

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

\* \* \* \* \*

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

\* \* \* \* \*

BEFORE: PAMELA WITMER, Chair  
Elizabeth Nolan, Member  
Jessica Shirley, Member  
Kurt Klapkowski, Member  
Lisa Kasianowitz, Member  
HEARING: Thursday, January 16, 2014  
6:03 p.m.  
LOCATION: Good Hope Middle School Auditorium  
451 Skyport Road  
Mechanicsburg, PA 17050

OFFICIAL

Reporter: Tyler S. Rhoads

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WITNESSES: Jim Rodgers, Stephanie Wissman, Ella Forsyth, Jeffery Zimmerman, Tara Howey, Nathan Soy, Jennifer Quinn, Teresa McCurdy, Tanya Wagner, Bill Schneider, Richard Martin, Wendi Taylor, Amanda Gruenbaum, Gary Hovis, Kevin Moody, Eric Cowden, Barbara Sheffer Rooney, Heath Strock, Steve Brady, Robin Mann, Michael Mark

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By Mr. Mark

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CHAIR:

Good evening. Before I start with my official script, which is really very long, I want to just give a friendly reminder to turn off all your personal devices, so we don't have any ringing, any buzzing, you know, hearing, overhearing other people's conversations. So if you could do that, I'd appreciate it.

I'd like to officially welcome you to the Environmental Quality Board public hearing on the Environmental Protection Performance Standards at Oil Gas and Well Sites proposed rulemaking. My name is Pam Witmer. I'm a representative of the Pennsylvania's Environmental Quality Board. Joining me are tonight are Kurt Klaplowski with the Department's Office of Oil and Gas Management, Jessica Shirley and --- who is with DEP's Policy Office, and Elizabeth Nolan with DEP's Office of Chief Counsel. And also Lisa --- and I won't mispronounce your name.

MS. KASIANOWITZ:

Kasianowitz.

CHAIR:

Kasianowitz. Thank you. With DEP's

1 Office of Communications. And I officially call the  
2 hearing to order at --- it's --- we'll go with 6:03.  
3 In the event of an emergency, the exits are located at  
4 the exit signs to your left and to your right.

5           The purpose of this hearing is to  
6 formally accept testimony on the proposed regulations,  
7 Environmental Quality Protection Performance Standards  
8 at Oil and Gas Well Sites. In addition to this  
9 hearing, EQB will hold three additional hearings on  
10 the proposed regulation on January 22nd in Washington.  
11 And for those of you who are not from Pennsylvania,  
12 that's Washington, Pennsylvania, not Washington, D.C.

13 OFF RECORD DISCUSSION

14           CHAIR:

15           On January 23rd in Indiana,  
16 Pennsylvania, and then lastly, January 27th in  
17 Tunkhannock. Information on the specific locations of  
18 the hearings is also available o DEP's website at  
19 [dep.state.pa.us](http://dep.state.pa.us). There are also copies available of  
20 the Citizen's Guide for DEP Regulations on the  
21 website. And inside the document you will find  
22 descriptions of the environmental regulatory process  
23 in Pennsylvania, the EQB's role, how to submit  
24 comments and tips for submitting effective comments.  
25 That's included.

1           The proposed rulemaking, which was  
2 adopted by EQB on August 27th, 2013, would amend Title  
3 25 in Pa Code Chapter 78 to update the requirements  
4 related to surface activities associated with the  
5 development of oil and gas wells. The EQB adopted the  
6 proposed rulemaking with recommendations for a 60-day  
7 public comment period and at least 60 --- six  
8 hearings, not 60, across the state. This represents a  
9 heightened level of public participation as there  
10 usually is only a 30-day public comment period for the  
11 typical Department rulemaking.

12           Additionally, public hearings are held  
13 on the basis of public interest. And for some  
14 regulations there are few or even none that are held  
15 if there is no request for a hearing. Due to the  
16 increased public interest in this rulemaking, the EQB  
17 has scheduled seven public hearings to allow ample  
18 opportunity for public comment on the proposed  
19 rulemaking.

20           The proposed regulatory amendments would  
21 address recent statutory changes in Act 13 of 2012 and  
22 codify existing practices. Such a rulemaking would  
23 allow for the implementation of key provisions in Act  
24 13, including further consideration of impacts to  
25 public resources such as parks and wildlife areas, the



1 prevention of spills, the management of waste and the  
2 restoration of well sites after drilling. The  
3 proposed rulemaking also includes standards ---.

4 BRIEF INTERRUPTION

5 CHAIR:

6 The proposed rulemaking also includes  
7 standards affecting the construction of gathering  
8 lines and temporary pipeline and includes provisions  
9 for identifying and monitoring abandoned wells close  
10 to the proposed well sites.

11 In order to give everyone an equal  
12 opportunity to comment on the proposal, I would like  
13 to establish the following ground rules. First, I  
14 will call upon the witnesses who have pre-registered  
15 to testify at this hearing. After hearing from these  
16 witnesses, I will provide any other interested parties  
17 with the opportunity to testify as time allows.  
18 Second, testimony is limited to five minutes for each  
19 witness. Third, organizations are requested to  
20 designate one witness to represent and to present  
21 testimony on its behalf.

22 Fourth, each witness is asked to submit  
23 three written copies of his or her testimony to aid in  
24 transcribing the hearing. Please hand me two copies  
25 and please hand one copy to our stenographer, who is

1 down there in the nice bright blue shirt so we can see  
2 him. And please do this prior to presenting your  
3 testimony.

4 Fifth, please state your names, address  
5 and affiliation for the record prior to presenting  
6 your testimony. The EQB would appreciate your help by  
7 spelling names and terms that may not be generally  
8 familiar, so that the transcripts can be as accurate  
9 as possible. And our last ground rule this evening.  
10 Because the purpose of the hearing is to receive  
11 comments on the proposal, the EQB Board and also the  
12 EQB staff cannot address questions about the  
13 rulemaking during the duration of the hearing, but you  
14 may address questions to us after the hearing is over.

15 In addition to or in place of verbal  
16 testimony presented at today's hearing, interested  
17 persons may also submit written comments on the  
18 proposal. Written and verbal comments hold the same  
19 weight when considered in the finalization of the  
20 rulemaking. All comments provided become part of the  
21 official public record. All comments must be received  
22 by the EQB on or after --- or on or before February  
23 12th of this year. Comments to be addressed to the  
24 Environmental Quality Board, Post Office Box 8477,  
25 Harrisburg, 17105-8477. Comments can also be e-mailed

1 to regcomments@pa.gov, or submitted online through  
2 EQB's regulatory comment system. All of this  
3 information is also available on DEP's website.

4 All comments received at the hearing, as  
5 well as written comments received by the February 12th  
6 deadline will be entered as part of the formal record  
7 and considered by the EQB and will be included in a  
8 comment response document, which will be prepared by  
9 the Department and reviewed by the EQB prior to the  
10 Board making its final action on the regulation. And  
11 anyone interested in receiving a copy of the  
12 transcript of today's hearing may contact the EQB at  
13 717-787-4526 for further information.

14 I think we're almost done. I would like  
15 to call the first commenter. And that will be Jim  
16 Rodgers.

17 OFF RECORD DISCUSSION

18 MR. RODGERS:

19 Good evening, members of the  
20 Environmental Quality Board. My name is Jim Rodgers.  
21 I'm a director with Dawood Engineering. We are a  
22 civil engineering firm located at 2020 Good Hope  
23 Road ---.

24 OFF RECORD DISCUSSION

25 MR. RODGERS:

1           My name is Jim Rodgers. I'm a director  
2 with Dawood Engineering located at 2020 Good Hope  
3 Road, Enola, Pennsylvania, 17025. I want to thank you  
4 for allowing our team of engineers and environmental  
5 consultants to provide feedback regarding the proposed  
6 rulemaking on Chapter 78.

7           Dawood is a Pennsylvania based  
8 corporation, a civil engineering and environmental  
9 consulting firm, which provides numerous services to  
10 the oil and natural gas industry, including wetlands  
11 delineation, erosion and sedimentation control  
12 development and compliance, geotechnical engineering,  
13 permitting, construction oversight, routing and  
14 hydrostatic testing, to name a few.

15           A majority of Dawood's 107 employees are  
16 native Pennsylvanians who appreciate and enjoy the  
17 vast natural resources within the Commonwealth.  
18 Therefore, as a company, we appreciate the  
19 Pennsylvania Department of Environmental Protection's  
20 attempts to protect those resources by regulating the  
21 environmental effects of the oil and gas industry.  
22 Pennsylvania has been recognized as having some of the  
23 nation's strongest regulations on oil and gas  
24 development, providing greater certainty for companies  
25 seeking to do business here, and we support that.

1 According to STRONGER, the State Review of Oil and Gas  
2 Natural Gas Environmental Regulations, the current  
3 regulations are, quote, well-managed and meeting their  
4 program objectives.

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

18           According to the Energy Information  
19 Administration, the Commonwealth is currently  
20 producing 18 percent of the nation's natural gas, a  
21 dramatic increase in just the last few years. Last  
22 week this body postponed its first hearing on these  
23 regulations because of brutal, record-setting cold.  
24 That decision last week underscores the critical need  
25 to continue to develop affordable domestic energy to

1 heat and power homes, our businesses and schools like  
2 this one for the safety and economic wellbeing of the  
3 Commonwealth citizens.

4           Additionally, continued development  
5 furthers the goal of eliminating our dependence on  
6 foreign fuel. Dawood strongly suggests the EQB  
7 requires the PA DEP to technically evaluate the  
8 proposed regulations without pressure from groups that  
9 may be unfamiliar with or unaware of the scientific  
10 facts. Dawood encourages the PA DEP to revise the  
11 proposed regulations in order to establish justified,  
12 practical, scientific and cost effective regulations.

13           Among our many concerns with the  
14 proposed regulations, we would like to highlight the  
15 following, which pose a particular burden to our  
16 business and the oil and gas industry. Section  
17 78.51(2), quality; the quality of a restored or  
18 replaced water supply will be deemed adequate if it  
19 meets the standards established under the PA Safe  
20 Drinking Water Act or is comparable to the quality of  
21 the water supply before it was affected by the  
22 operator if that water supply exceeded those  
23 standards. Dawood agrees that if an operator impacts  
24 water quality, the operator is responsible for  
25 restoring or replacing the water supply. However, the

1 operator should only be responsible for restoring or  
2 replacing an impacted water supply to the quality of  
3 the water supply before it was affected by the  
4 operator.

5                   Section 78.52(a), abandoned and orphaned  
6 well identification proposes that the operator  
7 identify the location of orphaned or abandoned wells  
8 within 1,000 feet measured from the surface above the  
9 entire length of a horizontal well bore. Identifying  
10 abandoned and orphaned wells is acceptable. However,  
11 this requirement must not be open ended. In its  
12 current form this regulation is unclear as to what  
13 requirements will be placed on the industry and has  
14 the potential for undue and unnecessary added expense.

