industry works very hard to be
6 environmentally safe.

7 During the time that I have been going
8 around the City of Bradford to talk to people about
9 what is going on with these regulations, and why we
10 need them to get letters written to have them exclude
11 the conventional operators, I have heard many people
12 tell me how the decline in drilling the last couple of
13 years has already hurt their businesses. I am not
14 just talking about the obvious stores, such as oil
15 field supply stores. I'm talking about auto part
16 stores, places that service company trucks, stores
17 that sell tires, the owners of restaurants and small
18 diners that used to count on the oil men and his
19 family to come and eat, the corner stores where the
20 oilmen used to stop for coffee and the morning paper.
21 They all have already been hurt because of the decline
22 in drilling. If these regulations pass the way they
23 are now written, these businesses will suffer even
24 more. Pennsylvania needs every single job it can get.

25 While talking to all the oil and gas

1 companies around the Bradford area, they have all told
2 me that they have had to let people go. There are
3 more people out of work with no new jobs available for
4 them. Pennsylvania needs all the jobs it can get.

5 The steel mills, coal industry,
6 manufacturing businesses, small family farms and
7 timber have already been regulated so heavily that
8 they have a very small presence left in our state.

9 Tuesday morning of this week I received
10 a phone call from the teacher of the petroleum
11 production class at Bradford High School. His
12 students have heard about what is going on with these
13 regulations and are concerned for their future of
14 working in the oil fields.

15 CHAIR:

16 One minute, Mr. Cline.

17 MR. CLINE:

18 They asked what they can do to help us
19 save our jobs and the jobs for their futures. There
20 are 50 students in these classes that may not have
21 jobs when they graduate. Not everyone is suited to go
22 to college, and some people just love working outdoors
23 and doing hard labor.

24 The same teacher told me he has 40
25 students at the University of Pitt at Bradford in oil

1 and gas-related classes that have been voicing the
2 same concerns for their future. Are they also to
3 become unable to find employment as most college
4 graduates these days?

5 I am asking the Environmental Quality
6 Board to rewrite these Chapter 78 regulations, leaving
7 the conventional oil and gas operator out of them.
8 Thank you.

9 CHAIR:

10 The next commentator is Lisa Besantis,
11 followed by Margaret Henry. Lisa Besantis? Okay. Is
12 Margaret Henry here? Number ten is Joanne Kilgour.
13 Is Joanne here?

14 MS. KILGOUR:

15 Yes.

16 CHAIR:

17 And after Joanne will be Kathryn Hilton.

18 MS. KILGOUR:

19 Hello. I'd first like to thank the
20 members of the Board and DEP for scheduling the
21 hearing, and also for your recent decision to add two
22 additional hearings next month, one in Troy and one in
23 Warren. And further, I would like to thank you for
24 extending the public comment period an extra 30 days
25 with a new deadline of March 14th.

1 My name is Joanne Kilgour. I'm the
2 Director of the Sierra Club, Pennsylvania Chapter.
3 And I just want to say that I think these hearings
4 provide a very important opportunity for the Board,
5 DEP and the general public to hear local perspectives
6 on the proposed regulations and firsthand how the
7 proposed changes would impact those living day to day
8 with the harsh realities of natural gas activity.

9 We appreciate the additional hearings in
10 these vital locations, and the additional time for the
11 public to develop technical comments on the
12 regulations. These are dense and technical proposals,
13 and the extra time will enable us to be as specific
14 and thorough in our recommendations as possible.
15 Again, thank you for recognizing the important role of
16 the public in this regulatory process.

17 I'm here today on behalf of the Sierra
18 Club's more than 24,000 members in Pennsylvania. Many
19 of our members are directly impacted by natural gas
20 exploration, extraction, distribution and production.
21 And many others are engaged in advocacy on behalf of
22 our public lands that are exposed to threats from
23 increasing natural gas wells.

24 The EQB was established, in part, to
25 formulate, adopt and promulgate rules and regulations

1 as necessary to accomplish the Department of
2 Environmental Protection's work. It is the stated
3 mission of the Department of Environmental Protection
4 to protect Pennsylvania's air, land and water from
5 pollution and to provide for the health and safety of
6 its citizens through a cleaner environment.

7 The EQB is therefore charged with
8 promulgating regulations to help carry out this
9 mission to prevent pollution and restore our natural
10 resources. Similarly, it is the mission of the Sierra
11 Club to explore, enjoy and protect the wild places of
12 the Earth and this Commonwealth. It is through this
13 shared lens that I provide you with the following
14 comments on these proposed regulations for what is
15 known as Chapter 78 of the Pennsylvania Code.

16 First, while not directly related to
17 natural gas activities, we cannot ignore the
18 implications of the tragic and avoidable situation in
19 West Virginia. When dealing with industrial
20 activities, especially those of the extractive
21 industries, it's essential to ensure that our
22 residents are protected by strong regulations. While
23 Section 78.55 of the proposed regulations requires a
24 Preparedness, Prevention and Contingency Plan to
25 prevent and address pollution events, I appeal to you

1 to strengthen this section by including a requirement
2 that these plans fully disclose all chemicals,
3 including their amounts and mixtures, as well as any
4 potential harm they may cause and to disclose this to
5 all agency landowners and first responders.

6 Similarly, Section 78.56 and 78.57
7 strengthen the standards for the storage of liquid and
8 solid waste, but do not set forth the regulatory
9 scheme that will adequately protect the residents and
10 resources of the Commonwealth from the risks
11 associated with contaminated waste products. These
12 sections should require DEP to apply US RCRA Subtitle
13 C standards to regulate hazardous materials contained
14 in pits and should prohibit the use of any pits and
15 open tanks. The bottom line is that the use of pits
16 and open tanks is an irresponsible practice that must
17 not be allowed to continue.

18 In addition to contamination events
19 resulting from widespread use of pits and open storage
20 tanks, the residents of this Commonwealth have been
21 forced to endure accidents, blowouts and pollution
22 events from the intersection of new wells with
23 unidentified orphaned or abandoned wells. I commend
24 the Board and DEP on its effort in Section 78.52(a) to
25 require the identification of orphaned or abandoned

1 wells, but I appeal to you, again, to go further in
2 the interest of protecting landowners and local
3 resources in areas around the estimated 200,000
4 abandoned wells statewide.

5 CHAIR:

6 One minute, Ms. Kilgour.

7 MS. KILGOUR:

8 Thank you. To adequately prevent harm
9 associated with new wells, intersecting orphaned or
10 abandoned wells, the abandoned wells must be
11 identified before site development and well
12 construction and drilling and not just the fracturing
13 stage. In addition, these wells must be plugged and
14 sealed prior to new well site construction. Without
15 taking these additional measures, simply identifying
16 the orphaned or abandoned wells before fracking will
17 not adequately protect Pennsylvanians or our resources
18 from harm.

19 For too long the natural gas industry
20 has been allowed and enabled by the Commonwealth to
21 engage in harmful, irresponsible practices that run
22 contrary to the mission of the Department of
23 Environmental Protection and this Board. The process
24 for updating the oil and gas regulations is an
25 opportunity for us to stand up for that which it is

1 our shared mission to stand up for, a cleaner
2 environment, better health and safety for the citizens
3 of Pennsylvania. I thank you very much for the
4 opportunity to comment.

5 CHAIR:

6 The next speaker is Kathryn Hilton,
7 followed by William Thwing.

8 MS. HILTON:

9 K-A-T-H-R-Y-N, H-I-L-T-O-N, Indian Head,
10 Pennsylvania. And while I do work with Mountain
11 Watershed Association as a community organizer, today
12 I'm speaking for myself. Yes, I did take a gasoline-
13 powered vehicle to get here and I do drive a four by
14 four that runs on 87 octane.

15 To take a company at their insistence of
16 operating in good faith and being a good neighbor, it
17 is not enforceable by anyone and does not protect any
18 citizens. And the track record of every single
19 company operating in Pennsylvania shows that these
20 statements are distractions and have no factual basis.
21 I can use the example of WPX in Donegal Township and
22 their contamination of a water source for over a year,
23 which I know you all are currently in litigation for
24 this, and in a public meeting, having a representative
25 say that fracking has never caused an instance of

1 water contamination, which is irrelevant in this case
2 because it was a frack pit that caused the
3 contamination.

4 I have found similar examples of
5 unethical behavior by the operator, Chevron, and
6 Redstone, Springhill and Dunbar townships in Fayette
7 County. And additionally, I attend a lot of meetings,
8 whether I'm invited or not, that are industry. And in
9 one recently in Delmont Township, Westmoreland County
10 where a company had a land man talking to a room of
11 prospective lessors, he said that if they did not fill
12 out --- or if they did not sign a lease to fill out
13 public company's units, they were going to take the
14 gas anyway. Well, there is no force-pulling in
15 Pennsylvania's Marcellus formation, so this is not
16 only misleading and coercive, but downright
17 intimidation.

18 These are just a few examples of
19 behavior exhibited by companies profiting from this
20 extraction. Public health and being a good neighbor
21 is particularly not a priority. And it's clear that
22 anything interfering with their profit margin is an
23 undue burden.

24 I'd like to now address some of the
25 beneficial use policies that the DEP has, specifically

1 for allowing drill cuttings and residual waste to be
2 solidified and used as odor cover in municipal
3 landfills. Allowing toxic materials admittance to
4 municipal landfills will most certainly have a
5 negative health impact for residents on adjacent
6 properties.

7 There have already been a plethora of
8 complaints about this in Belle Vernon and German
9 Townships in Fayette County, which are very close to
10 where there are these municipal landfills accepting
11 this waste. Another concern with this is the leachate
12 lines that are underneath the landfills that are
13 taking ---.

14 Excuse me, I lost my place. All right.
15 These leachate lines don't have --- going to these
16 municipal water authorities is the waste treatment
17 facilities that don't have the equipment to filter out
18 these contaminants. It's unsafe for public health.
19 It really needs to be reconsidered in what we consider
20 a beneficial use. Hazardous material needs to go to
21 these places that are qualified to accept hazardous
22 waste.

23 I don't want to take up any more time
24 than necessary, so I'll try and conclude. The
25 southwest region of the DEP encompasses ten counties.

1 In those ten counties there are 12 oil and gas
2 inspectors. If you consider conventional and
3 unconventional gas drilling, there are almost 30,000
4 wells that these 12 inspectors are supposed to
5 effectively monitor. That's impossible. So until the
6 DEP can effectively monitor existing operations, it
7 should immediately call issuance of a new permit and
8 suspend drilling on existing sites.

9 I also find it a little discouraging
10 that the same folks who are commenting for their
11 organizations yesterday are repeating the same
12 comments today. I thought it was very clear that one
13 organizational person was allowed to represent their
14 organization in one meeting, because I actually asked
15 on the phone if I could represent my organization at
16 two hearings and I was told no. And for all of us who
17 are having to sit through 40 people's comments, we all
18 have better things to do than that, and especially
19 when it's the same comments that we heard yesterday.

20 You know, I think the rest of it has
21 been written out and that other people are adequately
22 saying some of it, so I'm going to sit down. Thank
23 you.

24 CHAIR:

25 Thank you. Next commentator is William

1 Thwing, followed by Jack Milburn.

2 REVEREND THWING:

3 My name is Bill Thwing. I am a Pastor
4 in Johnstown, Pennsylvania, 610 Luzerne Street,
5 Johnstown, Pennsylvania. I had already spoken,
6 related to the air quality issue, at a previous
7 hearing, but I want to speak a little bit about water
8 tonight. And I'm speaking as a private citizen, not
9 as the past President of Pennsylvania Interfaith Power
10 and Light.

11 Our family cottage is in Ogletown,
12 Pennsylvania, which is one of the recharge areas for
13 the Mauch Chunk Aquifer in the Clear Shade Watershed.
14 We have drawn our water from the Mauch Chunk, which is
15 one of the largest, purest aquifers in the Eastern
16 United States. 9,000 citizens of Windber draw their
17 water directly from the Mauch Chunk in seven wells, as
18 do everybody from Jim Thorp all the way down past the
19 West Virginia border on the Allegheny Front where the
20 Mauch Chunk runs.

21 It takes 40 years ---. We are a
22 recharge area. It takes 40 years for the water to
23 percolate down into the Mauch Chunk and recharge the
24 Mauch Chunk. One gallon of diesel will contaminate
25 750,000 gallons of water.

1 We have a neighbor in Windber whose
2 water well went bad. Over the hill from him, 2,700
3 feet away out of sight was a shale well being
4 developed. This was two years ago. He's in
5 litigation now. I can't say too much about it. But
6 he went up there every single day with a camera and a
7 notebook and took photographs. He noted diesel
8 tankers and diesel fuel apparently going into the
9 well. Just before the drillers packed up, he noted a
10 flowback pit there. And then the next day the
11 flowback pit was gone, covered over with dirt.

12 Okay. How long will it take diesel fuel
13 and toxic flowback to percolate down into the Mauch
14 Chunk? Once the Mauch Chunk is polluted, where are
15 they going to get their water? How many truckloads of
16 water bottles can you bring in to 9,000 people, not
17 including everybody else on the Allegheny Front? The
18 same principle applies to aquifers all over the State.

19 Both the Center for Sustainable Shale
20 Development in Pittsburgh, in their 2013 performance
21 standards, and the International Energy Agency in the
22 Golden Rules for the Golden Age of Gas report mandate
23 that diesel never goes into a well, and that a
24 thorough geological and hydrological baseline
25 background study should always be conducted on all

1 areas of operation before any drilling is even
2 permitted. Neither of these best practices is
3 mentioned in your regulations for some reason or
4 other, except briefly under one section in the general
5 centralized impoundment, but not for the whole
6 process, just for the impoundments.

7 Water is essential for life. Without
8 clean, pure water, we die. All of God's creatures
9 die. The Earth will die. Pennsylvania has some of
10 the best water in the world, except, perhaps, for that
11 which was spoiled by the unregulated coal industry a
12 little while back.

13 Why risk our aquifers, too? We've
14 already risked a lot of surface water and we've lost a
15 lot of surface water. It takes a long time to get
16 that stuff back. And we just spent about \$9 million
17 of Rosebud out of one of the 15 major pollution
18 sources in the Little Conemaugh. And, you know, it's
19 going to take a lot more to bring that river back.

20 The same thing applies to air. The same
21 thing applies to soil. Pennsylvania has some of the
22 best soil in the world. Agriculture is our number one
23 industry. Tourism is our number two industry. Both
24 depend upon fresh air, clean water, good soil. God
25 has given us these assets that have nourished the

1 citizens of Pennsylvania for the last 350 years and
2 the previous native population for over 10,000 years.
3 Why risk these natural, God-given assets unnecessarily
4 in the mad rush for wealth for a few, you know,
5 unprincipled politicians and their out-of-state
6 wildcat driller managers at the risk of disease,
7 suffering, poverty for our children and for all the
8 generations that follow it? What kind of a legacy are
9 we leaving for the generations that follow?

10 Let me just quote the Pennsylvania
11 Constitution, Article 1, Section 27, and I quote, the
12 people have a right to clean air, pure water, and to
13 preservation of the natural, scenic, historic and
14 aesthetic values of the environment. Pennsylvania's
15 public natural resources are the common property of
16 the people, including the generations yet to come. As
17 Trustees of these resources, the Commonwealth shall
18 conserve and maintain them for the benefit of all the
19 people, end of quote. That's our Constitution.

