

BEFORE THE
ENVIRONMENTAL QUALITY BOARD

* * * * *

IN RE: PROPOSED CHAPTER 78
ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS
AT OIL AND GAS WELL SITES

* * * * *

BEFORE: RICHARD FOX, CHAIR
KURT KLAPKOWSKI, Member
JESSICA SHIRLEY, Member
ELIZABETH NOLAN, Member
GREG VITALI, Member

HEARING: Thursday, January 9, 2014
6:05 p.m.

LOCATION: West Chester University of Pennsylvania
Sykes Student Union Theater
110 West Rosedale Ave
West Chester, PA 19383

Reporter: Hiyasmin R. Clites

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WITNESSES: Mayor Carolyn Comitta, Tracy Carluccio,
Scott Miller, Elizabeth Tatham, Stephanie
Wissman, Mike Helbing, Ken Hemphill, Alma
Forsyth, Shari Williams, Larry Berardi,
Lynda Farrell, John Hanger, Matt Walker,
Lisa Van Houten, Carol Ward, Jean Flood,
Gordon Macklem, Jr., Kathleen Campbell,
J. William Inslee, Karen Feridun, Ron Raz,
Jackie Palmer, Roberta Winters, Charles
Adams, Paulina Rosenberg

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P R O C E E D I N G S

CHAIR:

Good evening, everybody. Can you hear me? We're going to get started. It's six o'clock and we have a long agenda.

I'd like to welcome you to the Environmental Quality Board's first public hearing on the Environmental Protection Performance Standards at Oil and Gas Well Sites, proposed rulemaking. My name is Richard Fox. I'm an alternate on the Environmental Quality Board to Senator John Yudichak, and I'm representing the Pennsylvania Environmental Quality Board this evening.

Joining me this evening are Kurt Klapkowski, with DEP's Office of Oil and Gas Management, and Elizabeth Nolan, with DEP's Office of General Counsel. Also in attendance I'd like to recognize Representative Greg Vitali, who's the minority chair of the House Environmental Resources and Energy Committee, and also a member of the Environmental Quality Board.

I'm officially calling this hearing to order at 6:03 p.m. In the event of an emergency, I hope there aren't any, you can see where the exits are

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

5 In addition to this hearing, the
6 Environmental Quality Board will hold six additional
7 hearings on the proposed regulations January 13th in
8 Williamsport, January 15th in Meadville, January 16th
9 in Mechanicsburg, January 22nd in Washington, PA,
10 January 23rd in Indiana and January 27th in
11 Tunkhannock. Information about these locations and
12 hearing are available on DEP's website at
13 www.dep.state.pa.us.

14 Out in front are copies of the Citizen's
15 Guide to DEP Regulations. Inside this document you
16 will find descriptions of the regulatory process in
17 Pennsylvania, the Environmental Quality Board's role,
18 and how to submit comments, and tips for submitting
19 effective comments.

20 The proposed rulemaking, which was
21 adopted by the EQB on August 27th, 2013, would amend
22 25 PA Code Chapter 78 to upgrade the requirements
23 related to surface activities associated with the
24 development of oil and gas wells. The EQB adopted the
25 proposed rulemaking with the recommendation for a 60

1 day public comment period in at least six hearings
2 across the state. This represents a heightened level
3 of public participation as there is usually only a 30
4 day public comment period held for typical Department
5 rulemaking.

6 Additionally, public hearings are held
7 on the basis of public interest. And for some
8 regulations there are a few or even none that are held
9 if there is no request for hearings. Due to the
10 increased public interest in this rulemaking, EQB has
11 scheduled seven public hearings to allow ample
12 opportunity for public comment on this proposed
13 rulemaking. The proposed regulatory amendment would
14 address recent statutory changes in Act 13 of 2012 in
15 codified existing practices. This rulemaking will
16 allow for the implementation of key provisions of Act
17 13, including further consideration of impacts of
18 public resources such as parks, the prevention of
19 spills, management of wastes and the restoration of
20 well sites after drilling.

21 The proposed rulemaking also includes
22 standards affecting the construction of gathering
23 lines and temporary pipelines, and includes provisions
24 for identifying and monitoring abandoned wells closed
25 to proposed well sites.

1 In order to give everyone an equal
2 opportunity to comment on this proposal, I'd like to
3 establish the following ground rules. I will first
4 call upon witnesses who are preregistered to testify
5 at the hearing. After hearing from these witnesses, I
6 will provide any other interested parties with the
7 opportunity to testify as time allows. Testimony is
8 limited to five minutes for each witness.
9 Organizations are requested to designate one witness
10 to present testimony on its behalf. Each witness is
11 asked to submit three copies of his or her testimony
12 to aid in transcribing the hearing, and you can put
13 your copies in the box there by the microphone if you
14 come up. Please state your name, address and
15 affiliation for the record prior to presenting your
16 testimony. And the Board would appreciate your help
17 by spelling names and terms that may not be generally
18 familiar so the transcript can be as accurate as
19 possible.

20 Because the purpose of the hearing is to
21 receive comments on the proposal, each of the DEP
22 staff do not address questions about the rulemaking
23 during the duration of the hearing but may address any
24 questions after the conclusion of the hearing. In
25 addition to or in place of verbal testimony at today's

1 hearing, interested persons may also submit written
2 comments on this proposal. Written and verbal
3 comments hold the same weight when considered in the
4 finalization of rulemaking. All comments provided
5 become part of the official record. All comments must
6 be received by the EQB on or before February the 12th,
7 2014. Comments should be addressed to the
8 Environmental Quality Board, P.O. Box 8477,
9 Harrisburg, PA, 17105-8477. Comments may also be
10 emailed to regcomments@pa.gov or submitted online
11 through the EQB regulatory system accessible from
12 DEP's website.

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

23 With that, I would now like to call the
24 first commentator. And I do have somebody assisting
25 me at the time, so we are going to stick to schedule.

1 But our first presenter this evening, we are honored
2 to have the Honorable Mayor of the Borough of West
3 Chester, Carolyn T. Comitta. Welcome.

4 MAYOR COMITTA:

5 Thank you, Mr. Fox. And welcome to West
6 Chester, each of you. I am Carolyn Comitta, Mayor of
7 the Borough of West Chester, 115 South Brandywine
8 Street, West Chester, Pennsylvania, 19382.

9 Again, welcome. We appreciate that
10 you're here and are happy to have you in West Chester
11 with us. I want to thank you for the opportunity to
12 present testimony on concerns in particular of
13 fracking waste pits and the potential harmful impacts
14 to the people of West Chester.

15 There are many communities who think of
16 Marcellus Shale as not their problem. They live
17 outside the Shale region and are not directly impacted
18 by drilling and fracking wastewater. This thinking,
19 in my opinion, is naïve and shortsighted.

20 Although West Chester and Chester County
21 is not located in the Marcellus Shale region, we are
22 downstream from the regions where fracking operations
23 are underway and growing rapidly. Not that many years
24 ago it was common for people to think about only the
25 concerns of their own backyards, and not worry

1 themselves so much about the problems of their
2 neighbors. We've learned through too many tragedies,
3 starting with the Chernobyl nuclear accident, that
4 toxins when released can blow and flow around the
5 world. Air and water pollution does not respect
6 national, state or regional boundaries. We all live
7 downstream.

8 West Chester's water sources and public
9 health are at risk for regional pollution. In
10 addition, West Chester's economic development and
11 health is directly connected to the success of our
12 region and our state. My sense is that the Chapter 78
13 sections on waste management well sites and off-site
14 issues are the most relevant for residents of Chester
15 County who are concerned about downstream impact,
16 including regulations for pipelines. It is from this
17 perspective that I urge you to take all the time
18 necessary to make carefully, scientifically-based
19 decisions on waste management at well sites and
20 off-site.

21 It is important to know that the DEP
22 considered other changes. For instance, they
23 considered eliminating pits and underground tanks for
24 managing waste, but felt such restrictions were
25 impractical. Are they really impractical? I contend

1 that the health of our people, our children, should be
2 at the top of any list of standards for practicality.

3 The science appears to support a ban on
4 fracking waste pits at this time. I urge you to
5 follow the science and to ban all fracking waste pits.
6 In addition, while many of us want all fracking to
7 cease, we must stop expansion until the full effects
8 of drilling are fully understood.

9 Others will testify to the scientific
10 reasons to ban all fracking waste pits. I speak for
11 the children who are the future of West Chester. I
12 urge you to slow down, study the science and choose
13 only those options that are deemed to be
14 scientifically safe for the children of West Chester
15 and the Commonwealth. Thank you very much.

16 CHAIR:

17 Thank you. Next on our list is Tracy
18 Carluccio.

19 MS. CARLUCCIO:

20 I'm Tracy Carluccio, Delaware
21 Riverkeeper Network Deputy Director. Our address is
22 925 Canal Street, Bristol, Pennsylvania. We submit
23 these verbal comments in addition to written comments
24 that we will be presenting on behalf of our 12,000
25 members in the Delaware River Watershed and beyond.

1 We greatly appreciate that Pennsylvania
2 DEP recognizes the need for improvement of the
3 regulations that govern oil and gas development in
4 Pennsylvania. We agree that current regulations need
5 changing --- changes, however, regarding these
6 activities. We feel this is particularly true in
7 light of the unprecedented growth in unconventional
8 natural gas extraction and its associated
9 infrastructure. But also because of existing
10 conventional drilling impacts that have adverse
11 effects that have long been ignored on communities and
12 the environment, including the water that we drink.

13 First, I'd like to say a word about
14 public participation. We request an expansion of the
15 opportunity for public comment. We consider this
16 rulemaking to be of great importance to the
17 communities that are experiencing the ill effects of
18 oil and gas development, including infrastructure,
19 transportation and processing impacts. Informed and
20 meaningful public input into the decisions that the
21 EQB and DEP will make regarding proposed regulations
22 provide --- usually allow people to provide
23 substantial review time, and that requires research,
24 and requires more than 60 days. It's simply not
25 enough time, especially considering the major

1 holidays, including the three federal holidays that
2 occur during the public comment period. And two weeks
3 of that period were substantial major holiday periods
4 for residents and their families.

5 It's a basic right of the public to take
6 part in rulemaking. The activities governed by these
7 rules have direct and substantial impact on
8 Pennsylvanians, so we should be able to take part in
9 the decisions that will be made. It's also true that
10 the public's participation benefits the government in
11 its decision-making and inevitably improves the
12 outcome of the rulemaking process. Also, more
13 hearings need to be held. We think, to be fair,
14 hearings should be held in every county that is
15 experiencing drilling, fracking or related
16 infrastructure such as pipelines, compressors, gas
17 processing facilities and transportation systems.
18 Seven counties are not enough. People should not have
19 to travel hours to reach a hearing. They should be
20 able to easily access the opportunity for verbal
21 comment in their own county.

22 We consider verbal testimony, and we're
23 glad to hear you do, too, as a valuable means of
24 collecting public input. And many people just aren't
25 capable of doing anything beyond that due to their

1 busy lives and their work. To accomplish a successful
2 public participation effort, we request that the
3 comment period be extended to at least 120 days, and
4 that hearings be set over this extended time in every
5 county that is experiencing oil and gas development
6 impacts.

7 I'd like to quickly go through our
8 comments. And do you have anybody to tell me when I
9 get near the end?

10 CHAIR:

11 I can give you a one-minute warning.

12 MS. CARLUCCIO:

13 I would appreciate that. Thank you.
14 There are some improvements being proposed by DEP that
15 are worthy of support, but generally they don't go far
16 enough and, in some instances, are completely
17 ineffective because they're so deficient. Also, there
18 are many areas in need of improvement that are not
19 included in the proposed rules at all. For tonight
20 I'm just going to touch on a few key areas.