15                   Section 78.15(g) requires the operator  
16 to protect ---

17                   CHAIR:

18                   One minute.

19                   MR. RODGERS:

20                   --- public resources, but the  
21 regulations do not provide the criteria for protecting  
22 the public resources. Dawood suggests that the  
23 proposed regulation be revised to clarify words such  
24 as corridor, discrete areas, and other such terms. As  
25 with other regulatory programs, for example, the

1 Resource Conservation Recovery Act, the regulations  
2 should provide language that allow the operators to  
3 rely on generator knowledge for disposal purposes in  
4 lieu of continued chemical analysis of materials  
5 generated on site.

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

13 CHAIR:

14 Thank you. Next we have Stephanie  
15 Wissman.

16 MS. WISSMAN:

17 Good evening. My name is Stephanie  
18 Wissman, executive director of Associated Petroleum  
19 Industries of Pennsylvania, 300 North Second Street,  
20 Harrisburg, Pennsylvania, 17101.

21 API, Pennsylvania's division of the  
22 American Petroleum Institute, a national trade  
23 association that represents all segments of American's  
24 oil and natural gas industry, is more than 580 members  
25 providing most of the nation's energy. API is also a



1 standard setting organization. For 89 years, API has  
2 led the development of petroleum and petro-chemical  
3 equipment and operating standards. These standards  
4 represent the industry's collective --- on everything  
5 from drill bits to environmental protection. API  
6 maintains more than 650 standards and recommended  
7 practices. Many of these are incorporated in the  
8 state and federal regulations.

9           API supports strong environmental  
10 safeguards and stewardship and commends the DEP  
11 regulatory oversight program. However, we do have  
12 concerns with several provisions contained in the  
13 proposed rulemaking that we outline in detail in our  
14 formal and written comments. In the interest of time,  
15 I'll highlight some general comments that we have and  
16 provide comments that address permits and transfers,  
17 pre-drilling or pre-alteration surveys, abandoned and  
18 orphaned well identification, control and disposal  
19 planning, emergency response for unconventional well  
20 sites and oil and gas gathering lines.

21           We suggest language be added to clarify  
22 the effective date for the new requirements that wells  
23 constructed prior to that date are grandfathered in.  
24 There are a number of definitions and sections of text  
25 that refer the reader to other statutes or

1 regulations. This causes the reader to search  
2 elsewhere to find the other statute or regulation and  
3 review it before being able to understand what Chapter  
4 78 requires. This is not user-friendly and does not  
5 facilitate regulatory understanding and compliance.  
6 Also a number of sections are very detailed and  
7 restrictive. We suggest that these sections be given  
8 some flexibility to allow for the use of alternate  
9 methods as approved by the Department.

10           Permits and transfer, Section 78.15(d).  
11 While there is no problem with using Pennsylvania  
12 National Diversity Inventory for identification of the  
13 habitats of threatened or endangered species, there is  
14 a structural problem with giving a policy the force of  
15 regulation. The use of the PNDI for screening sites  
16 is a policy application that can be changed without  
17 going through the regulatory review process. Citing  
18 it as the way to comply gives it the force of  
19 regulation.

20           The recent example of the Pennsylvania  
21 Game Commission wanting to list various bats dying  
22 from the white nose virus symptoms can have  
23 significant undesired impacts. This is a slippery  
24 slope. It is recommended that the use of PNDI be  
25 designated as an option for identifying these

1 habitats.

2                   Pre-drilling or pre-alteration surveys,  
3 Section 78.52(d). This section states that the  
4 operator shall provide a copy of the results within  
5 ten business days of receipt of the results. It is  
6 suggested that the language be revised to allow for  
7 the submittal of the results to the Department within  
8 30 days after the spud date of the first well on the  
9 pad to allow for all pre-drill samples to be as a  
10 single package.

11                   Abandoned and orphaned well  
12 identification, 78.52a --- 52a(a). It is suggested  
13 that language is added to include a six-month  
14 effective date to allow for wells already permitted  
15 but not yet completed. Section 78.52a(b)(3). It is  
16 suggested that the language be revised so that the  
17 forms are part of the permit applications sent to  
18 landowners. In addition, how long are operators going  
19 to be required to wait on property owners to complete  
20 and return the questionnaire?

21                   Control and disposal planning, emergency  
22 response for unconventional well sites, Section  
23 78.55(f). This section requires the well operator to  
24 provide the PPC plan to, in addition to the  
25 Department, the Pennsylvania Fish and Boat Commission

1 or the landowner upon request. This is unreasonable.  
2 The Pennsylvania Fish and Boat Commission or the  
3 landowner upon request. The Fish and Boat Commission  
4 and the landowner have no jurisdiction to access PPC  
5 plans. The Department should not by regulation give  
6 them authority they do not have otherwise or be placed  
7 in a situation ---

8 CHAIR:

9 One minute.

10 MS. WISSMAN:

11 --- by those parties that would require  
12 the Department to take enforcement action for  
13 violations of this section. It is strongly  
14 recommended that these proposed changes be deleted.

15 Oil and gas gathering lines, Section  
16 78.68(h). The Pennsylvania Public Utility Commission  
17 was granted jurisdiction over 49 CFR Parts 192 and  
18 195. To avoid conflicting expectations and rules, the  
19 Department should defer to the Department of  
20 Transportation and the Public Utility Commission to  
21 regulate compliance with these sections of the federal  
22 code.

23 Thank you for the opportunity to testify  
24 this evening. API and its member companies stand  
25 ready to continue to work with DEP on striking a

1 balance between environmental protection and economic  
2 development. Thank you very much.

3 CHAIR:

4 Thank you. Next, Ella Forsyth. Ella,  
5 do you have a copy of your ---?

6 MS. FORSYTH:

7 Yes, I do.

8 CHAIR:

9 Okay. Great. Thank you.

10 MS. FORSYTH:

11 I am Ella Forsyth, a leader in the  
12 League of Women Voters of Pennsylvania, at 226 Forster  
13 Street, Harrisburg, Pennsylvania, 17102, telephone  
14 234-1576. On behalf of the League of Women Voters of  
15 Pennsylvania, I am speaking. We thank you for hearing  
16 our input on these proposed regulations that will  
17 impact our commonwealth for generations to come.

18 As provided by our state constitution,  
19 we have a right to clean air, pure water and the  
20 preservation of our natural resources. The League's  
21 statewide position, based on a study and consensus,  
22 supports requiring the use of best practices,  
23 comprehensive regulation and adequate staffing across  
24 government agencies to provide the maximum protection  
25 of public health and the environment in all natural

1 gas operations.

2                   Tonight, we speak on portion of Section  
3 C, Environmental Protection and Performance Standards.  
4 We begin with reporting and remediating releases,  
5 Section 78.66, a topic underscored by recent events in  
6 West Virginia and others within our own state. First,  
7 throughout this section and the entire document, the  
8 word regulated must be replaced by pollutional, given  
9 that regulatory exceptions exist for substances  
10 involved in the oil and gas industry. Further,  
11 released to the pollution of water must be expanded to  
12 the pollution of water, air and land, 78.66.

13                   Given that time is of the essence in  
14 combating releases, notification protocol throughout  
15 this section needs to be revised to be by telephone,  
16 e-mail and/or text immediately after discovery, not  
17 within two hours or as practicable. All such  
18 communication should be archived for future access.  
19 Because of the highly toxic nature of the substances  
20 used in natural gas operations, the 42-gallon limit  
21 should be reduced to ten gallons so that more  
22 stringent remediation occur.

23                   A borrow pit or an earth disturbance  
24 created by excavation for oil and gas construction  
25 activities needs to be defined by size and regulated

1 accordingly by permit. Based on size and location,  
2 these pits have consequences to our water and land.  
3 It is not enough to just register location.  
4 Restoration should be accomplished without two-year  
5 extensions of time limits and according to best  
6 practices.

7           The League applauds inclusion of oil and  
8 gas gathering lines in the proposed regulations.  
9 However, the definition needs to distinguish between  
10 production lines and gathering lines. Smaller  
11 gathering lines that feed into larger gathering lines  
12 also need to be included. Installation practices and  
13 environmental considerations for gathering lines must  
14 be consistent with current best practices for  
15 interstate transmission lines, given their size and  
16 the pressure of natural gas transport.

17           Because of the tendency for sinkholes to  
18 form in carbonate geology present in our Commonwealth,  
19 permits for gathering lines must include this factor  
20 to prevent problems with pipeline integrity. The  
21 permitting process should also limit the number of  
22 gathering lines in a given area so that the footprint  
23 and risks of the infrastructure is minimized. Without  
24 consolidation requirements the cumulative impact of  
25 independent gathering lines from various operators in

1 the same area is monumental.

2                   Horizontal direct drilling is only one  
3 of the many alternatives for pipeline installation in  
4 areas of wetlands and waters. A protocol should be  
5 established for the use of each method. Permits would  
6 be awarded only to the best available practice based  
7 on site specific conditions, particularly local  
8 geology as determined by the County Conservation  
9 Districts. More stringent conditions for permitting  
10 should exist in exceptional value and high quality  
11 streams. To protect our water, drilling fluid  
12 additives, other than bentonite and water, must be  
13 shown to be safe in water supplies by independent  
14 testing before use in pipeline installation.

15                   CHAIR:

16                   One minute.

17                   MS. FORSYTH:

18                   Finally, in addition to notifying the  
19 Department prior to such drilling, operators should be  
20 required to notify water suppliers and treatment  
21 plants downstream. Such notification would serve to  
22 promote closer monitoring and appropriate action in  
23 the event of accidental discharges or blowouts. Thank  
24 you for your consideration.

25                   CHAIR:



1 Thank you. Jeff Zimmerman? Mr.  
2 Zimmerman, have you already given your additional  
3 copies?

4 MR. ZIMMERMAN:

5 Actually, no, I haven't. And I don't  
6 have them with me.

7 CHAIR:

8 Okay.

9 MR. ZIMMERMAN:

10 They were provided already.

11 CHAIR:

12 All right.

13 MR. ZIMMERMAN:

14 Good evening. My name is Jeff  
15 Zimmerman. I am here on behalf of Damascus Citizens  
16 for Sustainability, which is a grassroots citizen  
17 environmental organization dedicated to the protection  
18 of public health and the environmental impacts of oil  
19 and gas drilling.

20 Before getting into a number of  
21 substantive issues, there are two procedural points.  
22 First, the comment period set by the Board currently  
23 is 60 days. This is grossly inadequate. The comment  
24 period should be extended to at least 120 days to  
25 afford the public adequate time to comment. Second,

1 additional hearings should be scheduled so there is at  
2 least one hearing in each county that has been or will  
3 be impacted. It is unconscionable to us that there  
4 are no hearings in several of the most heavily  
5 impacted counties such as Bradford, Butler and  
6 Susquehanna. The best way that this Board will learn  
7 what negative impacts may occur is to hear directly  
8 from those most heavily impacted today.