20 We want a rule of law in Pennsylvania.
21 We want a rule of law by the people, of the people and
22 for the people. We want a rule of law which is
23 constitutional, bound by the Constitution of
24 Pennsylvania. Therefore ---.

25 CHAIR:

1 Mr. Thwing, your time has expired.

2 REVEREND THWING:

3 I say, best practices or nothing. Best
4 practices or nothing.

5 CHAIR:

6 The next commentator is Jack Milburn,
7 followed by Dr. Cleghorn.

8 MR. MILBURN:

9 Good evening. My name is Jack Milburn
10 from Ligonier, Pennsylvania, 114 Mountain Road.
11 Researchers at Duke and the University of Texas found
12 that water wells within one mile of fracked gas wells
13 had 17 times the methane as reference sites, and that
14 methane is six times higher and ethane 23 times higher
15 if a home is within one kilometer of a gas well.

16 Schug of Texas found elevated levels of
17 arsenic and selenium in water close to gas extraction
18 sites. Vengosh of Duke found that treated brine from
19 Marcellus Shale contains bromide and radium.

20 Fracking industry truck drivers have
21 been blowing the whistle for some time, saying that
22 radioactivity alarms are going off, quote, all the
23 time, and that the radioactivity levels are sky high,
24 even in empty trucks that have already dumped their
25 load of drill cuttings in landfills.

1 According to the DEP data, radiation
2 alarms went off more than 1,000 times in 2012 from oil
3 and gas waste, according to the Tribune Review.
4 Therefore, disposal of brine, drill cuttings and any
5 residual waste should meet the standards of the US
6 Resource Recovery and Conservation Act (sic).
7 Marcellus Shale is, of course, more radioactive than
8 other shale, as evidenced by alarms activated at waste
9 disposal sites and the high measurement of
10 radioactivity in a study downstream from the Josephine
11 Treatment Plant right here in Indiana County, which
12 treats wastewater from oil and gas drilling.

13 Radium levels of sediment samples
14 collected in Blacklick Creek, downstream from the
15 plant, were 200 times greater than background samples.
16 The storage of contaminated frack waste onsite,
17 including radioactive drill cuttings, should be
18 prohibited. There should be no processing or burial
19 of drill cuttings onsite, nor should cuttings be
20 stored in pits. No brine from hydraulically fracked
21 wells should be used for road application, due not
22 only to the salinity loads, but to the possible
23 presence of toxic chemicals and radioactive particles
24 that may come in flowback water.

25 No wastewater or drill cuttings should

1 be applied to land areas. A confidential EPA draft
2 document on the environmental impacts of Marcellus
3 drilling was obtained by the New York Times. It shows
4 that federal authorities are concerned about drinking
5 water near Marcellus Shale operations. According to
6 the EPA, quote, as oil and gas development encroach on
7 suburban and urban areas, human health and
8 environmental impacts are expected to escalate. The
9 study shows that dilution of drilling waste doesn't
10 always solve the problem. This study is relevant
11 because right here in Pennsylvania regulations ---
12 regulators are saying the same thing, that dilution
13 will effectively remove the risks.

14 Condensate tanks. All gas facilities,
15 including tanks, pits, wells and compressor stations,
16 should have monitors designed and operated by a third
17 party functioning 24 hours a day and recording
18 findings that are directly available to the DEP and
19 public. The gas industry should not be responsible
20 for conducting this monitoring, but should be
21 responsible for the costs.

22 The term fresh water should no longer be
23 used to define uncontaminated previously unused water
24 and wastewater left over from fracking that has been
25 recycled and reused.

1 Abandoned wells in PA must be identified
2 and sealed prior to any Marcellus gas wells being
3 drilled. Drillers should be financially responsible
4 for protecting the waters through this identification
5 and plugging process.

6 Wildlife. Contamination of deer meat
7 may be yet another issue related to drilling for
8 natural gas in the Marcellus Shale. This is of great
9 concern to me as a hunter and it soon will be to over
10 one million Pennsylvania deer hunters. I say that
11 this may be an issue because it is not being studied
12 or even monitored in Pennsylvania, according to the
13 Pennsylvania Game Commission.

14 The well flowback held in open frack
15 pits contains large quantities of salt brine, which,
16 as all hunters know, attracts deer. Unfortunately,
17 the brine also contains heavy metals and sometimes
18 radioactive materials that come from deep within the
19 Earth, along with other extremely toxic and
20 carcinogenic chemicals, but those are, of course, kept
21 secret by the gas industry, according to the
22 Halliburton loophole.

23 The salt that attracts the deer could
24 come from spent wells, frack ponds, contaminated
25 streams, spills, leaking trucks, on and on.

1 Pennsylvania needs to thoroughly study this issue. If
2 the gas industry, Pennsylvania agencies or our
3 politicians say there's no problem here, then they
4 should be willing to approve it. What are they
5 worried about, finding something wrong with our deer
6 herd?

7 In closing, virtually all of the issues
8 I've discussed can be mitigated or, indeed, eliminated
9 by the use of currently available technologies and
10 alternative operating procedures by drill companies.
11 Closed-loop systems, for example. With the incredible
12 amounts of money generated by natural gas operations,
13 some of which with multinational oil companies, the
14 cost of such technologies and operating procedures are
15 fair and reasonable. Pennsylvanians deserve nothing
16 less. Thank you very much.

17 CHAIR:

18 Thank you. Our next speaker, which
19 should be number 14, is Dr. Cleghorn, followed by
20 Bruce Grindle.

21 DR. CLEGHORN:

22 Good evening. I'm Dr. Stephen Cleghorn.
23 I own an organic farm up in Jefferson County at 2771
24 Paradise Road. I have a kind of unique easement on
25 that property that asserts and defends the rights of

1 nature on the surface and below the surface from
2 violation by any sort of extreme industrial activity,
3 as fracking for natural gas.

4 We're here tonight to talk about
5 primarily proposed regulations on shale gas extraction
6 to better control activities at the surface. But
7 there's a problem with that. The problem is that the
8 Earth is One. It's above us in our climate, under our
9 feet and around us as an ecosystem that sustains our
10 lives, and below us in a deep and, indeed, a living
11 biosphere. To limit these hearings on regulations to
12 what happens at the surface of the Earth for an
13 activity whose very nature requires penetration far
14 below the surface truncates all too much the
15 discussion we should be having.

16 So before addressing the proposed
17 legislation in some specifics, I'd like to speak about
18 what happens from below that will affect surface
19 living for generations to come. Given that the oil
20 and gas industry data show that well casings can fail
21 at a rate of up to 50 percent over 30 years. And
22 given that these casings must hold up in perpetuity to
23 protect our groundwater aquifers under Pennsylvania.
24 And that the gas industry plans to drill more than
25 100,000 wells for the next 50 years across half the

1 land mass of Pennsylvania. Therefore, DEP should
2 require immediately that casings of the type and
3 engineering that are failing now be prohibited and
4 cause the following things to happen.

5 All casings henceforth shall employ
6 failsafe engineering that will prevent the degrading
7 and failure over time so that they cannot leak gases
8 and fluids from below. Chemical markers and visible
9 monitors should be going down at every single well
10 that's drilled to provide evidence of such leakage and
11 who caused it. All gas companies should provide a
12 bond adequate to pay in full for whatever is needed,
13 whatever is needed, to remediate groundwater supplies
14 or replace water supplies where wells leak.

15 To do anything less than this is to risk
16 irreparable harm to the water sources of our
17 Commonwealth and the human, animal and plant life that
18 depend on that water.

19 And as you heard, water is life, and
20 this industry poses an existential threat to that
21 source of life because it will inevitably --- in my
22 opinion, inevitably ruin, through failed casings, the
23 aquifers below half the land mass of this state.

24 Okay. That's it. I do support some of
25 the other recommendations you've heard here tonight.

1 You heard about maybe having two more additional
2 hearings. I would suggest you still need to have
3 hearings in every single county where the fracking is
4 going on. People need a chance to come out and talk
5 to you. No more open frack waste pits, no more
6 burying the waste pits all up onsite. Identify all
7 preexisting wells and put those wells up on a publicly
8 available web platform for the people to study.
9 Operators must restore contaminated drinking water to
10 a quality that meets Safe Drinking Water Act
11 standards, no matter what the quality of the water was
12 before, because, after all, it is contaminated by the
13 activity, therefore it should be restored to Safe
14 Drinking Water Act standards.

15 Okay. I'm done with that. Now I'm
16 going to look you each in the eye and talk to you and
17 say, please, take your bureaucratic hats ---. You
18 don't have any hats, but take your bureaucratic hats
19 off for a moment and understand that the Earth is One,
20 and that these regulations for surface-only activities
21 of deep drilling deny that essential fact. The notion
22 that we can define ourselves as touching nature only
23 in part and not affecting nature and our environment
24 in the whole is wrongheaded. It's gotten us into a
25 lot of trouble, of which I don't even need to detail.

1 Surely all of you who sit here today,
2 because you pursued in your education and your career
3 as environmentalists a dream of keeping our living
4 ecosystem safe from irreparable harm at our own hands
5 as human beings, I want to ask you to dream that way
6 again before you decide on any new regulations that
7 allow fracking to proceed. At least dream that way
8 again for a little while, like you did when you were
9 young. Thank you for listening.

10 CHAIR:

11 Thank you. The next commentator is
12 Bruce Grindle, followed by Doug Jones.

13 MR. GRINDLE:

14 Good evening. My name is Bruce Grindle.
15 I live and work in Mount Pleasant, Pennsylvania, where
16 my company is located. I'm here tonight to testify as
17 Co-Founder and President of my company, Oil & Gas
18 Management, and also as a board member for the
19 Pennsylvania Grade Crude Oil Coalition. I'm also a
20 petroleum and natural gas engineer. I've worked as a
21 drilling and completion consultant for numerous
22 companies in the oil and gas basin, Appalachian Basin,
23 over the last 35 years.

24 The Pennsylvania Grade Crude Oil
25 Coalition was formed in the summer of 2013 by 20

1 producers and refiners of conventional oil and gas to
2 advance local economies and energy independence by
3 promoting conventional oil and gas production in a
4 safe and environmentally sound manner. The founding
5 members, just like myself, were concerned about the
6 burdensome new regulations that were being proposed by
7 the DEP and the effect it was going to have on their
8 businesses.

9 We founded our company in 1991 and we
10 now own and operate 300 conventional wells here in
11 Southwestern Pennsylvania with a staff of only seven
12 people. We strive to be good environmental stewards
13 and corporate citizens. Most of the land we have
14 drilled on in the last six or seven years are lands
15 that we own in fee and on which we have ongoing land
16 development operations.

17 It would make absolutely no sense for us
18 to operate in a manner that would diminish the value
19 of our own property or our neighbors. Quite to the
20 contrary, we have strived to improve the lands in
21 which we drill. The vast majority of conventional
22 operating wells in this state are drilled and operated
23 by small, local, young companies just like ours. In
24 many cases they are also family-owned businesses.

25 Prior to and after Act 13 was passed,

1 the conventional operators like myself were told that
2 the Act would have little or no effect on us. Now, in
3 an effort to regulate a new and quite different
4 unconventional industry, we are being forced to comply
5 with regulations that were crafted to deal with
6 unique, challenging issues associated with the
7 drilling and development of unconventional wells.

8 These proposed regulations will impose a
9 disproportionate regulatory and economic burden on
10 small businesses such as my own and other conventional
11 operators. As one gentleman said here earlier, in oil
12 and gas regulations, one size does not fit all.

13 Suffice it to say, if the DEP does not
14 provide for separate, appropriate regulations for
15 conventional wells, the majority of conventional
16 operators here in Pennsylvania will be forced to
17 shutter their businesses, to sell or plug and abandon
18 their wells. If that occurs, it will not only affect
19 the owners of those businesses, but their employees,
20 suppliers and subcontractors will also suffer
21 unnecessary negative economic impact.

22 In addition --- and I can say this with
23 great certainty --- tens of thousands of lessors will
24 no longer receive monthly royalty checks or be
25 provided with free gas for their homes. And I know

1 this for a fact because we have three or four ladies
2 that are neighbors and if we're one or two days late
3 with their royalty checks, I can guarantee you they
4 will be on the phone with my wife. They depend on
5 that. It may be a hundred dollar check, but it's a
6 grocery bill.

7 When the proposed revisions of Chapter
8 78, C, came out last summer, it was readily apparent
9 the regulations did not take into consideration the
10 stark differences between the conventional and
11 unconventional wells. Another gentleman pointed out
12 some of them are ---. Like he said, a typical
13 convention well pad is probably 20 to 30 times smaller
14 than that of an unconventional well. This is why
15 there's a disturbance of less than a half acre on most
16 of these conventional well pads and five acres or more
17 on an unconventional. It's likened, perhaps, to the
18 difference between the construction of a house and a
19 shopping mall.

20 The wellbore of conventional well
21 stimulation extends a few hundred feet into the oil
22 and gas bearing strata that is stimulated rather than
23 thousands of feet involved in unconventional well
24 stimulation. This accounts for the quantitatively
25 different equipment and water requirements of the

1 unconventional industry.

2 Lower commodity prices coupled with
3 ever-increasing regulatory costs and uncertainty of
4 regulations has already resulted in a dramatic
5 decrease in conventional well development. The number
6 of conventional wells in Pennsylvania has declined
7 steadily from a high of 4,836 wells drilled in 2007 to
8 less than a thousand wells drilled in 2013.

9 CHAIR:

10 One minute, Mr. Grindle.

11 MR. GRINDLE:

12 Please bear in mind that most of these
13 conventional wells are drilled by small Pennsylvania
14 businesses that don't have the option to pack up and
15 move to the Permian Basin or the Gulf Coast where the
16 economics may be better.

17 To finish here quickly, in the long
18 history of the oil and gas production in Pennsylvania
19 the overall environmental impact of conventional
20 wells, construction through production and plugging
21 have been minimal. Look around this community. There
22 are wells in the school yards, parking lots, in the
23 parking lot of the hospital not too far from here, and
24 also on golf courses. Conventional operations,
25 however, get caught in the crossfire of increasing

1 unconventional drilling activity in Pennsylvania,
2 public anxiety about the potential impacts of
3 hydraulic fracturing and the rush or the impulse to
4 regulate this new, unconventional development
5 activity. Thank you very much.

6 CHAIR:

7 The next commentator is number 16, Doug
8 Jones, followed by Valessa Souter-Kline.

9 MR. JONES:

10 My name is Douglas Jones, 508 North
11 Perry Street, Titusville, Pennsylvania, representing
12 Catalyst Energy, Incorporated. I am Vice President of
13 the Catalyst Energy, Incorporated, one of the most
14 active oil and gas development companies in terms of
15 new wells drilled in the shallow oil fields of
16 Venango, Warren, Forest and McKean Counties in
17 Northwest Pennsylvania.