21 Public resources need greater
22 protection. All species, for instance, need their
23 habitats identified and protected, not only threatened
24 and endangered species. And all oil and gas
25 activities, including infrastructure such as pipelines

1 and processing facilities, should be analyzed, and
2 negative impacts should be avoided and prevented, not
3 just mitigated. Science tells us that once a natural
4 resource, like wetlands, for instance, or a mature
5 forest is damaged, it will likely never be restored to
6 its original value. Therefore, prevention of harm
7 makes the most sense, and that's what we're asking you
8 to do in this rulemaking.

9 Water supplies need greater protection.
10 Today people are suffering because their water wells
11 have been ruined by fracking, and many have been left
12 without remedy or with diminished water quality.

13 CHAIR:

14 One minute.

15 MS. CARLUCCIO:

16 Oh, my heavens. Okay. So we believe
17 that that has to be changed. Rules have to be put
18 into place in order to protect those because water
19 supply --- private water supplies have been impacted.
20 Orphan and abandoned wells should be plugged and
21 sealed, as well as identified. And that should be
22 done prior to any disturbance of the well site, not
23 afterwards. Open pits must be banned. It's
24 irresponsible for DEP to continue to allow open frack
25 pits. Also, onsite processing of drilling and

1 fracking waste creates pollution pathways that are not
2 controlled by this rulemaking. As a matter of fact,
3 the holes in the regulation are so great that there
4 should not be onsite processing of these dangerous
5 materials --- many of them containing radioactive
6 properties and toxic materials --- should not be
7 allowed at all.

8 Open centralized freshwater and waste
9 impoundments should not be allowed as proposed. And
10 that's because you're allowing hazardous fluids to be
11 mixed in with freshwater. You do not have a
12 definition for freshwater. You need to learn about
13 freshwater. It does not include mine influenced
14 water, AMD, cooling water ---.

15 CHAIR:

16 Thank you.

17 MS. CARLUCCIO:

18 Thank you very much. The last thing I'd
19 like to say is you should ban the land application of
20 solid and liquid wastes. Thank you very much.

21 CHAIR:

22 Thank you. Next we have Scott Miller.

23 MR. MILLER:

24 Good evening. My name is Scott Miller.

25 That's S-C-O-T-T, M-I-L-L-E-R. I'm a Senior Community

1 Relations Representative for WPX Energy in the
2 Marcellus Basin. I'm based in Nicholson, Pennsylvania
3 in Wyoming County. WPX Energy is one of the largest
4 producers in the United States and is active in many
5 of the nation's basins. We have been in the Marcellus
6 Basin since 2009 and have drilled 100 wells in the
7 Commonwealth.

8 Individually and in concert with trade
9 associations, we have been engaged with DEP, DCNR, TAB
10 and all of the environmental working groups involved
11 in this labor-intensive process. Thank you for
12 allowing WPX to comment on items WPX believes are
13 important.

14 Regarding Chapter 78, Section 15
15 regulations. Initially, Section 3215(e) of Act 13
16 required the Department to develop regulatory criteria
17 that protect public resources while ensuring optimal
18 oil and gas resource development and respecting oil
19 and gas owner property rights. However, the proposed
20 regulations in Chapter 78 Section 15 do not adequately
21 implement or address these requirements. The
22 regulatory criteria for conditioning a permit has not
23 been provided, and the draft regulations only frame
24 the Department's authority to implement the
25 conditions. If industry is required to avoid or

1 mitigate potential impacts to these resources, the
2 criteria used to assess the impacts must be
3 established and provided.

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

17 Regarding the issue of water
18 replacement. The main concern is the DEP proposing
19 the industry replace a water supply to Safe Drinking
20 Water Act Standards, or better, even when the results
21 of pre-drill testing of the water supply show the
22 water did not meet these standards in the first place.
23 There are many challenges in the Commonwealth in
24 regards to private water wells, especially the lack of
25 construction standards. Our experience with pre-drill

1 testing and several studies independent of natural gas
2 development demonstrate that a large number of private
3 water wells are poorly constructed, many contain iron,
4 manganese, coliform and methane, and many do not meet
5 the criteria of the Safe Drinking Water Act.

6 Until such time as the Pennsylvania
7 legislature passes legislation to require property
8 owners to properly construct private water wells and
9 ensure they meet the Safe Drinking Water Act, it is
10 unreasonable for the DEP to require the industry to
11 restore a private water supply to better standards
12 than originally existed. We are requesting that if
13 the operator impacts a water supply, the DEP requires
14 replacing the water supply to the pre-drill test
15 standards.

16 Regarding wastewater management at a
17 well site. The natural gas industry has been
18 recycling/reusing water and minimizing freshwater use
19 for quite some time now. Unfortunately, the new
20 regulations would force operators to rethink this
21 option. In order to increase the amount of water
22 being reused and recycled in the Commonwealth, the
23 regulations need to provide an avenue for the
24 operator, either through permits or DEP approvals, to
25 document, move and reuse water from one site to

1 another. In addition, the Oil and Gas Division must
2 have its own regulations concerning water management
3 and not be conflicted and confused with those of the
4 Waste Management Division.

5 Regarding orphaned and abandoned wells.
6 Identifying active, inactive, plugged, abandoned and
7 orphaned wells prior to hydraulic fracturing may be
8 something that the industry can work with the DEP, but
9 not to the level of the proposed regulations ---

10 CHAIR:

11 One minute.

12 MR. MILLER:

13 --- as that may lead to non-ending
14 obligations on behalf of the industry for wells that
15 are not ours.

16 It is well-known that The State Oil ---
17 that The State Review of Oil and Natural Gas
18 Environmental Regulations, STRONGER, a national
19 nonprofit organization charged with assessing the
20 states' oil and gas regulations, reviewed
21 Pennsylvania's oil and gas regulatory program in May
22 2013 at DEP's request. STRONGER released its report
23 in September 2013 and found that Pennsylvania's
24 program is overall well-managed, professional and
25 meeting its program objectives. STRONGER lauded the

1 DEP on its many --- on many of its initiatives and
2 regulations. WPX implores this Board to recognize
3 STRONGER's assessment and credits the DEP for
4 employing STRONGER to review our environmental
5 regulations in light of the natural gas industry's
6 operations and economic growth for all.

7 WPX appreciates and respects the
8 communities in which we operate. We are dedicated to
9 protecting Pennsylvania's environment. We thank you
10 for your efforts and desire to continually seek better
11 and more efficient ways to regulate our industry and
12 safeguard Pennsylvania's environment.

13 CHAIR:

14 Thank you. Next we have Elizabeth
15 Tatham.

16 MS. TATHAM:

17 Good evening. I'm Elizabeth Tatham,
18 T-A-T-H-A-M, 79 Old Mill Lane, Holland, Pennsylvania.
19 I am the Vice President of the League of Women Voters
20 of Pennsylvania for whom I am speaking tonight. The
21 League commends the Environmental Quality Board for
22 incorporating suggestions made at public meetings on
23 the proposed oil and gas regulations. This
24 responsiveness to civic participation can prompt
25 renewed trust in government agencies. The League will

1 provide additional testimony at some subsequent
2 hearings and aggregate written comment before February
3 12th.

4 Tonight we will focus primarily on
5 permit application fee schedule, surface landowner
6 conferences and portions of Subsection C,
7 Environmental Protection Performance Standards.
8 Consistent with our State Constitution, Article 1,
9 Section 27, we believe the people have a right to
10 clean air, pure water and to the preservation of our
11 natural resources for generations yet to come.
12 Further, the Commonwealth is a trustee charged to
13 conserve these assets for the benefit of all the
14 people.

15 Based on our state-wide study, consensus
16 and resulting position, we support the maximum
17 protection of public health and the environment in all
18 aspects of Marcellus Shale natural gas operations;
19 preventing a burden on taxpayers by establishing a
20 sufficient fee structure on natural gas extraction for
21 permits that reflects projected costs and
22 unanticipated consequences. And regulation that
23 ensures public input into decision-making regarding
24 the location of facilities and balances the rights of
25 mineral and surface owners.

1 The proposed permit fees for
2 unconventional wells are inadequate and should be
3 significantly increased. They should be based not
4 only on depth of the well bore, but the number and
5 length of horizontal bores from each vertical bore.
6 Consider additional fees for multiple fracking of a
7 well given increased risk, and the inclusion of
8 premium fees related to evolving technologies such as
9 super fracking.

10 Even with local zoning rights retained,
11 the League applauds the use of conferences and panels
12 as a means for surface landowners to object to well
13 locations and/or misinformation within the
14 application. Provisions for objectivity and
15 accountability of decision makers should be
16 delineated, monitored and enforced with safety, health
17 and economic impact to landowners given priority. All
18 timelines should be extended, given cause, to promote
19 adequate consideration.

20 In the Environmental Protection and
21 Performance Standards, the League is pleased to note
22 the inclusion of site-specific plans, precautions
23 relative to orphaned and abandoned wells, fencing
24 requirements and posting contents and warning labels
25 to enhance safety. In addition to minor changes to

1 improve notification, definition and communication, we
2 make the following significant recommendations.

3 Given the high risk and consequences of
4 water contamination, investigate incidents as soon as
5 possible within the ten-day period following a
6 request. Applicability should include well site
7 construction given the consistently documented
8 problems related to improper casing and regulatory
9 needs delineated by STRONGER.

10 Designate that costs incurred by
11 individuals to document pre-drilling water quality, as
12 specified by an independent accredited laboratory, are
13 passed on to the operator.

14 Because of the potential for serious
15 contamination, include identification of abandoned and
16 orphaned wells through advertisements in local
17 newspapers, posting in municipal buildings and
18 specific seismic testing and on-the-ground
19 surveillance to note pipes, casings, depressions,
20 small sheds and/or pits.

21 Distribute copies and revisions of
22 control disposal plans and emergency response plans to
23 local emergency response groups, county conservation
24 districts and municipal offices to promote awareness
25 and compliance. Post electronically for public

1 review.

2 Limit storage and containment
3 structures, including modular aboveground unit, to
4 closed tanks to reduce health hazards and
5 environmental risks. Reinsert the word pollutional
6 rather than regulated substances given loopholes in
7 regulations relative to the oil and gas industry. And
8 disallow the use of pits for storage of anything but
9 potable water.

10 The League appreciates the opportunity
11 to comment.

12 CHAIR:

13 Thank you. Stephanie Wissman.

14 MS. WISSMAN:

15 Good evening. Stephanie Wissman,
16 W-I-S-S-M-A-N, Executive Director of the Associated
17 Petroleum Industries of Pennsylvania. 300 North
18 Second Street, Harrisburg, Pennsylvania, 17101.

19 API is a division of the American
20 Petroleum Institute, a national trade association
21 representing all segments of America's
22 technology-driven oil and natural gas industry. Its
23 more than 580 members, including large integrated
24 companies, exploration and production, refining,
25 marketing, pipeline and marine businesses, and service

1 and supply firms, provide the most of the nation's
2 energy and are backed by a growing grassroots movement
3 of over 15 million Americans. The industry also
4 supports 9.8 million U.S. jobs and eight percent of
5 the U.S. economy, delivers \$85 million a day in
6 revenue to our federal government, and, since 2000,
7 has invested over \$2 trillion in U.S. capital projects
8 to advance all forms of energy, including
9 alternatives. Many of our members have a direct
10 interest in this notice of proposed rulemaking.

11 API is also a standard setting
12 organization. For 89 years API has led the
13 development of petroleum and petrochemical equipment
14 and operating standards. These standards represent
15 the industry's collective wisdom on everything from
16 drill bits to environmental protection, and embrace
17 proven, sound, engineering and operating practices and
18 safe, interchangeable equipment and materials for
19 delivery of this important resource to our nation.
20 API maintains more than 650 standards and recommended
21 practices. Many of these are incorporated into state
22 and federal regulations, and increasingly they're
23 being adopted by the International Organization for
24 Standardization. API encourages and participates in
25 the development of state regulations that are

1 protective of the public, the environment and the
2 industry workforce. In this context, API offers the
3 following comments and looks forward to continuing to
4 work with DEP in the development of these Chapter 78
5 regulations.

