

The PIOGA Press

The monthly newsletter of the
Pennsylvania Independent Oil & Gas Association
April 2020 • Issue 120

PIOGA remains valuable to you in these trying times

By Gary Slagel, Chairman, and Dan Weaver, President & Executive Director

You don't need us to tell you it's a crazy time. On top of excruciatingly low product prices came the COVID-19 crisis, shutting down vast swaths of our economy and disrupting our personal lives as we try to halt the spread of the virus, which in turn has been driving oil and natural gas prices down even further.

The Pennsylvania Independent Oil & Gas Association has always prided itself on its role of bringing together an amazingly wide range of companies, individuals and interests from within our industry to collaborate for the benefit of the entire industry. As it says on our website's homepage, *"Working together, we help members accomplish that which they cannot achieve alone."*

Now, as your company does its best to cope with—or even simply survive—this worldwide public-health emergency, PIOGA is working harder than ever to add value to what you do.

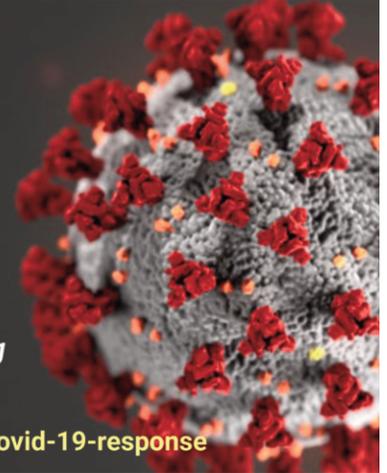
Last month, as the coronavirus crisis began to impact Pennsylvania, we created a special page on our website, the PIOGA COVID-19 Response Page (pioga.org/pioga-and-covid-19-response). PIOGA staff have been updating it almost daily to post useful, timely information to help those in Pennsylvania's oil and natural gas industry safely continue their life-sustaining functions.

The phrase *life-sustaining* in the previous sentence is included very deliberately. As you well know, our governor has divided the Commonwealth's businesses into two categories—life-sustaining and non-life-sustaining. Those in the latter category have been required to close their doors, with an overwhelmed, not-well-understood process in place for obtaining waivers. Fortunately, the oil and gas extraction industry is considered life-sustaining and may continue its physical operations provided social-distancing guidelines are practiced. A few of our members, unfortunately, fall within the non-life-sustain-

PIOGA COVID-19 Response

Information and resources to help keep our member companies operating safely

pioga.org/pioga-and-covid-19-response



ing classification; the lucky ones find a way for their employees to do their jobs from home. This includes PIOGA itself, as our staff work remotely to maintain all of our regular association services as well as to help with our industry response to the COVID-19 crisis.

What is PIOGA doing to help members in these trying times? For one, we are working with the Department of Environmental Protection to serve as a clearinghouse for information and questions specific to how the department is conducting its operations during this

Continues on page 3

PIOGA is working remotely	3
PIOGA events update	4
DEP will consider requests to temporarily suspend environmental requirements due to COVID-19	6
EPA announces enforcement discretion policy	7
Coronavirus may be basis to invoke force majeure provision	8
Membership directory advertising special offer	9
COVID-19 OSHA employer obligations	10
Thanks to our 2020 PIOGA Partners	11
Update on B&R Resources personal liability case	12
A message from B&R Resources' president	13
Governor vetoes petrochemical tax credit legislation	15
Growth through helpful government programs	17
News about PIOGA members	19
Oil & Gas Dashboard	20
Calendar of events	23



Full service branch offices:

Atlanta	Little Rock
Charlotte	Nashville
Dallas	New Orleans
Denver	Oklahoma City
Des Moines	Pittsburgh
Indianapolis	Portland
Kansas City	San Antonio
	St. Louis

All programs may not be available in all states.

1-800-475-4477
www.BITCO.com

What **YOU** do is what **WE** protect.

BITCO knows oil and gas.

When times get tough, BITCO is there. We offer high-quality insurance protection and services – with the stability you need and deserve.

If you're looking for broad insurance coverage for your business at competitive rates, look no further than BITCO.

We tailor packages specifically for today's energy companies.

Pittsburgh Branch
10733 Sunset Drive | Pittsburgh, PA 15220
1-800-253-1232

Insurance contracts are underwritten and issued by one or more of the following: BITCO General Insurance Corporation and BITCO National Insurance Company, rated A+ (Superior) by A.M. Best, A2 Stable by Moody's, and A+ Strong by Standard and Poor's.



OLD REPUBLIC INSURANCE GROUP

PIOGA remains valuable *Continued from page 1*

emergency. Please check the webpage mentioned above for information. If you can't find what you're looking for there regarding compliance, please email your questions to Dan Weaver at dan@pioga.org. We will get the answers for you and compile everything into a FAQ document that we will post.

We also have posted information on the PIOGA COVID-19 Response Page about identifying your employees as engaged in a life-sustaining business, in case your well tenders or others are questioned by law enforcement why they are out working during stay-at-home orders. We also have details about the operations of DEP and other state agencies, the U.S. Environmental Protection Agency's recently announced discretionary enforcement policy, and other industry-specific resources.