9           Regarding substantive issues, first,  
10 protection of public water supplies requires further  
11 revision. Documents that are taken from Oil and Gas  
12 Division of DEP shows that through 2012, at least 161  
13 drinking water wells have been contaminated by oil and  
14 gas development activities. What must be required is  
15 that existing water quality be documented before any  
16 development activity takes places. Pre-development  
17 water testing should involve a comprehensive and  
18 consistent set of parameters. The required parameters  
19 must be far more inclusive than mainly the primary and  
20 secondary Safe Drinking Water Act standards.

21           Both DEP and agencies in other states  
22 have identified hundreds of different chemicals that  
23 have been used in hydraulic fracturing fluids.  
24 Drinking water wells should be tested for the broadest  
25 spectrum of chemicals known to be used with fracking

1 operations. When contamination of drinking water  
2 wells does happen, the oil and gas well operator  
3 should be required to restore that drinking water to  
4 at least the water quality standards required for  
5 public water supplies. If the pre-construction water  
6 quality was better than the standards, the operator  
7 must be required to restore to that quality at a  
8 minimum.

9           Second, it's well known that there are  
10 hundreds of thousands of orphaned and abandoned oil  
11 and gas wells spread across the Commonwealth. Each of  
12 these wells is a potential conduit for contamination,  
13 but before any development should be allowed, the  
14 applicant for the permit should be required to conduct  
15 an on-site survey extending at least one mile from the  
16 end of the proposed horizontal oil well holder to  
17 identify orphaned and abandoned wells. Further, the  
18 application must document that such a survey has been  
19 performed and any wells identified have been properly  
20 plugged.

21           Third, the regulations should prohibit  
22 the use of open pits for storage of fluids and other  
23 waste. Anything less than proposed, fluid management  
24 should not be allowed. These restrictions should not  
25 apply only to new operations. They should be applied

1 to continuing use for existing ---.

2 Fourth, the regulations should include a  
3 comprehensive waste management system such as laid out  
4 under subtitle C of the Federal Resource Conservation  
5 Recovery Act. Although there is a program that has  
6 limited application in the oil and gas industry at the  
7 federal level, there is no restriction in the federal  
8 law that precludes a state from applying more  
9 stringent and expansive requirements. It is essential  
10 that there be a true waste management program  
11 applicable for oil and gas development.

12 Finally, Damascus considers these  
13 proposed regulations as falling short of the standard  
14 or its review that is fully faithful to its trust and  
15 responsibilities under the environmental rights of the  
16 Pennsylvania Constitution. As the Supreme Court of  
17 Pennsylvania recently stated when striking down parts  
18 of Act 13 as being unconstitutional, and I quote, the  
19 benchmark for a decision has the express purpose of  
20 environmental rights amendment to be able or to give  
21 actual degradation of our air and water.

22 CHAIR:

23 One minute.

24 MR. ZIMMERMAN:

25 As trustee, the Commonwealth has a duty

1 to permitting or encouraging degradation, litigation  
2 or depletion of public natural resources that  
3 essentially occurs because of the state's failing to  
4 restrain the actions required, close quote. Thank you  
5 very much for your attention.

6 CHAIR:

7 Thank you. All right. Next is Tara  
8 Howey.

9 OFF RECORD DISCUSSION

10 MS. HOWEY:

11 Good evening. My name is Tara Howey,  
12 government affairs manager for WPX Energy, 6000 ---  
13 can you hear?

14 CHAIR:

15 Maybe if you take it off the podium.

16 MS. HOWEY:

17 6000 Town Center Boulevard, Canonsburg,  
18 PA, 15317. First of all, WPX Energy has been in the  
19 Marcellus Basin since 2009 and since that time we have  
20 drilled over 100 wells. Most of our employees who are  
21 with us have over 30 years' experience in the natural  
22 gas industry. We have been founded on a strong,  
23 stringent set of values and we want to be  
24 difference-makers in our communities and in the  
25 industry. Building relationships with a variety of

1 stakeholders, while establishing and maintaining trust  
2 is very important to us.

3           Our team of experts have been involved  
4 actively from the beginning of the public review of  
5 Chapter 78 regulations. Along with our trade  
6 associations, we have engaged with the DEP, DCNR, TAB  
7 and all the environmental working groups involved in  
8 this labor intensive process. We respect and  
9 appreciate all of those who have given of their time,  
10 energy and efforts in vetting the proposed  
11 regulations. I will speak for only a few moments this  
12 evening regarding the topics of utmost importance to  
13 us, and of course we will be submitting a technical  
14 paper before the stated deadline, February 12th.

15           Recognizing the voluminous nature of the  
16 Chapter 78 regulations, the first that we'd like to  
17 talk about is Section 3215(e) of Act 13 requires the  
18 Department to develop regulatory criteria that  
19 protects public resources while ensuring optimal oil  
20 and gas resource development and respecting oil and  
21 gas property owner rights. However, the proposed  
22 regulation in Chapter 78 Section 15, we believe, do  
23 not adequately implement or address these  
24 requirements. The regulatory criteria for  
25 conditioning a permit has not been provided and the

1 draft regulations only frame the Department's  
2 authority to implement the conditions. If industry is  
3 required to avoid to mitigate potential impacts to  
4 these resources, the criteria used to assess impacts  
5 must be established and provided.

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

19           Another significant issue is the water  
20 replacement. The main concern is the DEP is proposing  
21 the industry replace a water supply to Safe Drinking  
22 Water standards or better even when the results of  
23 pre-drill testing of the water supply show the water  
24 did not meet the standards in the first place. There  
25 are many challenges in this Commonwealth, as we all

1 know, with regard to private water wells, especially  
2 the lack of construction standards. Our experience  
3 with pre-drill testing and several studies independent  
4 of natural gas development demonstrate that a large  
5 number of private wells are poorly constructed, many  
6 contain iron, manganese, coliform, methane, and many  
7 do not meet the criteria of the SDWA.

8           Until such a time as the Pennsylvania  
9 legislature passes legislation to require property  
10 owners to properly construct private water wells and  
11 ensure that they meet SDWA, it is unreasonable for the  
12 DEP to require the industry to restore a private water  
13 well supply to better standards than originally  
14 existed. We are requesting that if the operator  
15 impacts a water supply, the DEP requires replacing the  
16 water supply to the pre-drill test results. Regarding  
17 waste water management at a well site, the natural gas  
18 industry ---

19           CHAIR:

20           One minute.

21           MS. HOWEY:

22           --- has been recycling and reusing water  
23 and minimizing fresh water use for quite some time  
24 now. Unfortunately the new regulations are forcing  
25 operators to rethink this option. In order to



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

9                   Finally, orphaned and abandoned wells,  
10 identifying active, inactive, plugged, abandoned and  
11 orphaned wells prior to hydraulic fracturing may be  
12 something that the industry can work with DEP, but not  
13 to the level of the proposed regulations, as that may  
14 lead to non-ending obligations on behalf of the  
15 industry for wells that are not ours. It is well  
16 known that the State Review of Oil and Natural Gas  
17 Regulations, STRONGER, have been charged with  
18 assessing the states ---.

19                   CHAIR:

20                   Time is up.

21                   MS. HOWEY:

22                   Okay.

23                   CHAIR:

24                   Thank you. Appreciate your time. Next  
25 we have Nathan Soy. Mr. Soy, did you provide your

1 additional copies?

2 MR. SOY:

3 No, Clean Water Action is going to be  
4 submitting technical testimony. My name is Nathan  
5 Soy. I reside at 360 Franklin Church Road in  
6 Dillsburg, Pennsylvania, 17019. And I am the  
7 Harrisburg area representative for Clean Water Action.  
8 Our organization represents over 120,000 different  
9 people in Pennsylvania. And we're one of the  
10 conveners of the Pennsylvania Campaign for Clean  
11 Water, which is 140 different organizations in  
12 Pennsylvania.

13 Since we're going to be presenting  
14 technical testimony, this is not going to be a  
15 technical presentation. This is a presentation having  
16 to do with what's right and wrong, what people have  
17 called morality. In the past five years, I have  
18 gotten to know many people in shale country in  
19 Pennsylvania. More and more families have lost their  
20 drinking water to shale gas drilling in Pennsylvania.

21 We have the hardest time here in  
22 Pennsylvania even getting the Department of  
23 Environmental Protection to keep track of how many  
24 families have lost their water because of shale gas  
25 drilling. Eventually hard work and the journalism of

1 Laura Legere eventually told us there was over 161  
2 families that have totally lost their water.

3           There's a basic situation here. Who is  
4 the government supposed to be protecting? Is it  
5 supposed to be protecting the interests of the  
6 industry to develop or is it supposed to be protecting  
7 the interests of the people?

8           The way the regulations are many times  
9 designed, one could say that the interests of industry  
10 are being served. The DEP should not compromise its  
11 obligation to protect the environment by balancing the  
12 citizens' constitutionally guaranteed right for Clean  
13 Water against the private interests of oil and gas.  
14 The DEP is required by the Pennsylvania Constitution  
15 to protect the public's right to a clean environment.

16           The proposed regulations provide that  
17 even though the DEP determines that a proposed well  
18 will have a probable adverse impact on a public  
19 resource, the DEP still cannot impose conditions that  
20 will prevent or mitigate that harm without first  
21 considering the impact of the condition on the  
22 individual mineral right owner's ability to optimally  
23 develop his or her oil and gas rights. This  
24 regulation inappropriately places DEP, whose mission  
25 is supposed to be to protect and conserve

1 Pennsylvania's environment in the position of  
2 balancing protection of important public resources  
3 against individual property rights.

4           Furthermore, it inappropriately and  
5 potentially illegally elevates the optimal development  
6 of oil and gas over the protection of important public  
7 resources against likely adverse impacts. These draft  
8 regulations do not give proper weight to the DEP's  
9 constitutional obligation to protect the environment.  
10 So long as the DEP's actions do not affect a taking of  
11 private property, the DEP should not be --- rather,  
12 the DEP should be obligated to take whatever actions  
13 are necessary to condition permits in a manner that  
14 protects important public resources.

15           CHAIR:

16           One minute.

17           MR. SOY:

18           Given all of that, one, we need to  
19 prohibit operators from using open pits for storage of  
20 regulated substances. Two, we need to prohibit the  
21 on-site processing of shale drill cuttings and we need  
22 to define fresh water that is used in oil and gas  
23 operations. We need to prohibit the burial or land  
24 application of drill cuttings and we need to prohibit  
25 the on-site burial of waste pits.

1           Furthermore, the bonding requirements  
2 are wholly inadequate. The \$600,000 that covers an  
3 operator's well site is an extremely low amount, and  
4 this bonding is supposed to secure all ---

5           CHAIR:

6           Your time is up.

7           MR. SOY:

8           --- the operator's legal duties  
9 concerning water supply, replacement, restoration and  
10 well plugging. Pennsylvania is going to be left with  
11 a tragedy that is going to be like ---.