6 Although wells have been hydraulically
7 fractured for more than 60 years, thanks to industry
8 innovation and technological advancements, shale
9 formations across the country that were previously
10 stranded resources are now productive due to the
11 combination of horizontal drilling and hydraulic
12 fracturing. Shale formations, including the
13 Marcellus, have produced 1.4 trillion cubic feet of
14 natural gas during the first six months of 2013,
15 supporting national energy security. Pennsylvania's
16 contribution in this success story is demonstrated by
17 the fact that Pennsylvania supplied 8.8 percent of the
18 nation's demand for natural gas in 2012. This
19 renaissance has not taken place in a vacuum. All
20 aspects of the oil and natural gas industry have been
21 and continue to be highly regulated.

22 Since the outset of increased activity
23 in Pennsylvania, DEP and other regulatory agencies
24 have put into place additional regulatory requirements
25 that reflect the technological changes that have taken

1 place in the industry. Over the last several years,
2 DEP has put into place more stringent regulations
3 relating to well construction and casing. Act 9 of
4 2012, and the corresponding regulations already
5 incorporated into Chapter 78, require emergency
6 response safety measures at unconventional drill
7 sites. Act 13 of 2012 provided for enhanced water
8 protection, well setbacks and casing standards.
9 Other regulatory measures include enhanced general
10 permits for air and more stringent exemption criteria,
11 discharge changes prohibiting municipal wastewater
12 treatment plants from accepting oil and gas waste
13 fluids and increased recycling of produced water.

14 I also liked Scott Miller's comment
15 regarding a recent STRONGER report that found
16 Pennsylvania's program is overall well managed,
17 professional and meeting its program objectives.

18 API supports strong environmental
19 safeguards and stewardship, and commends DEP ---

20 CHAIR:

21 One minute.

22 MS. WISSMAN:

23 --- on their regulatory oversight
24 program. However, we do have concerns with several
25 provisions contained in the proposed rulemaking that

1 we plan to outline in detail in our formal written
2 comments to the Department. In the interest of time,
3 I will highlight some of these general comments that
4 we have, and also provide comments on some of the
5 provisions contained in the proposed rulemaking that
6 address pipelines and water management plans.

7 Generally speaking, due to the
8 wide-ranging impact that these revisions will have on
9 oil and gas operations, it's important for industry to
10 know if these provisions will apply to existing wells
11 and previously approved water management plans or
12 sources. There are also a number of definitions and
13 sections of text that refer the reader to other
14 statutes or regulations. This causes the reader to
15 search elsewhere to find the other statute or
16 regulation and review it before being able to
17 understand what Chapter 78 requires. This is not
18 user-friendly and does not facilitate regulatory
19 understanding or compliance. Separately, a number of
20 sections are very detailed and prescriptive. We
21 suggest that these sections be given some flexibility
22 to allow the use of alternative methods as approved by
23 the Department.

24 Regarding horizontal directional
25 drilling for oil and gas pipelines. Section

1 78.68a(f) ---.

2 CHAIR:

3 Time.

4 MS. WISSMAN:

5 Okay. Thank you. We have also a couple
6 of other issues with temporary pipelines for oil and
7 gas operations, and also regarding the water
8 management plans that are reflected in my written
9 comments. Thank you very much.

10 CHAIR:

11 Next we have Mike Helbing.

12 MR. HELBING:

13 Good evening. My name is Mike Helbing.
14 I'm a staff attorney with PennFuture's Philadelphia
15 Office. Spelled H-E-L-B-I-N-G. And our office
16 address is 1500 Walnut Street, Suite 502,
17 Philadelphia, Pennsylvania.

18 PennFuture is a statewide environmental
19 organization that works to create a just future in
20 which nature, communities, and the economy thrive.
21 During my testimony tonight, I will provide a short
22 list of comments regarding proposed changes to Chapter
23 78 regulations, but please keep in ---.

24 AUDIENCE MEMBER:

25 Speak up, please.

1 MR. HELBING:

2 Sorry. I'll get closer to the mic. Is
3 that better?

4 CHAIR:

5 I can hear.

6 MR. HELBING:

7 Sorry about that. Please keep in mind
8 that PennFuture plans to submit a more thorough and
9 robust list of written comments for the Board's
10 consideration.

11 As a preliminary matter, I'd just like
12 to ask you to consider the long-term impacts of the
13 decisions you make as you consider the comments you
14 hear at tonight's meeting and others like it. As a
15 plurality of Pennsylvania Supreme Court justices
16 recognized in their recent Decision in Robinson
17 Township v. Commonwealth of Pennsylvania, our
18 Commonwealth has a history of prioritizing resource
19 extraction over the health of its citizens and the
20 long-term preservation of the environment. By adding
21 the Environmental Rights Amendment to the Pennsylvania
22 Constitution, the people of Pennsylvania determined
23 that their well-being and the well-being of future
24 generations should never again be subordinate to the
25 long-term --- or to the short-term economic benefits

1 that bring with them short-sighted resource extraction
2 practices like the ones that left us for years with,
3 and I quote, thousands of devastated treeless acres,
4 end quote, and with mine fires that burn to this day.

5 I would like to thank the Board for the
6 work that it has done in proposing regulations in
7 Chapter 78 to help improve environmental protection.
8 Among other things, we support requiring aboveground
9 pipelines for transporting wastewater, requiring
10 security around storage vessels at well pads and
11 requiring identification of well operators' parent and
12 subsidiary corporations.

13 There are some areas, however, that can
14 be improved. I will give two examples. And we will
15 submit additional comments in writing.

16 First, the DEP should prohibit disposal
17 of residual waste at well sites. The draft
18 regulations will allow well operators to dispose of
19 residual waste in pits on well sites as long as they
20 comply with certain minimum requirements. Because
21 waste generated at oil and gas sites is exempt from
22 the hazardous waste regulations, the result is that
23 hazardous waste can be managed as residual waste and
24 disposed at well sites with a single synthetic liner
25 and no long-term groundwater monitoring. These

1 minimal protections are simply inadequate. Given the
2 high risks posed by these mini landfills, the DEP
3 should prohibit well site disposal of residual waste
4 entirely. To the extent that DEP continues to allow
5 this method of waste disposal, it should, at a
6 minimum, require long-term groundwater monitoring and
7 public notice of existing and future disposal sites.

8 Second, the prohibition on construction
9 of fluid storage areas within 100 feet of certain
10 water bodies should be extended to all water bodies.
11 The current draft regulations prohibit well operators
12 from building centralized impoundments for wastewater
13 within 100 feet of any solid blue line stream
14 identified by the U.S. Geological Survey. Although we
15 recognize that Act 13 unwisely referred to solid blue
16 line streams, which are streams that run continuously,
17 intermittent and ephemeral streams that do not
18 necessarily run at all times of the year need to be
19 protected as well. Some of our most vulnerable waters
20 are intermittent portions of high quality streams.
21 Those waters would not be adequately protected by
22 these regulations. Furthermore, the DEP has an
23 obligation to protect intermittent streams under the
24 Clean Streams Law. Rather than attempt to make that
25 decision on a case-by-case basis, the DEP should

1 extend this buffer to all Pennsylvania streams.

2 Thank you for your time this evening,
3 and thank you for your work to ensure that all
4 Pennsylvanians are able to realize the benefits of
5 clean air, pure water and the preservation of the
6 natural, scenic, historic and esthetic values of the
7 environment.

8 CHAIR:

9 Next we have Ken Hemphill.

10 MR. HEMPHILL:

11 Ken Hemphill, H-E-M-P-H-I-L-L, 39 Mill
12 Race Place, Glen Mills, PA, 19342. So it's been 34
13 years since Congress passed the superfund law,
14 otherwise known as CERCLA, which sought to clean up
15 America's most toxic, most contaminated sites. Since
16 its inception, tens of billions of dollars have been
17 spent and tens of billions of future dollars will need
18 to be spent to fund continued cleanup operations
19 around the country. More than 1,500 superfund sites
20 have been declared since the law's passage in 1980,
21 though tens of thousands of sites could technically
22 qualify for inclusion.

23 Pennsylvania has about 300 superfund
24 sites. And as more superfund sites continue to be
25 added each year, the costs of remediation will

1 skyrocket, diverting scarce resources from schools,
2 transportation infrastructure, park creation and
3 maintenance, public health and so much more. In what
4 has become a familiar pattern, most of the
5 corporations, who are not people, which polluted these
6 sites, have since gone out of business, leaving the
7 enormous costs of cleanup to be borne by the taxpayer.
8 One would think that pollution on this kind of scale
9 would make us vigilant and sensitive and very opposed
10 to any industry that could contribute to this ongoing
11 disaster.

12 Given the millions of gallons of toxic
13 fluids that are pumped into the ground or stored on
14 site at each of Pennsylvania's 6,400 fracking wells,
15 it's fair to suggest that each of these wells is a
16 potential superfund site. And the industry, which was
17 exempted from the superfund law provisions, the Clean
18 Water Act, as well as meaningful taxes would like to
19 drill hundreds of thousands of wells in our state.
20 Consider that Bradford County in Northern PA has just
21 --- has 1,150 fractured wells. That's just one county
22 in 67. And that's four times the number of fracking
23 wells as there are superfund sites in the entire
24 state. Chester County, where we are now, has 11
25 superfund sites. Imagine the impact on our health if

1 we had a thousand superfund sites in Chester County.
2 And that's what every northern county in the state
3 will face.

4 If experts like Tony Ingraffea are
5 correct and just five to eight percent of wells fail
6 immediately and 50 percent of wells fail over time as
7 they age, we can expect the number of superfund sites
8 in Pennsylvania to increase astronomically. And when
9 the cleanup becomes unavoidable, the corporations who
10 caused the mess will be long gone. Pennsylvania will
11 be riddled with possibly thousands of superfund sites
12 with little or no funding to remediate them, if it is
13 even possible to remove toxins from groundwater.

14 Consider, also, that tourism is
15 Pennsylvania's second largest industry. Thousands of
16 visitors come to Pennsylvania's every year to visit
17 our parks and forests, to camp, to fish, to hike.
18 It's a billion dollar industry. Will they still come
19 if every Northern Pennsylvania stream is polluted and
20 the fish are dead? I urge you to make all DEP
21 regulations for fracking as stringent as you possibly
22 can. Future Pennsylvanians are depending on you.

23 CHAIR:

24 Next on our list is Alma Forsyth.

25 OFF RECORD DISCUSSION

1 CHAIR:

2 Okay. Can you provide one copy to the
3 stenographer of your testimony?

4 OFF RECORD DISCUSSION

5 CHAIR:

6 Thank you.

7 MS. FORSYTH:

8 My name is Alma Forsyth. I'm speaking
9 tonight as a conservations specialist. I live in
10 Chadds Ford ---. I am going to speak about things
11 that people obviously know about, but I just want to
12 remind you and put into context my concern.

13 In 2012, Governor Corbett signed the
14 2012 Oil and Gas Act, which significantly revised
15 Pennsylvania's oil and gas laws in the Commonwealth.
16 Act 13 requires municipalities to allow oil and gas
17 operations, except for processing plants, in all
18 zoning districts, and consequently infringes upon the
19 rights of local governments throughout the
20 Commonwealth to protect the health, welfare and safety
21 of its citizens. Act 13 removes all meaningful zoning
22 and planning authority from local governments as to
23 the oil and gas industry, while all other entities, be
24 they individual, corporate or institutional, still
25 abide by local ordinances.