In addition, we have included postings and links about newly launched government programs designed to aid small and medium-size business and their employees. Examples are the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act and Families First Coronavirus Response Act (FFCRA). There are also links to sites which provide information about keeping workplaces safe to help prevent transmission of the virus. We strongly encourage you and key employees to visit this webpage often.

Regulatory initiatives have slowed but not stopped

While much attention on the part of state and federal agencies has shifted in recent weeks to dealing with the coronavirus crisis, we can assure you that regulatory initiatives aren't coming to a complete halt. PIOGA doesn't dare stop paying attention to things like DEP's CTG RACT rulemaking covering emissions from existing oil and gas operations and the governor's unilateral attempt to join the Regional Greenhouse Gas Initiative CO2 cap-and-trade program, to name just two. As we write this, 60 people had indicated they would be participating in the PIOGA Environmental Committee's webinar-based April meeting, so it's obvious our members continue to be highly engaged in the issues.

In concert with the Penn Grade Crude Development Advisory Council and DEP's Oil and Gas Technical Advisory Board, PIOGA continues to work actively with the department on solutions for solving the wastewater disposal crisis facing conventional operators, as well as bringing clarity and consistency to well-plugging requirements. We believe we are making progress that we can't let slip by the wayside, and we're getting together remotely to keep working, particularly on produced water disposal.

We also must remain vigilant legislatively, and we continue to monitor the flurry of new legislation being introduced in response to the coronavirus emergency. As reported elsewhere in this newsletter, Governor Wolf recently vetoed petrochemical tax credit legislation that had overwhelming bipartisan support as a job-creating initiative. Part of his stated reasoning was that with the

PIOGA is working remotely

Our offices are closed in compliance with directives to help prevent the spread of COVID-19. However, staff members are working remotely from home to continue to provide all regular association services, as well as to help with industry response to the coronavirus pandemic. Please contact us via email or any of the phone numbers below:

- Dan Weaver, 724-814-7270, dan@pioga.org
- Kevin Moody, 717-525-1556, kevin@pioga.org
- Joyce Turkaly, 724-900-0028, joyce@pioga.org
- Matt Benson, 814-778-2291, matt@pioga.org
- Debbie Oyler, debbie@pioga.org
- Danielle Boston, danielle@pioga.org
- Deana McMahan, deana@pioga.org



COVID-19 crisis, it's the wrong time for legislation like this. Really—a wrong time to attract investment and create jobs? Further, legislators must finalize a FY 2020-21 budget by the end of June. State spending in response to the coronavirus has skyrocketed while many sources of revenue have crashed, making for a budget scenario like no other. The time may be ripe for an all-out push to impose a severance tax, and PIOGA must be ready to respond.

It's not business as usual

Operationally, PIOGA is significantly impacted too. Staff have done a great job of staying in touch with one another, keeping the association moving forward and finding innovative solutions to dealing with our current situation. Committee meetings will continue via webinar so that we can keep their important work going. We're also discussing other ways of using our webinar capabilities for presentations and other virtual events. Stay tuned and join us!

We have had to postpone events, including the Spring Meeting and a PIOGATech on transportation safety regulations. More events may have to be rescheduled or cancelled, depending on when restrictions are eased or lifted. Yes, events are an important revenue stream for the association, but they are also important to our members, who need to keep current on issues and market development, as well as make connections with other industry colleagues. We hope things return to a semblance of normality before long—for all of us!

In closing, we urge you to continue your support of PIOGA so that the organization can continue its essential work of supplying synergy to solving challenges that confront us and to uncovering new opportunities that can help our industry prosper and grow. We are here to help you, now more than ever. ■

PIOGA events update

In mid-March, PIOGA was forced to pull the plug on our April 1 Spring Meeting at Rivers Casino in Pittsburgh as the extent of the COVID-19 pandemic became clear and social-distancing restrictions were put in place.

We were excited about our stellar lineup of speakers and panelists at this meeting, and we hope to add those speakers to the agenda of our upcoming conference in the fall—essentially combining the content of the two meetings.

The dates of this big event are September 22-23 at beautiful Seven Springs Mountain Resort in Champion. Along with the conference, we will offer networking opportunities, a clay shoot and golf, and more. It's going to be an excellent event, and we hope you'll make plans to be a part of it.

Other upcoming PIOGA events

If you're like us, you are more than ready to be done with this social distancing and remote-everything stuff. PIOGA has had a number of things on our events calendar for the near future, but uncertainly over the coronavirus situation is forcing us postpone some of them.

The sporting clays networking event scheduled for May 7 at Promised Land Sporting Clays Club in Freeport has been moved to July 9.

The PIOGATech scheduled for May 28, which was to



cover Department of Environmental Protection ePermitting, is off the schedule for the time being.

At present, we still are planning to hold the Ted Cranmer Memorial Golf Outing and Steak Fry on June 1 as scheduled, at the Wanango Golf Club in Reno.