12          CHAIR:

13          Mr. Soy, your time is up.

14          MR. SOY:

15          Thank you very much.

16          CHAIR:

17          Thank you. Next is Jennifer Quinn.

18          MS. QUINN:

19          Good evening. My name is Jen Quinn and  
20 I am the Central Pennsylvania outreach coordinator in  
21 PennFuture's Harrisburg office, 610 North Third  
22 Street, 17101. PennFuture is a statewide  
23 environmental organization that works to create a just  
24 future where nature, communities and the economy  
25 thrive. During my testimony, I will provide comments

1 regarding proposed changes to Chapter 78 regulations,  
2 but please keep in mind that PennFuture will be  
3 submitting detailed written comments for the Board's  
4 consideration.

5           As a preliminary matter, I'd like the  
6 Board to keep in mind the recent contamination of  
7 drinking water for 300,000 West Virginians when you  
8 consider the long-term impacts of the decisions you  
9 will be making concerning these regulations. The West  
10 Virginia drinking water crisis happened in part  
11 because of loose regulations and lack of government  
12 oversight and reminds us how dependent we are on clean  
13 water for our health and our security. Now is the  
14 time is take a critical look at how to better protect  
15 our waters.

16           I would like to thank the Board for the  
17 work it has done in proposing regulations in Chapter  
18 78 to help improve environmental protection. Among  
19 other things, we support requiring aboveground  
20 pipelines for transporting wastewater, requiring  
21 security around storage vessels at well pads,  
22 requiring identification of well operators' parent and  
23 subsidiary companies and requiring any restored or  
24 replaced water supply at a minimum to meet the  
25 standards established under the Safe Drinking Water

1 Act.

2                   However, there are some areas that can  
3 be improved. I will give two examples. All fluids  
4 related to oil and gas development should be contained  
5 in engineered facilities, not natural depressions.  
6 Section 78.1, definition of freshwater impoundment and  
7 pit, Section 78.56. Our streams and groundwater  
8 should be secure from pollution caused by the storage  
9 of wastes and fluids associated with oil and gas  
10 production operations.

11                   The definitions of pit and freshwater  
12 impoundment raise questions about that objective  
13 because they continue to incorporate the concept of  
14 natural topographic depressions within the  
15 definitions. We should not even suggest that  
16 Pennsylvania will allow fluids related to oil and gas  
17 operations to be managed in natural depressions. All  
18 facilities used to hold fluids that may contain  
19 potential water pollutants should be specifically  
20 engineered for the task.

21                   The DEP's proposed regulations for the  
22 road-spreading of brine pose unacceptable threats to  
23 the Commonwealth's water resources and would be  
24 unlawful, Section 78.70(a). Section 78.70 of the  
25 DEP's proposed oil and gas regulations would authorize

1 the road-spreading of brine from conventional wells  
2 for dust control on dirt and gravel roads. Proposed  
3 Section 78.70(a) would authorize the road-spreading of  
4 brine for de-icing purposes. Both sections would deem  
5 any operator that spreads the brine on the roads to  
6 have a permit-by-rule for the beneficial use of  
7 residual waste as long as the operator complies with  
8 the proposed Chapter 78 regulatory scheme.

9 DEP's approach is troublesome for two  
10 reasons. First, because the proposed regulations do  
11 not ensure compliance with the DEP's anti-degradation  
12 program or contain adequate chain of custody  
13 requirements, the risks of spreading brine on roads  
14 outweigh the benefits, which are largely confined to  
15 disposal cost savings for the industry.

16 The second problem with Section 78.70  
17 and 78.70(a) is a legal one. All wastewaters from oil  
18 and gas operations, including brine, are residual  
19 waste under the Pennsylvania Solid Waste Management  
20 Act. It follows that any beneficial use of brine,  
21 including dust suppression and deicing, is subject to  
22 regulation under the DEP's SWMA regulations as Title  
23 25 Pennsylvania Code Chapter 287. These regulations  
24 do not currently allow permits-by-rule for  
25 road-spreading or any other beneficial use of brine.



1 Beneficial uses of brine may be approved only under  
2 the general permit scheme set forth in Subchapter H of  
3 Chapter 287. Thus, the permit-by-rule scheme proposed  
4 in Sections 78.70 and 78.70(a) is not only imprudent,  
5 it would be --- it would also be illegal.

6 Thank you for your time and  
7 consideration.

8 CHAIR:

9 Thank you. Next is Teresa McCurdy.

10 MS. MCCURDY:

11 Hi, my name is Teresa McCurdy. I'm here  
12 to testify --- I'm sorry, 1646 Lowell Lane, New  
13 Cumberland, PA, 17070. I'm here to testify on both on  
14 behalf of myself as a citizen and the Pennsylvania  
15 Grade Crude Oil Coalition regarding the proposed  
16 regulation. I have a one-person, both government and  
17 public relations firm. I also provide development ---  
18 or business development for natural gas wastewater  
19 treatment facility. So I've been attending a lot of  
20 conferences, educating DEP meetings and so forth, both  
21 on behalf of my client and in working with the PGCC  
22 and PIOGA. And matter of fact, I'm a subcommittee  
23 chair on water, waste management and recycling.

24 So some of the issues that some folks  
25 were discussing, you know, these are really

1 well-vented regulations that we talk about all the  
2 time, whether it's water resources, advisory committee  
3 meetings or the Technical Advisory Board. And each  
4 party --- and these boards are made up of industry and  
5 environmental organizations as well as DEP. And so I  
6 wanted to thank both DEP, industry and even the  
7 environment --- people who are in the environment  
8 community, because everyone's put thousands of hours  
9 into the regulations as they currently are.

10 But having said that, it's obvious both  
11 sides feel there's still work to be done. A little  
12 bit about PGCC. It was originally formed in 2013 by  
13 about 20 producers of --- that refine conventional oil  
14 and gas to help advance local economies and energy  
15 independence by promoting shallow oil and gas  
16 production in a safe, environmental manner. Well, why  
17 form a new coalition, especially when there are others  
18 out there? It's because they found that the founding  
19 members were concerned about the burdensome  
20 regulations that were going to be imposed to them and  
21 because a lot of them felt early on in the process  
22 that these regulations were not going to have much an  
23 effect on conventional producers.

24 And just a little bit --- a lot of  
25 people may know that oil was first discovered in

1 Pennsylvania and drilled, and so many people know that  
2 Pennsylvania grade crude oil is used. If you look to  
3 Wikipedia for a definition, they call it sweet crude  
4 oil. They also go on to say that it can be comprise  
5 substances such as gasoline, kerosene, fuel oil and  
6 wax, but also white oil and paraffin. I think what  
7 many people don't know is that paraffin can also be  
8 used in chocolate, to make candy. Paraffin is a  
9 byproduct of refining oil. You can also use the  
10 paraffin --- they use it for the covering on M&Ms so  
11 they don't melt in your hand.

12           And again, although PGCC will be  
13 submitting very formal comments, we do feel it was  
14 important to, you know, educate people that this  
15 industry is very vital. We have two refineries in  
16 Pennsylvania and we want to make sure that the jobs  
17 stay here and not go elsewhere because the business  
18 dries up and goes away. And by the way, for at least  
19 maybe half the people in the room, we all use some  
20 type of byproduct of crude oil when we wear makeup.

21           So when Act 13 of 2012 was adopted by  
22 the legislature, like I said, we didn't think that a  
23 lot of it was going to affect them. But one of the  
24 things that was found out that did affect them real  
25 quickly was the size and the scope of different

1 aspects of the regulation, such as their being told  
2 that when you compile a pit, when you build a pit,  
3 that a pit has to be a certain slope and size and so  
4 forth. But with a conventional operator, they may  
5 have a well site that is a fraction of the site of an  
6 unconventional one. They may hold a couple of little  
7 water ---

8 CHAIR:

9 One minute.

10 MS. MCCURDY:

11 --- versus, you know, hundreds of trucks  
12 for water. So it's a completely different industry.  
13 So at one of the press conferences, one of the folks  
14 that stood up and said, you know, you know, I have ---  
15 I'm sorry, there's two examples. He says --- at one  
16 point he goes, you wouldn't apply the same regulation  
17 to someone building a house as you would someone  
18 building a nursing home.

19 And that's all we're asking, is that the  
20 DEP and regulators make sure that the regulation fits  
21 the size of the business being considered. One of  
22 those aspects are costs. Looking at the IRRC  
23 regulatory analysis form that was outlined, one  
24 example real quick is that in order to identify an  
25 abandoned, orphaned well would cost zero dollars. It

1 has to cost someone man hours to prepare the  
2 documents. Thank you very much.

3 CHAIR:

4 Thank you. Next we have Tanya Wagner.

5 MS. WAGNER:

6 I've already submitted my copies.

7 CHAIR:

8 Thank you.

9 MS. WAGNER:

10 My name is Tanya Wagner, 5007 Apache  
11 Drive, Mechanicsburg. And I'm speaking tonight as a  
12 private citizen, as a nurse with about 50 years of  
13 experience in the healthcare industry.

14 I assumed that most testimony given  
15 tonight would be empirical in nature, so I choose to  
16 speak more philosophically because I believe actions  
17 are guided by values and legislation is crafted not  
18 just from knowledge, but influenced greatly by  
19 attitude and moral integrity. That said, I think it's  
20 time we undertake bolder efforts to put tougher, more  
21 specific language in these proposed regulations. If  
22 we can't balance public health needs and land  
23 stewardship properly with economic growth and the  
24 search for new energy sources, Pennsylvanians will pay  
25 a price that we and our offspring will sorely regret.

1 I speak with confidence because, as  
2 others have mentioned, as 300,000 West Virginians were  
3 learning of a chemical spill that rendered their water  
4 virtually untouchable, the US House of Representatives  
5 in Washington was hard at work gutting the Federal  
6 Hazardous Waste Cleanup Act. How ironic. If this  
7 would become a law, it will seriously erode the  
8 federal government's ability to help us if a similar  
9 disaster were to happen here. We could be in dire  
10 straits unless we get our own house in order and fast.

11 The Elk River spill in West Virginia,  
12 while not due to fracking, is still a cautionary tale,  
13 because the CEO of the company responsible is or was  
14 considering bankruptcy, as many do. So he won't be  
15 paying for cleanup. And in Pennsylvania we've not  
16 required drillers to establish a remediation fund for  
17 accidents that may well devastate our water supply.  
18 Yes, we have an impact fee, but that's simply for  
19 mitigating day-to-day wear and tear on a community's  
20 infrastructure.

21 It's reported that a legislative plan is  
22 evolving to entice drillers to substitute mine  
23 influenced water, I guess that's acid mine drainage,  
24 for their fracking process in place of clean water.  
25 While that sounds like a really tantalizing concept on

1 its face, a tricky use of the term beneficial in the  
2 plan's text and a proposal to exempt companies from  
3 liability who would agree to use this stuff, clearly  
4 doesn't.