1 The Supreme Court has ruled Act 13 is
2 unconstitutional on the grounds that it violates the
3 Environmental Rights Act --- Amendment in the
4 Pennsylvania Constitution. Notably, the Court stated,
5 as the citizens illustrate, development of the natural
6 gas industry in the Commonwealth unquestionably has
7 and will have a lasting and undeniably detrimental
8 impact on the quality of these core aspects, life,
9 health and liberty, surface and ground water, ambient
10 air, et cetera, of Pennsylvania's environment, which
11 are part of the public trust. That's Opinion 117.

12 Additionally, the Court stated, by any
13 reasonable account, the exploitation of the Marcellus
14 Shale Formation will produce a detrimental effect on
15 the environment, on the people, their children and
16 future generations, and potentially on the public
17 purse, perhaps rivaling the environmental effects of
18 coal extraction. And that's Opinion 118.

19 In ruling so, the Court struck down the
20 shale gas industry's effort to force every
21 municipality in the state to allow gas drilling and
22 related industrial operations in every zoning
23 district. The Court's decision upholds the ability of
24 local governments to protect their local communities
25 and natural resources through zoning.

1 The Court held that the provisions
2 violate Act --- Article 1 Section of the Pennsylvania
3 Constitution, the Environmental Rights Amendment. In
4 Sections --- I forgot my glasses so you'll have to
5 forgive me. Various sections are incompatible with
6 the Commonwealth's duty as trustee of Pennsylvania's
7 public natural resources. Concluding, also, that the
8 Act forced some citizens to bear heavier environmental
9 and habitability burdens than others, in violation of
10 Section 27's mandate that public trust resources be
11 managed for the benefit of all the people.

12 CHAIR:

13 One minute.

14 MS. FORSYTH:

15 Thank you.

16 CHAIR:

17 Shari Williams.

18 MS. WILLIAMS:

19 Let me make sure this is high enough for
20 me. Maybe it is, maybe it's not. Hello. Good
21 evening. I am Shari Williams, Community Outreach
22 Manager in Southeastern Pennsylvania for the Marcellus
23 Shale Coalition, in association working with the
24 regional departments since 2008 and currently
25 comprised of nearly 300 exploration and production

1 midstream and supply chain companies committed to
2 developing clean burning natural gas resources.

3 In 2012 our members were responsible for
4 96 percent of the natural gas produced here in
5 Pennsylvania. Responsible shale production has been
6 among the most transformative turning points in the
7 Commonwealth's history. And, indeed, natural gas
8 development can certainly enhance and improve our
9 natural resources. Significant investments have been
10 made across the Commonwealth by our industry to
11 provide needed habitat and restore land and water
12 sheds.

13 Partnerships with conservation groups
14 are an example of our industry's willingness and
15 commitment to voluntarily protect and preserve our
16 natural resources. And our industry has raised the
17 bar for shale development. Further, with practices
18 designed specifically to lessen the impact on surface
19 disturbance and provide strategies to improve habitat
20 and landscapes.

21 The benefits do not end there. Take,
22 for example, the fact that the Commonwealth counted
23 for 18 percent of the nation's natural gas production
24 in recent months, according to the Energy Information
25 Administration.

1 This led to more revenue. The natural
2 gas industry has paid over \$1.8 billion in taxes since
3 2008, and \$406 million over two years to communities,
4 county and the state and impacttees.

5 More jobs. More than 200,000 new hires
6 in Pennsylvania are supported by the industry
7 associated with shale development.

8 Less costly heating bill. According to
9 the Associated Press, about two-thirds of
10 Pennsylvanians heating their homes this winter will
11 pay less for their natural gas.

12 And cleaner air. The USEPA confirmed in
13 October 2013 that carbon emissions are at the lowest
14 since 1994, thanks to increased use of natural gas.

15 The benefits, unfortunately, are at
16 risk. Pennsylvania has a complex regulatory
17 environment and uncertain physical climate, which has
18 resulted in the Commonwealth falling behind. And
19 there is even less certainty in the wake of this
20 decision of the Pennsylvania Supreme Court to reject
21 portions of Act 13 of 2012 that established the
22 statewide standard for oil and gas development.
23 Nevertheless, our industry will voluntarily comply
24 with these setbacks at the Governor's request.

25 Other regulatory provisions spurred by

1 Act 13 and the Chapter 78 revisions that followed add
2 to the Commonwealth's strong regulatory framework,
3 which the state review of all natural gas
4 environmental regulations, or STRONGER, a national
5 nonprofit organization dedicated to assessing states'
6 regulations, refer to last fall as well-managed,
7 professional and meeting its program objectives. And
8 for that, we applaud both the General Assembly and the
9 Pennsylvania DEP.

10 At the same time, many of the DEP's
11 proposed regulatory changes to Chapter 78 stretch
12 beyond legislative intent and will undercut the
13 Commonwealth's ability to compete for capital, while
14 providing little or no additional benefit with regard
15 to safe and secure oil and gas development. These
16 include establishment of Special Concern Species,
17 which raises questions about how many such lists is
18 generated, which criteria are used to ---

19 CHAIR:

20 One minute.

21 MS. WILLIAMS:

22 --- which criteria are used to determine
23 whether there is an impact to these species, and how
24 DEP proposed to mitigate impact to such species,
25 treatment of abandoned wells, which will lead to

1 open-ended obligations for identifying these wells,
2 and the government standard which require the oil and
3 gas industry to upgrade private water supply at
4 industry expenses beyond that which existed
5 pre-drilling despite Technical Advisory Board's
6 recommendation otherwise.

7 The Marcellus Shale Coalition will
8 provide detailed, written comments on the Department's
9 proposed regulation in the weeks to come. Our
10 overarching message, though, is straightforward.
11 Instead of undermining our strong, consistent and
12 predictable regulatory framework, we should work
13 collaboratively to revise these proposals to maintain
14 a balance between strong environmental protection in a
15 competitive economic climate. It does not need to be
16 a false choice between the two. And we urge DEP to
17 continue working with our industry and stakeholder ---

18 CHAIR:

19 Time's up.

20 MS. WILLIAMS:

21 --- stakeholders across the
22 Commonwealth. Thank you.

23 CHAIR:

24 Thank you. Next we have Larry Berardi.

25 MR. BERARDI:

1 Hi. Thank you for inviting us here.
2 I'm Larry Berardi, B-E-R-A-R-D-I. I'm at 239 North
3 Marshall Street in Lancaster, Pennsylvania. My
4 comments have to do with business practices ---. My
5 comments have to do with business practices and how
6 they affect the taxpayer, and our legislators who so
7 willingly want to accommodate these businesses that
8 eventually affect reducing our tax base. Overall the
9 issue here is who is responsible for the cost of doing
10 business.

11 What irresponsible business is seeking
12 is to socialize their cost of doing business by
13 encouraging legislators and government executives to
14 pass weak environmental laws, and weaken those
15 environmental laws and endangered species laws that
16 already exist, and pass those costs of doing their
17 business onto the people of the Commonwealth of
18 Pennsylvania.

19 This is the same old adage of
20 irresponsible businesses and crony capitalist of
21 Privatize the Profits and Socialize the Losses.

22 The people of Pennsylvania reject this
23 socialism because we believe that our business
24 community is stronger, competitive and more
25 responsible than this when it bears the cost of its

1 business. Those legislators and executives who say
2 environmental and endangered species laws hurt
3 business and do not have documentation on their side.
4 The professional and educational documentation states
5 that investment in infrastructure, education and job
6 training, and laws ensuring a greater quality of life
7 are what attract employees and employers. That, also,
8 capitalism does not just provide wealth and income for
9 the owners, but, with responsible regulation and
10 taxation, provides for an expanding sustainable
11 civilization.

12 My greatest fear is that socialists,
13 legislators and executives who aid irresponsible
14 businesses to socialize their cost of doing business
15 are doing damage to our capitalistic principles and
16 threatening our democracy. It is damaging our
17 capitalistic principles because it flattens the
18 risk-reward ratio. It encourages irresponsible
19 businesses to take risks it would normally not,
20 weakening the rewards for other businesses and putting
21 the taxpayer on the line for the cost of that business
22 risk, and the municipality in jeopardy of default.
23 This socialism of the cost of doing business is a
24 threat to our democracy because the profits go to the
25 owners and the burden of the debt is placed on the

1 taxpayer and the municipality, creating a disparity in
2 income and wealth that makes the rungs of the ladder
3 of mobility a greater distance. This is a recipe for
4 civil disobedience.

5 It is my wish, and all Pennsylvanians,
6 that this Board support regulations for all businesses
7 to make them responsible for their cost of doing
8 business, to protect all people and life with a
9 greater quality of life, to be free of the burden of
10 businesses socializing their cost of doing business,
11 and maintain the strength and competitiveness of those
12 businesses. And I have documentation supporting my
13 statement. Thank you.

14 CHAIR:

15 Thank you. Lynda Farrell.

16 MS. FARRELL:

17 Hi, my name is Lynda Farrell. F, as in
18 Frank, A-R-R-E-L-L. I'm the Executive Director of the
19 Pipeline Safety Coalition. We're founded here in
20 Chester County, but we work with folks throughout
21 Pennsylvania, New York, New Jersey and Ohio, generally
22 in the Northeast and in Florida.

23 I thank you for the opportunity to speak
24 tonight and I will say the Pipeline Safety Coalition
25 is going to speak about --- primarily about pipelines,

1 which can be seen in a discussion about standards of
2 oil and gas well sites. But it shouldn't be a ---.
3 This is an inherent problem throughout the country,
4 that pipelines are a secondary consideration in gas
5 and oil development. That consideration is not only
6 outdated, but it's ironic since drilling wells and
7 producing gas, oil, water, whatever the well is,
8 inherently involves pipelines. Chapter 17 --- 78,
9 rather, offers the venue for a regulatory
10 acknowledgement of pipelines as an integral part of
11 the oil and gas operations.

12 Industry knows this. API, the folks who
13 --- from industry here will tell you that pipelines
14 are foundational to any oil and gas development. We
15 offer that it is time for our environmental quality
16 reviews to acknowledge this fact. At well sites
17 alone, we're looking at temporary, permanent
18 freshwater flowback pipes, pipes associated with well
19 installations, containment pit pipes, production,
20 gathering, oil, gas, byproduct, fluids management,
21 storage pipes. Each of these pipes should be
22 addressed individually in Chapter 78 and
23 prescriptively.

24 While the interstate and some intrastate
25 and some gathering pipelines are monitored and/or

1 regulated in some way, shape or form, many of these
2 pipelines at the well sites are not. We offer that
3 Chapter 78 should incorporate more prescriptive
4 language and more stringent, cumulative impact reviews
5 in regard to pipelines associated with gas wells. An
6 example of the reason that we feel that more stringent
7 and more prescriptive language is necessary is --- was
8 evidenced in a conversation the Pipeline Safety
9 Coalition had with a legislator during the vetting of
10 the --- between the House and the Senate on Act 13.
11 And a legislator proposed that the language of
12 transportation in Act 13 was related to driving cars
13 and people and materials to a well site and did not
14 understand the fact that transportation was, in fact,
15 relating to the transportation of fuel from that site.

16 If our legislators cannot understand the
17 vague language of bills of legislatum --- of
18 legislative language, then we really can't expect to
19 have meaningful legislative results. And if the
20 language in Chapter 78 is not prescriptive, we cannot
21 expect to have meaningful environmental protection in
22 oil and gas development.