Please be sure to watch your email and keep an eye on the PIOGA Events section at pioga.org as we rework this year's schedule of networking events, technical training and conferences. ■

WE'RE LIVE

COME VISIT OUR ONLINE BUYERS GUIDE
WWW.PAOILGASBUYERSGUIDE.COM

Browse all of our featured listing from all categories on the site and discover how to get your company featured here.

TO ADVERTISE CONTACT: DAN SYLVESTER
DSYLVESTER@SVMEDIA.COM

MOST PIOGA MEMBERS ARE OPEN FOR BUSINESS, PERFORMING OUR ESSENTIAL SERVICES

STRATEGIC VALUE MEDIA FUEL

Transportation PIOGATech rescheduled

Note that July 21 is the new date for the PIOGATech that was postponed from March 17 covering Federal Motor Carrier Safety Administration (FMCSA) safety regulations compliance. The FMCSA is partnering with PIOGA to provide this safety overview to industry transportation professionals.

Joining FMCSA in the full-day session will be the Pennsylvania State Police. The training will cover these topics:

- Who Must Comply with the FMCSRs
- Drug & Alcohol Clearinghouse & Testing Requirements
- Hours of Service & Electronic Logging Devices
- Vehicle Maintenance & Recordkeeping
- Driver Qualifications, CDL and Medical Requirements
- Roadside Inspections and a Review of the 2020 CVSA Out of Service Criteria
- Discussion on the Latest Regulatory Updates
- Roadside Inspection program and the Out-of-Service(OOS) Criteria

The training will be held at The Chadwick in Wexford. As the date get closer, watch your email for registration information or check the PIOGA Events section at pioga.org. ■



Industry Intelligence. Focused Legal Perspective.
HIGH-YIELDING RESULTS.



Meet our attorneys at babstcalland.com.

Whether it's a state or federal regulatory matter, local land use or zoning challenge, acquisition of title and rights to land, or jointly developing midstream assets, we help solve complex legal problems in ways that favorably impact your business and bring value to your bottom line.

Babst | Calland
Attorneys at Law

Where Trust and Value Meet.™

PITTSBURGH, PA | CANTON, OH | CHARLESTON, WV | HOUSTON, TX | SEWELL, NJ
STATE COLLEGE, PA | WASHINGTON, DC

DEP will consider requests to temporarily suspend environmental requirements due to COVID-19

By Lisa M. Bruderly and Daniel P. Hido Babst Calland

As businesses in Pennsylvania struggle to deal with significant disruptions and challenges to their operations caused by the COVID-19 pandemic, environmental agencies have recognized the challenges the pandemic presents to achieving compliance with environmental obligations. For example, on March 26 the U.S. Environmental Protection Agency issued a temporary policy for excusing COVID-19-related noncompliance (see accompanying article). Similarly, on March 31 the Pennsylvania Department of Environmental Protection issued an alert (www.dep.pa.gov/Pages/AlertDetails.aspx) announcing that it would consider requests to temporarily suspend certain regulatory, permit, and/or other legal requirements due to COVID-19. DEP also provided the form needed to make such a request.

This announcement reflects a thought change from DEP's previous assertion that COVID-19's impact on businesses in Pennsylvania would not excuse compliance with environmental laws, stating that "[a]ll permittees and operators are expected to meet all terms and conditions of their environmental permits, including conditions applicable to cessation of operations."

What is required to request a temporary suspension?

Unlike EPA's temporary policy, which does not require regulated entities to submit documentation regarding an inability to meet routine compliance obligations, DEP

is requiring submittal of the request form. While DEP did not elaborate on how it will review requests for suspension, it will generally evaluate (1) the reasons for the request in light of the COVID-19 pandemic, and (2) the risk of harm to the environment or public health if the request is or is not granted.

Importantly, it will not be enough for entities to show that COVID-19 has restricted their ability to comply with regulatory, permit or other legal requirements; entities must demonstrate that strict compliance would prevent, hinder or delay necessary action in coping with the COVID-19 emergency. This standard reflects the language of Governor Tom Wolf's March 6 Proclamation of Disaster Emergency and 35 Pa. C.S. § 7301, which DEP cited as authority for granting temporary suspensions.

The two-page request form asks 16 questions regarding topics including the following:

- Alternate compliance options that have been explored;
- Length of time the entity expects to be unable to comply and the necessary circumstances to return to compliance;
- Extent of risk of additional pollution and/or how such increased pollution will be avoided;
- Public health and safety benefits from granting the suspension; and
- Negative consequences to the entity's operations and the Commonwealth's response to the COVID-19 emergency if the suspension is not granted.

Some of the more interesting, and potentially controversial, questions asked by DEP include the following:

- Do you believe cost gouging or supply hoarding is negatively affecting your ability to comply?
- Would you possess a unique advantage over your competitors, or others in the same industry, if a suspension is granted?

It is not clear whether DEP will be receptive to entities requesting suspensions from settlement agreement requirements using the request form, or whether the

department will expect entities to rely primarily on the force majeure provisions typically provided in those agreements. However, the request form does allow entities to request suspension of regulatory, permit "or other requirement(s)," indicating that entities may be able to request suspension of settlement agreement requirements using this recently-introduced process.