5                   While much is promised by operators and  
6 legislators and agency spokesmen assures that all is  
7 well, I do suffer cognitive dissonance when reviewing  
8 information that contradicts the pro-fracking message,  
9 like countless violations, token penalties, inadequate  
10 rules for safe use and disposal of hazardous  
11 substances, danger from orphaned and abandoned wells,  
12 migration of methane and wording in laws that smacks  
13 of bias favoring mine operators over public health and  
14 environmental safety. Just one issue I shudder to  
15 think about is what happens if we permit long term  
16 burial of waste pits and toxic or radioactive  
17 substances like --- materials like drill cuttings?  
18 Why, we could create sites like the infamous Love  
19 Canal which, quoting New York's health commissioner,  
20 remains as a national symbol of failure to exercise  
21 concern for future generations. Is that how we want  
22 to be remembered?

23                   I'm no expert, but distance and location  
24 limits listed in these proposed regulations seem  
25 uncomfortably close to areas they're supposed to

1 protect, accompanied by vague enforcement language.  
2 Won't a laissez-faire approach just invite less safety  
3 and more risk? I'm troubled too when many people,  
4 including elected officials, willingly accept  
5 drillers' assurances of safety. For me, their  
6 credibility sank after hearing that the industry hired  
7 the same public relations firm tobacco executives  
8 employed back in 1994, the ones who raised their hands  
9 at a congressional hearing and under oath stated, I  
10 believe that nicotine is not addictive.

11 On that note, I'll close by sharing two  
12 wise and very relative proverbs. First, it seems the  
13 only thing we've learned from history is that we don't  
14 learn from history at all. And second, humans come to  
15 their moment of clarity only through pain and  
16 humiliation, sadly, their own and not someone else's.  
17 My hope is ---

18 CHAIR:

19 One minute.

20 MS. WAGNER:

21 --- that these tendencies can be  
22 reversed in this critical matter and that wisdom,  
23 foresight and courage will prevail over greed and  
24 expediency. Our land, our citizens and even mine  
25 operators will be the better for it. Thank you.



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CHAIR:

Thank you. Next, William Schneider.

OFF RECORD DISCUSSION

MR. SCHNEIDER:

I'm Bill Schneider from Hampden Township, 5007 Apache Drive, 17050. I'm a registered Independent voter and I'm old. I've been around for a while. Tonight I'd like to put an old guy's perspective on the Marcellus Shale water quality issue here in Pennsylvania. As we travel down memory lane in the next three or four minutes, keep in mind that old adage that the names and faces keep a-changing, but the stories are always the same.

Those of us who were around in March 1979 probably recall Jack Herbein, vice president for Power Generation for MetEd/GPU, holding a news conference at Three Mile Island, telling us that the situation was under control when at that very moment, uncontrolled radioactive releases were occurring. Remember Exxon Valdez? Instead of complying with remedial sanctions to clean up the environmental disaster they caused, Exxon Mobil spent the next 20 years in court attempting to mitigate or eliminate the extent of the fines and penalties imposed.

And the warm and fuzzy BP commitment to

1 the Gulf commercials that we've all been seeing in the  
2 last year, guess what? Their legal team commenced the  
3 same kind of campaign that Exxon Mobil employed in  
4 their attempts to get the financial sanctions  
5 necessary to clean up their mess, reduced or  
6 eliminated.

7                   Now we know that next to agricultural  
8 runoff, acid mine drainage is the greatest contributor  
9 to water pollution in the Commonwealth. Most of the  
10 culprits are mining operations shut down more than 50  
11 years ago. We know that Tom Corbett's received over a  
12 million dollars in campaign contributions from gas  
13 companies. We know that Halliburton, Cabot and other  
14 drillers have amassed over 4,000 violations in the  
15 last four years, just with the current environmental  
16 laws on the books.

17                   We know that there are roughly 200,000  
18 abandoned oil wells statewide, mostly unmapped, dating  
19 from the discovery of oil in Pennsylvania in 1859. We  
20 also know that ten percent of Marcellus drill holes  
21 leak methane when they're first drilled. That number  
22 grows to about 50 percent in ten years. We know that  
23 something on the order of 30 percent of the water  
24 injected into the earth as part of the fracking  
25 process stays within the earth.

1           But we do not know where that toxic  
2 water will end up, especially if an earthquake or a  
3 rock strata change occurs, possibly causing waterway  
4 pollution, or else remaining underground, never again  
5 to be part of the water cycle. Either way, the  
6 indigenous water supply we all need for survival is  
7 depleted. We know that a gag order is imposed when  
8 fracking companies enter into settlements with  
9 aggrieved citizens whose wells have been polluted. So  
10 the rest of can't access information that would  
11 identify risks to which we may unknowingly be exposed.

12           So tonight I ask you this fundamental  
13 question. Do you believe that fracking companies are  
14 any different than GPU, Exxon Mobil, BP or the mine  
15 owners who have been gone for 100 years? Does their  
16 commitment to their shareholders take a backseat to  
17 public health concern? I think not.

18           I believe that fracking will create a  
19 major environmental disaster within the next decade.  
20 I say that because even if frackers go by the book 99  
21 percent of the time, the fact that we're knowingly  
22 polluting the earth's crust will eventually catch up  
23 with us. What Pennsylvania needs is a disaster fund,  
24 regularly replenished by fracker earnings so that  
25 drillers pay for the damage they cause, not the

1 Commonwealth's taxpayers.

2           Since I doubt that our government  
3 leaders possess the political courage for such a bold  
4 move, there are half measures that will serve to  
5 mitigate some of the risk. One, the DEP should  
6 require drilling company operators to restore  
7 contaminated drinking water to Drinking Water Act  
8 standards.

9           CHAIR:

10           One minute.

11           MR. SCHNEIDER:

12           Two, drilling company operators should  
13 be prohibited from using open pits for waste storage.  
14 Three, regarding waste disposal, drillers should  
15 follow the federal regulations for hazardous  
16 substances that other industries must follow. And  
17 four, drillers must identify existing wells before  
18 site and well construction and drilling, so that the  
19 new well can be modified if needed. Drillers must  
20 then plug and seal the old orphaned or abandoned wells  
21 according to same --- state safety standards prior to  
22 the new wells being drilled. Thank you.

23           CHAIR:

24           Appreciate it. Richard Martin?

25           MR. MARTIN:

1                   Good job, Mr. Schneider. Good evening.  
2 My name is Richard Martin, 740 Oak Hill Drive, Boiling  
3 Springs, PA. The DEP fails to take into account the  
4 cumulative effect of the natural gas industry on our  
5 environment. Many of the chemicals used in  
6 hydrofacking are carcinogens, neurotoxins, endocrine  
7 disruptors. And these wastes, as well as others, are  
8 a direct threat to our water supplies and air quality  
9 and wildlife. What is the acceptable risk? While  
10 these chemicals may be beneficial to the gas industry,  
11 their use must be tightly regulated as to prevent harm  
12 to us. DEP should follow the mantra, if you can't  
13 measure it, you can't manage it.

14                   Since the gas industry had a hand in  
15 drafting these regulations, then weasel clauses and  
16 other ambiguous language must be eliminated. Flowback  
17 water, for instance, should be regulated tightly with  
18 documentation by way of cradle to grave paper trail.  
19 Operators will naturally seek the most cost effective  
20 method of disposal. DEP is not fulfilling its mission  
21 of environmental protection if operators are allowed  
22 to bury drill cuttings, otherwise known as toxic  
23 teabags, on site. On-site disposal is not equivalent  
24 to a well-designed and regulated landfill. Disposal  
25 of drill cuttings must be treated in the same way as

1 flowback water, cradle to grave documentation.

2 I've spent much of my 75 years on the  
3 Allegheny National Forest lands and I've seen the  
4 effect of operators simply walking away from their  
5 responsibilities after wells fail to be economical.  
6 I've seen hundreds of orphaned and abandoned wells on  
7 the ANF. So I hope you learn from the Fed's mistakes.

8 The water sources surrounding my hunting  
9 camp 13 years ago in Howe Township, Forest County were  
10 polluted with benzene as a result of a fracking oil  
11 and gas well 990 feet away. No letters have been sent  
12 to property owners by the driller or to the  
13 Department. Despite presumption, DEP was ineffectual  
14 in getting replacement water. When asked about suing  
15 the driller, the response was, well, we don't have the  
16 budget.

17 One replacement water well finally was  
18 built for the six camps. After a few months, the  
19 driller cut off the power supply. DEP should require  
20 drillers to post a bond assuring a permanent supply of  
21 water that meets Safe Drinking Water Standards. I  
22 have much more, but I will elaborate with a postscript  
23 electronically. Thank you.

24 CHAIR:

25 Thank you very much. Next is Wendi

1 Taylor.

2 MS. TAYLOR:

3 My name is Wendi Taylor and I live at  
4 435 Parkview Court in Camp Hill. Thank you for  
5 allowing me to come and provide comments on the  
6 proposed regulations relating to oil and gas wells.  
7 While I don't live in the Marcellus Shale region, I am  
8 interested in what is happening and what might happen  
9 in that region.

10 I am afraid that we, the citizens of  
11 Pennsylvania, are going to be in the same situation  
12 that those in Wyoming are. There the fracking boom  
13 has come and gone, and according to the New York  
14 Times, the companies that once operated the wells have  
15 all but vanished, many seeking bankruptcy protection  
16 and unable to pay for the cost of reclaiming the land  
17 they leased. Recent estimates have put the number of  
18 abandoned drilling operations in Wyoming at more than  
19 1,200, and state officials say several thousand more  
20 might soon be orphaned by their operators.

21 Generally, I would urge this Board to do  
22 three things. Provide more public disclosure, limit  
23 the use of grandfathering and adopt the most stringent  
24 regulations that the law will allow. As the  
25 Pennsylvania Supreme Court pointed out in its recent

1 decision on Act 13, Pennsylvania lawmakers have a poor  
2 record of protecting its citizens from the many  
3 problems created by the industries like timber and  
4 coal. Now we're making the same mistake with natural  
5 gas. You see, these regulations are about five years  
6 too late.

7                   The industry has been able to avoid  
8 regulation. They've gotten key exemptions in federal  
9 Safe Drinking Water Act, Clean Air Act, Clean Water  
10 Act, the Emergency Planning and Community  
11 Right-to-Know Act and the Resource Conservation and  
12 Recovery Act. We need stringent state regulations  
13 that will strictly be enforced by the Pennsylvania  
14 Department of Environmental Protection. As the Board  
15 reviews Chapter 78, please do all you can to give  
16 citizens the regulations that reflect their right to  
17 clean air and clean water.

18                   The Pennsylvania Department of  
19 Environmental Protection should determine the  
20 chemicals and the contaminants to be included in  
21 pre-drilling water tests, not the drillers. Further,  
22 the testing should be done in independent labs and the  
23 results should be available to DEP, the landowners and  
24 the public. Too often chemicals and methane gas show  
25 up after drilling and because those specific chemicals



1 or contaminants were not included in the pre-drilling  
2 tests, no one can prove if the water was degraded by  
3 fracking.