23 For time's sake, we make a couple of
24 observations. In the definitions of 78.1, pipeline
25 infrastructure is listed as a subcategory of oil and

1 gas operations. We would recommend that this is
2 misleading and vague, and perhaps pipeline
3 infrastructure should be a primary definition in
4 Chapter 78, as was ---

5 CHAIR:

6 One minute.

7 MS. FARRELL:

8 --- gathering lines. Wow. I guess one
9 of our primary concerns, too, is abandoned and
10 orphaned well identification should require
11 identification of existing, abandoned pipeline
12 infrastructure as well. And language of 78.15, which
13 includes access roads, per se, should be expanded to
14 the inclusion of pipelines and pipeline infrastructure
15 in terms of long-term probable harm.

16 Primarily, we recommend that the 78
17 incorporate more stringent and more prescriptive
18 language for environmental protection and performance
19 standards in regard to pipelines that's commensurate
20 with the function and cumulative impacts of pipelines
21 in gas and oil development. Thank you.

22 CHAIR:

23 Thank you. John Hanger.

24 MR. HANGER:

25 Good evening. Thank you for having me.

1 My name is John Hanger. I reside at --- in Hershey at
2 637 Zurich Drive, Hummelstown.

3 Pennsylvanians across --- and I should
4 denote myself as a candidate for Governor.

5 Pennsylvanians across the Commonwealth have lost
6 confidence in Governor Corbett's oversight of the gas
7 industry. To restore public confidence and to protect
8 resources and people, Pennsylvania must strongly
9 regulate, strongly zone and strongly tax the gas
10 industry. And it is not doing any of those things
11 today. Regulation, zoning and taxation must work
12 together and reinforce each other in order to protect
13 resources, safety and our environment.

14 To be clear, resources and people cannot
15 be protected and regulation cannot work if the ability
16 of local communities to zone, when they choose to do
17 so, is gutted. Local governments must be allowed to
18 separate industrial activity from residential areas,
19 and I support the decision of the Pennsylvania Supreme
20 Court finding unconstitutional major portions of Act
21 13.

22 In turn, state regulation will not work
23 to protect resources and people unless Pennsylvania
24 adopts the strongest rules in the country.
25 Protective, strong rules require the use of best

1 practices and best technology, they stop drilling in
2 sensitive areas, will keep it from expanding. And
3 they impose company-specific moratoria in places like
4 Dimock, where drilling mistakes caused methane to
5 contaminate water wells.

6 Protective, strong rules include
7 substantial sanctions for violations, like making
8 violators pay two times the property value of homes
9 whose water wells are contaminated by drilling
10 mistakes. Protective, strong rules must have
11 enforcement mechanisms, like a DEP staff that is big
12 enough to do its job. Today, the DEP staff regulating
13 the gas industry is at least about 105 positions too
14 small.

15 As measured by these criteria, the
16 proposed regulations are not adequate and will not
17 strongly protect resources and people. I have six
18 specific recommendations.

19 First, the regulations do not even
20 address arguably the most important resource of all
21 and that is air. Land and water, of course, are
22 precious, too, but fouled, polluted air sickens people
23 and causes premature deaths.

24 None of these regulations address
25 strongly, and most not at all, the real problem of new

1 sources of air emissions in local areas where gas
2 drilling is taking place. Best practices and
3 pollution controls should be mandated for drilling
4 rigs, compressor stations, trucks, fracking pumps and
5 engines, and other sources of local air pollution so
6 that our precious air resource is protected in all
7 parts of Pennsylvania.

8 Second, the proposed provisions
9 concerning protection of public lands are so weak that
10 they do no good. For example, the proposed rules
11 require drillers to give notice to state resource
12 agencies only if a proposed gas well is within 200 or
13 less feet of a public land. Consequently, for
14 example, the Department of Conservation and Natural
15 Resources would not be notified of a gas well drilled
16 within 201 feet of a state park, though a well that
17 close, of course, to a state park would impact the
18 state park and its visitors.

19 By contrast, the proposed rules require
20 notice of a proposed gas well within 1,000 feet of a
21 private water well. Both distance requirements for
22 simply notice are much too small.

23 A standard distance for notice should be
24 used for all circumstances, and I recommend at least
25 2,500 feet. We know that gas can migrate that

1 distance when mistakes are made in gas drilling. And
2 so people ---.

3 CHAIR:

4 One minute.

5 MR. HANGER:

6 So people and agencies deserve 2,500
7 feet for notice.

8 Third, the use of drilling pits to store
9 drilling wastewater for any period or in any location
10 should be banned.

11 Fourth, underground tanks for managing
12 waste also should be prohibited.

13 Fifth, shale drillers must not be
14 allowed to dispose of waste at the drilling site, and
15 must be transported to an appropriate facility.

16 Sixth, the practice of drillers burying
17 waste at the drilling site, without even the consent
18 of a landowner, must be prohibited.

19 I'll end with this. These rules contain
20 numerous shortcomings big and small. I urge the
21 Department of Environmental Protection to toughen them
22 considerably if it moves forward with this rulemaking.
23 Thank you.

24 CHAIR:

25 Matt Walker.

1 MR. WALKER:

2 My name is Matt Walker, W-A-L-K-E-R.
3 135 South 19th Street, Philadelphia, 19103. I'm the
4 Community Outreach Director with Clean Air Council.
5 We're a member-supported Pennsylvania environmental
6 health organization with a mission to protect
7 everyone's right to breathe clean air. Can everyone
8 hear me okay?

9 OFF RECORD DISCUSSION

10 MR. WALKER:

11 The Council has members throughout
12 Pennsylvania impacted by oil and gas operations.

13 OFF RECORD DISCUSSION

14 CHAIR:

15 We're going to start all over.

16 MR. WALKER:

17 My name's Matt Walker, W-A-L-K-E-R, 135
18 South 19th Street, Philadelphia, 19103. I'm the
19 Community Outreach Director with Clean Air Council.
20 We're an environmental health nonprofit in
21 Pennsylvania, and we have a mission to protect
22 everyone's right to breathe clean air.

23 The Council has members throughout
24 Pennsylvania impacted by oil and gas operations.
25 Clean Air Council has several recommendations for the

1 Pennsylvania Department of Environmental Protection
2 proposed revisions to Chapter 78, three of which I
3 will highlight tonight. The Council is calling for a
4 complete ban on open wastewater impoundments, more
5 rigorous standards to address abandoned wells and a
6 ban on drilling near public resources such as parks
7 and forests.

8 Open impoundments that store flowback
9 water used in the fracking process pose a health risk
10 to nearby landowners from pollutants that evaporate or
11 degrade from chemicals in pits, or are released into
12 the environment and vaporized into a community's air.
13 For instance, multiple residents in Southwest PA who
14 live near a centralized wastewater impoundment had
15 blood and urine analyzed and were told by doctors that
16 they had chronic exposure to volatile organic
17 compounds. Some doctors believed their patients'
18 levels were high enough to advise moving away from the
19 impoundments. The Council supports DEP's ban on
20 central wastewater impoundments, but even so-called
21 temporary impoundments storing hazardous chemicals can
22 still have serious health and environmental impacts,
23 are not needed and should not be allowed. While the
24 Council believes that no allowance should be made for
25 open storage pits, the suggested nine months would be

1 far too long to allow for temporary storage at a
2 drilling site.

3 There are many justifications for why
4 DEP should ban all open wastewater impoundments. The
5 technology exists to properly contain hazardous
6 substances in closed-looped systems and tanks
7 immediately after fracking and completion occurs, as
8 some companies in Pennsylvania are already using it.
9 North Dakota and Illinois have already been
10 implemented bans on open wastewater impoundments,
11 except for emergency situations. Even the
12 conservative and industry supported Center for
13 Sustainable Shale Development includes in their
14 standards a condition to use closed-loop systems to
15 eliminate the use of pits for all wells. In addition,
16 DEP should prohibit operators from storing any solid
17 wastes, such as drill cuttings, in open pits. Drill
18 cuttings can contain radioactive materials that pose
19 serious health risks to workers and nearby residents.

20 The Council also urges DEP to more
21 adequately address abandoned and orphaned wells in the
22 proposed Chapter 78 revisions. According to DEP
23 estimates, there are an estimated 200,000 abandoned
24 wells in Pennsylvania. Unplugged wells will continue
25 emitting gases such as methane and VOCs over time, and

1 DEP has dealt with dozens of situations in which
2 methane reached the earth's surface through abandoned
3 wells. There have also been cases in Pennsylvania in
4 which companies drilled into abandoned wells, one in
5 particular that resulted in a 30 foot methane geyser
6 and required multiple flares over many days to
7 remediate. Some estimates show old wells in our state
8 alone could be emitting tens of thousands of tons per
9 year of methane, an extremely potent greenhouse gas,
10 and VOCs, which include chemicals known or suspected
11 to cause cancer in humans.

12 It is critical that DEP require
13 companies to identify existing abandoned wells and to
14 appropriately address these wells before site
15 construction and drilling occurs. Drilling companies
16 must be responsible for preventing pollution and
17 accidents from occurring by correctly plugging,
18 sealing or otherwise remediating potential issues
19 caused by the presence of old wells. This would save
20 a company time and money from removing the risk of
21 potential accidents and subsequent remediation.

22 In addition, DEP should require
23 companies to search within a quarter mile radius of a
24 proposed drilling site for potential abandoned wells
25 and to also include other pathways for methane in

1 their search, such as major and minor fault lines and
2 fractures. Companies should be required to contact
3 landowners to ask about any known abandoned wells.
4 The Council urges DEP to update their maps with any
5 new information and make the data available to the
6 public on their website.

7 Lastly, the Council believes that no
8 drilling or fracking should be allowed in or near our
9 parks and forests. DEP's current proposal in the
10 Chapter 78 revisions requires companies to notify
11 relevant agencies when applying for permits within 200
12 feet of a public resource. This distance and low
13 hurdle for applicants is woefully ---.

14 CHAIR:

15 One minute.

16 MR. WALKER:

17 This distance and low hurdle is woefully
18 inadequate to protect public resources from the
19 impacts and nuisances of fracking and flaring. The
20 Council believes DEP should prohibit drilling on and
21 at least a half a mile around key public resources,
22 including publicly owned parks, forests, game land or
23 wild life areas, national natural landmarks or
24 historical archaeological sites. These special areas
25 belong to the public, provide significant ecological,

1 recreational and economic benefits, and should
2 therefore be preserved for the enjoyment of present
3 and future generations.

4 Thank you for the opportunity to comment
5 on the proposed revisions to Chapter 78. Please take
6 the comments you hear tonight into serious
7 consideration. Thank you.

8 CHAIR:

9 Thank you. Next we have Lisa Van
10 Houten.

11 MS. VAN HOUTEN:

12 My name is Lisa Van Houten, V as in
13 Victor, A-N, capital H, O-U-T-E-N. I am the Marketing
14 Coordinator Consultant for Hy-Tech Mushroom Compost,
15 P.O. Box 390, 155 Valley Road, West Grove, PA, 19390.

16 AUDIENCE MEMBER:

17 Could you speak louder?

18 MS. VAN HOUTEN:

19 Thank you for taking my testimony. This
20 hearing concerns Act 13 of 2012 but refers to a number
21 of other chapters within the PA Code. I wish to
22 address these other chapters in relation to how Act 13
23 should be enforced. In particular, PA Code 25,
24 Chapters 78, 92 and 102 are not adequately defined for
25 the use of compost, nor does this Act encourage

1 utilization of such recycled material in a proactive
2 and environmentally friendly manner within industrial
3 application in oil and gas restoration activities.

4 A little background is in order. PA is
5 the largest producer of mushrooms east of the
6 Mississippi and, as a result, is the largest
7 manufacturer of compost in this agricultural industry.
8 This agricultural industry is also historically the
9 first and largest producer of organic recycled
10 material for land and natural resource restoration
11 applications, including oil and gas. The most unique
12 aspects and benefits of pasteurized mushroom compost
13 include providing organic matter to soils, which build
14 up the soil flora, improves water retention, relieves
15 compaction problems, reduces the need for fertilizer.