When are suspensions expected to be granted?

DEP has not announced its expected time frame for responding to the likely large number of requests for suspension. The department also did not explain how it will evaluate and balance the factors outlined in the request form.



What makes us different is what makes you better.
Specialists in a broad array of oil and gas tax, assurance, accounting, revenue, and consulting services.

Arnett Carbis Toothman llp

actcpas.com
800.924.0729

west virginia
Charleston
Bridgeport
Buckhannon
Morgantown

pennsylvania
New Castle
Pittsburgh
Meadville
ohio
Columbus

ACT with confidence

However, in multiple places the form emphasizes that the entity should provide detailed and specific responses. DEP stated that suspensions will initially not be granted beyond June 30, 2020.

We note that this procedure applies only to requests for suspension of state regulatory or permit requirements and requirements under federal programs delegated to Pennsylvania. Entities seeking relief from federal requirements, under only federal authority, are to contact EPA Region III and consult EPA's March 26 policy.

Additional guidance on conducting Chapter 102 earth disturbance activities

At the same time as providing the temporary suspension request form, DEP also issued COVID-19-related guidance for permittees and operators conducting permitted earth disturbance activities under Chapter 102 of the Pennsylvania regulations.

Entities considered "life-sustaining businesses" under Governor Wolf's March 19 order, which required all "non-life-sustaining businesses" to close their physical locations, may continue to conduct earth disturbance

activities to the extent such activities are in support of the operation of the life-sustaining business.

However, "non-life-sustaining businesses" must cease earth disturbance activities. Upon doing so, the entity must implement temporary or permanent stabilization measures as required by the permit and applicable regulatory requirements. Once required stabilization measures are implemented, the entity is relieved from requirements to perform weekly routine inspections, but still must conduct other inspections required by the permit, such as Post-Storm Event and Corrective Action inspections. DEP stated that it considers such inspections to be critical operational functions and not in violation of the March 19 order. ■

Babst Calland's environmental attorneys are available to help you develop requests for temporary suspensions and guide you through the process. For more information, please contact Lisa M. Bruderly at 412-394-6495 or lbruderly@babstcalland.com or Daniel P. Hido at 412-394-6580 or dhido@babstcalland.com.

EPA announces enforcement discretion policy for COVID-19 pandemic

The U.S. Environmental Protection Agency on March 26 announced a temporary policy regarding its enforcement of environmental legal obligations during the COVID-19 pandemic.

EPA's temporary enforcement discretion policy applies to civil violations during the COVID-19 outbreak. The policy addresses different categories of noncompliance differently. For example, under the policy EPA does not expect to seek penalties for noncompliance with routine monitoring and reporting obligations that are the result of the COVID-19 pandemic but does expect operators of public water systems to continue to ensure the safety of drinking water supplies. The policy also describes the steps that regulated facilities should take to qualify for enforcement discretion.

The temporary policy makes it clear that EPA expects regulated facilities to comply with regulatory requirements where reasonably practicable and to return to compliance as quickly as possible. To be eligible for enforcement discretion, the policy also requires facilities to document decisions made to prevent or mitigate noncompliance and demonstrate how the noncompliance was caused by the COVID-19 pandemic.

One PIOGA member drew particular attention to the footnotes on page 3 of the March 26 EPA memo that describes the policy in detail (www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf). The footnotes discuss specific types of compliance monitoring and reporting done by the oil and gas industry.

This policy does not provide leniency for

intentional criminal violations of law. The policy does not apply to activities that are carried out under Superfund and RCRA Corrective Action enforcement instruments. EPA said it would address these matters in separate communications.

EPA's policy applies retroactively beginning on March 13. EPA will assess the continued need for and scope of this temporary policy on a regular basis and will update it if EPA determines modifications are necessary.

In order to provide fair and sufficient notice to the public, EPA will post a notification on the webpage listed at the end of this article at least seven days prior to terminating this temporary policy.

Information about the policy can be found at www.epa.gov/enforcement/enforcement-policy-guidance-publications. ■



PIOGA
Pennsylvania Independent
Oil & Gas Association

**Serving the Industry for over
a Century – Conventional
to Shale and Beyond**

The image block contains the PIOGA logo on the left, which includes the text "PIOGA" in a large, stylized font, with "Pennsylvania Independent Oil & Gas Association" written below it. To the right of the logo is a green banner with white text that reads "Serving the Industry for over a Century – Conventional to Shale and Beyond". Below the banner are three rectangular images: the first shows a green hydraulic fracturing rig, the second shows a tall oil well derrick, and the third shows an industrial facility with tall towers and pipes against a sunset sky.

Coronavirus may be basis to invoke force majeure provision of consent orders and consent decrees in Pennsylvania

On March 6, Governor Tom Wolf issued a Proclamation of Disaster Emergency throughout the Commonwealth under the Pennsylvania Emergency Management Services Code in response to the expanding COVID-19 coronavirus pandemic. On March 13, President Donald Trump declared a state of national emergency. Many other states and local governments are following suit. These government actions may be a basis to invoke the force majeure clause of consent orders and consent decrees between regulated parties and the Pennsylvania Department of Environmental Protection, other state and local environmental regulatory agencies or the U.S. Environmental Protection Agency.