18 My company has brought nearly one
19 quarter billion dollars in investment money into that
20 region over the last 20 years, much of it from out of
21 state. We put that money to work in Pennsylvania,
22 buying goods from Pennsylvania companies and services
23 from Pennsylvania contractors. This money translates
24 into real Pennsylvania jobs. My company employs over
25 90 people and provides millions of dollars to those

1 companies and contractors who, in turn, provide
2 hundreds, if not thousands, of jobs to Pennsylvanians.

3 Over the past ten years, DEP regulations
4 have resulted in increasing costs to my company.
5 Location costs have risen 400 percent, primarily due
6 to the imposition of stricter erosion and
7 sedimentation controls. Permitting costs have
8 increased dramatically, in some instances as much as
9 1,000 percent due to the imposition of Erosion and
10 Sedimentation General Control Permit and additional
11 engineering costs associated with that permit.

12 As a result of these severe cost
13 increases due to the changing regulations, the rate of
14 return which we have provided to our investors has
15 shrunk to the point where it is now difficult to raise
16 money to bring to Pennsylvania to drill our wells.
17 While we understand the need for some changes in these
18 regulations for the development of unconventional
19 wells, due to the larger disturbance areas of these
20 wells and the impacts on local infrastructure, we feel
21 that these regulations are not appropriate for the
22 conventional well development industry due to the
23 relatively small size of the disturbance and the small
24 profit margins of conventional wells.

25 While similar in some ways, the

1 industries are vastly different in terms of impact on
2 local infrastructure and in terms of impact on the
3 land and other resources. Our well pads are typically
4 .1 acres in size. Almost 50 of our well pads could
5 easily fit on one unconventional well pad.

6 The new Chapter 7 revisions further
7 erode our economic viability as a company by imposing
8 even higher costs to comply with added regulations.
9 I do not feel the Department has adequately
10 investigated the impact of these regulations on the
11 small conventional operators who are almost totally
12 small businesses. The Department is required by law
13 to assess the impact to small businesses and to
14 provide alternatives which address these costs to
15 those smaller industries. They have not done so.
16 Because of past cost increases due to regulation and
17 the cost imposed by this new round of regulation, my
18 company must now consider moving our investments out
19 of Pennsylvania.

20 This will result in direct loss of jobs
21 to those who work for us, devastating many families.
22 There will also be a ripple effect loss of jobs for
23 those who provide goods and services to us.

24 My company is also one of the largest
25 suppliers of crude oil to American Refining, which has

1 struggled for several years with declining crude oil
2 production. They and hundreds of families in the
3 Bradford area will be adversely affected if Catalyst
4 leaves Pennsylvania.

5 The Regulatory Review Act requires a
6 thorough review of regulations and the possible
7 adverse impacts of those on small business. The
8 proposed regulations are rife with profound adverse
9 impact on those small businesses.

10 CHAIR:

11 One minute, Mr. Jones.

12 MR. JONES:

13 Nearly all conventional oil and gas
14 operators are small businesses. Something as simple
15 as requiring a two to one slope on conventional well
16 pits will increase costs by as much as \$5,000 per well
17 or construction, raising pad and road construction
18 costs imposed by the Department over the past ten
19 years to 560 percent of our 2004 costs.

20 I urge the Environmental Quality Board
21 to vote no on approval of these regulations. And I
22 further urge the Department of Environmental
23 Protection to develop entirely separate regulations
24 for the conventional oil and gas industry. Thank you.

25 CHAIR:

1 Our next speaker is Valessa Souter-
2 Kline, followed by John Hardesty.

3 MS. SOUTER-KLINE:

4 Good evening. My name is Valessa
5 Souter-Kline, and I am the Western Pennsylvania
6 Outreach Coordinator for PennFuture. I work out of
7 our Pittsburgh office. For those who don't know,
8 PennFuture is a statewide public interest membership
9 organization that works to ensure a just future for
10 nature, communities and our economy.

11 I appreciate the opportunity to speak to
12 the proposed Chapter 78 oil and gas regulations. And
13 I would like to note that PennFuture will submit a
14 comprehensive written comment before the new March
15 14th deadline. I appreciate the extension.

16 First, I would like to state PennFuture
17 supports significant aspects of these regulations.
18 Among the changes that we support is the requirement
19 that all wastewater be transported in above-ground
20 pipes, and the ban on storing produced liquids in open
21 facilities.

22 That said, there are many opportunities
23 to strengthen these regulations that must be taken if
24 they are to provide effective and enforceable
25 protections for our natural resources. Those are

1 clean air, land and water, as protected under the
2 Pennsylvania environmental rights amendment. The two
3 opportunities that I will present to you tonight are
4 buffers, proposed buffers for streams, as well as
5 endangered species protection.

6 The current regulations provide a core
7 buffer for between drilling activities and solid blue
8 line streams, as defined by the U.S. Geologic (sic)
9 Survey. Protecting solid blue line streams only is
10 not enough. The National Wildlife Federation states
11 that more than half of Pennsylvania's 83,000 miles of
12 streams are either intermittent or headwaters, which
13 is to say that these water bodies are not
14 insignificant.

15 Existing laws, such as the Clean Streams
16 Law, protect all water bodies in the U.S. That
17 includes ephemeral and intermittent streams. Chapter
18 78 should do the same. Also, because they carry ---.
19 Oh, sorry. Intermittent streams ---. Let's back up.
20 The intermittent streams provide important and unique
21 habitat. Also, because they do carry less water, they
22 are more easily harmed by smaller amounts of
23 pollution. So they're very sensitive.

24 Furthermore, when flowing, intermittent
25 streams are connected to the same hydrologic system as

1 the solid blue line streams. Allowing natural gas
2 drilling close to intermittent streams essentially
3 allows natural gas drilling within a hundred feet of
4 solid blue line streams during certain times of the
5 year, threatening our health and our waterways.

6 Another section of the regulations fails
7 to adequately protect Pennsylvania's threatened or
8 endangered species. The regulation currently
9 obligates the operators simply to consult with
10 Pennsylvania Natural Diversity Inventory process and
11 provide that information to the DEP. The operator has
12 no further obligation to mitigate harm, unless the DEP
13 determines the proposed well site will negatively
14 impact endangered species.

15 As required by federal law, DEP
16 regulations must ensure that operators are fully
17 responsible for ensuring that their activities will
18 not harm a species or critical habitat. The
19 protection of threatened and endangered species should
20 not be dependent on the state making and on-the-ground
21 determination. That conduct completely undermines the
22 premise of the federal and state protections for
23 endangered species and removes responsibility from
24 those who are most capable of knowing what's going on
25 and what would be harmed on their land from making a

1 proper decision on whether the activities will harm
2 species or critical habitat.

3 That's all I have for tonight. I
4 appreciate your time. And I also appreciate your work
5 to protect our natural resources. Thank you.

6 CHAIR:

7 Thank you. The next commentator is John
8 Hardesty, and following Mr. Hardesty is David Clark.

9 MR. HARDESTY:

10 Good evening. I find that I'm back in
11 grade school. I did not come completely prepared
12 tonight and I do not have copies to turn in. May I
13 proceed?

14 CHAIR:

15 Go ahead.

16 MR. HARDESTY:

17 Okay. Thank you.

18 COURT REPORTER:

19 Can you spell your name?

20 MR. HARDESTY:

21 Pardon?

22 COURT REPORTER:

23 Can you spell your name?

24 MR. HARDESTY:

25 H-A-R-D-E-S-T-Y. My name is John

1 Hardesty of 448 Morris Street here in Clymer, PA. I'm
2 an inside salesman for Miller Supply Company, a supply
3 company of pipe valves and fittings, soap, rope and
4 dope. I'm here for one reason. It is not to diss any
5 of the oil and gas drilling. That would be biting the
6 hand that feeds us. I'm here to make my concern known
7 on the regulations as they affect what I see is two
8 separate entities. As some have said, one size does
9 not fit all.

10 I feel that these regulations that can
11 be construed to be for the shale place, both the Utica
12 and the Marcellus, do hurt the shallow folks that are
13 doing the drilling and have done it. The majority of
14 wells in the State of Pennsylvania, certainly the ones
15 here in Indiana, PA, have been shallow or conventional
16 or traditional.

17 A little bit about the company and
18 myself. I've been in the business since 1979 and
19 working in supply stores here in Pennsylvania since
20 '81. The company that I've been with in the last 13
21 years has had a high of 17 employees and right now is
22 a low of 12. And I attribute that to the lack of
23 traditional business that we've had that has been
24 falling off over the last several years.

25 I'd like to make it very clear, once

1 again, I'm not for or against either of them. I'm
2 just for natural gas and the sale of the equipment
3 that goes with it. It's also been said, most of our
4 conventional producers are small companies. My
5 understanding is permits are down for traditional
6 wells 80 percent. I also believe in talking on a
7 daily basis with the producers, the family members,
8 the owners of these smaller production companies.
9 They are struggling.

10 Our business has sold much less footage
11 of pipe, valves and fittings. Head separators, tanks
12 and other items are very much down. One of our major
13 suppliers of pit liners and poly tanks from nearby
14 Jefferson County, their business from 2012 to 2013 is
15 down 30 percent. If they take out the oil field
16 supplies of tanks and liners, their overall business
17 is up 40 percent. Another supplier pulls poly tanks
18 out of West Virginia for use in the --- mostly in the
19 shallow field. In 2012 and a few years before that,
20 three 53-foot trucks a day was coming from Barber
21 County, West Virginia. In early to middle of last
22 year it was one to two trucks. Now they're lucky to
23 have one driver to go two days in two weeks.

24 They also fabricate pit liners. And
25 they were running three shifts up in Punxsutawney and

1 that has --- or excuse me, two shifts, contemplating
2 three shifts in 2008. And now they're struggling to
3 keep one shift in business.

4 CHAIR:

5 One minute, Mr. Hardesty.

6 MR. HARDESTY:

7 Thank you. Again, one does not fit all.
8 I believe that the FFA has a different set of
9 regulations for a piper cub out of Jimmy Stewart
10 Airport versus a 767. What I'm requesting is that
11 applicable regulations be to the two separate parts of
12 the business. Thank you and good evening.

13 CHAIR:

14 Thank you. Next is David Clark followed
15 by Maurice Fey.

16 MR. CLARK:

17 My name is David Clark. My family has
18 been in the conventional oil and gas business since
19 1965. We supply natural gas to the surrounding homes
20 and businesses and supply crude oil that powers our
21 industries. Our company has an impeccable
22 environmental record and we maintain positive
23 relationships with local, state and federal officers
24 and regulators.

25 I started in our business in high

1 school. I'm very privileged to work in the beautiful
2 forest and near world class trout streams every day.
3 I believe that in our conventional oil and gas
4 industry we have already found a balance that protects
5 our forests and waters, and it allows responsible
6 conventional oil and gas operations to be done in a
7 safe and environmentally friendly manner.

8 Therefore, I'm speaking to express my
9 opposition to the passage of Chapter 78 regs as
10 proposed. I urge you to vote no to these regulations
11 that allow conventional wells to operate under
12 regulations that are separate from the regulations
13 that govern the unconventional oil and gas industry.
14 I have drilled many conventional wells and I believe
15 strongly that the drilling and producing of
16 conventional wells must not and cannot be regulated by
17 the same set of regulations as those used in the deep,
18 unconventional oil and gas industry.

19 In addition to the need of separate
20 regulations, I believe there's also a need to change
21 proposed regs that govern both conventional and
22 unconventional. One of these common areas is the new
23 term, special concern species. The DEP's proposed
24 regulation would create new and unauthorized
25 obligations without an adequate basis in fact or in

1 law. DEP and other resource agencies have
2 acknowledged that the term special concern species has
3 no generally accepted standard definition, either by
4 law or in the scientific community. In fact, special
5 concern species are generally understood as meaning
6 all categories of species, whether threatened or
7 endangered, which are protected under the Endangered
8 Species Act and comparable state laws and even
9 undetermined species that are simply of interest to
10 the scientific community.

11 The proposed regulation, as it's
12 written, leaves entirely open-ended the questions of
13 what currently constitutes this designation and what
14 will constitute its designation in the future. Also
15 left unspecified is any process for future inclusion
16 on the list and substantive criteria for that
17 inclusion. Also left open-ended is the criteria used
18 for determining and measuring impact and what
19 standards would be employed to ascertain the desired
20 mitigation measures. DEP cannot and it must not
21 recklessly wade into species law without any statutory
22 authority or the consensus of the scientific
23 community.

24 Next is the development of new well
25 sites and the management of oil and gas operations on

1 or in the vicinity of public resources. DEP's
2 proposed revisions would result in needless,
3 significant costs related to public lands because the
4 revisions don't comply with Pennsylvania law. And
5 they don't contain any process for respecting the
6 private property rights of oil and gas owners,
7 specifically in split estates. Not only is this a
8 remarkable usurpation of private property rights in
9 the face of Act 13's express protection of the same,
10 but the proposed regulations are without any limit as
11 to what concerns the resource agencies might submit.
12 What constitutes and defines a harmful impact under
13 these new regs? What are the limits of any proposed
14 mitigations by a resource agency? The proposed
15 regulations aren't even tied to the standard of
16 reasonable use, which has been part of Pennsylvania
17 Common Law for over a hundred years and which, by
18 virtue of extensive practice in the conventional oil
19 and gas fields, are marked by established practices
20 that protect and have protected our beloved
21 environment and provided thousands of very needed
22 jobs.

23 CHAIR:

24 One minute, Mr. Clark.

25 MR. CLARK:

1 Finally, I would like to talk about the
2 Regulatory Review Act, which requires DEP to consider
3 alternative regulations for small business. Virtually
4 all conventional oil and gas businesses in
5 Pennsylvania are small business. Despite this fact,
6 the proposed regulations don't contain any alternative
7 for a small business. Moreover, the due diligence to
8 comply with the statute is not done. The Regulatory
9 Review Act requires a specific flexibility analysis,
10 including less stringent compliant requirements,
11 alternative performance standards or an exemption
12 altogether.

13 The DEP's analysis is remarkably
14 incomplete. Not only does this analysis fail to
15 discuss these items required by law, it overlooks many
16 cost components that would be imposed by the proposed
17 regulations.

18 CHAIR:

19 Mr. Clark ---.

20 MR. CLARK:

21 The overlook costs in total over
22 hundreds of millions of dollars. I urge the Board to
23 vote no on this basis on these oversights alone.

24 In closing, I urge the Board to vote no
25 in order to take into account the significant

1 differences between conventional and unconventional
2 oil and gas. A no vote will help ensure that the
3 final regulations take into account the different
4 qualities of conventional operations and the financial
5 impact that the regulations will have upon the
6 conventional industry.

7 CHAIR:

8 Thank you. Maurice is not here, so the
9 next one in line would be number 21, Eric Cowden and
10 then Jeff Walentosky.

11 MR. COWDEN:

12 Good evening. My name is Eric Cowden.
13 I'm here with the Marcellus Shale Coalition, 24 Summit
14 Park Drive, Pittsburgh, Pennsylvania, 15275. I'm the
15 Community Outreach Manager in Central Pennsylvania for
16 the Marcellus Shale Coalition, an association working
17 with regional partners since 2008 and currently
18 comprised of nearly 300 exploration and production
19 midstream and service companies committed to
20 developing clean-burning natural gas resources. In
21 2012 our members were responsible for 96 percent of
22 the natural gas produced here in Pennsylvania.