16 This last item, reduces the need for
17 fertilizer, complies with the nutrient management
18 program in regards to the Chesapeake Bay Initiative, a
19 federal requirement. Furthermore, compaction problems
20 are inherent in every type of construction, especially
21 in the oil and gas areas.

22 How Chapters 78, 92 and 102 affect Act
23 13 is by reference, in particular the PA DEP E&S
24 control requirements for oil and gas activities that
25 reference manuals E&S Pollution Control Program, Oil

1 and Gas Well Operators Manual, Water Quality
2 Anti-degradation Implementation Guidance and DEP's
3 Stormwater BMPs.

4 Most of these drilling and pipeline
5 locations are in rural and agricultural areas.
6 Restoration is considered adequate when someone says
7 there is 70 percent coverage. What does this mean?
8 How consistent and sustainable is 70 percent? Does it
9 include the productivity of the agricultural land,
10 such as the same amount of corn or soybean compared to
11 the undisturbed farmland?

12 I encourage the utilization of mushroom
13 compost and that it be based on a more comprehensive
14 and consistent chemical analysis similar to PennDOT
15 408 Section 867, and to change the soluble salt
16 concentration to Sodium Adsorption Ratio, SAR. The
17 SAR is a more relevant chemical relationship of
18 sodium, calcium and magnesium, with calcium and
19 magnesium being necessary micronutrients for root
20 growth.

21 Alternatively, knowing the electrical
22 conductivity of the replaced topsoil prior to mixing
23 in adequate compost will address all the benefits
24 stated earlier in a comprehensive and consistent
25 manner that is site-specific and thereby reduce the

1 need for synthetic fertilizers and improve vegetative
2 regrowth in a more sustainable fashion.

3 I have supplied you with PennDOT 408
4 Section 867, an excellent article from Drs. Beyer and
5 Fidanza from Penn State University, discussing the SAR
6 relationship, an article from Soil & Plant Laboratory
7 correlating compost incorporation with onsite soil,
8 based on soluble salts, Hy-Tech's cumulative chemical
9 analysis and compost applications for your
10 consideration and adoption in Act 13 and PA Chapters
11 78, 92 and 102.

12 I look forward to seeing the
13 improvements in environmental quality especially with
14 regards to land restoration in oil and gas well pads
15 and pipeline restoration. Again, thank you for this
16 opportunity.

17 CHAIR:

18 Next I have Mamie Duff.

19 MS. DUFF:

20 I'm here. I'm not speaking.

21 CHAIR:

22 Okay. Thank you. Carolyn Ward.

23 Carolyn Ward.

24 MS. WARD:

25 I'm here. I want to make sure that

1 everyone can hear me. Thank you for the opportunity
2 to speak out. I'm a resident of Ardmore,
3 Pennsylvania. My name is Carolyn Ward. I'm a retired
4 library branch supervisor for the City of
5 Philadelphia. I'm also vice president of a nonprofit
6 having to do with chemical toxicity and health.

7 I have been concerned about hydraulic
8 fracturing since I became aware that this process was
9 starting in Upstate Pennsylvania. There are many
10 important considerations about fracking in an area as
11 densely populated as the ones that most of us live in,
12 as well as Philadelphia proper. There is not much
13 room for error when you have that many people in a
14 small space. Also implied in any discussions with
15 fracking, to me, is the human rights issue. Do
16 natural gas companies have the right to threaten the
17 rights of people and citizens of this country to clean
18 air and clean water? And I should say, ground around
19 them.

20 I will touch on several issues. Section
21 78.51 points to the fact that damaged water supplies
22 must be restored to a minimum safe drinking standard.
23 This has not been done in many parts of Upstate
24 Pennsylvania and many people have moved out of the
25 towns they used to live in. And many others have lost

1 their health permanently and cannot even leave their
2 homes. They lack the strength to leave their home.
3 So water has to be clean enough for drinking, cooking.
4 And I think it will be obvious, but bathing and
5 laundry, all of these things are important. This
6 means that the water needs to be tested first for
7 quality and later for result of this --- what's going
8 on. The regulation provides that the replaced water
9 should be at or above the standard of the previous
10 water supply.

11 Now, one big issue that has brought me
12 here is that there is a proposal in the works to
13 transport fracked wastewater in barges down the
14 Delaware River. Now, just how safe is this when
15 17,000,000 people from all the way up in Schoharie
16 County down to Delaware depend on the integrity of the
17 Delaware River. That's a lot of people. To me, once
18 the river is breached by chemical spills, including
19 radioactive elements and other dangerous chemicals,
20 how can it be restored? Some of the chemicals used in
21 fracking you probably know, but I'll repeat a few of
22 them: Ethylene Glycol, Formaldehyde, Benzene, Arsenic,
23 methane gas, barium and strontium. And the
24 radioactive components are in there, dislodged from
25 the earth due to the depths of the drilling.

1 Maybe some of you have read about the
2 chemist from Colorado called Theo Colborn. She
3 analyzed the potential health effects of the chemicals
4 that were in the fracked water. Seventy-five (75) of
5 them --- percent of them could affect skin, eyes,
6 respiratory, gastrointestinal systems.

7 CHAIR:

8 One minute.

9 MS. WARD:

10 I have one minute left? Oh, okay. How
11 many minutes are we being given?

12 CHAIR:

13 Five.

14 MS. WARD:

15 Okay. Well, the chemicals can cause
16 cancer and mutations and a great many serious
17 illnesses.

18 Residual waste disposal on roads is not
19 acceptable either because it can filter into the
20 streams. And other people have discussed more
21 adequate than I have the danger of storage of
22 wastewater in open pits.

23 Stray gas migration is another problem
24 in the proposed barge transport. And we must also
25 think about the danger that has occurred in other

1 places, such as earthquakes and flare-ups that have
2 taken days on end to clear up. Thank you very much
3 for allowing me to speak.

4 CHAIR:

5 Thank you. Next I have Mary Hufford.
6 Is Mary here? Okay. Next would be Jean Flood.

7 MS. FLOOD:

8 Hello, my name is Jean Flood, spelled
9 F-L-O-O-D. I'm from Kimberton, Pennsylvania, P.O. Box
10 719, 19442. And I'm a physician and a member of the
11 Physicians for Social Responsibility.

12 OFF RECORD DISCUSSION

13 MS. FLOOD:

14 And I take care of a lot of children and
15 babies. Babies, children, that's a lot of what I do.
16 And I'm very concerned. I don't have a presentation
17 quite as concise as everybody else, but basically I'm
18 here because I'm very concerned about water as well as
19 the air. Because we all live downstream, and there is
20 no way that this is not going to ---. Common sense
21 suggests that there is no way that this cannot impact
22 all of us in such an inherently negative way. We can
23 see what's happening in some other countries where
24 water has to be --- clean water has to be purchased
25 and it's considered a commodity that is restricted as

1 opposed to something that belongs to everybody. And I
2 see that happening. It's a very disturbing future for
3 the State of Pennsylvania unless something is really
4 --- you know, unless --- or this is stopped right now.
5 This is just not possible to reclaim this water. It
6 can be stored. It can be done in a closed-loop or
7 whatever --- but it cannot be restored to clean water.
8 And, you know, we don't have a lot of water. We don't
9 have enough water to do that for any length of time.

10 So anyway, I just think we have to ---.
11 People, use common sense. Definitely one of the
12 principles that is very important is the precautionary
13 principle. And that means that it ill behooves the
14 person who says that they --- there's no problem with
15 this should prove that there's no problem, that
16 there's no health problems or long-term consequences
17 for generations to come. We need to --- they can't
18 prove that, and therefore we should not be doing it.
19 Thank you.

20 CHAIR:

21 Thank you. Next I have Cynthia Fischer.
22 Cynthia Fischer? Gordon Macklem?

23 MR. MACKLEM:

24 Yes, sir. Thank you very much for
25 letting us speak. My name is Gordon Macklem, Jr. I

1 live in Malvern, Pennsylvania, not far from here, and
2 I'm 62 years old. I consider myself well educated and
3 have always tried to seek the truth. From what I've
4 read and heard, I have some serious concerns about
5 fracking and resulting wastewater. Not to mention the
6 disruption of nearby wells, as well as these
7 underground explosions.

8 And first of all, I should mention, I
9 grew up in King of Prussia, Pennsylvania, not far from
10 here. And when I was young, we used to play down by
11 the river, Schuylkill River, fishing, swimming and
12 just running around. That was 1965. Twenty-five (25)
13 years later, I found out that the area we lived in ---
14 actually, I'm sorry, the area we lived in, live and
15 play, was identified as a superfund site, Tysons Dump.

16 I was also reading the results of some
17 of the research done of the information on that site,
18 and the neighbors living in the proximity of it, and
19 the resulting diseases that came from it. One of
20 which is kidney cancer, which I have had for the last
21 eight years. There is no kidney cancer or any cancer
22 in my family for the last three generations.

23 I just --- I have always felt that ---
24 I'm sorry --- that the idea of economic growth being
25 more important than environmental concerns, I feel is

1 insane. As was previously mentioned, the cost of
2 cleaning up the 10, 15 percent of the aged and failed
3 wells will soon eat up any profits left once the
4 out- of-state corporations have taken an inflated
5 share.

6 I just feel it's an adult's duty to
7 leave the world a better place than they found it for
8 their children. And unknown environmental damage is
9 slowly ruining the planet. And I also feel that,
10 going back to the subject tonight, fracking waste pits
11 are not the answer. Just look at the other industrial
12 waste pits in different industries around the country.
13 I know it's not the same thing, but old flow waste
14 pits in North Carolina have caused massive
15 environmental problems for the local --- especially
16 the local farming community.

17 And that's basically what I want to say.
18 And thank you very much.

19 CHAIR:

20 Thank you. Next I have Jan Focht,
21 F-O-C-H-T. No one? Ellen Poist, P-O-I-S-T? Marcella
22 Barron? Jeffrey Franklin? Cassandra Shoup? Kathleen
23 Campbell?

24 MS. CAMPBELL:

25 Here I am. Good evening. Thank you so

1 much for coming here, everyone. It's a little more
2 full than it was when I came. This is my first
3 hearing that I've ever attended. It seems to me to be
4 a little bit of an argument, but some people are pro
5 and some people are con, obviously. I want to talk
6 briefly ---. Thank you. I want to talk briefly about
7 the consequences. And everyone has said them already.
8 I just want to be a little more succinct.

9 I want to say that we inhale the
10 environment (demonstrates), exhale, too. We inhale
11 the environment. We drink the environment and we eat
12 the environment. And, as someone just said, it can
13 never really be restored. Once it's dirty, it's
14 dirty. And we inhale it, drink it and eat it. We
15 don't just look at it, we inhale it, drink it and eat
16 it. And that's crucial for all of us.

17 There are not enough of us here tonight.
18 Most people aren't aware of the danger we're all in.
19 In Philadelphia, the old Sunoco Refinery, which is
20 down at the base of the Platt Bridge, right now is
21 taking in Marcellus Shale --- not Marcellus
22 Shale ---. I forgot the name of it.

23 OFF RECORD DISCUSSION

24 MS. CAMPBELL:

25 Bakken (phonetic) Shale, thank you. Two

1 trainloads a day come right through the train station,
2 right through Center City, where lots and lots of
3 people are every day. I don't think people are aware
4 of that. You may be --- but the people who are next
5 to that train are not aware ---. The gas company is
6 contaminating the water that we drink and the air.
7 Who knows what's in the air.

8 Sixty (60) days --- it was very kind for
9 you to extend this period to 60 days, but it's not
10 enough time. It's only brought this many people out.
11 120 days would be better. And five minutes obviously
12 didn't work for almost everyone here. So maybe a few
13 more minutes would be a better idea, too.