The standard force majeure provision of most DEP consent orders and agreements allows deadlines in the order to be extended if circumstances beyond the reasonable control of the regulated party prevent compliance with the order. Similar provisions are often found in consent agreements with EPA and in consent decrees approved by federal and state courts.

These force majeure provisions typically require the affected party to notify the agency of the force majeure

Authors:



Kevin J. Garber



Sean M. McGovern



Jean M. Mosites

— Babst Calland —

event when the party becomes aware or reasonably should have become aware of the event impeding performance. For example, the model DEP Consent Order and Agreement requires telephone notice within five working days and written notice, in some circumstances by notarized affidavit, within 10 working days describing the reasons for the delay, the expected duration of the delay, and the efforts being taken to mitigate the effects of the event and length of the delay. This model provision states that failure to comply with the timing and notice requirements invalidates a force majeure extension.

There are compelling reasons why the coronavirus pandemic, which is unlike any event experienced in this country, is beyond the contemplated scope of agency force majeure clauses such that strict adherence to the timing and notice provisions should be excused and extensions should be granted as necessary. If the pandemic is interfering or threatening to interfere with your ability to comply with requirements or deadlines in a consent order or consent agreement, because of a limited availability of employees, vendors, supplies or otherwise, consider potential options within the force majeure clause of the agreement. Also consider an application of force majeure principles to pandemic-related difficulties complying with environmental permits. ■

Babst Calland's environmental attorneys are available to help you with your situation and recommend the best course of action for proceeding in these uncertain times. For more information, please contact Kevin J. Garber at 412-394-5404 or kgarber@babstcalland.com, Sean M. McGovern at 412-394-5439 or smcgovern@babstcalland.com, or Jean M. Mosites at 412-394-6468 or jmosites@babstcalland.com.



Efficient, cost-effective consulting services

WE OWN IT.

Civil, geotechnical, and transportation engineering
Environmental compliance/risk management
Ecological • Survey/geospatial • Air quality
Construction inspection/management

PITTSBURGH OFFICE
412.429.2324

MONROEVILLE OFFICE
724.327.5200

www.ccecinc.com



Civil & Environmental Consultants, Inc.

Spread the word!

Shouldn't you be advertising your products and services here? Contact Matt Benson at 814-778-2291 or matt@pioga.org for more information.



**FREE
PIOGA
PRESS
AD**

ADVERTISING OPPORTUNITIES



2020-2021

**Membership Directory
& Service Guide**

Advertising Opportunities



Full Page Advertisement : 6"W x 8.2449"H

Half Page Horizontal : 6"W x 4"H

Half Page Vertical : 2.875"W x 8.2449"H

PREMIUM POSITIONING WITH FULL COLOR

BACK COVER: \$2,500 INSIDE FRONT COVER: \$2,000 INSIDE BACK COVER: \$2,000

SELECT SUPPLIERS SECTION

FULL PAGE: \$600 HALF PAGE: \$400

+ FREE PLOGA PRESS MAGAZINE AD!

When you purchase an ad in the Annual Directory, you also receive one in the monthly PLOGAPress Magazine, mailed directly to all members and posted online for triple the exposure at no additional cost!

CALL NOW ▶ If interested in advertising, please contact Debbie
724-933-7306 Ext. 22 or debbie@pioga.org

essentially, clients value five things in a law firm

-  strong relationships
-  clear communication
-  budget certainty/
lean staffing
-  know-how
-  results

**TOP LISTED IN THE U.S. IN ENERGY LAW
BY THE BEST LAWYERS IN AMERICA®**

Sharon O. Flanery
Chair, Energy and Natural Resources Department
sharon.flanery@step toe-johnson.com



step toe-johnson.com

THIS IS AN ADVERTISEMENT

Safety Committee Corner

COVID-19 OSHA employer obligations

By Melissa Heike, MS, CSP, Sr. Project Manager
RETTEW

Navigating workplace health and safety amid a pandemic adds increased challenges and additional concerns for employers to consider. OSHA recordkeeping requirements at 29 CFR Part 1904 (www.osha.gov/laws-regs/regulations/standardnumber/1904) mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log, including in some cases workplace exposures to COVID-19.

COVID-19 can be a recordable illness if a worker is infected as a result of performing work-related duties. However, employers are responsible for recording cases of COVID-19 only if all of the following are met:

- The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19, www.cdc.gov/coronavirus/2019-ncov/php/reporting-pui.html).
- The case is work-related, as defined by 29 CFR 1904.5.
- The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g., medical treatment beyond first aid, days away from work).

Identification

In assessing potential hazards, employers should consider whether their workers may encounter someone infected with COVID-19 in the course of their duties. Employers also should determine if workers could be exposed to environments (e.g., worksites) or materials (e.g., laboratory samples, waste) contaminated with the virus. Employers need to inform employees to alert their supervisor if they think they have been exposed to or become infected with COVID-19 on the job.