23 Energy Development has an incredible
24 history in the Commonwealth. And, indeed, natural gas
25 development can serve to enhance and improve our

1 natural resources.

2 Significant investments have been made
3 across the Commonwealth by our industry to provide
4 needed habitat and restore lands and watersheds.
5 Partnerships with conservation groups are examples of
6 our industry's willingness and commitment to
7 voluntarily protect and preserve our natural
8 resources. And our industry has raised the bar for
9 shale development further with practices designed
10 specifically to lessen the impact on surface
11 disturbance and provide strategies to improve habitat
12 and landscape.

13 The benefits do not end there. Take,
14 for example, the fact that the Commonwealth accounted
15 for 18 percent of the natural gas production in recent
16 months, according to the EIA. This has led to more
17 revenue. The natural gas industry has paid over \$1.8
18 billion in taxes since 2008, and \$406 million over two
19 years to communities, counties and the state in impact
20 fees.

21 More than 200,000 new hires in
22 Pennsylvania are supported by industries associated
23 with the shale development, according to our L & I.
24 And despite the rhetoric, these are, myself included,
25 lifelong tax-paying residents of this great

1 Commonwealth.

2 In addition, there is a great cost
3 reduction to residential fuel. My grandparents,
4 married 63 years, saw their monthly budget for natural
5 gas heat be reduced by \$150 a month. That is an
6 \$1,800 per-year savings to senior citizens on a fixed
7 income. These benefits, unfortunately, are at risk.
8 Pennsylvania has a complex regulatory environment and
9 an uncertain fiscal climate, which has resulted in the
10 Commonwealth falling behind.

11 And there is even less certainty in the
12 wake of the decision of the Pennsylvania Supreme Court
13 to reject portions of Act 13 of 2012 that established
14 a statewide standard for oil and gas development.
15 Moreover, a plurality of the Court ruled to roll back
16 many of the environmental protections under Act 13,
17 including more stringent well setbacks. Nevertheless,
18 our industry will voluntarily comply with these
19 setbacks at the Governor's request.

20 When discussing agriculture issues, the
21 reach of the Marcellus Shale has gone much further and
22 touches a wide variety of agricultural businesses,
23 both large and small, all across the Commonwealth. It
24 is not restricted to solely the areas where Marcellus
25 is evident. The overall benefits include decrease

1 heating and electricity costs, increased sales of seed
2 and fertilizer, and companies retrofitting
3 agricultural structures such as bins, tanks --- and
4 tanks to accommodate the needs of the shale companies.

5 The Marcellus Shale Coalition will
6 provide detailed written comments on the Department's
7 proposed regulations in weeks to come. Our
8 overarching message, though, is straightforward.
9 Instead of undermining our strong, consistent and
10 predictable regulatory framework, we should work
11 cooperatively to revise these proposals to maintain a
12 balance between strong environmental protection and
13 competitive economic climate. It does not need to be
14 a false choice between the environment and economics.
15 And we urge the DEP to continue working with our
16 industry and stakeholders across the Commonwealth on a
17 reasonable, competitive path forward. Thank you for
18 the opportunity to provide this testimony.

19 CHAIR:

20 Next up is Jeff Walentosky, and then
21 following Jeff, number 23, is Darlene Marshall.

22 MR. WALENTOSKY:

23 Thank you for the opportunity to speak
24 this evening. My name is Jeff Walentosky. My address
25 is 5001 Julia Lane, McKees Rocks, Pennsylvania. I'm

1 here to testify as an interested citizen of the
2 Commonwealth regarding the proposed rulemaking of
3 Chapter 78, subpart C. I'm a lifelong resident of the
4 Commonwealth and Western Pennsylvania. I've been
5 employed as a licensed professional geologist for over
6 23 years for a groundwater and environmental
7 consulting firm located in Western Pennsylvania.

8 Our company maintains relationships with
9 the Marcellus Shale Coalition, Pennsylvania
10 Independent Petroleum Producers and the Pennsylvania
11 Independent Oil and Gas Association. As a member of
12 PIOGA, I currently serve as the Well Construction
13 Subcommittee Chair, which is part of the Environmental
14 Committee. I'd like to commend the Pennsylvania DEP,
15 industry and other interested parties for all the hard
16 work and long hours extended to get these draft
17 regulations in place to this point. However, it's
18 very apparent that there are significant improvements
19 and modifications that need to be made to the various
20 portions of the proposed rulemaking.

21 I will be submitting a detailed comment
22 letter prior to the end of the prescribed comment
23 period. I'm here to offer a few of my general and
24 more specific comments.

25 A few of the general comments. There's

1 a vast difference between conventional and
2 unconventional well drilling and stimulation
3 operations. The land disturbance footprint, waste
4 management activities and water usage on conventional
5 well sites is significantly different and entails a
6 small percentage of activity in comparison to
7 unconventional operations. Industry representatives
8 met with Pennsylvania DEP officials on numerous
9 occasions to discuss the fundamental differences in
10 these operations and the impact the proposed
11 regulations would have on the conventional oil and gas
12 operator, yet the Department has not adequately
13 addressed this issue.

14 The proposed Chapter 78 revisions pose a
15 significant financial impact on conventional and
16 unconventional well operators without a justified
17 environmental benefit.

18 The Department references forms for
19 completion within the proposed regulations. These
20 forms should be provided for review as part of the
21 comment period.

22 During the Technical Advisory Board
23 workgroup meetings in 2013, there were four issues of
24 concern that were discussed, public resource
25 protection, protection of water supplies, abandoned or

1 orphaned well identification and waste management of
2 well sites. Although there were significant
3 discussions between the work groups, there were no
4 meaningful changes made to the draft regulations as a
5 result of those meetings.

6 Specific comments to offer. One in
7 regards to protection of water supplies. The
8 Commonwealth is one of the few states that has no
9 drilling and construction standards for new and
10 existing residential water supplies. Past proposed
11 legislation in Pennsylvania has not been successful in
12 affording the residents of the Commonwealth assurance
13 that proper practices and guidelines are followed to
14 minimize the risk of drinking water contaminants.

15 Without this legislation in place, it is
16 unreasonable for the Department to expect industry to
17 be obligated to restore water supplies back to
18 applicable safe drinking water standards if the supply
19 did not previously meet these standards, or possibly
20 an improved water supply. The proposed restoration
21 standards should be made to meet predrilling or
22 baseline water quality.

23 In regards to abandoned and orphaned
24 well identification. The identification procedure in
25 this section of the proposed regulation outlines a

1 very difficult process. Traditionally, the operator
2 has completed its due diligence in order to avoid
3 potential environmental impacts and communication with
4 abandoned wells. The introduction of a map finder
5 identification tool will be helpful to the operators.

6 CHAIR:

7 One minute.

8 MR. WALENTOSKY:

9 However, the use of a questionnaire with
10 adjacent property owners will likely cause some issues
11 from the standpoint of property access issues or the
12 lack of accurate knowledge regarding existence of
13 abandoned wells.

14 One last point on reporting and
15 remediating releases. Even though the Oil and Gas
16 Spill Policy was established last year, there are
17 still significant consistency issues. Some common oil
18 and gas-related contaminants do not have established
19 standards that need to be met to ensure proper
20 measures have been taken in accordance with the
21 professional opinion of the Department
22 representatives. Without clear guidance, the
23 standards that follow this section of the proposed
24 regulations could create inconsistencies between
25 regional office and unclear expectations of what

1 remedial obligations an operator will have following
2 an unexpected release, resulting often in lengthy
3 legal debate and an unresolved site remediation issue.

4 I'd like to thank you for the
5 opportunity to speak this evening.

6 CHAIR:

7 Thank you. The next commentator is
8 Darlene Marshall, followed by Donald Lancaster.

9 MS. MARSHALL:

10 Good evening. Thank you for the
11 opportunity to speak tonight and comment on updating
12 the oil and gas regulations. We agree there is a need
13 to better protect our water resources and environment,
14 and the comments I will present cover the specific
15 regulations found in Section 78.51 to Section 78.62.

16 Highland Street Extension residents have
17 worked with community leaders in three municipalities,
18 along with our Representatives and Senators to present
19 over 2,000 comments to the Environmental Protection
20 Agency, which I'll refer to as EPA, to stop a proposed
21 disposal injection well near the City of DuBois. Many
22 residents fear a disaster similar to the recent West
23 Virginia incident could happen if the proposed
24 disposal injection well were permitted to be placed
25 within our residential area. The history of

1 Pennsylvania waste disposal injection wells show that
2 effects can be seen up to five miles away and at least
3 five cases of Pennsylvania disposal injection wells
4 had violations or contaminated water supplies. And
5 I'd like to note that we only have a handful of waste
6 disposal injection wells in Pennsylvania due to our
7 geology and our past history of drilling.

8 Leaders of our community requested we
9 submit all the information collected on the disposal
10 of waste and the protection of our water sources,
11 including municipal and private water wells. A binder
12 is being provided with all the information that was
13 collected, which is extremely relevant to protecting
14 Pennsylvania's water sources.

15 We request the DEP get copies and review
16 all the public comments collected by the EPA for
17 December 2012 and September of 2013 to aid in the
18 decision on the future regulations dealing with waste
19 disposal from oil and gas activity to protect our
20 water supply. Some information was provided by
21 engineers.

22 The EPA deals with underground sources
23 of drinking water and residents found no way to
24 protect above ground water sources. Our local coal
25 mines are of great concern, which are located near the

1 proposed site and extend under the City of DuBois into
2 Sandy Township and into many other municipalities
3 throughout our area. Residents' concerns dealt with
4 protection of water supplies, cost to check water
5 sources regularly, roads, air quality, soil, loss of
6 property values and much more. DEP and the EQB need
7 to review all this information collected by private
8 citizens on potential hazards to Pennsylvania water
9 supplies from the waste disposal of the oil and gas
10 industry since it has a direct impact of over a two-
11 mile radius --- and we found up to a five-mile radius
12 --- at least. Anything happening underground really
13 is an unknown and loss of water to homes is one of the
14 most important items to homeowners and to protecting
15 the homeowners' property values.

16 Please make sure the regulations
17 prohibit these seven items. Especially the use of
18 disposal injection wells in Pennsylvania, but also use
19 of open pits for storage or regulated substances;
20 onsite processing of drill cuttings due to hazardous
21 substances; burial or land application of drill
22 cuttings; onsite burial of waste pits; use of brine
23 for dust depression, deicing and road stabilization;
24 land application of top hole, pit water, fill or
25 dredged material. And again I say, use of disposal

1 injection wells. Due to the abandoned history of ---.
2 Due to the history of abandoned and orphaned wells,
3 ensure that the regulations will identify existing
4 wells, which include old and abandoned oil and gas
5 wells. We found very --- a whole bunch in our area
6 and they are in the binder enlisted. Make sure that
7 the regulations plug and seal old, abandoned and
8 orphaned wells appropriately prior to new well
9 construction to prevent pollution from happening. And
10 again, I'm talking about waste disposal, not just your
11 general conventional and unconventional.

12 And I have learned a lot as I've been
13 doing this process. I'm a librarian and I have
14 learned a lot of information. The operators should be
15 required to do predrill water quality testing and make
16 this data publicly available. If contamination of a
17 water source should happen, the operator should be
18 required to restore the supply to predrilling quality.

19 CHAIR:

20 One minute, Ms. Marshall.

21 MS. MARSHALL:

22 We urge you to include the Geisinger
23 Health Study findings being done on the oil and gas
24 industry, especially since the list of harmed
25 individuals has been compiled, along with 5,000

1 individuals in Pennsylvania, being affected due to oil
2 and gas activity. The list is included in the binder.

3 As a property owner, I've become active
4 in this issue due to the disposal injection well from
5 my area. I know we need energy resources, yet we need
6 to alleviate any risk of contaminating our water
7 sources. I've had friends lose water due to
8 contamination from an open containment pond.

9 As a librarian, I've tried to sort
10 through all the information. Protecting our water
11 resources should be our first priority with all the
12 news of water shortages. My first question to a Penn
13 State engineer and author was, what could happen if a
14 disposal injection well dumps waste? And he
15 demonstrated, when you pressurize anything, something
16 eventually has to give. In our area we found old
17 abandoned gas wells near our homes with the potential
18 to leak waste, coal mines in the proposed disposal
19 injection well sites connect under many surrounding
20 areas, and other geological findings that you'll see
21 in this binder that this is too risky.

22 CHAIR:

23 Okay, Ms. Marshall, your time is up.

24 MS. MARSHALL:

25 Thank you.

1 CHAIR:

2 We do have your comments for the record.

3 MS. MARSHALL:

4 Yes.

5 CHAIR:

6 Thank you. The next speaker is number
7 24, Donald Lancaster, followed by Eleanor Horvath.

8 MR. LANCASTER:

9 I don't have anything.

10 CHAIR:

11 Then the next speaker is Eleanor Horvath
12 and then we'll take a five-minute break. Is Eleanor
13 here? No. All right. Then we'll do the five-minute
14 break.

15 SHORT BREAK TAKEN

16 CHAIR:

17 All right. I hope you enjoyed the
18 break. We're going to continue with the hearing. The
19 next commentator is Richard Calabuig followed by Linda
20 Spar. Richard? He's not here? Then we'll go to the
21 next commentator, Linda Spar. If there's no Linda,
22 we'll go to the next speaker, which is Denise Garrott
23 who will be followed by Tracy Lassiter.

24 MS. GARROTT:

25 I'm afraid of a lot of things. My name

1 is Denise Garrott and I live on a farm in the middle
2 of nowhere in Armstrong County, outside of a town
3 called Cowensville. I live in a really beautiful
4 place today.

5 My focus is on the lack of DEP
6 regulations to protect public schools from Marcellus
7 Shale activities. Pennsylvania's Act 13 covers the
8 regulations that guide the gas and oil industries
9 drilling and fracking into the ancient radioactive
10 Marcellus Shale. This highly industrial activity
11 imposed statewide by Act 13 should not be allowed to
12 put our children in harm's way.

13 In 2011, Governor Tom Corbett and the
14 General Assembly cut a billion dollars from state
15 education funding, leaving district education budgets
16 on shaky ground and clouding judgment. Gas lease
17 deals can promise replacement of that missing money.
18 And we are seeking gas drilling --- and we are seeing
19 the gas drilling corporations getting DEP permits to
20 drill next to public schools.

21 But can you believe that DEP does not
22 have a single regulation that deals with drilling or
23 fracking near schools, daycare centers, hospitals,
24 senior living centers or any vulnerable population?
25 No special monitoring or testing is required. Nothing

1 about the soil where the children play sports and roll
2 in the grass. Not for water that's especially
3 susceptible to methane and chemical migration. Not
4 the air from the diesel trucks or equipment or well
5 flaring. And not for any possible chemical contact by
6 students or the teaching staff.

7 Thousands of industrial compounds have
8 never been tested for their risk to human health. No
9 driller is required to reveal what chemicals they're
10 using or when. No one is required to warn parents.
11 No one has to monitor or test. Risk assessments
12 haven't even been performed.