14 We don't trust our government, or we
15 don't trust anyone in this field right now. We don't
16 think that anything that has been done to date has
17 been done properly. We don't think anyone understands
18 how crucial these issues are to us. And so we ask you
19 to be careful as you go forward. And we're going to
20 try to get more people here to help you be careful.
21 Thank you.

22 CHAIR:

23 Thank you. Next I have William Inslee.

24 MR. INSLEE:

25 How are you? My name is ---.

1 OFF RECORD DISCUSSION

2 MR. INSLEE:

3 My name is William Inslee --- J. William
4 Inslee. I live at 332 ---.

5 OFF RECORD DISCUSSION

6 MR. INSLEE:

7 My name is William Inslee --- J. William
8 Inslee. My last name is I-N-S-L-E-E. I live at 332
9 Country Club Road in Coatesville, Pennsylvania. My
10 name is J. William Inslee. I live in Valley Township
11 and have been a resident of Chester County my whole
12 life. I am generally supportive of natural gas as a
13 relatively clean energy resource in the transition to
14 renewable energy sources. Now I am going to tell you,
15 respectfully, I hope, how to do your job.

16 Fracking has brought an old human habit,
17 and now American bad habit, into the consideration of
18 natural gas as a resource for our good. This old
19 habit is to take what one wants and leave the residue
20 of that act for another day. All Native Americans
21 have experienced the results of this. The plains
22 buffalo, American eagles and the Schuylkill shad are
23 among many creatures that have borne the brunt of this
24 habit. Pennsylvania's heritage of defunct coal mines
25 and dumps and injured waters also bears witness to

1 this. Now fracking opens a new access to riches in
2 the earth subject to the same human bad habit, to take
3 with the least eye to later effect, which clouds the
4 value of potentially clean natural gas.

5 The fracking industry is operating so
6 far much as if in a recreation of the untamed west.
7 For various political motives, which seem to be
8 related to immediate electoral gratification, there
9 has been little but a go-get-it-boys atmosphere
10 fostered by our state government. This is an industry
11 with so much to gain and this is a state with so much
12 to lose. From the industry there has been a minimum
13 of self-regulation or self-monitoring, but a lot of
14 commercial and lobbying promotion. From the state
15 there has been belated movement toward demand for
16 clarity or accountability in the taking of the
17 resource. What you are now doing at the DEP is
18 critical to altering this situation.

19 These particular issues at hand in your
20 rulemaking, which you're considering now, should never
21 have been at question.

22 This public comment period should be at
23 least 120 days. And hearings need to be available
24 where drilling is happening or is likely.

25 Well water in the area of drilling

1 should be tested before industry drilling. Any water
2 source which is altered should be restored to the
3 highest drinking standard. All data should be easily
4 available publicly in one place and all data must be
5 standardized. I know what I think freshwater is, but
6 you must define it.

7 Anything going into or coming out of an
8 industry well should be controlled in a closed
9 containment system and disposed of as a potentially
10 hazardous material with appropriate analysis and
11 treatment for long-term disposal or purification
12 offsite. None of this material should be surface
13 applied or buried onsite. Much of the industry
14 already acknowledges that onsite pits are no good for
15 in or out materials and never were.

16 All existing wells, abandoned or
17 otherwise, must be identified. The industry must
18 confirm this for any area considered for drilling.
19 Any abandoned or orphaned wells should be sealed. All
20 information should be easily available to the public
21 in one place.

22 Thank you for assuming the job before
23 you and thank you for helping us all to curb bad
24 habits which can haunt us.

25 CHAIR:

1 Lester Bourdon? Lester Bourdon? Karen
2 Feridun?

3 MS. FERIDUN:

4 Thank you. My name's Karen Feridun, and
5 I'm the founder of a grassroots organization called
6 Berks Gas Truth. I'm from Kutztown, Pennsylvania, 260
7 East Main Street. And if you need the spelling of my
8 last name it's F, like Frank, E-R-I-D-U-N. Can you
9 all hear me?

10 Well, like I said, I'm the founder of an
11 organization called Berks Gas Truth. It's a
12 grassroots organization. So we would like to see
13 shale gas development banned outright. Having said
14 that, natural gas drilling is profoundly negatively
15 impacting our health, our communities, our natural
16 resources and our economy right now. So I urge the
17 DEP to approve the most stringent rules possible in
18 order to carry out its mission of providing
19 protection.

20 I urge the Board to extend the comment
21 period to at least 120 days, and we've heard others
22 recommend ---. And in addition, there are people in
23 this state who are standing in line in churches to get
24 their three-and-a-half gallons of clean water in a
25 day. And in some of those places there are no

1 hearings. Of the seven hearings that were scheduled,
2 five of them were scheduled in the areas where
3 drilling is done, but they bypassed some of the most
4 impacted parts of this state. So those people deserve
5 their hearing, too.

6 I support a lot of the comments people
7 have made this evening, but I want to spend the
8 remainder of my time talking about orphaned and
9 abandoned wells.

10 A study on well-capping out of Carnegie
11 Mellon cites a DEP report issued before Marcellus
12 drilling came to Pennsylvania that said it would take
13 160 years, and that was at 2004 funding levels, to cap
14 all of the orphaned and abandoned wells it knew about
15 at the time. Now, this paper doesn't mention the
16 number of wells DEP had in mind when they were making
17 that estimation. But a different paper from the DEP
18 a little bit earlier, from 2000, said this. In the
19 140 years since the first oil well was drilled in
20 Pennsylvania, an unknown number of oil and gas wells
21 have been drilled. An estimate by the Independent
22 Petroleum Association of America places that number at
23 approximately 325,000. Of those that are accounted
24 for, there are 44,700 plugged wells, approximately
25 8,000 orphaned and abandoned wells we're aware of.

1 And the remaining 184,000 estimated wells are unknown.

2 So later, more recently, much more
3 recently, in May of this year --- or last year, I
4 should say, Bill Pine, Chief of the Subsurface
5 Activity Section for the DEP said, well drilling began
6 in 1859 in Pennsylvania and it's a safe bet that the
7 very first abandoned well in Pennsylvania was in 1859.
8 We have thousands of abandoned oil and gas wells in
9 the Commonwealth. I don't think anyone has an
10 accurate record of how many really exist.

11 And so in that span of time we don't
12 seem to have a whole lot more clarity. And so later
13 in the DEP document that comes from 2000, that I
14 referred to earlier, it says, since the well plugging
15 program began, 108 wells have been plugged at a cost
16 of over \$2.4 million, using funds from the Abandoned
17 Well Plugging Fund, the Orphaned Well Plugging Fund
18 and Federal Clean Water Act, Section 319 Non-Point
19 Source Grant.

20 So there are a number of different
21 funding mechanisms paying for capping wells. The 319
22 Grant, which is specifically to cap wells to stop
23 discharges of acid mine drainage. But the Abandoned
24 Well Plugging Fund was established in 1984. The
25 Orphan Well Plugging Fund was established in 1992.

1 And so in this 2000 dated paper, 16 years have passed
2 since these funds were put in place and 108 wells have
3 been capped. And I just mentioned that there were at
4 least 184,000 they don't even know about, 8,000 that
5 still need to be addressed.

6 Rick Steiner, a retired University of
7 Alaska professor and marine conservation specialist
8 says, the oil ---.

9 CHAIR:

10 One minute.

11 MS. FERIDUN:

12 Thank you. The oil industry has this
13 term, permanently plugged wells, but nobody knows what
14 this means over time. They have completely unreliable
15 expectations for some really basic technology. They
16 plug wells with concrete. Just look at your
17 sidewalks. Pour a fresh sidewalk and wait a few
18 years, and it's cracking and heaving. That's what
19 happens to concrete. Nobody wants to admit this could
20 possibly be going on with oil well plugs. And this
21 isn't just a problem here in America. If we have
22 millions of abandoned wells here, just imagine the
23 scope of the problem globally. That's the end of the
24 quote.

25 I say we have failed to deal with the

1 hundreds of thousands of wells just in this state.
2 And we're only adding to that sad legacy with the
3 thousands of wells that the industry is drilling here
4 in Pennsylvania since Marcellus --- the drilling
5 began.

6 The National Petroleum Council's North
7 American Resource Development Study from 2011 cites
8 barriers to progress on this issue, lack of research
9 and lack of long-term vision. And, again, that's from
10 the National Petroleum Council.

11 CHAIR:

12 Time.

13 MS. FERIDUN:

14 Thank you.

15 CHAIR:

16 Ron Raz?

17 MR. RAZ:

18 Hi. I am Ron Raz. I'm from Ferndale.
19 My address is 525 Church Hill Road. That's P.O. Box
20 25, and that's 18921. And there have been many great
21 speakers tonight. I mean, this is just the first of
22 your hearings and obviously there's a lot to do that
23 we really need to do. We just can't let this keep
24 going.

25 I originally thought of coming here with

1 lots of scientific data to illustrate my concerns over
2 the reckless worldwide folly called, fracking. But
3 instead I'm here to remind the DEP to not be afraid to
4 live up to its full namesake, the Department of
5 Environmental Protection. That's the bottom line of
6 why I'm here. Be firm in your resolve to make it a
7 priority to enact strong and enforceable Environmental
8 Protection Performance Standards at oil and gas well
9 sites here in Pennsylvania. Please don't be blinded
10 by dollar signs in your decision-making, and don't
11 give into pressure to sacrifice the environment for
12 short-term monetary gain.

13 I am not new to environmental awareness.
14 For 50 of my 63 years I have immersed myself into it.
15 Growing up in California, I became very aware of what
16 happened during the Gold Rush, especially the 30-year
17 period beginning in the 1850s when hydraulic mining
18 spread throughout the Sierra Mountains. On a grand
19 scale, high powered water was used to wash away whole
20 mountain sides to get to the gold, filling the rivers
21 with sediment all the way to the Pacific Ocean,
22 causing massive floods and pollution.

23 Today, 150 years later, thousands of
24 square miles --- thousands of square miles of
25 devastation is still there. I've spent a lot of time

1 walking around through these wastelands and around
2 polluted catch basins, hundreds of polluted catch
3 basins. The mercury used to separate the gold is
4 still poisons in many parts of the state.

5 For all those who have any doubt of
6 human impact on the ecology of the planet need only
7 look at history and the years of accumulated
8 scientific evidence. The truth is there, all you have
9 to do is look. Of course many will say this is a
10 different situation and a different time, people then
11 were naïve and didn't know what they were doing, and
12 that we have learned from our mistakes. Have we? Or
13 will the future generations a couple of hundred years
14 from now be dealing with the mess we put upon them?

15 You know the truth is, really, we should
16 be going the opposite direction and working to create
17 a completely clean energy source. But so be it, sadly
18 that's not what this hearing is for today.

19 Finally, listening to all of the ideas
20 about fracking, I'm reminded of a few quotes I learned
21 as a kid. They seem appropriate and are worth
22 remembering. Actually, they stuck in my mind and
23 become part of my everyday consciousness, helping me
24 stay focused. The first is from John Muir and the
25 others are actually attributed to Chief Seattle. John

1 Muir said, when one tugs at a single thing in nature,
2 he finds it attached to the rest of the world. The
3 Earth does not belong to man, man belongs to the
4 Earth. And finally, the bottom line to me is, we do
5 not inherit the Earth from our ancestors, we borrow it
6 from our children. Thank you.

7 CHAIR:

8 Jackie Palmer.

9 MS. PALMER:

10 Jackie Palmer, P-A-L-M-E-R, 123 Forrest
11 Drive, Holland, Pennsylvania, 18966. I apologize that
12 I am speaking without having any notes to give you.
13 And I certainly thank everyone here who has given such
14 a wonderful tribute to the knowledge that they've
15 acquired. And I want to thank each of you, and
16 especially in the capacity of DEP for choosing --- for
17 having this very tough task of making sure that the
18 environmental protection of the citizens is foremost.