Control and prevention

Measures for protecting workers from exposure to, and infection with, COVID-19 depend on the work type being performed and subsequent exposure risk, including potential interaction with infectious people and work environment contamination. Employers should adapt infection control strategies based on a thorough hazard assessment, using appropriate combinations of engineering and administrative controls, safe work practices, and personal protective equipment (PPE) to prevent worker exposures.

Some OSHA standards that apply to preventing occupational exposure to COVID-19 also require employers to train workers on elements of infection prevention,

cleaning chemical safety, bloodborne pathogens and PPE.

Training

Employers should train all workers with reasonably anticipated occupational exposure to COVID-19 on the virus' exposure sources and the hazards associated with exposure, and have appropriate workplace protocols in place to prevent or reduce exposure risk. Workers who are required to use PPE must be trained on when to use PPE; which PPE is necessary; how to properly put on, use and take off PPE; how to properly dispose of or disinfect, inspect for damage and maintain PPE; and PPE limitations. ■

RETTEW's Safety Consulting professionals can assist you

See these related resources at pioga.org/pioga-and-covid-19-response:

- State health secretary signs order providing building safety measures to combat COVID-19
- OSHA Guidance on Preparing Workplaces for COVID-19
- OSHA COVID-19 Control and Prevention

with assessing potential hazards, developing infection control strategies and training employees. Contact Kelly Kramer, CECD, HEM, at kkramer@rettew.com or 800-738-8395.

Thanks to our 2020 PIOGA Partners

Keystone Partners



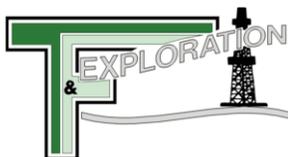
Executive Partners



Meetings Partners



Golf Partners



Find out how to become a PIOGA Partner:
pioga.org/publication_file/2020-PIOGA-Partners.pdf

Personal liability under a plugging order: EHB application of the participation theory on remand in *B&R Resources LLC v. DEP*

The Environmental Hearing Board (EHB) recently reduced its prior finding of personal liability against Richard Campola.¹ Under its previous order, Mr. Campola was liable for 100 percent of the natural gas wells subject to the plugging order under the participation theory of personal liability, because Mr. Campola, as the sole member of B&R Resources, LLC, was in the position to address the violations and “intentionally neglected” to comply with an order issued by the Department of Environmental Protection.²

Mr. Campola appealed to the Commonwealth Court, arguing that his personal liability should extend only to those violations that B&R Resources could have addressed.³ In other words, Mr. Campola argued that he could be liable only for those violations that B&R Resources had the resources to address. The Commonwealth Court reversed the EHB and sent the matter back for further proceedings to determine how many of the 47 wells B&R could have plugged if Mr. Campola had caused B&R to make reasonable efforts to do so. On remand, the EHB considered evidence of the financial condition of B&R Resources throughout the pendency of the enforcement action and found personal liability extended to four of the 47 wells that were the subject of the department’s enforcement action.

Background

This action began when DEP issued an administrative order on June 29, 2015, ordering B&R Resources, and Mr. Campola, in his individual capacity, to address 47 abandoned oil and gas wells. Richard Campola is the managing and sole member of B&R Resources, LLC, a limited liability company engaged in the exploration and production of oil and natural gas. The department inspected many of the 157 wells in B&R Resources’ inventory and found that 47 appeared to be “abandoned” as that term is defined under the 2012 Oil and Gas Act.⁴ The administrative order held Mr. Campola

jointly and severally liable with B&R Resources to plug the wells under a participation theory of individual liability.

Generally, the liabilities of a business entity, like B&R Resources, do not extend to the individual corporate officers, directors or shareholders of the corporation, such as Mr. Campola. The participation theory is an exception to that general rule. Under the participation theory, an officer, director or shareholder can be held individually liable for personally participating in the wrongful conduct. Here, DEP argued that Mr. Campola was liable because he personally participated in the abandonment of the wells by failing to address the violations.

Mr. Campola appealed the administrative order to the EHB. After a two-day hearing, the board dismissed the appeal in August 2017, finding that Mr. Campola was liable with B&R Resources under the participation theory to plug all 47 wells. The EHB relied on its 2000 decision in *Whitemarsh Disposal Corporation, Inc. v. Department of Environmental Protection* that found individual liability under the participation theory without a showing of bad acts taken by the individual actor.⁵ In other words, in *Whitemarsh*, the board found that an officer, director or shareholder could be liable for “intentionally neglecting” the company’s obligations. Under the intentional neglect standard, “actual affirmative acts are not necessary to find liability.”

In the 2017 adjudication, the EHB applied this intentional neglect standard to Mr. Campola, concluding that he “actively avoided” addressing the wells. The board dismissed Mr. Campola’s appeal and found him liable for the plugging all 47 wells. Mr. Campola appealed to the Commonwealth Court, arguing that the EHB erred because he did not actively avoid addressing the violations. B&R Resources simply did not have the resources to plug the wells.