13 We know that many of these chemicals are
14 carcinogenic or neurotoxic. The Marcellus Shale layer
15 itself is radioactive. Radon can escape at any time
16 you punch a hole in the ground and a well is drilled.
17 And radon is the second most common cause of lung
18 cancer says the American Lung Association.

19 You can drill next to a school. No
20 trained health expert is required. No toxicologist or
21 even special training for school nurses. Nothing's
22 mandatory. No school safety protocols or evacuation
23 plans are suggested or discussed. But who would
24 provide lifelong care for teachers or children if they
25 are harmed?

1 Our most vulnerable populations should
2 not be used as a shield by the drilling concerns.
3 Neither the Health Department or hospitals are
4 providing public health information on fracking. We
5 don't send our children to school to expose them to
6 industrial chemical risks.

7 Currently, drillers can follow the same
8 rules for fracking near my outhouse or barn that they
9 use for fracking right next to an elementary school.

10 CHAIR:

11 One minute, Ms. Garrott.

12 MS. GARROTT:

13 A setback of a few hundred feet, nothing
14 to protect our children, not one single rule. But
15 according to PennEnvironment's study in 2011, there
16 are over a hundred daycare centers, 14 schools within
17 a mile of current drilling activity. And from January
18 2008 to June 2010 alone DEP reported 241 violations of
19 environmental regulations at Marcellus wells within
20 two miles of a daycare facility, and 40 of those
21 violations were within two miles of schools. And
22 that's not counting even the trucking and traffic
23 violations.

24 The largest checks I write every year
25 are for my property taxes and my school taxes. And I

1 wonder why you would permit endocrine destructors and
2 radiation and carcinogenic exposure to harm our
3 children.

4 CHAIR:

5 Ms. Garrott ---.

6 MS. GARROTT:

7 It certainly also shows a link to
8 toxins, exposures in autism, diabetes, asthma, heart
9 attack and even psychotic behavior.

10 CHAIR:

11 I'm sorry, Ms. Garrott, your time is
12 expired. We do have your comments for the record.

13 MS. GARROTT:

14 I'm sorry. We could establish a one-
15 mile setback.

16 CHAIR:

17 The next speaker is Tracy Lassiter,
18 followed by Tina Palmer. Tracy?

19 MS. LASSITER:

20 My name is Tracy Lassiter. I received
21 my Ph.D. here at IUP and my research is on the oil and
22 gas industry. I didn't prepare remarks. I'm speaking
23 sort of extemporaneously, which means hopefully
24 therefore a lit bit more briefly. But what I wanted
25 to talk about today was my concern about the

1 alternative storage of fracking material.

2 COURT REPORTER:

3 Can you spell your name for me, please?

4 MS. LASSITER:

5 Lassiter, L-A-S-S-I-T-E-R.

6 COURT REPORTER:

7 T-R-A-C-Y?

8 MS. LASSITER:

9 Yes. I can understand why industry is
10 resistive to regulation. And one only needs to look
11 to history to see the consequences of that lack of
12 regulation. Well, we don't need to look very far back
13 in history to see what happens when industry has no
14 regulation. We can look at my home state of Ohio,
15 which recently, in Youngstown, suffered a series of
16 earthquakes due to deep well injection of fracking
17 material. After a panel was convened to study the
18 impact of the deep well injection and the correlation
19 to earthquakes, one can determine that there was no
20 regulation against causing earthquakes. And so Ohio
21 resumed deep well injection of fracking material. So
22 of course one would expect a company to be resistant
23 to regulation when it would put that things like
24 earthquakes were occurring.

25 But part of the concern, part of the

1 worry is that we don't really know what we're up
2 against. It's hard to trust industry rhetoric when
3 they say they're working for the interest of the
4 national security, yet they sell our resources for
5 international consumption and don't stockpile it for
6 domestic future use. It's hard to trust that the
7 industry is not working with other organizations like
8 the Fish and Boat Commission that have worked out a
9 way to sell Pennsylvania lake water in the use of
10 fracking industry practices.

11 It's hard to trust the rhetoric that
12 says that this is okay and safe, and there has never
13 been an accident when we don't know what chemicals are
14 even used in the fracking process due to industry
15 secrets of what recipe is actually in the fracking
16 chemical compound. It's hard to trust industry
17 rhetoric that everything will be okay when physicians
18 have gag orders on them for what chemicals people ---
19 patients were exposed to that they then in turn must
20 treat.

21 So until organizations like the
22 Southwest Pennsylvania Environmental Health Project
23 and other medical organizations have determined what
24 are safe levels of exposure to these contaminants and
25 carcinogens, until we know what we're actually up

1 against, how can an open pit full of chemicals
2 possibly be something that is safe? Because the
3 rhetoric of the industry says so? Thank you.

4 CHAIR:

5 Thank you. The next commentator is Tina
6 Palmer, followed by Martin Resick. Is Tina here? Is
7 Martin here? Martin? Okay. The next commentator is
8 Victor Gressick, followed by Melissa Troutman. Is
9 Victor here? Is Melissa here?

10 MS. TROUTMAN:

11 I am.

12 CHAIR:

13 Okay. Then Joshua Pribanic will follow
14 her.

15 MS. TROUTMAN:

16 Hi. My name is Melissa Troutman, like
17 the fish. I was born and raised in Potter County,
18 Pennsylvania and I currently reside in Allegheny
19 County. So I grew up where the Allegheny River starts
20 as a bubble out of the ground and now I live in the
21 county where it ends, so that's kind of cool.
22 I'm going to be talking --- focusing mostly on water,
23 surface water, but also groundwater a little bit just
24 because they're all the same in the water cycle.

25 But first I'd like to comment about

1 surface development in general, given the well-
2 documented impact of oil and gas drilling and
3 hydraulic fracturing and the expansive nature of the
4 unconventional industry in the Commonwealth. I once
5 heard Dr. Terry Engelder, the Godfather of the
6 Marcellus Shale, say that the full scale
7 implementation of this oil and gas rush over the next
8 decade or so will consume about 50 percent of our
9 resource-rich commonwealth, 50 percent, and yet --- at
10 least I'm not aware of any comprehensive plan about
11 how the state will orchestrate this consumption of
12 land and also of water, soil and our fossil fuel
13 resources.

14 No overall plan. But, hey, who needs a
15 plan when you have world class regulations. Let me
16 quote from the proposed new rules for a second. A
17 person who wishes to document the quality of a water
18 supply to support a future claim that the drilling or
19 alteration of the well affected the water supply by
20 pollution may conduct a predrilling or prealteration
21 survey in accordance with this section. And that's
22 Section 78.52.

23 This regulation in particular needs to
24 be clearer about what a predrilling or prealteration
25 survey is. For example, is it one test? Is it two

1 tests? Is it four tests taken throughout the year,
2 given that seasonal high groundwater tables fluctuate?
3 I spent two years interviewing Pennsylvanians whose
4 water has been contaminated since nearby oil and gas
5 drilling. I did so professionally, as a journalist,
6 for an investigation that led to the documentary,
7 Triple Divide, which I will provide.

8 Let's see where I was here. Oh,
9 evidence from our findings, also in the film, deals
10 with all of the key provisions of this proposed
11 regulation. And here's what we found regarding
12 predrill testing and surface water protection.
13 Predrill tests conducted on private water supplies by
14 operators before drilling and fracking have been
15 allowed to be dismissed during water contamination
16 investigations by the state.

17 The documentary covers two such cases,
18 but our investigations found others. In one case, a
19 predrill test was dismissed because it was a one-time
20 test rather than a series of tests. And another
21 predrill test failed to protect a water supply owner
22 because her complaint came six months after the new
23 well was drilled.

24 The industry has been allowed to provide
25 an alternate source of water for some impacted

1 homeowners off the books, so to speak. DEP, in other
2 words, makes a determination that the company is not
3 responsible for the polluted water supply, and the
4 case is not counted as part of the total number of
5 water contamination cases in the state, even though
6 they have a predrill test that shows their water was
7 clean before and the company did provide an alternate
8 source of water.

9 Predrill testing is all the
10 documentation there is to protect Pennsylvania water
11 supplies and the proposed regulations under Section
12 78.52 needs to be made more specific and robust.

13 As your summary for these regulations
14 aptly points out, Pennsylvania has more water
15 resources than any other state except Alaska. That's
16 right, we do. I mean, we don't learn that in school
17 and I can't remember where I first heard it, but
18 Pennsylvania has more fresh water resources than any
19 other state except Alaska. But that's kind of like
20 Canada, it doesn't sort of count in my book.

21 Anyway, America is rapidly losing its
22 fresh water sources as demonstrated by California
23 Governor Jerry Brown's recent drought ordinance
24 declaration and the chemical spill in Charleston,
25 which is contaminating its way down to the Gulf of

1 Mexico. We live in a time when water is going to
2 become the reason for war across the world. And here
3 in Pennsylvania fresh water bubbles out of the ground
4 all over the place so much that I think we kind of
5 take it for granted.

6 The summary regulation states, one focus
7 of this regulation is to protect the vast water
8 resources throughout Pennsylvania. But in my opinion,
9 this regulation, as it's written now, no more protects
10 the vast water resources throughout our Commonwealth
11 than like a heavy-duty cardboard box may protect
12 donuts from a black bear.

13 Finally, I'd like to submit this copy of
14 Triple Divide as evidence of the gross mishandling and
15 blatant negligence, in some cases, afforded our water
16 resources, and of the characteristic inadequacy of the
17 proposed updates to our Commonwealth laws.

18 And I can't leave without failing to
19 mention that right now DEP and the administration of
20 this state are fighting to prevent citizens from
21 deciding where oil and gas drilling and fracking
22 happen in their own communities. The state is
23 literally trying to usurp our right to regulate
24 development where we live. This is the worst
25 abomination of all; a totalitarian attempt to limit

1 the freedom, democracy and independence that was
2 fought for and drafted into the U.S. Constitution
3 right here in Pennsylvania. And to that I say,
4 Citizens, it's time to rewrite our Constitution in the
5 Commonwealth to include the inalienable rights of all
6 communities to govern themselves and to establish the
7 rights of Nature herself, without whom we do not
8 exist.

9 CHAIR:

10 Ms Troutman, that's it.

11 MS. TROUTMAN:

12 Sorry. Natural gas may be touted as a
13 bridge to renewable future, but who needs a bridge if
14 there's no water. Thank you.

15 CHAIR:

16 The next speaker is Joshua Pribanic.
17 Did I say that right?

18 MR. PRIBANIC:

19 Yes, Pribanic.

20 CHAIR:

21 A guy with the last name Pankake, I try
22 to make sure I get it. Following Joshua will be Ron
23 Slabe.

24 MR. PRIBANIC:

25 Good evening. My name is Josh Pribanic

1 and I'm here to submit comments as the Editor-in-Chief
2 of Public Herald and as the co-director of the
3 documentary on fracking, Triple Divide, which my
4 partner, Melissa Troutman, had mentioned. Public
5 Herald is an investigative news nonprofit. And while
6 we advocate for truth and justice for all, we are not
7 an activist organization, academic institution or
8 political entity. We are for truth and creativity in
9 the public interest.

10 My comments here are mostly my own
11 editorial, but also part of what's in the 90 minutes
12 of Triple Divide, where myself and Melissa Troutman
13 try to find how DEP and the industry are handling the
14 negative impacts of fracking.

15 I want to first comment on the
16 background and purpose of the proposed regulations.
17 In hindsight, the purpose of the proposed regulations
18 are first an overall admission to the public that
19 fracking is a new technology which needs to be
20 regulated differently --- and I agree with the
21 conventional drill ---.

22 And secondly, the DEP regulations used
23 to protect the public resources from fracking for the
24 past ten years have been pathetically out-of-date. In
25 fact, the proposed regulations talked about tonight

1 are stated by DEP to, quote, be on the forefront of
2 the curve for how the Department protects
3 Pennsylvania's resources. This really does deserve an
4 applause. And you guys have done a fantastic job to
5 put yourselves in the forefront of the curve after the
6 last ten years. However, after what I know about
7 researching DEP's GMI case files, or what's riddled
8 throughout DEP's complaint files, these regulations
9 are nothing more than a freshman level attempt to
10 regulate fracking.

11 A case in point is the proposed
12 abandoned oil and gas well section. The proposed
13 regulations would require that an operator identify an
14 abandoned oil and gas well within 1,000 feet of their
15 vertical or horizontal well boring, report the
16 findings, then use sensory monitoring of the abandoned
17 wells to alert DEP when and where a problem may occur.
18 So I had to check my calendar on this one just to be
19 sure that we're still in the 21st century, since the
20 sensory monitoring proposed is not something from a
21 mechanical measuring device, but is instead akin to a
22 sniff test by industry workers. A sniff test. Not an
23 air monitoring device. Not a water monitoring device
24 inside the abandoned well, but a sniff test.

25 It's a proven fact that abandoned wells

1 of Pennsylvania act as a pathway for both biogenic and
2 thermogenic gases. EPA research dating back to a 1989
3 study on Class II injection wells found that abandoned
4 wells often communicate with nearby injection wells,
5 resulting in the transmission of contaminants to the
6 surface. These are not problems that can be
7 effectively monitored by sniff tests, even with the
8 great nose of Scott Perry. Gases are invisible.
9 There are 250,000 abandoned wells with cracked casings
10 and cracked cementing along the well annulus. When
11 gases from nearby fracked wells communicate with an
12 abandoned well they'll release into the atmosphere
13 undetected by the new, highly trained visual monitor
14 guy.

15 The public deserves to have regulations
16 that are, in fact, on the forefront of the curve.
17 This proposed regulation is nothing more than a
18 hangman solution. I feel it's a reactionary measure
19 and will cause further contamination.

20 The regulatory solution here is simple.
21 When an abandoned well is located, DEP should plug it.
22 Afterward it can be monitored using the best science
23 available for detecting gas emissions on the surface.

24 Before I finish I want to read this
25 beautiful passage under Section 78.62 on disposal of

1 residual waste or pits. It says, disposal of residual
2 waste --- pits. The proposed amendments to this
3 section clarify --- such and such ---. The most
4 important part is; however, residual waste, including
5 contaminated drill cuttings can be disposed of in a
6 pit on the well site.

7 I repeat for all homeowners in the room
8 with well pads on their property or for wells on
9 public lands, residual waste, including contaminated
10 drill cuttings, can be disposed of in a pit on the
11 well site, aka, it's buried, it's buried without your
12 permission or you knowing about it. But it's fine,
13 since these are required to be buried 20 inches above
14 the seasonal high water table.

15 So what is it? What are these
16 contaminants. If you look at Triple Divide and we
17 fast forward to Judy's chapter, we find that there is
18 things like iron. You know, it's no big deal.
19 Manganese is probably in toothpaste; Barium; Benzene;
20 Strontium; Arsenic; Thorium; Uranium or other
21 naturally-occurring contaminants like the good --- you
22 know, that produce radon. So everything's fine. It's
23 not like ---. It's a naturally occurring contaminant,
24 it's no big deal.

25 So where we have cases where a pit is

1 buried like this and someone finds these --- I'm
2 sorry. What I want to say is this whole chapter in
3 Triple Divide is about Judy Eckert's water supply
4 being contaminated after drilling, and the company
5 illegally buried the waste pit. DEP found out two
6 years later. They didn't issue a fine. They found
7 the same contaminants in the water supply that would
8 be in the waste pit, and had a predrill test showing
9 that Judy's water supply was clean before drilling.