4 DEP regulations continue to allow the  
5 storage of wastewater in open pits or impoundments.  
6 Open pits are a recipe for disaster and the State  
7 needs to ban them altogether. Existing impoundments  
8 should be cleaned up and closed. Hydraulic fracturing  
9 fluid, flowback and produced water at well sites  
10 should be stored in aboveground tanks during all  
11 phases of drilling and treated as the hazardous waste  
12 that it really is.

13 Stray gas migration has been a problem  
14 in Pennsylvania in some measure due to the old  
15 unplugged and abandoned wells, whose gas can migrate  
16 into the groundwater during drilling operations.  
17 Before drillers do anything, ---

18 CHAIR:

19 One minute.

20 MS. TAYLOR:

21 --- they should be required to survey  
22 the site to identify orphaned wells that may not be  
23 known or mapped. If discovered, the drillers should  
24 cap the wells before construction begins. Further,  
25 drillers should be required to provide the results of

1 the surveys to DEP.

2 Act 13 requires water supplies that have  
3 been contaminated by drilling to be restored or  
4 replaced to meet Pennsylvania's Safe Drinking Water  
5 Act. The regulation should specify that those that  
6 who had high quality water before drilling, that they  
7 should be restored and not merely replaced with water  
8 that meets the minimum safe standards. I urge you to  
9 consider all the comments from these hearings that  
10 call for more protection of our environment, because  
11 contamination can last far longer than the jobs the  
12 industry creates. Thank you for your attention.

13 CHAIR:

14 Thank you. Next, Amanda Gruenbaum.

15 MS. GRUENBAUM:

16 Good evening. My name is Amanda  
17 Gruenbaum. I am a junior at Elizabethtown College in  
18 Elizabethtown, PA. 737 Baugher Avenue, 17022. I am  
19 here tonight to add my voice to this discussion and I  
20 represent the many college students across  
21 Pennsylvania that are and will be in the near future  
22 seeking more than just a job, but a career. We as a  
23 student ecosystem have come interested in the proposed  
24 rulemaking affecting the natural gas industry.

25 My main focus pertains to jobs. Whether

1 it is direct or indirect, the oil and natural gas  
2 industry provides and supports hundreds of thousands  
3 of jobs in Pennsylvania, and not just in the areas of  
4 the state that are realizing the development of this  
5 energy resource. The natural gas industry is a job  
6 multiplier, so for students seeking a career in supply  
7 chain management, mechanical engineering, civil  
8 engineering, as well as communications, like me, have  
9 a better chance of finding a job within their field of  
10 study.

11 In fact, a lot of industries will be  
12 able to grow and provide more jobs to residents of  
13 Pennsylvania as natural gas becomes a consumer  
14 resource across our state. The more careers the State  
15 can provide its youth, the more of a chance  
16 Pennsylvania's youth will be able to work and raise  
17 their families here in Pennsylvania. Thank you for  
18 your time.

19 CHAIR:

20 Thank you.

21 OFF RECORD DISCUSSION

22 CHAIR:

23 All right. Gary Hovis?

24 MR. HOVIS:

25 Good evening. My name is Gary Hovis and

1 I represent the Pennsylvania Independent Petroleum  
2 Producers headquartered in Bradford, Pennsylvania,  
3 Post Office Box 103, ZIP 16701. Thank you for the  
4 opportunity this evening to present the following  
5 remarks from the perspective of the shallow  
6 conventional oil and gas industry in Pennsylvania.  
7 Our organization was founded in 1985, 29 years ago, in  
8 response at that time to the state's legislative Act  
9 223. Today we represent small and medium sized  
10 producers of the conventional shallow oil and gas  
11 wells in this state.

12 Ms. McCurdy and I didn't really  
13 collaborate, but some of the topics she covered I'm  
14 going to be covering too. Penn grade crude. Most  
15 people think that crude oil was first discovered near  
16 Titusville, Pennsylvania on August 27th of 1859 by  
17 Colonel Edwin Drake in a well drilled to 69 and a half  
18 feet, and it was a brand new mineral for the white  
19 man's use.

20 However, crude has been seeping up  
21 through crevices in the ground for eons before the  
22 white man came to America. The local Indians would  
23 skim it off the surface of the water on Oil Creek, a  
24 creek today that's one of the highest water quality  
25 streams in northwestern Pennsylvania, and then use for

1 medicinal purposes. So it wasn't just coincidence  
2 that Colonel Drake decided to drill for oil where he  
3 did.

4 Penn grade crude that's produced in  
5 Pennsylvania is also found in the western tier of New  
6 York State, parts of eastern Ohio and of course in our  
7 state, and then West Virginia. And that Penn grade  
8 crude is very unique. The crude is a paraffin based  
9 medium in comparison to the crude found in ---  
10 throughout most of the rest of the U.S. and around the  
11 world, which is mainly an asphalt or tar-based crude.

12 In addition to excellent motor oils,  
13 lubrication greases, gasoline, kerosene, diesel fuel,  
14 Penn grade crude generates over 60 different products.  
15 Ms. McCurdy mentioned a number of those, waxes,  
16 furniture polishes, hand creams, lotions, cosmetic  
17 creams and waxes used in foodstuffs, including  
18 chocolate candies to dilute and make the candy more  
19 soft. Our crude is also used for the plastics  
20 industry, which is one of the biggest suppliers of  
21 many things that we use in our lives today. Look at  
22 the seats we're sitting on tonight. So all the  
23 different polys that we have in the plastics  
24 industries are --- come from our crude. Urethane,  
25 nylons, PETs and so on.

1 Left on the ground, Pennsylvania crude  
2 will break down and disappear over time. This is not  
3 true of the asphalt based crudes found around the  
4 world and imported to this country. These have a  
5 tendency to turn into tar when left out in the sun.

6 In the early days --- in the early days  
7 of our country, most homes were heated with firewood,  
8 readily available from the surrounding forests. On  
9 the plains where trees weren't available and seldom  
10 seen, buffalo dung became one of the ready sources of  
11 available fuel. As time progressed and the demand for  
12 nighttime lighting around our towns and cities  
13 became needed, ---

14 CHAIR:

15 One minute.

16 MR. HOVIS:

17 --- man came up with the idea of using  
18 whale oil for burning in streetlights. Well, you know  
19 what happened there. It created quite an industry,  
20 but after a time, most of the whales were  
21 disappearing. Today many of these are endangered  
22 species. Of course, for home lighting we used candles  
23 made from the animal fat. And today those candles are  
24 made from waxes of Penn grade crude.

25 So what does this leave us for the

1 future? Wind and solar power can supplement major  
2 energy sources, but are problematic and inconsistent.  
3 Hydro power can also supplement, but is not the total  
4 answer. Problems and concerns come with nuclear  
5 power, which was once considered the solution for our  
6 future. The big problem there is the challenge of  
7 what to do with the spent fuel.

8                   This leaves us, an industrial nation,  
9 with few options for the near future, low sulfur  
10 coal ---

11                   CHAIR:

12                   Time's up.

13                   MR. HOVIS:

14                   --- fuel oil or natural gas. Thank you.

15                   CHAIR:

16                   Thank you. Kevin Moody?

17                   ATTORNEY MOODY:

18                   Good evening. My name is Kevin Moody.  
19 I'm general counsel and vice president for  
20 Pennsylvania Independent Oil and Gas Association,  
21 otherwise known as PIOGA. We've heard the acronym  
22 mentioned tonight. As general counsel, I will address  
23 three legal issues. Of course, we will be providing  
24 extensive written comments of a technical nature of  
25 the proposed regulations.

1           But I'd like us to start with saying  
2 that there are --- the regulation as proposed is  
3 incomplete in four major areas. They were the areas  
4 that were identified by the TAB, Technical Advisory  
5 Board, and there were a series of workshops to address  
6 these issues and they were over the summer. There has  
7 been no change in the proposed regulation as a result  
8 of those workshops.

9           The DEP staff admitted and acknowledged  
10 that the regulations were incomplete in that respect,  
11 and that's why the workshops were held. It was  
12 described as a proposal for consideration. So in that  
13 respect, it does really not comply with the Regulatory  
14 Review Act for proposed regulation, which must be a  
15 regulation that's intended to be promulgated as a  
16 final regulation. So if the regulations are  
17 incomplete, they are not intended to be a regulation  
18 with no changes.

19           Now with respect to the recent Act 13  
20 decision by the Pennsylvania Supreme Court, we've  
21 heard references tonight to Section 3215, protection  
22 of public resources and regulations to develop  
23 criteria for imposing conditions to protect these  
24 resources. And it seems clear that the Pennsylvania  
25 Supreme Court has enjoined those sections. The



1 Commonwealth petitioned for reconsideration of that  
2 decision. And in that, they acknowledged that the  
3 provisions are enjoined. The municipalities and the  
4 citizens answered that petition, also acknowledging  
5 and agreeing that these provisions are enjoined and  
6 therefore this regulation, that there are portions of  
7 that address all those sections, cannot be promulgated  
8 for even further activity until the Supreme Court or  
9 the Commonwealth Court clarifies the situation.

10 Now with respect to the species of  
11 special concern, it's our understanding that the  
12 regulations equate that term to critical communities,  
13 and that is incorrect and is really wrong. It's a  
14 matter of law and it's a matter of fact because the  
15 term species of special concern is an overriding term  
16 that describes threatened, endangered, candidate, rare  
17 or whatever types of species, you know, deserve some  
18 protection.

19 And that term comes from a book, which I  
20 have here, published in 1985. And it's apparent when  
21 you look on page 35, it describes the definition of  
22 status categories and it lists endangered, threatened,  
23 vulnerable, status undetermined, extirpated, recently  
24 extinct. All of these are status of special concern  
25 species. So that's an overarching term. It's not a

1 term that is precise and certainly is not a term that  
2 can be equated with critical communities. That term  
3 appeared in the original Oil and Gas Act, drafted  
4 first in 1984, and this publication came out in 1985.  
5 Clearly the two terms are not the same and so that  
6 equating that term with critical communities is just  
7 improper.

8                   Now, as far as --- well, the other areas  
9 I just want to mention --- I'm not going to get into  
10 them in detail, but they've been addressed a little  
11 bit by the other representatives from the other  
12 conventional organizations. PIOGA has its roots going  
13 back to 1918, representing conventional operators. We  
14 also represent unconventional operators and also  
15 supply chain companies. And we just believe that the  
16 regulations really don't adequately address the  
17 conventional producers' concerns and they impose  
18 requirements --- unreasonable requirements without  
19 economic justification.

20                   CHAIR:

21                   One minute.

22                   ATTORNEY MOODY:

23                   Finally, we've also heard mention of the  
24 regulatory review analysis. There's Act 72 of 2012,  
25 an amendment to the Regulatory Review Act that

1 requires special considerations to small businesses.  
2 Many of PIOGA's conventional operators are small  
3 businesses. And the Act requires that there be  
4 economic impact and flexible alternatives to be  
5 considered to regulatory requirements. The  
6 regulations do not do that at all and the regulatory  
7 analysis form is completely inadequate and fails to  
8 address any of those requirements of Act 72. Thank  
9 you.