The Commonwealth Court reversed the 2017 adjudication and remanded to the board for additional findings. The court agreed with the EHB that intentional neglect could be enough to find liability under the participation theory. The court held, however, that intentional neglect could extend only to those violations the company could have addressed. Mr. Campola could be “liable for a statutory violation under the participation theory only if there is a causal connection between his wrongful conduct and the violation.”⁶ Any intentional decision that B&R Resources would not plug a well could only have a casual effect if B&R Resources had

Authors:



Jon Beckman



Brian Pulito

—
Steptoe & Johnson, PLLC

1 *B&R Resources, LLC v. Dep’t of Env’tl. Protection*, EHB Docket No. 2015-095-B, 2020 WL 853729 (Pa.Env.Hrg.Bd. Feb. 14, 2020).

2 *B&R Resources, LLC v. Dep’t of Env’tl. Protection*, EHB Docket No. 2015-095-B, 2017 WL 3585535 (Pa.Env.Hrg.Bd. Aug. 9, 2017).

3 *B&R Resources, LLC v. Dep’t of Env’tl. Protection*, 180 A.3d 812 (Pa. Commw. Ct. 2018).

4 See 58 Pa. Cons. Stat. § 3203.

5 2000 EHB 300, 2000 WL 305765.

6 *B&R Resources, LLC*, 180 A.3d at 821.

the resources to plug those wells.

Because each abandoned well is a discrete violation of the Oil and Gas Act, the Commonwealth Court held that the EHB should have ascertained how many wells B&R Resources could have addressed. As such, the court reversed the board's 2017 adjudication and order and remanded to the board to determine "how many, if any of the wells could have been plugged if Campola had caused B&R to make reasonable efforts to plug the wells[.]"

The EHB's 2020 adjudication

On remand, the EHB concluded it must determine what constitutes "reasonable effort" by B&R Resources under Mr. Campola's direction to meet its statutory obligation to plug the wells.⁷ In determining what consti-

tutes a reasonable effort, the board concluded it must consider the financial resources available to B&R Resources.

The EHB determined that the timeframe relevant to its consideration of B&R Resources' finances is from August 2011 to June 2015. That represents the time from Mr. Campola's first entry on B&R Resources' ledger up to the date DEP issued the administrative order. The board turned its analysis to the financial resources B&R Resources could have allocated to plugging the wells.

First, the board determined B&R Resources' book net loss, being revenue from sales against expenses and depreciation. Looking at the relevant time period, the EHB concluded that B&R Resources' total book net losses were negative \$115,827. Next, the board added back the depreciation expenditures, stating that "depreciation amounts are an accounting measure and do not represent an actual cash expenditure by B&R Resources." The

⁷ *B&R Resources*, 2020 WL 853729, at *5.

Dear PIOGA Members:

Apologies for the delay in expressing my sincere thank-you for all of the support PIOGA members have given B&R Resources, LLC. With your help, we have lived to fight another day. But our work is not done yet. In February, the Environmental Hearing Board made a ruling on our case, but once again, the Department of Environmental Protection has appealed the decision. We are back to square one.

I am a small businessman that took a risk and bought some old wells. Many of these wells had not been in production for **decades** prior to purchase and it was my goal to get as many back online as possible. I was able to get nearly half of these non-producing wells back online before the DEP singled out 47 wells and demanded they be plugged. I tried to negotiate, but they were entirely unwilling. That was 2015, and it has been nothing but trials and appeals ever since. You can read all about the case at ehb.cour-tapps.com/public/update_info_pub.php?csNameID=5114.

Pennsylvania continues to pursue new legislation that will grant absolute power to force both big and small production companies to do what they demand regardless of any good-faith negotiation or due diligence on their part. They have promised they will continue to appeal indefinitely until they get their way. They would rather spend countless hours in court and watch hundreds of wells rust in the field rather than work to put them back into production and provide heat, energy and jobs to the residents of Pennsylvania.

The DEP has inexhaustible resources at their disposal. I do not. They are on a mission to dismantle our industry and are using this case to set a scary legal precedent. They can (and will) come after your **PERSONAL** assets. It is what they are doing to me. This case has a domino effect on **every single industry** that operates in Pennsylvania. What incentive would anyone have to operate here if their personal savings are at risk? Business will no doubt begin to flee Pennsylvania for the safer corporate structures in surrounding states.

With that said, I am reaching out to my fellow PIOGA members for their continued help fighting this battle. Here are ways that you can help keep Pennsylvania business alive:

- Demand action from your local representatives and city council members to help step in and stop this government overreach.
- Reach out to local media and ask for their help in spreading the word.
- Talk to small business owners in your communities and get them involved (and justifiably concerned).
- Help cover legal fees by:
 - Sending donations directly to PIOGA earmarked "B&R Resources Defense Fund."
 - Donate via www.gofundme.com/f/help-me-fight-government-overreach-in-pennsylvania.

Again, I thank you again for your help. Together, we will fight this injustice and keep Pennsylvania thriving.

Sincerely,

Richard Campola
President, B & R Resources, LLC
richard@bandrresources.com

total depreciation added back in equals \$243,679, creating an adjusted total book net loss of \$127,852. The board proceeded to make further adjustments to this number.