19 I want to talk about one tiny aspect of
20 what I've been asked to do. A friend of mine who's
21 done tremendous research was saying, you know, this is
22 the proposal. And I read it, and I read it very
23 quickly. I did not go and check the references,
24 because I didn't think it would be user-friendly. But
25 just from doing word searches, how many times was the

1 word transparency in there? Zero. How many times was
2 right to know? Zero. How many times was approved for
3 in there, once, and in portions pertaining to
4 something that's still being considered. And that is
5 whether or not it's, according to our Pennsylvania
6 ruling, is it accurate to be able to have exceptions
7 for rulings.

8 I'm real idealistic and am not as
9 educated as these wonderful people ---. To me it's
10 common sense. Inherent in going in and fracking, the
11 idea that the companies ---. And I'm happy to see
12 that at least one of the people that spoke is still
13 here, but two of the people who spoke had left.
14 They're from the companies. They've read their
15 prepared notes. And as you can see by their leaving,
16 their interest --- you know, their time doesn't allow
17 them to stay. To me it's --- from the time you're
18 raised, you break it, you fix it. The idea that there
19 would be any kind of question about, oh, well, you
20 know, we should not have to remediate the water to a
21 point if it wasn't totally clean to begin with.

22 I'm sorry, but I believe that inherent
23 is the idea that, yes, if this water and the air is
24 truly ours, if we're going to really protect it, then
25 too bad. If they happen to decide that they're going

1 to lease and frack the land where there was already
2 polluted water, I'm sorry, I believe that the fees
3 have to be so much more further increased. And as it
4 was said earlier, not just based on the depth of the
5 wells, but all the considerations. And if nothing
6 else, held in escrow. Those who take transactions do
7 it all the time. Pay a huge fee in escrow. And from
8 that, the cost that you, the DEP, must incur comes
9 from it.

10 Now, I may be inaccurate, but about two
11 years ago, Act 13 was just starting, it was pretty
12 clear that about 0. --- well, one percent of impact
13 fees was going to go to the DEP. I applaud that
14 candidate who was involved with DEP who's now choosing
15 to run for Governor himself for stating that it is
16 terribly understaffed. And what I'm asking you to do
17 I know is extreme, but let's get down to the point
18 where if there is any land, water, any aspect of
19 this ---. They talk about chain of custody, water
20 testing. That's a joke. Anything, the fracking and,
21 in particular, the radiation, has my concern. There's
22 to be a chain of custody for all of it. My God, we
23 hear that it's going in a barge and it's going down
24 the Delaware.

25 I know that recently the folks were to

1 be able to have a chance to stop a treatment plant ---
2 sewage treatment plant that's going to be built within
3 two miles because what it basically was going to do is
4 take whatever it was treating and dump it into a tiny
5 little creek as opposed to where the treated water now
6 goes, which is the whole Delaware. Look, we know that
7 dilution is the only remediation we have for
8 radiation. Well, that's my big concern.

9 Let me go to one small part of your
10 proposal, which I'm sorry I can't remember what page
11 it was listed on. Basically, I did a search for the
12 word, may, and obviously it was in there many times.
13 516 times the word may was there. And I understand
14 from a legal standpoint you have to be careful you
15 don't rope yourselves in. Yes, the burden of proof is
16 terribly hard, especially when a few are so invested
17 in things. But I believe that by having an impact ---
18 hold it in escrow, so that whatever testing was needed
19 would be paid through that fee.

20 Because a friend of mine asked me,
21 Jackie, I believe that natural gas is the most
22 cost-effective fuel we have right now, so tell me
23 what else we're going to do instead. And when I
24 started talking about, hey, how about the human costs
25 and how about ---. And he said, no, no, no. And he

1 was just talking ---.

2 CHAIR:

3 Time.

4 MS. PALMER:

5 You have chosen a profession where money
6 is not your major concern. And ---

7 CHAIR:

8 Thank you.

9 MS. PALMER:

10 --- thank you very much.

11 CHAIR:

12 Roberta Winters?

13 MS. WINTERS:

14 Hello. I'm Roberta Winters, 326
15 Williams Road, Rosemont, Pennsylvania, 19010. Good
16 evening. I wish to express my appreciation to you for
17 the opportunity to provide input in this important
18 process. I served on the Citizens Marcellus Shale
19 Commission and wish to speak this evening as an
20 interested individual. As a retired elementary school
21 teacher, I would like to leave you with three general
22 lessons I learned. I believe they are essential for
23 you to consider, review, reflect and modify the
24 proposed regulations.

25 First, it's important that rules are

1 followed. Existing rules and proposed rules need to
2 direct behavior. Those who fail to do so, regardless
3 of age and stage, must pay real, immediate and
4 meaningful consequences. Making exceptions to the
5 rules, caving to special interests, or ignoring bad
6 behavior results in risks to health and safety not
7 only in the classroom but also in our natural world.
8 Responsibility and accountability should guide your
9 implementation, not encouraged compliance.

10 Second, history teaches important
11 lessons. Given the legacy of the timber and coal
12 industries in the Commonwealth, taxpayers can
13 ill-afford to pay for the damage and real costs of
14 industrial development. Natural gas operations are
15 extracting a huge toll on our well-being in terms of
16 our environment, finances and public health. This
17 boom and bust process will leave us with poisoned air,
18 land and water, a general fund that cannot support our
19 schools and public services, and many sick children
20 and adults. It is imperative that regulations be
21 modified so that the burden of planned and
22 unanticipated consequences falls on those responsible.

23 Third, you lead by example. If you do
24 what you expect from others, you serve to instill a
25 positive role. As you review these regulations for

1 the Department of Environmental Protection, consider
2 its mission and the expectation placed on you to
3 protect Pennsylvania's air, land and water from
4 pollution and to provide for the health and safety of
5 its citizens through a cleaner environment. Do not be
6 swayed by efforts to optimize the ability of the
7 industry to develop the oil and gas resources of
8 Pennsylvania. Do your job and, in so doing, you will
9 set the standard and inspire others to do the same.
10 Thank you.

11 CHAIR:

12 Next we have Charles Adams.

13 MR. ADAMS:

14 Good evening. My name is Charles Adams,
15 and I'm the founder of Critical Issues Association,
16 otherwise known as the CIA. Our offices are at 6439
17 Lansdowne Avenue in Overbrook, Philadelphia, PA,
18 19151.

19 I changed what I was going to say based
20 upon what I heard here today. And the first thing I
21 would like to do is to call a bluff of the APA that
22 claims that they are assisting organizations to find
23 the best practices in their industry. Indeed if they
24 are, there should be no --- absolutely no reason for
25 injecting into the earth and into other places

1 substances about which we do not know hiding behind
2 the masquerade of something that is company
3 confidential or that is a trade secret. If they want
4 to use that, they can, fine, do it, maybe on another
5 planet, but certainly not here on this earth.

6 So I would like to let most of you know
7 that I'm probably the oldest person in the room. And
8 I have walked, and lived, and grew up in Uniontown,
9 Pennsylvania, the heart of the coal mine industry.
10 And I have played tennis and swam next to open, hot
11 coal ovens and walked on the acid runoff of coal mine
12 and been in a coal mine. We don't need to repeat that
13 here again in the chemistry industry that we're doing.
14 And I so I urge us to learn from the lessons that we
15 had.

16 I went to Penn State and I could see on
17 the maps on one of the walls in the building there all
18 the coal mines in Pennsylvania; where are the same
19 locations for the wells that we have in our earth
20 today in Pennsylvania.

21 So I will leave just one thought.
22 Johnny's father is a chemist, but Johnny is no more.
23 What he thought was H₂O was H₂SO₄.

24 CHAIR:

25 Pauline Rosenberg.

1 MS. ROSENBERG:

2 Hi. Pauline Rosenberg. My name is
3 Pauline Rosenberg. I'm at 1026 Edgemore Road in
4 Philadelphia. Rosenberg is spelled R-O-S-E-N-B, as in
5 boy, E-R-G. Okay. So I just have ---.

6 OFF RECORD DISCUSSION

7 MS. ROSENBERG:

8 I have some challenges that I have to
9 put to you folks, because I have to tell you, I'm not
10 confident that you're doing your job well. It really
11 disturbs me that there are chemicals being injected
12 into the earth that I don't know what they are. We as
13 citizens of this state don't know what chemicals are
14 being used in the fracking industry, and I personally
15 don't care if they're trade secret. I don't care. I
16 deserve to know what's going into the earth is going
17 to affect the quality of my air, the soil and my
18 water.

19 And what strikes me as outrageous from
20 what's going on in fracking is that anti-fracking
21 activists have been so polite. I think it's time to
22 get angry.

23 I am furious. I am furious about this.
24 You are polluting my water. This is not your water.
25 This is not industry's water. This does not belong to

1 the gas company. It belongs to the citizens of
2 Pennsylvania, and you are not protecting us. And I'm
3 furious about that. And I think that fury needs to
4 come out in this movement. And I think people need to
5 stop being nice because what the gas companies are
6 doing is not nice. They're making people sick.
7 They're making people leave their homes. They're
8 polluting the earth for the future. It is time to get
9 angry. And in terms of your job, beyond the fact that
10 we don't know what's going into the ground or into the
11 water, is that all the water that is being used to
12 frack is permanently taken --- permanently taken out
13 of the ecosystem.

14 When I first got into fracking the first
15 question I asked is, how much water gets fracked ---
16 gets used when a well gets fracked. When I found out
17 it could be as high as 21,000,000 gallons, I was like
18 shocked. Then when I realized that there were permits
19 for about 8,000 fracking wells in the state, I said,
20 you take 21,000,000, that's the high end, and you
21 multiply that times 8,000, you get billions of gallons
22 of water being taken out of our ecosystem. How can
23 you do that? What right do you have to let industry
24 do that? It's outrageous.

25 So what I would suggest that you folks

1 do is do what you're mandated to do, protect the
2 citizenry of Pennsylvania. That water is our drinking
3 water. The air is the air that we breathe. The soil
4 is the soil that we grow our food on. Don't you dare
5 give it to industry for a short-term profit. I think
6 it's totally inappropriate. And for people that are
7 anti-fracking activists, I really mean it, it's time
8 to get angry. It's time to stop being polite. And if
9 they don't give the citizens what we want ---.

10 CHAIR:

11 Thank you. Next we have Hazel Pelico.
12 Hazel Pelico? Okay. With no other commentator
13 present, on behalf of the Environmental Quality Board,
14 I would hereby adjourn this meeting at 8:06 p.m.
15 Thank you.

16 AUDIENCE MEMBER:

17 Aren't you going to ask if anyone else
18 wants to speak who hasn't signed up?

19 AUDIENCE MEMBER:

20 Yeah. Like a question-and-answer
21 period.

22 AUDIENCE MEMBER:

23 My understanding is that if anyone else
24 wanted to speak who didn't sign up ahead, they could
25 ask ---.

1 CHAIR:

2 We had a number of people who signed up
3 when they came in.

4 AUDIENCE MEMBER:

5 Well, some might have come in later.

6 AUDIENCE MEMBER:

7 Can you just ask if anybody wants to
8 speak?

9 CHAIR:

10 Sure.

11 AUDIENCE MEMBER:

12 Does anybody wish to speak? All right.

13 Thank you.

14 CHAIR:

15 Okay.

16 * * * * *

17 HEARING CONCLUDED AT 8:07 P.M.

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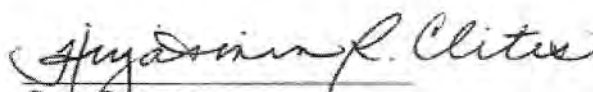
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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chair Fox was reported by me on 1/9/2014 and that I, Hiyasmin R. Clites, read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.


Court Reporter