10 So what happened? DEP's investigation
11 didn't do anything, left Judy with the contaminated
12 water supply. And they couldn't hold the gas company
13 liable because her complaint was outside of six
14 months.

15 CHAIR:

16 I'm sorry, Mr. Pribanic. Time has
17 expired.

18 MR. PRIBANIC:

19 This is American soil, American
20 resources. People deserve better than sniff test
21 regulations. Thank you.

22 CHAIR:

23 The next speaker is Ron Slabe, followed
24 by Gerald Smith.

25 MR. SLABE:

1 My name is Ron Slabe and I reside at 506
2 Angelcrest Drive, Upper Burrell, Pennsylvania. And I
3 am representing Upper Burrell Citizens Against
4 Marcellus Pollution. Thank you for extending the
5 comment period, but there still needs to be more
6 locations added, as the issues before us are too great
7 and need to be given an adequate hearing.

8 At Washington's hearing yesterday, as
9 well as today, I was struck by the industry's frequent
10 demand that they not be over-regulated. In so
11 hearing, the recent words of Chief Justice Ronald
12 Castille came to mind, telling us of Pennsylvania's
13 history of environmental degradation, and which he
14 also predicts will surely occur with shale gas
15 extraction. He notes the deforestation and coal
16 mining era, where there was little or no regulation
17 and how the taxpayers of Pennsylvania continue to pay
18 the price today for industry's callous disregard for
19 the environment.

20 I myself recall how the strip mining
21 industry once said it would be driven out of business
22 if they were forced to restore the soil to its
23 original contour. But forcing the industry to do so
24 did not drive it out of business, and today such
25 restoration is commonplace due to law and regulation.

1 Let us not be fooled by the industry's
2 Henny Penny squawking that the sky will fall with
3 greater regulation. For we know that such industries
4 are concerned first and foremost with the bottom
5 dollar and not about negative environmental impacts.
6 Regulations and additional regulations are an absolute
7 necessity if we are to control the outward
8 manifestations for financial gain at the expense of
9 the health and welfare of the Commonwealth's
10 environment and its people.

11 In regards to onsite waste storage,
12 we've heard the gas industry again claim that the use
13 of closed-loop systems would be too much of a
14 financial burden. But what is the industry's
15 alternative? Its solution is the existence of open
16 impoundments called frack pits, filled with toxins and
17 cancer-causing agents that pollute through leakage,
18 spillage and evaporation into the air of volatile
19 organic compounds contaminating water, soil and the
20 air we breathe. A member of the DEP has described
21 this as, I quote, the most serious issue we've
22 encountered with pollution, end quote. Both New
23 Mexico and Illinois have either banned the use of open
24 storage pits or required closed-loop systems. The
25 U.S. Interior Department has also encouraged the use

1 of closed systems and tanks.

2 Why, therefore, cannot Pennsylvania also
3 be on the cutting edge in banning the frack pit? In
4 spite of the evidence, the DEP's proposed regulations
5 allow for their continued existence and have no
6 provision for banning or even phasing out such
7 cesspools. This is a huge mistake and an
8 unacceptable capitulation to the gas industry. You
9 must correct this and ban forever the frack pit and
10 all its hazardous ramifications.

11 As I stated yesterday, the burying of
12 drill cuttings and their processing should also be
13 prohibited and cuttings first tested for radioactivity
14 and disposed of properly. Moreover, the burying of
15 pit liners should also be prohibited and their removal
16 and disposal strictly regulated.

17 Orphan wells should be identified and
18 plugged before drilling can occur, as such wells can
19 be a source of methane migration in the form of
20 groundwater contamination.

21 There should be no residual waste, such
22 as brine wastewater used on Pennsylvania roadways,
23 since brine can lead to environmental degradation.

24 Predrilling water testing must be
25 comprehensive. The proposed regulations fail to

1 specify the parameters for the predrill test of a
2 resident's water quality and leaves too much
3 discretion in the hands of the drillers.

4 CHAIR:

5 One minute, Mr. Slabe.

6 MR. SLABE:

7 And lastly, all such regulations should
8 apply not only to unconventional drillers, but to
9 conventional drillers as well. Since more and more
10 conventional or shallow well drillers are using
11 horizontal hydraulic fracturing methods which bring
12 them closer to the groundwater, it is imperative that
13 they also be included in all DEP regulations. In this
14 particular case, one size does fit all. Thank you.

15 CHAIR:

16 Thank you. The next speaker is Gerald
17 Smith followed by Paul Hart.

18 MR. SMITH:

19 My name is Gerald Smith and I'm a
20 resident here in Indiana Borough. Thank you for the
21 opportunity to speak tonight. In 2010 I had the
22 opportunity to lead a coalition of local, state and
23 national environmental groups and over 400 individual
24 supporters on a campaign here in Indiana County to
25 limit gas drilling in some of our county's natural

1 areas. The coalition formed in response to a
2 Marcellus well that was being dug on one of our closed
3 natural areas just outside of Yellow Creek State Park.

4 Shortly after our formation, Indiana
5 County formed the Indiana County Natural Gas Task
6 Force to inform the county on best practices and to
7 specifically address the issue of gas drilling in and
8 around places like Yellow Creek State Park. Several
9 members of our coalition were on that task force and
10 are here today.

11 Through our county Commissioner's
12 office, this task force heard from experts in the
13 natural gas industry as well as folks who study
14 environmental health impacts of energy extraction in
15 general and the fracking industry, unconventional gas
16 industry in particular.

17 In the end our coalition is pleased that
18 the Indiana County Commissioners issued what I call a
19 gentleman's moratorium on drilling in these areas, the
20 specific natural areas zoned for recreation. Our
21 Commissioners also vowed to get it right. We hope
22 that they do and we're glad to see that provisions
23 from Act 13 that would have tied their hands on
24 getting it right have been declared unconstitutional
25 so that our county can go about the business of

1 protecting our natural areas. I hope the DEP at some
2 point will see the wisdom of those provisions in Act
3 13 being declared unconstitutional and drop their suit
4 against it. That's where our county really is and
5 needs our hands to be untied.

6 My experience on the task force enforced
7 what I knew, people who work in the industry and in
8 our agencies are good folks who care about the health
9 and environment as much --- the health and environment
10 as everyone. One of those speakers of the task force
11 at the time was Chief of Operations of the Beaver Run
12 Reservoir site. That's in Westmoreland County and it
13 sits right on top of the Beaver Run Reservoir. The
14 number of pads, I'm sure you're all familiar with it.
15 It's a pretty large site. It sits right on top of the
16 reservoir drinking water for over about 100,000
17 people, about 400 yards or less from shore. An
18 operation like it may not have been allowed under Act
19 13.

20 When I asked him what concerned him the
21 most about the operations, where a rare but possible
22 catastrophic failure could lead to major health
23 consequences, environmental consequences, proposed
24 downstream, what he said was what happens to the waste
25 fluid. There at that operation, Consul operation

1 team, they were following best practices and I hope
2 they continue to follow those best practices,
3 particularly under the watchful eye of DEP and
4 actually the folks in this room.

5 But I've also learned that there are bad
6 players in the industry who might skirt those best
7 practices to save a buck. What we need is clear
8 regulations, strong regulations, from you and strong
9 enforcement of those regulations. Some of the things
10 that need to --- appreciate the effort of regulations
11 that you've started. The open water frack pits are a
12 clear concern for both the industry and folks in
13 health fields across environmental fields. Abandoned
14 open water frack pits seems to be the right idea.

15 The issue of onsite burial of cuttings
16 and waste pits, it seems to be, you know, this
17 industry comes into an area and they tell us that
18 they're going to leave it better than they do. And on
19 the surface a lot of times that's what happens. We've
20 seen lots of recovered sites that they look great.
21 However, under the surface they were allowed to bury
22 these drill cuttings and it's a real problem. So
23 those need to be transported offsite.

24 And, of course, identify abandoned ---
25 open abandoned gas wells. We have upwards of 200,000

1 unidentified orphan gas wells across the state. These
2 cause major problems for future gas drillers. And so
3 these things need to be identified and plugged or
4 sealed and that responsibility would be on this
5 industry.

6 Thank you much. Some comments are
7 submitted here online and I appreciate the time.

8 CHAIR:

9 Thank you. The next speaker is Paul
10 Hart, followed by Burt Waite.

11 MR. HART:

12 Good evening. Thank you for this
13 opportunity. My name is Paul Hart and I'm residing at
14 754 Nibert Road here in Indiana, Pennsylvania. I have
15 28 years of experience providing wastewater services
16 for the natural gas and oil industry. I currently
17 manage four facilities in Pennsylvania that provide
18 recycling and disposal services. We're the only
19 business in Pennsylvania that has successfully
20 processed natural gas well wastewaters into distilled
21 water salable salt products.

22 The proposed revision to Chapter 78 has
23 not complied with the laws of Pennsylvania. It does
24 not address the needs of small business. DEP has not
25 conducted the required determination of impact on

1 small business. Most of the conventional oil and gas
2 operators in Pennsylvania are small businesses within
3 the scope of Act 76 of 2012. The regulatory analysis
4 fails to address the requirements of the Act, which
5 amended the Regulatory Review Act to require an
6 economic impact statement and regulatory flexibility
7 analysis for any proposal, proposed regulation, that
8 may have an adverse impact on small businesses.

9 I have spoken personally to many of the
10 operators. And their internal review indicates that
11 these proposed revisions will have a dramatic impact
12 to their businesses. It would also negatively impact
13 a billion dollar investment and over 20,000 jobs, as
14 well as domestic energy production.

15 A few natural gas operators have told me
16 proposed regulations will cause them to not only stop
17 drilling new wells, but evaluate continued operation
18 of existing wells. This Act expressly recognizes that
19 small businesses are critical to Pennsylvania's
20 economy, and that uniform regulatory and reporting
21 requirements can impose unnecessary and
22 disproportionately-burdensome demands, including
23 legal, accounting, consulting upon small businesses
24 with limited resources.

25 DEP is required to consider the

1 establishment of less stringent compliance
2 requirements for small businesses, performance
3 standards to replace design of operational standards,
4 as well as an exception of small business for all or
5 any part of the requirements contained in the proposed
6 regulation. The proposed changes to Chapter 78 do not
7 adequately address the significant differences between
8 conventional and unconventional exploration and
9 production.

10 The industry met with DEP on numerous
11 occasions to address this issue and is willing to
12 provide information resources necessary to develop
13 best management practices appropriate for the unique
14 conventional industry.

15 Recently the Technical Advisory Board
16 conducted workshops. No changes to the proposal were
17 made at the TAB workshops that included
18 recommendations in the following areas based upon
19 their technical merit: public resource protections
20 associated with the species of special concern; waste
21 management well sites as it concerns centralized
22 impoundments on the onsite processing; prehydraulic
23 fracturing assessment, including identification of
24 abandoned, orphaned wells, and water supply
25 restoration standards.

1 The proposal unreasonably impacts
2 conventional oil and gas operations without a
3 compelling environmental justification. The State
4 should conduct a reasonable cost-benefit analysis to
5 determine if the cost to the industry is justified by
6 real and known benefits of compliance with the Chapter
7 78 revisions. It is my opinion that the cost far
8 exceeds the value of real benefits versus perceived
9 benefits.

10 CHAIR:

11 One minute, Mr. Hart.

12 MR. HART:

13 The Commonwealth will suffer the result
14 of these requirements. Provisions will likely lead to
15 dramatic reduction of investments, exploration,
16 dramatic reduction in production of natural gas, lead
17 to an increase of plugging or abandonment of wells.
18 Provisions will likely lead to dramatic decrease in
19 jobs associated with the conventional wells.

20 My recommendation is simple, that the
21 state authorities stop the approval of the current
22 revision of Chapter 78, require DEP to conduct the
23 necessary review of expert testimony to make changes
24 to Chapter 78 that are in the best interest of the
25 Commonwealth. Thank you for your time.

1 CHAIR:

2 The next commentator is Burt Waite,
3 followed by Mike Graham.

4 MR. WAITE:

5 My name is Burt Waite. I reside at 160
6 East Adams Street, Cochran, Pennsylvania, and I
7 thank you for holding these hearings to allow open and
8 public comment on the proposed changes to Chapter 78.
9 This is an important part of the regulatory process,
10 And the Department, on behalf of the EQB, has more
11 than met their obligation in this regard. Well done.
12 And I thank you for adding two more hearings and
13 extending the comment deadline to March 14th of this
14 year.

15 We have an almost unbelievable
16 opportunity in Pennsylvania to become a leader in
17 energy development. Marcellus Shale and other
18 unconventional gas plays have an opportunity to
19 reinvigorate our economy and our ability to compete on
20 a global scale by developing relatively clean,
21 domestic natural gas. And I say relatively clean,
22 because all energy sources, be they fossil fuels or
23 so-called renewable energy sources, come with an
24 environmental cost.

25 Pennsylvania can, again, compete as an

1 industrial manufacturing center. The jobs that have
2 been sent overseas because of our desire to pay
3 American workers a fair and sustaining wage, has
4 crippled our ability to compete for many manufacturing
5 jobs. And the opportunity is now before us to bring
6 these jobs back to the U.S. and back to Pennsylvania,
7 not by cutting wages and benefits, but by offering
8 safe, reliable and affordable energy. This is a
9 glimmer of hope I see for our children and
10 grandchildren to deal with the dept legacy of my
11 generation and we must not miss this opportunity.

12 But, and this is important, but we must
13 not squander this opportunity at the expense of clean
14 air, clean water and a healthy environment. And that
15 requires a strong and protective environmental
16 regulatory program which I believe now exists in our
17 Commonwealth. And I firmly believe the development of
18 this vast energy resource, both from conventional and
19 unconventional wells and the protection of the
20 environment are not mutually exclusive.

21 Because the Marcellus Shale with the
22 emerging technology to drill long, horizontal well
23 bores was new to Pennsylvania, it was right and
24 appropriate and necessary to generate new
25 environmental regulations to manage this monster we

1 call the Marcellus Shale. But the regulations must
2 not go so far as to hinder our ability to compete with
3 other states and the rest of the world. We must not
4 drive those that are willing to invest in energy
5 development in Pennsylvania to other parts of the
6 country. We cannot afford to lose this opportunity.

7 The proposed changes in Chapter 78,
8 Subpart C, go a long way in doing this, but in my
9 opinion, in some instances the changes miss the mark,
10 and I offer 13 specific comments to approve the
11 regulatory package. I'll go through as many here as
12 time allows and others will be submitted in written
13 comments.

14 Conventional wells versus unconventional
15 wells. There seems to be a ground swell growing to
16 separate the conventional well and oil regulations
17 from the unconventional operations. I want to add my
18 vote to encourage this possibility. The proposed new
19 regulations impose requirements under conventional
20 operators that are excessive and inappropriate and do
21 little to add to the protection of the environment.
22 Shortly you will see proposed new regulatory language
23 to this end, and I'm proud to have played a part in
24 drafting that language.