10 CHAIR:

11 Thank you. Michael Ganz (phonetic) in  
12 the audience? Michael Ganz? No? How about Eric  
13 Cowden?

14 MR. COWDEN:

15 Good evening. My name is Eric Cowden.  
16 My address is 300 North Second Street, Harrisburg,  
17 17101. I'm the community outreach manager in Central  
18 Pennsylvania for the Marcellus Shale Coalition, an  
19 association working with regional partners since 2008  
20 and currently comprised of nearly 300 exploration and  
21 production, midstream and service companies committed  
22 to developing clean burning natural gas resources. In  
23 2012 our members were responsible for 96 percent of  
24 the natural gas produced here in Pennsylvania.

25 Energy development has an incredible

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

14                   The benefits do not end there. Take for  
15 example the fact that the Commonwealth accounted for  
16 18 percent of the nation's natural gas production in  
17 recent months, according to the EIA. This has led to  
18 more --- this has led to more revenue. The natural  
19 gas industry has paid over \$1.8 billion in taxes since  
20 2008 and \$460 million over two years to communities,  
21 counties and the state in impact fees.

22                   More than 200,000 new hires in  
23 Pennsylvania are supported by industries associated  
24 with shale development, according to our Labor and  
25 Industry. And despite the rhetoric, these are, myself

1 included, lifelong, taxpaying residents of this great  
2 Commonwealth. In addition, there is --- in addition,  
3 there is great cost reduction in residential fuel. My  
4 grandparents, married 63 years, saw their monthly  
5 budget for natural gas heat be reduced by \$150 per  
6 month. That is an \$1,800 per year savings to senior  
7 citizens on a fixed income.

8                   These benefits unfortunately are at  
9 risk. Pennsylvania has a complex regulatory  
10 environment and an uncertain fiscal climate, which has  
11 resulted in the Commonwealth falling behind. And  
12 there is even less certainty in the wake of a decision  
13 of the Pennsylvania Supreme Court to reject portions  
14 of Act 13 of 2012 that established a statewide  
15 standard for oil and gas development. Moreover, a  
16 plurality of the Court ruled to roll back many of the  
17 environmental protections under Act 13, including more  
18 stringent well setbacks. Nevertheless, our industry  
19 will voluntarily comply with these setbacks at the  
20 Governor's request.

21                   Other regulatory provisions spurred by  
22 Act 13 and the Chapter 78 revisions that followed add  
23 to the Commonwealth's strong regulatory framework,  
24 which the State Review of Oil and Natural Gas  
25 Environmental Regulations, or STRONGER, a national

1 non-profit organization dedicated to assessing state  
2 regulations, refers to last fall as well-managed,  
3 professional and meeting its program objections. And  
4 for that we applaud both the General Assembly and the  
5 Pennsylvania DEP.

6           At the same time, many of the DEP's  
7 proposed regulatory changes to Chapter 78 stretch  
8 beyond legislative intent and will undercut the  
9 Commonwealth's ability to compete for capital while  
10 providing little or no additional benefit with regard  
11 to safe and secure oil and gas development. One such  
12 example is the establishment of special concern  
13 species, which raises questions about how any such  
14 list is generated, what criteria are used to determine  
15 whether there is an impact to these species and how  
16 DEP proposes to mitigate impacts to such species.

17           The Marcellus Shale Coalition will  
18 provide detailed written comments on the Department's  
19 proposed regulations in the weeks to come. Our  
20 overarching message, though, is straightforward.

21           CHAIR:

22           One minute.

23           MR. COWDEN:

24           Instead of undermining our strong,  
25 consistent and predictable regulatory framework, we

1 should work cooperatively to revise these proposals to  
2 maintain a balance between strong environmental  
3 protection and a competitive economic climate.

4 It does not need to be a false choice  
5 between the environment and economics. And we urge  
6 the DEP to continue working with our industry and its  
7 stakeholders across the Commonwealth on a reasonable,  
8 competitive path forward. Thank you for the  
9 opportunity to testify.

10 CHAIR:

11 Thank you. Next is Barbara Sheffer  
12 Rooney.

13 OFF RECORD DISCUSSION

14 MS. ROONEY:

15 Am I last?

16 CHAIR:

17 No, you're not.

18 MS. ROONEY:

19 My name is Barbara Sheffer Rooney, 127  
20 South Strathcona Drive, York, Pennsylvania, 17403.

21 Thank you for providing an opportunity for me and my  
22 organization to comment on the regulations being  
23 considered by DEP.

24 CHAIR:

25 And your organization is?

1                   MS. ROONEY:

2                   I am speaking on behalf of the  
3 Pennsylvania AAUW, American Association of University  
4 Women of Pennsylvania. I'm from the York branch.

5                   CHAIR:

6                   Thank you.

7                   MS. ROONEY:

8                   I am chair of the Marcellus Shale  
9 Committee. In addition, I speak as mother of 6, a  
10 grandmother of 12, and perhaps I may be part of the  
11 problem. Too many children. And I am concerned about  
12 the future of our children and coming generations in  
13 Pennsylvania having an experience what our water  
14 supply will be, the effect on our streams, our rivers,  
15 our agricultural lands, secondary to this relatively  
16 new industry known as hydraulic fracturing of the  
17 natural gas covering 63 percent of the state.

18                   I am prefacing my remarks with the  
19 approved position statement from April 2012 from the  
20 AAUW annual meeting. Quote, the AAUW Pennsylvania  
21 opposes the development of shale resource --- can you  
22 hear me ---

23                   CHAIR:

24                   Yes.

25                   MS. ROONEY:



1 --- without this?

2 CHAIR:

3 Yeah.

4 MS. ROONEY:

5 Of shale resources in Pennsylvania  
6 unless the environment, public health and safety and  
7 the welfare of the communities involved are protected.  
8 Any such permitted development should prioritize the  
9 value of water resources above gas resources. Our  
10 full report is available at --- online,  
11 AAUW-PA.AAUW.net.

12 We make the following main points. One,  
13 the proposed --- I'm too tall. The proposed  
14 regulations need to be scientifically valid and based  
15 on best practices and state of the art methods and not  
16 upon any --- am I too loud? Any agenda of the --- and  
17 not based on any agenda of the gas industry or  
18 political plan.

19 Two, we note that in the 167 pages of  
20 the Pennsylvania Supreme Court decision of December  
21 2013, and based on the principles derived from the  
22 State Constitution of 1972, that Section 27 is the  
23 most important. And I quote, the people have a right  
24 to clean air, pure water and to the preservation of  
25 the natural, scenic, historic and aesthetic value of

1 the environment. Pennsylvania's public natural  
2 resources are the common property of all the people,  
3 including generations yet to come. As trustee of  
4 these resources, the Commonwealth shall conserve and  
5 maintain them for the benefit of all the people. The  
6 end of quote.

7                   Currently, many of you probably know  
8 this, the Pennsylvania Auditor General, Eugene  
9 DePasquale from the York area, is auditing how DEP is  
10 regulating the Marcellus Shale natural gas industry.  
11 This audit is ongoing and close to completion.  
12 Therefore, the Pennsylvania AAUW recommends that the  
13 EQB study this audit and take the findings into  
14 account before any new regulations are approved.  
15 Four, because ---

16                   CHAIR:

17                   One minute.

18                   MS. ROONEY:

19                   --- of the Pennsylvania Supreme Court  
20 decision, we're holding this Board to a higher  
21 standard and hope we do not have to go to court again.  
22 All the other comments, other groups we agree with,  
23 Clean Water Action, PennFuture and League of Women  
24 Voters. Current public Health Impact Reports should  
25 be included in regulatory decisions, such as Shale

1 Drilling and Public Health, released and presented on  
2 November 23rd, 2013, by the League of Women Voters in  
3 the Heinz History Center in Pittsburgh. Eleven (11),  
4 another study to take into account is the Pipelines of  
5 Pennsylvania, a Case Study of Lycoming County,  
6 prepared by the League of Women Voters in 2012.

7 Twelve (12), defragmentation of our  
8 state parks and forests is a growing concern and  
9 well-documented. Thirteen (13), the so called, quote,  
10 revolving door, of nearly 50 ---.

11 CHAIR:

12 Time's up.

13 MS. ROONEY:

14 Thank you very much.

15 CHAIR:

16 Thank you. Heather Strock? Is Heather  
17 here?

18 MR. STROCK:

19 Heath.

20 CHAIR:

21 It says Heather. Are we going ---?

22 MR. STROCK:

23 It's Heath.

24 CHAIR:

25 Oh, Heath. I'm sorry.

1  
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MR. STROCK:

Heath, H-E-A-T-H.

CHAIR:

Is he here? I apologize.

MR. STROCK:

That's all right. Everybody gets it  
wrong.

CHAIR:

I looked too quickly.

MR. STROCK:

All right. I'm going to be submitting  
my testimony afterwards in writing there. I'd like to  
thank you for letting me speak here. I'm just  
speaking as a private citizen.

CHAIR:

If you could give us your name ---

MR. STROCK:

Yes.

CHAIR:

--- and your address?

MR. STROCK:

My name is Heath Strock. I live at 828  
Fishing Creek Road in New Cumberland, Pennsylvania,  
17070. DEP, thanks for letting me speak here. As a  
private citizen, I have no specific numbers for DEP

1 regulations to mention. I need to mention, though,  
2 that as far as the local families and farmers, the  
3 topography of Cumberland County is an unbelievably  
4 gorgeous. It sits between two mountain ranges.  
5 Therefore, in fact if any accident were to happen, it  
6 would go directly into the Susquehanna, and then in  
7 turn, directly into the Chesapeake.

8           My main topic is to make you aware of  
9 the current water usage of Cumberland County. I think  
10 the people would be really, really surprised to learn  
11 the amount of water that is taken in, or let's say  
12 used by the county currently. I'll say that shortly.  
13 number one, I must say that the average water drilling  
14 permit, though, for commercial use is 25 years. Did I  
15 vote for that? I don't think so.

16           Number two, gas already has left Utah  
17 and Wyoming. They're corporations. They're owned by  
18 ---actually large corporations, and this is the price  
19 of doing business. They go into corporations they go  
20 into cities, they go into towns, they go, they do  
21 their thing, they're gone. Okay. That's the price of  
22 doing business. They wreck things. Okay. The  
23 financial resource is based on speculation. Okay.  
24 Something like the price of gold and silver.

25           Now to bring it home. There's five

1 million gallons, okay, of water used per well. All  
2 right. Five million gallons per well. Now, if we can  
3 comprehend that a little bit here, just to take it  
4 home here, so you guys know. Hopewell Township,  
5 there's eight wells that produce right now in Hopewell  
6 Township. This is private wells. This is just  
7 private, corporate wells. This is in Hopewell  
8 Township. They have just millions of gallons per day  
9 is what they use.

10                   Okay. Hopewell Township, 0.05 for the  
11 Solid Waste Landfill. 0.145 million gallons per day  
12 in Shippensburg Township. North Newton Township,  
13 0.144 million gallons per day for their supply and  
14 irrigational systems. North Newton Township again,  
15 1.292 million gallons per day. And again, 2.6 million  
16 --- I'm sorry, 2.16 million gallons per day. The  
17 quarry outside there at Dickinson Township, 0.0 ---  
18 .102, --- yeah. Gees, I'm trying to talk too fast.  
19 .102 million gallons per day. South Middleton, 0.624.  
20 Are we starting to get the picture yet? North  
21 Middleton Township, golf course, .25 million. Another  
22 golf course there, we got .5 million gallons. Carlisle  
23 Borough, a paving corporation, .05 million gallons.  
24 South Middleton Township, PPG, .5 --- .35 million  
25 gallons. We have Carlisle Barracks Golf Course. They

1 use .35 million gallons per day.

2                   Now sometimes we have a little water  
3 shortage and we have to turn our taps off. Isn't that  
4 kind of strange? I think so. 1.45 in Middlesex  
5 Township. Then again, White Rock Acres, they use  
6 specifically ---

7                   CHAIR:

8                   One minute.

9                   MR. STROCK:

10                   --- .37. Well, we'll scrap that. Once  
11 again, this is speculation. Somewhat like the price  
12 of gold and silver, like I said. And I'm listening to  
13 this gentleman here talk about crude oil and the  
14 testimony that's been made and brought to my attention  
15 its use in plastics. And the people that just kind of  
16 skated over that plastics. In 1880s, the discovery of  
17 plastics promoted the beginning of carelessness. No  
18 one cared if things broke. Just replace it with  
19 another.

20                   Some things need to be plastic, but  
21 unfortunately they're thickness and their middle can  
22 be adjusted to the consumer. In other words, plastic  
23 has become the downfall of Made in the USA. And we  
24 cannot afford to use water speculatively. It will  
25 become the most important resource in the world. And

1 the PA economy is highly, highly based on water for  
2 recreation and for other purposes. Thank you.

3 CHAIR:

4 Thank you. Al Winestock (phonetic)?

5 MR. WINESTOCK:

6 I'll just provide written testimony and  
7 I'll defer and send something in writing.

8 CHAIR:

9 Okay. Thank you. Teresa Myers? No  
10 Teresa? Well, then, you were almost the last --- you  
11 were almost last, Barbara. That concludes our --- is  
12 there anybody else who didn't sign up either outside  
13 or pre-registered? Would you like to say something?

14 MR. BRADY:

15 If you don't mind?

16 CHAIR:

17 Yeah, come on up.

18 OFF RECORD DISCUSSION

19 MR. BRADY:

20 You know what, I'm actually quite loud  
21 when I choose to talk like this, because I lectured in  
22 classrooms for 11 years. I am Steve Brady, 1614 Lake  
23 Road, Trout Run, Pennsylvania, 17771. If you don't  
24 know the address, that's right at Rose Valley Lake,  
25 which is surrounded by four or five, I'm losing count,



1 natural gas wells. Horizontal rigs, if you will.

2           And I wanted to first off, say thank you  
3 for holding these hearings, and secondly, thank you  
4 for having regulations that are more stringent than  
5 they have been in the past. Let's acknowledged that  
6 the regulations you're putting out there are more  
7 stringent, including some of the ones people are  
8 asking you do I see in here, like let's don't have  
9 open storage of water, those sorts of things. So  
10 thank you for answering their request before they ask  
11 it.

12           But I wanted to share with you all as  
13 someone who sees these wells all the time, let me tell  
14 you what I'm seeing up there. It's not all bad. It  
15 is not Three Mile Island. It is not a person who's  
16 doing some secondary work on coal like in West  
17 Virginia.

18           I mean I've been watching the respect  
19 that they have for the environment up there. I've  
20 been watching the way --- even if they do store the  
21 water in open pits, the way they've been putting  
22 double and trouble liners inside there. I can see the  
23 way they've been handling the water up there, working  
24 with the community, not against the community. And so  
25 I mean I've seen my share of bad things and I've seen

1 my share of good things. Twenty (20) years in the Air  
2 Force, I've seen both of those things.

3                   And so what I'm telling you, if you want  
4 to listen to the stories and read The New York Times,  
5 you're going to hear the things that sell newspapers.  
6 But if you want to know what's actually happening, I  
7 would recommend you go and talk to the people, the  
8 landowners up there, talk to those that are around  
9 there, because we actually care very deeply about what  
10 happens to Rose Valley Lake. Rose Valley is a State  
11 Fish and Game Commission property. Or Fish and Boat  
12 Commission, whatever the heck it is. It's a state  
13 property. It's managed very closely and very  
14 carefully.

15                   We care deeply about that because in  
16 part it brings people to our area. And one of the  
17 things we like about it is that it's been shown  
18 respect by Anadarko, by Seneca, by EXCO, even Atlas,  
19 which if we're going to talk about a driller that may  
20 be --- is running on more of a shoestring, they are  
21 demonstrating tremendous respect for the environment  
22 around the area.

23                   Now they did do a burn-off, but I tell  
24 you what, the 24 hours hearing that burn-off and  
25 seeing the light in the middle of the night, it was

1 brighter than a full moon. You kind of sit there and  
2 go, whoa, this is kind of not cool. Actually it was  
3 quite hot. You could feel the heat if you got within  
4 5,000 feet of it. But it was 24 hours and then they  
5 were done, and then they capped it, they cleaned up  
6 everything and it looks really good up there.

7 I do want to say when we talk about what  
8 happens when they go into townships is that corporate  
9 --- corporations are going in, it's what corporations  
10 do. They went into Gamble Township and my  
11 father-in-law's a township supervisor. He'll tell you  
12 that they've improved the roads, they've improved the  
13 other infrastructure. They're putting pipelines in  
14 that can be used for other things later. They're  
15 rolling money back in because there is money coming  
16 from the state, because they are being taxed. The  
17 impact funds are rolling back into the townships for  
18 the townships to improve and for the county to improve  
19 what's going on with the county and the township.

20 So it's not all bad. It's not all fear.  
21 I do appreciate the empirical data that gets put  
22 forward by the people, the engineers that know the  
23 engineering data. I believe that the state actually  
24 has good engineering data to use when they build the  
25 regulations. I could talk to empirical because I can.

1 I have the skill sets. But I just wanted to share my  
2 experiences. And I guess this actually is empirical  
3 too. This is my empirical, anecdotal evidence of what  
4 we're experiencing up there. So thank you.

5 CHAIR:

6 Thank you. Is there anyone else in the  
7 audience who would like an opportunity to make  
8 comment? Ma'am?

9 MS. MANN:

10 Hi, I'm Robin Mann from Rosemont,  
11 Pennsylvania, Delaware County.

12 OFF RECORD DISCUSSION

13 MS. MANN:

14 Robin Mann, 266 Beechwood Drive in  
15 Rosemont, Pennsylvania, Delaware County. Thank you  
16 for the opportunity to comment. I missed the hearing  
17 closer to home, so I was able to attend this one.  
18 Thank you also for some of the improvements that have  
19 been proposed that will at least provide a great deal  
20 more protection than we currently have.

21 That said, I am concerned that I think  
22 some basic principles are not being fully applied that  
23 really should be in this instance. First of all,  
24 taking the necessary protections to safeguard the  
25 public and safeguard the environment. DEP needs to be

1 careful not to be splitting the difference between  
2 what oil and gas industries would like to see and what  
3 advocates for public health and the environment are  
4 saying. Really the whole measure should be what is  
5 going to protect the environment and the public.

6           Secondly, we need to learn from the  
7 past. So Pennsylvania has a very sad and serious  
8 legacy with pollution from extraction of coal and oil  
9 and gas in the past. So we know enough to be  
10 particularly cautious about where we go from here.

11           Those principles in mind, I would  
12 recommend the following. If pit liners have been  
13 known to leak in the past, and they have, then don't  
14 play any more Russian Roulette with Pennsylvania's  
15 groundwater. DEP should prohibit any fracking waste,  
16 open frack pits and impoundments.

17           Secondly, disposal of waste liquids and  
18 solids. Drill cuttings contain hazardous, sometimes  
19 radioactive substances that shouldn't be landfilled or  
20 buried. Secondly, onsite burial of waste pits should  
21 be prohibited. Third, the spreading of brine from all  
22 wells for deicing, dust suppression, et cetera, not  
23 just the brine from shale gas wells, should be  
24 prohibited.

25           Next, the orphaned wells are a serious

1 and widespread problem in Pennsylvania. People have  
2 spoken about that this evening. It is good that DEP  
3 is calling for those to be identified, but that is not  
4 sufficient. What needs to happen is before any  
5 construction occurs onsite, those wells need to be  
6 identified and avoided. That's the whole point, is  
7 avoiding the potential for accidents and intersection  
8 between new drilling and old.

9                   And finally, the restoration and  
10 replacement of contaminated water supplies to Safe  
11 Drinking Water Act standards. If the pre-drilling  
12 quality of the water exceeds Safe Drinking Water Act  
13 standards, then the restoration should to be that  
14 higher quality, because anything less than that is  
15 really --- it amounts to nothing more than theft.  
16 Thank you very much.

17                   CHAIR:

18                   Thank you. Anyone else in the audience?  
19 Sir?

20                   MR. MARK:

21                   My name is Michael Mark. I live at 1207  
22 Galway Court in Hummelstown, Pennsylvania. I just  
23 want to mention three points that have come up here.  
24 One is that the relatively low price of natural gas  
25 and how it's helping people, that's true for right

1 now, but when the facilities that are exporting  
2 liquefied natural gas is depleted, a lot of the gas in  
3 Pennsylvania is going to be going out to foreign  
4 countries where it gets three or four times the price,  
5 and our price will go up also.

6                   People talk about jobs, a lot of people  
7 work in the energy industry. If we were more heavily  
8 invested in alternative energy --- there is many  
9 studies that show that that actually produces more  
10 jobs. The other things that we haven't talked about  
11 at all --- we've very importantly talked about  
12 protecting our water and our air and our land right  
13 now, right here. But we need to talk about the  
14 future. Carbon-based fuels are, you know, a time  
15 bomb. We need to be looking at some alternatives.  
16 Thank you very much.

17                   CHAIR:

18                   Is there anyone else in the audience who  
19 would like the opportunity to speak this evening?  
20 Going once, going twice, three times. We're done.

21                   However, the last three speakers, if you  
22 could just see Jessica at the end just to make sure  
23 that we have your contact information correctly.

24 Thank you. And we are adjourning at --- my watch says  
25 7:58.

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HEARING CONCLUDED AT 7:58 P.M.

\* \* \* \* \*



CERTIFICATE

I hereby certify that the foregoing proceedings,  
hearing held before Chair Witmer was reported by me on  
1/16/2014 and that I Tyler S. Rhoads read this  
transcript and that I attest that this transcript is a  
true and accurate record of the proceeding.

*Tyler S. Rhoads*

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