25 Section 78.51, water replacement. The

1 requirement to replace water to a condition better
2 than it was prior to drilling is punitive, unfair and
3 open to misuse. This is an example where
4 overregulation can hurt our ability to compete with
5 other regions of the country.

6 Section 78.15 of the Pennsylvania
7 Natural Heritage Program. The introduction of new
8 terms and conditions for the protection of some
9 species and habitats that are not fully vetted and
10 formally listed is inappropriate. Although the
11 intentions are good, the Department is overstepping
12 its bounds in this section.

13 Section 78.62 drilling pits. The
14 regulations of a conventional drilling --- of a
15 conventional shallow oil drilling pit that is often
16 less than a tenth of an acre in size in the same
17 manner as a holding pond at an unconventional site
18 that often exceeds several acres is inappropriate.
19 This section alone demonstrates the overwhelming need
20 for separating the regulatory requirements of
21 conventional and unconventional wells.

22 I have other comments that will be
23 provided in written comments in the future. And thank
24 you for letting me speak.

25 CHAIR:

1 Thank you. The next speaker is Mike
2 Graham, who will be followed by Rich McComb.

3 MR. GRAHAM:

4 I'm Michael Graham. I reside at 7880
5 Steubenville Pike, Oakdale, Pennsylvania. The few
6 conventional oil and gas wells I own and operate are
7 located in Armstrong, Butler, Allegheny and Washington
8 Counties. Some of the wells I own and operate were
9 drilled before 1900. These wells have provided a
10 valuable economic resource to the owners, operators,
11 employees and associated businesses for a substantial
12 period of time. Some of these wells still provide
13 free gas to homeowners in accordance with the original
14 leases.

15 My testimony this evening is as an
16 independent producer of conventional oil and gas
17 wells, and to express my opposition to the passage of
18 these regulations as published in The Pennsylvania
19 Bulletin.

20 Shallow oil and gas wells, conventional
21 wells that operated in this state for over 150 years
22 and regulations governing those wells have been more
23 than adequate to protect the environment, while
24 allowing producers to operate profitably through most
25 of those years. Be assured that the legacy wells that

1 produced small amounts of oil and/or gas will not
2 withstand the cost of additional regulations.

3 Regarding shallow conventional oil and
4 gas wells. The concerns I have are the references to
5 Act 2 procedures for cleanup, spills, at oil and gas
6 well sites, and that these procedures will impose
7 excessive and unnecessary costs to the oil and gas
8 operators and are not justified by clear environmental
9 benefit.

10 The obligation to return land to the
11 approximate original condition that existed prior to
12 well site construction disregards the ability of
13 operators and landowners to agree on site restoration.

14 The requirement for PPC plans creates an
15 unnecessary burden for small operators in that plans
16 would be similar for each well site, yet frequent
17 updating would be required for the plans to be
18 meaningful.

19 The pit requirements for slopes on
20 drilling sites for conventional oil and gas wells,
21 that they be no steeper than two to one --- two
22 horizontal, one vertical --- are for sites that
23 contain a small amount of fluid --- less than a
24 hundred barrels generally --- and are used for a short
25 period of time. And the requirement of the two to one

1 slope would result in a substantial --- larger area of
2 disturbance, greater costs without benefit.

3 The requirement for conventional
4 operators to retain soil scientists for certification
5 of pit bottoms relative to the seasonal groundwater
6 table adds another cost for operators. A performance
7 standard would be more appropriate.

8 The reporting and remediating of
9 releases is respected to protect the environment.
10 However, modifications are required to eliminate
11 unnecessary costs to the operator. The quantity of
12 releases and various alternatives for remediation need
13 to be considered.

14 Underground or partially buried tanks
15 that store brine, according to the regulations, have
16 to be identified and an exemption is required to be
17 requested to preclude the removal within three years.
18 This is a significant concern, given the reason that
19 most buried or partially buried tanks exist. These
20 tanks have been sited in this matter to accept gravity
21 flow production storage tanks, provide resistance to
22 freezing and for surface right-of-ways. Removal of
23 these tanks results in many additional costs,
24 including tank removal, likely replacement damage
25 during removal, new tanks, secondary containment,

1 larger use of the surface and concerns over how the
2 production water is kept from freezing.

3 CHAIR:

4 One minute, Mr. Graham.

5 MR. GRAHAM:

6 The electronic notification submittals
7 and reporting creates a burden for small producers
8 which do not have access for such transactions. Hard
9 copy submittals need to be permitted over time. Most
10 producers at their own discretion can choose to submit
11 information electronically. The small, independent
12 producers have been subject to an avalanche of
13 changing regulations over the past several years, such
14 as the revisions in Chapter 78 in 2010, the passing of
15 Act 13, the attempt to raise bonding amounts, raising
16 permitting fees, expansion of permit application
17 requirements for ESCGP 2 --- 1 and 2 --- no land
18 disturbance until a permit is issued, mechanical
19 integrity assessment, spill policies and now Chapter
20 78 regulations for oil and gas wells, Subpart C.

21 The ability to drill new conventional
22 wells will be reduced due to increased (sic) resulting
23 of these regulations. Existing wells will be less
24 profitable to operate and abandoned early. The result
25 will be a loss in crude supply to the refineries,

1 which currently operate at less than capacity. Jobs
2 will be eliminated. Affiliated business, free gas
3 consumers and royalty owners will be impacted. Thank
4 you.

5 CHAIR:

6 Thank you. The next witness is Rich
7 McComb, followed by Samuel Taylor.

8 MR. MCCOMB:

9 My name's Rich McComb. I'm a fifth
10 generation oil producer from 2240 McComb Road in
11 Stoneboro, Pennsylvania, 16153. I've worked my entire
12 life in the oil fields of Pennsylvania. I've pumped
13 conventional rod line wells with powers to rapid wells
14 to Marcellus wells with electronics and automated
15 valves and monitoring equipment. And other than the
16 fact that they're both a hole in the ground, that's
17 about the only thing that's in common between the two,
18 from the drilling to the production to the size of the
19 companies that are operating wells are totally
20 different.

21 I respectfully ask this Board to
22 recommend that either a separate set of regulations,
23 or if that's undoable, a subsection within the new
24 regulations, be established to separate conventional
25 from unconventional wells. There are thousands of

1 conventional wells already drilled here. Some of the
2 wells I've produced are close to a hundred years old.
3 They're here, they're drilled, they're fracked,
4 they're shot and they're in production. In many cases
5 the operators of these wells have produced countless
6 barrels of oil and mcfs of gas.

7 It makes no sense to crush the operators
8 of these wells with added costs associated with
9 regulations that are unnecessary and in many cases
10 complete overkill. If anything, making these existing
11 wells unprofitable would actually be doing more harm
12 than good to the environment, as many of these wells
13 would fall into disrepair or be abandoned. The
14 citizens of Pennsylvania have an interest in keeping
15 the existing wells that we have here operating and
16 profitable.

17 Secondly, we all know the elephant in
18 the room here tonight is the responsible disposal of
19 production water. It's my belief that this issue,
20 along with many others facing operators and the
21 Department, can only be resolved by both parties
22 working to come up with responsible solutions that
23 both parties can live with.

24 Furthermore, I'd request the Board
25 recommend a Pennsylvania Grade Crude Development and

1 Advisory Council be established. This group should be
2 comprised of conventional well operators and
3 Department people who will be charged with developing
4 plans to increase Pennsylvania crude production in
5 order to more adequately supply our refineries, and to
6 explore and develop responsible, economically-viable
7 production water disposal options.

8 Third is my belief that the Board should
9 advocate an onsite disposal of drill cuttings for
10 conventional wells, in the drilling, and in
11 particular, the reworking, of existing wells. By sand
12 pumping or reworking an existing well we're able to
13 extend the life of that well with minimal
14 environmental impact. The pit size and slope need to
15 be smaller for conventional wells. And in my opinion,
16 there's no reason for the changes that are being
17 proposed.

18 In conclusion, I believe it is critical
19 for Pennsylvanians to protect their own. People
20 working on conventional wells live in the state. And
21 the notion that we are polluting is misinformed,
22 ignorant of the facts and offensive to people who work
23 in the industry. Our industry's over 150 years old,
24 and the area in which it was started was drilled
25 without any regulation. More crude was spilled than

1 was shipped to the market, yet today it's a
2 magnificent state park, enjoyed by many.

3 Now, no one is suggesting that no
4 regulation is needed, however, people in this industry
5 only request we have a set of regulations that allows
6 us to stay in business and produce Pennsylvania crude
7 for another 150 years. Thank you.

8 CHAIR:

9 Thank you. The next speaker is Samuel
10 Taylor, followed by Tom Miller.

11 MR. TAYLOR:

12 Thank you. I don't need a microphone.
13 I'm sure everybody will hear me fine. I'd like to
14 thank you for this time. I don't represent an oil
15 company. I am not a Ph.D. I am not politically-
16 correct. I am a roughneck. I work on the drilling
17 rigs. All right? I've drilled conventional wells
18 since 1988.

19 I lost my job when this gentleman over
20 here got his moratorium for fracking. It had nothing
21 to do with me, but I don't have a job. What I want,
22 my comment to you, what this I thought was is, let's
23 get our act together, get something passed and figure
24 out what's what. Quit comparing apples to oranges and
25 go apples to apples.

1 Conventional drilling is not fracking.
2 We're punching holes straight down in the earth,
3 usually about 4,200 to 4,400 feet and coming right
4 out. We do it in a week. We're not there for 18
5 months or nothing like that. I want my job back.
6 I've been out of work for two-and-a-half years, you
7 know. I don't want to lose my home. I love being a
8 roughneck, you know. That's what the life is about
9 and that's all I want is you guys to get your acts
10 together and let me get back to work. Thank you.
11 That's it.

12 CHAIR:

13 Our next speaker is Tom Miller, followed
14 by another Tom Miller. Two Tom Millers in a row.

15 MR. MILLER:

16 I'm the Tom Miller that lives at 309
17 Station Avenue, Indiana, PA. And my remarks will take
18 us in a different direction from what we've been
19 hearing tonight, because it involves another party of
20 influence not really mentioned here before.

21 In order to minimize the risks of
22 damages incurred from unconventional gas and oil
23 operations and to require restitution for any mishaps
24 be made only by the parties benefiting directly from
25 the activity's profits, it is proposed that both

1 parties to the lease agreements, lessee and lessor be
2 held accountable for resolving problems, fines and
3 penalties and remediation expenses on a proportional
4 basis, fractional basis. Currently only the operators
5 are held responsible for any damages while lessors
6 continue to be treated as mere sideline spectators
7 with no accountability for what happens.

8 In support of this second party, the
9 lessor, be made responsible for sharing in these
10 expenses, we should recognize that they are the ones
11 benefiting financially from the operations, that's A.
12 B, enabling the operations to occur in the first
13 place, along with selecting the operator. C, they're
14 in a position to set the contract terms for how best
15 practices are to be implemented. And D, they're in
16 the best position to monitor operations and report any
17 problems promptly, or as an alternative, permit others
18 access to their property to do the same on their
19 behalf.

20 There's nothing new or unique or novel
21 about this. Just as established law holds certain
22 parties, for instance business partners, lawyers,
23 landlords and homeowners, just as the law holds these
24 people liable for the actions of those they have
25 dealings with, the same principle can be put to good

1 use here. For instance, since lessors would want to
2 minimize their exposure to the potential risk and
3 losses from shale gas activities, they would have a
4 strong incentive to be more cautious and conscientious
5 about addressing items B, C and D, you know, who they
6 retain as the operator, who they sign a contract with,
7 what are the terms of the contract, and paying
8 attention to the operations, B, C and D.

9 Whatever amendments the EQB recommends
10 to DEP for improving the safety of unconventional
11 shale gas and oil development, these amendments will
12 be made more effective with the active support and
13 cooperation of those property owners. Just as an add-
14 on to my prepared remarks for purposes of negotiations
15 to get negotiations started, what type of percentage,
16 proportional amount, provided amount, that the
17 property owner should be held liable for, for fines
18 and damages to start the negotiation, we could start
19 at 12-and-a-half percent. For those property owners
20 who don't want to negotiate, start at 50 percent.
21 Thank you.

22 CHAIR:

23 Thank you. The next speaker is Tom
24 Miller, followed by Lee Schweitzel (phonetic).

25 MR. MILLER:

1 My name is Thomas A. Miller. I am a
2 fourth generation oil producer. I live at 560 Route
3 16 South, Olean, New York. I am from New York, but
4 the Pennsylvania oil field extends into New York
5 State. If the refineries and supporting industries go
6 down, I go down, too.

7 The conventional 155-year-old
8 Pennsylvania shale oil and production industry is
9 located in some of the most beautiful country in the
10 world. This includes the historic Oil Creek Valley,
11 where there was once a forest of derricks in the
12 infancy of the industry. This is fact. If you don't
13 believe me, go visit Oil Creek State Park and see for
14 yourself. There was more oil in Oil Creek before the
15 birth of the oil industry than there ever is today.
16 The creek is named for the natural oil springs and
17 seepages along its banks.

18 The oil produced by this industry, Penn
19 Grade Crude, found only in Pennsylvania and New York,
20 West Virginia and Ohio, is the most environmentally-
21 friendly crude oil in the world, being the source for
22 many specialties, including personal care products and
23 even food additives, as well as high-quality
24 lubricants.

25 Besides being direct employment for

1 thousands of Western Pennsylvania and beyond, the
2 industry is a very significant economic driver for the
3 whole region. It is responsible for the employment of
4 thousands more who work in other businesses that are
5 providers of services and supplies. This is in
6 addition to the tax base provided by the industry.
7 The elimination of the oil industry would devastate
8 the entire region, but the effects would be felt all
9 over the state and into other states as well.

10 Why should this industry be made extinct
11 by the inclusion of a new set of rules designed for a
12 brand new industry, shale gas, that has very little in
13 common with the shallow well industry, other than the
14 fact that it produces a resource from the earth? The
15 need for many of these rules, even for the shale
16 industry, is suspect. The pressures encountered, the
17 toxicity of substances involved, if any, as well as
18 space required, traffic generated and water usage for
19 conventional wells, is minuscule compared to the
20 unconventional wells. My home water supply is a
21 former oil well.

22 When applied to conventional wells, many
23 of the rules are actually environmentally
24 counterproductive. For example, why is it necessary
25 to carve a highway into a well location when not much

1 more than a cow path is needed. The enforcers appear
2 to be driven more by the desire to issue citations and
3 show who is boss than anything to do with actual
4 environmental benefit. The purpose of the DEP should
5 be to help the industry to operate in an
6 environmentally-sound, efficient and productive
7 manner, not to harass them to death.

8 I understand that this is all being
9 driven by so-called environmentalists who get their
10 technical advice from celebrities and media bias and
11 scoff at those who have devoted their entire lives to
12 acquiring genuine expertise. One has to really
13 question the actual motives behind these people. Why
14 should state government give them more credibility
15 than the hard-working people who are doing their best
16 to make a living and provide necessary and valuable
17 resources that have made life better for all?

18 When the big corporations were no longer
19 in the picture and large secondary recovery projects
20 in operation, they had single point discharges of
21 thousands of barrels a day of produced water. Some of
22 them actually kept the streams flowing in dry weather
23 and some of the streams are renowned for their trout
24 fishing. The government didn't have a problem with
25 that, but now the hard-working little guy trying to

1 make a living is a felon for discharging gallons of
2 produced water, which is often beneficial to the
3 vegetation, by providing traces of nutrients.

4 In spite of this, it is deemed right and
5 proper for the State itself and by the State itself to
6 annually dump hundreds of thousands of tons of
7 unrefined deep mine salt on the highways. You don't
8 see or hear those so-called environmental groups up in
9 arms about this, but it doesn't bother them to
10 constantly say untruths, half truths,
11 misrepresentations and nondisasters to further their
12 goal. Isn't there something wrong with this picture?

13 If the Penn Grade Crude production
14 industry is destroyed, not only will it be the loss of
15 employment and prosperity to many, but a tremendous
16 source of the valuable resource will be lost that may
17 never be regained.

18 Shallow conventional wells must be
19 considered separately from deep unconventional wells.
20 The regulations that were already in place pursuant to
21 Act 223 were more than adequate to address the
22 conventional industry.

23 To the members of the Environmental
24 Quality Board, I ask that you base your decisions on
25 truth and justice and not on narrow-minded opinion.

1 Thank you.

2 CHAIR:

3 The next speaker is Lee Schweitzer,
4 followed by Richard Bloom. Is Lee here? Is Richard
5 here?

6 MR. BLOOM:

7 My name is Richard Bloom. I'm from 181
8 Cole Road, Ebensburg, PA, and I'm here as a private
9 landowner. And I want to thank you for the chance to
10 testify and I apologize for keeping you up so late. I
11 am both a citizen deeply worried about our changing
12 climate and a landowner anguishing about whether or
13 not to accept a gas lease.

14 As a retired school teacher, I have
15 studied and read about these issues for years. I
16 believe that we need natural gas, not as an additional
17 fuel that we can waste, but as a clean fuel to reduce
18 air pollution.

19 And this should be coupled with a plan
20 to increase our use of renewable energy. I also
21 believe that fracking is not a danger to the
22 groundwater in our area where the Marcellus Shale is
23 located 5,000 feet below our aquifers, although I do
24 think that the handling of the wastewater at the
25 surface has created problems. Although I'm not as

1 sure that the fracking is as safe in shallow
2 formations to the west, but around here it is.

3 On the other hand, while I think that
4 most companies are trying to do a good job, many have
5 cut corners or relied on older techniques in order to
6 help make a profit. And that has created problems
7 with wastewater spills, contamination of streams and
8 wells, as well as an erosion of public trust.

9 I think that the companies that have
10 held those strict set of guidelines, like the
11 performance standards put forth by the Center for
12 Sustainable Shale Development, that they could safely
13 drill, bore and produce natural gas profitably in our
14 state. This would benefit our local economy as well
15 as our state.

16 I worked for DEP back when it was called
17 DER, and I know the state inspectors are mostly hard-
18 working people trying to do a good job, but they need
19 clear rules and regulations to enforce. I also
20 believe that gas companies are mostly trying to do a
21 good job, and they also need clear rules and
22 regulations to help them stay within the law and to
23 keep less careful companies from having an economic
24 advantage.

25 The DEP has proposed these changes and

1 I'd like to comment just briefly on a few. First, I
2 hope that these changes will strengthen requirements
3 for predrilling and post-drilling testing and
4 reporting for the water sources. Past reporting
5 problems have led to the appearance of a cover-up.
6 There needs to be more transparency in this area.

7 Secondly, there seems to be a lot of
8 variation how fracking wastewater, drill cuttings and
9 other potentially hazardous materials are handled. I
10 note that these changes will standardize the rules for
11 handling these materials.

12 Open pits seem to invite public
13 perception of problems, whether or not it is real.
14 And there's always chance of leakage in an open pit.
15 The rules should require that all waste handling be in
16 closed systems, including brines that might otherwise
17 be spread on roads.

18 And processing these wastes should be
19 required to follow best practices in a transparent
20 manner that ensures the public's confidence.
21 Materials that are toxic should be handled according
22 to federal regulations for hazardous substances, even
23 if the federal law exempts this industry. Tightly
24 regulated handling and processing and treatment of
25 these wastes in the long run save the companies money

1 and increase the public trust of an industry that has
2 often been viewed as untrustworthy.

3 Third, I believe the DEP needs rules
4 that will help them properly identify and monitor all
5 of the orphaned and abandoned and active wells in the
6 state, not only to reduce the chance of accidents when
7 old wells interfere with new wells, but to help
8 identify old wells that might be sources of pollution
9 and potentially any that might pollute the natural
10 gas, both as a safety issue and to help contain a
11 powerful greenhouse gas.

12 Finally, I also hope that the DEP is
13 proposing standards on the amount of methane that is
14 allowed to escape during the drilling and production
15 phases of these wells. It seems ridiculous to allow
16 valuable fuel to escape, especially when it's a
17 powerful greenhouse gas that severely reduces the
18 clean image that this industry is trying to uphold.
19 Thank you.

20 CHAIR:

21 Thank you. The next speaker is Brian
22 Cope. Is Brian here?

23 MR. COPE:

24 Hello. I'm Brian Cope. I'm from White
25 Township, 1020 Old Route 119. I'm from here. I'm a

1 fourth generation Western Pennsylvanian, love this
2 place, grew up skiing on bony piles and not
3 questioning the types of industry here.

4 I came back in 1997 and realized that I
5 want to try to protect this place that I loved, you
6 know. That's what we're doing here this evening. I'm
7 part of the Coalition for a Healthy County as well as
8 I was also on the Marcellus Shale Task Force.

9 I have a couple things. I wanted to
10 just share with you a couple of the good things that
11 have happened since people have been concerned over
12 the deep well Marcellus drilling. Well, one really,
13 really good thing is that up until 2010, I believe
14 that water was being fairly regularly diluted.
15 Wastewater was being basically diluted into Two Lick
16 (phonetic) around the Josephine Plant. And, you know,
17 since they found that there's high levels of radium in
18 there and such. And there's still, I think, a lot of
19 radium ---.

20 And so that's a huge problem. And I
21 think that became ---. There was a gentleman's
22 agreement to no longer do that after that period of
23 time, after there was a public uproar. So I feel
24 that, you know, very, very strong regulations are
25 needed. I feel that a lot of ---. There's a lot of

1 good people in the industry. There's mostly good,
2 hardworking people in the oil and gas industry. But
3 there are bad actors. And I think, you know, the DEP
4 needs to use the strong reg --- I'm sorry. The DEP
5 needs to act strong on regulations as possible, okay,
6 because of the bad --- the bad actors, the few bad
7 actors that can contaminate water supply.

8 I want to give you an example of a story
9 that someone told me outside of Bi-Lo here in Indiana.
10 He told me that back in the ---. It was actually back
11 in the '80s, drilling operation was drilling a well up
12 above his house. And he walked up one day with his
13 dog and he noticed they were draining the settling
14 pond and they were spraying the water down into the
15 adjacent hillside. He said a couple of months
16 later ---. His wife drank a lot of water, spent all
17 day at home and drank lots of water. And the water
18 was --- had this foamy stuff in it. And it turned out
19 his well was bad and had chemicals in it and such.

20 And, you know, he kind of feels that it
21 was directly related to them spraying the hillside,
22 draining the pond. And so that's just ---. And a
23 year later his wife --- you know, her belly became
24 distended and it turned out she had stomach cancer and
25 she died. So, you know, two children lost their

1 mother and he lost his wife as well. So that's just
2 one of the horror stories. And there are horror
3 stories people are enduring right now up in the
4 northern counties and such. And I think we need to
5 take all of those into account.

6 And thank you so much. I appreciate you
7 making the effort to come here and propose these
8 regulations. I really appreciate it.

9 I am going to ---. I would like to just
10 submit the proposed changes to Pennsylvania's oil and
11 gas regulations that are supported by Berks Gas Truth;
12 Clean Water Action; Delaware Riverkeeper Network;
13 Earthworks; Clean Air Council; Damascus Citizens for
14 Sustainability; Sierra Club, Pennsylvania. So thank
15 you so much.

16 CHAIR:

17 Thank you. He was the last registered
18 commentator. Is there anybody else here that would
19 like to speak?

20 OFF RECORD DISCUSSION

21 MS. LOOSE:

22 Hi, thank you. My name is Michele. I
23 live in Homer City, Pennsylvania, a few miles up the
24 road. I'm here on behalf of my family. I am an
25 environmental advocate, but I'm also an advocate for

1 the industry. My husband works in the coal industry,
2 and I live by a coal plant and stuff, I mean, I see
3 both sides of this. And I think it's important that
4 all of you ---. There's a lot of bitterness tonight
5 on behalf of the industry people, anti-environment,
6 and you're not anti-environment, but, you know, I hear
7 a lot of snickers and comments and laughs and stuff
8 whenever --- when people are coming up here and
9 talking about the environment, because
10 environmentalists can be really silly sometimes and
11 not really considering some of the benefits of the
12 industry. So I think if we all can work together,
13 that would be really great.

14 And I don't understand the whole, you
15 know, Chapter 78. I didn't read every single word and
16 I don't get all the technical jargon, but I do know
17 that clean air and clean water is very important. I
18 have some ideas about the impacts on our health due to
19 deep well drilling. You know, we are so lucky. We're
20 so blessed in the state to have the water resources
21 that we do, but the problem with that is that so many
22 of our waterways are already contaminated by previous
23 industry.

24 You know, we live in Homer City. Our
25 Yellow Creek that runs right through our town, I mean,

1 I won't even let my dog drink out of it. I won't let
2 my son play in it. He's like mommy, I want to go look
3 at the fish and bugs and let's go catch bugs. And I'm
4 like, there aren't any bugs, the water's dead, the
5 water's sick. You know, then it makes me sad. They
6 do, you know.

7 And you look around at our natural
8 environment here. We live in a beautiful state. We
9 live in adjacent counties and we see such a history of
10 industrial abuse, whether just by negligence or
11 ignorance or by the will of uncaring energy
12 corporations. But coal has left its indelible mark on
13 our waterways and on our air. And taking great
14 strides to remediate these impacts are lots of
15 environmental organizations that, you know, while we
16 can get a little bit fundamental sometimes, we do mean
17 well, and we do care about people, too.

18 You know, I just think if we allow the
19 open wastewater pits --- from fracking, you know, all
20 these painstaking conservation efforts are going to be
21 in vain and then we're going to have to --- you know,
22 my son is going to have to tell his children and his
23 children and their children, I'm sorry, you know, you
24 can't even stand by this water because you could die
25 from being exposed to these chemicals.

1 I mean, it's not even --- you know,
2 that's no joke; right? There are ways to manage
3 wastewater. Open pits and natural depressions, even
4 used for temporary contaminants should not be allowed,
5 plain and simple. There are certainly ways to get rid
6 of or recycle the water using more sustainable onsite
7 and offsite methods than open pits or direct surface
8 disposal. These pits can leak and they've been known
9 to contaminate groundwater supplies, as well as soil
10 for very long periods of time.

11 I have a hard time forgetting the
12 immense revenues and money that's being brought in by
13 gas exploration and production while regular people
14 are being poisoned on the sidelines. I also have a
15 hard time with the, quote, unquote, economic benefits
16 to Pennsylvania that this gas boom is supposed to
17 bring. A lot of people that I've met working in the
18 Marcellus industry are from Oklahoma or Texas or
19 Arkansas. You know, it's different places out west,
20 which I'm glad they have jobs, I really am. And I've
21 met some great people and made some friends out of the
22 deal. But what benefits, may I ask you, is this
23 bringing Pennsylvanians, specifically in the long run,
24 especially if our water resources are degraded to the
25 point of being toxic, as in the case of the extreme

1 radium concentrations in the Blacklick Creek
2 Watershed.

3 On the flip side of this is energy
4 production. Like I said, we need the jobs. You know,
5 do we all use energy? Absolutely. We have a plug in
6 and turnon lifestyle and we want to support but there
7 are ways to take care of that, take care of our
8 environment as well as support the adequate energy
9 production that we want and need.

10 An applicable philosophy founded by the
11 American Indian League of Nations should apply in any
12 situation dealing with our resources of the land.
13 Quote, in every deliberation, we must consider the
14 impact on the seventh generation, even if it requires
15 having skin as thick as the bark of a pine, unquote.
16 We must be tough, practical and considerate, not only
17 to people now, but for our future generations. Thank
18 you very much.

19 CHAIR:

20 Thank you. Would anybody else like to
21 speak? State your name.

22 MR. STIAGLITZ:

23 Joe Stiaglitz, S-T-I-A-G-L-I-T-Z. My
24 name is Joe Stiaglitz. I'm from Pleasantville. I
25 can't speak for everyone here, but I'm chasing the

1 same dream, hopefully, as everyone else in this room,
2 the American Dream, of course. What is your
3 definition of the American Dream? Peace, prosperity,
4 freedom, the dream to go to school, to a college like
5 this, to get a job, get married, buy a house, have a
6 minivan with a soccer mom sticker on the back window.
7 Everybody has a dream and it probably varies a little
8 bit.

9 The company that I represent employs six
10 men. We drill wells. We frack them. I plug them. I
11 pump them. I attend them. Ninety (90) percent of our
12 work is oil-related shale. These guys that work for
13 me work today. It's ten degrees out. I ask them to
14 go out and they go out. They're dedicated. They work
15 an average of 50 to 70 hours a week. They've got kids
16 to feed. They've got mortgages to pay. They've got
17 loans on their minivans. They've got dreams, too.

18 If DEP and EQB go through with these
19 regs, will my employees still be able to chase their
20 dreams? Last week I had four young men call me
21 wanting a job. Let's face it, it's not that great out
22 there. If the EQB and the DEP go through with these
23 regs, will the men I currently employ be out on the
24 street looking for jobs like these four guys and the
25 young man you heard from tonight?

1 I'm a second generation oil man and am
2 currently working on the third. My father has worked
3 very hard to build our company, and I hope to carry on
4 the legacy of operating our shallow oil wells. If the
5 EQB and the DEP go through with these regs, there will
6 be no legacy for my kids to carry on.

7 A couple quick comments. I realize
8 there's been no studies on the effect of fracking on
9 the deer population, but the deer that I harvest over
10 my brine pits tastes pretty good. And for you folks
11 that want to end the road spreading, I bet you don't
12 live on a dirt road like I do, where my wife has to
13 dust every day.

14 I'd like to end with a quote from Ayn
15 Rand. When you see that in order to produce, you need
16 to obtain permission from men who produce nothing, you
17 may know that your society is doomed. Thank you.

18 CHAIR:

19 Is there anybody else that would like to
20 speak? Seeing none, with no other commentators
21 present on behalf of the EQB, I hereby adjourn the
22 hearing at 9:21 p.m. Thank you, everyone.

23 * * * * *

24 HEARING CONCLUDED AT 9:21 P.M.

25 * * * * *

1 CERTIFICATE

2 I hereby certify that the foregoing proceedings,
3 hearing held before Chair Pankake was reported by me
4 on 1/23/2014 and that I Cynthia Piro Simpson read this
5 transcript and that I attest that this transcript is a
6 true and accurate record of the proceeding.

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10 Court Reporter
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