The EHB declined DEP's request to add back expenses incurred by B&R Resources related to pumper fees, line repair, legal costs or small amounts for office supplies, meals, travel and the like. These, the board concluded, were legitimate business expenditures that B&R Resources had to make in order to remain in business. The board also deducted from the adjusted total book net loss \$76,450 that B&R Resources paid toward loans assumed when Mr. Campola purchased the company. Those included a loan from Cortland Bank and a loan to an individual named Kurt Latell. The department sought to add these amounts back to B&R Resources, but the EHB concluded the loans were "legitimate expenses of B&R Resources which it was not free to ignore without serious business consequences."

Finally, the board added back two loans shown on the books as funds received by Mr. Campola from B&R Resources during the relevant time period. Those two loans equaled \$23,020. The EHB noted in passing that Mr. Campola did not take a salary. It found that Mr. Campola's decision to take loans from the company for his personal use, however, was wrongful conduct and did not constitute reasonable effort to meet its plugging obligations.

After completing its adjustments, the board concluded that Mr. Campola wrongfully directed \$85,278 away

from B&R Resources' plugging obligations. The parties had stipulated the cost to plug one of the wells is \$18,500. Dividing the amount directed away from plugging by the amount stipulated to plug each well, the board held that Mr. Campola personally caused four of the violations identified in the administrative order by his wrongful conduct. As such, the EHB dismissed Mr. Campola's appeal as to four of the wells but granted the appeal as to the remaining 43 wells.⁸

DEP appealed the 2020 adjudication to the Commonwealth Court on March 13, 2020. The appeal is pending.

Key takeaways from the 2020 adjudication

The Environmental Hearing Board's 2020 adjudication is not a precedential decision, but it indicates how the board might analyze liability under the participation theory in light of the Commonwealth Court's precedential 2018 decision in this matter. The 2020 adjudication demonstrates the following takeaways:

- Defending against personal liability under the participation theory will be fact-intensive;
- The party defending against liability will have the burden of proving the company did not have the financial resources to address the violations; and
- The EHB will not defer to the company's business judgment.

Enforcement actions that include personal liability under the participation theory will be fact-intensive inquiries. DEP's administrative order simply states that "Mr. Campola is the managing partner of B&R Resources, and he has personally participated in the matters that are the subject of this Order."⁹ The department bears the burden of proof when it issues an administrative order.¹⁰ Early in this action, Mr. Campola and B&R Resources filed a motion for partial summary judgment seeking to dismiss the administrative order because DEP failed to put forth any evidence that Mr. Campola "personally participated" in the enumerated violations.

Denying that request, the EHB noted that "application of the participation theory in any given situation is *heavily fact dependent* and, therefore, claims concerning individual liability of corporate actors *do not readily lend themselves to a final decision at the summary judgment stage.*" It will be difficult for operators facing personal liability under the participation theory to dismiss the enforcement action without going to a full evidentiary hearing. That means no matter how threadbare the allegation of "personal participation," it is likely that more than a year will pass from the time the department takes its enforcement action until it could be resolved on appeal.

Furthermore, the party defending against personal liability will have the burden to prove the company did

Your reclamation seed source

ernstseed.com
sales@ernstseed.com
800-873-3321

ERNST SEEDS

Facebook, LinkedIn, Twitter, Instagram, YouTube icons

WILSON APPROVED logo

⁸ The department filed a petition for reconsideration on February 24, 2020, asking the board to reconsider its ruling and add back additional sums. The board denied that petition on March 5, 2020.

⁹ Administrative order ¶ C.

¹⁰ 25 Pa. Code 1021.122(b)(4).

not have the financial ability to address the violations. Noted above, DEP has the burden of proof in an enforcement action. However, the regulated entity has the burden of proving an affirmative defense raised against that enforcement action. The EHB recently likened asserting non-existence of sufficient resources as a defense to personal liability as an affirmative defense.¹¹ The board found in this instance that Mr. Campola had the burden to demonstrate he could not have acted to address the violations. This arrangement has not been tested by an appellate court.

Finally, in the course of the fact-intensive inquiry, and with the burden on the appellant to prove lack of financial resources, the EHB will not defer to the business judgment of the company. PIOGA filed an *amicus curie* brief in support of Mr. Campola in August 2018, setting out the reasons the board should refrain from interfering with the business judgment of corporate managers. The general rule of noninterference, known as the “business judgment rule,” insulates an officer or director from liability for a business decision made in good faith. This is not a bulletproof shield, but the concept restrains the courts from examining the merits underlying a business decision and substituting their own judgment.

Here, the EHB signaled that the business judgment rule suggests “that the Board treat B&R Resources’ plugging obligation as a sort of afterthought to other business requirements.” The board explained, “[j]ust like we disagree with the Department’s position that all of B&R

11 See *B&R Resources*, 2020 WL 8537529, *1 n.4 (citing *Schlafke v. DEP*, EHB Docket No. 2016-117-B. (Adjudication issued January 8, 2019) slip op. at 32, (Where the individual raises the issue of the company’s financial inability to address the violations as means to break the causation change, the financial inability claim is in the nature of an affirmative defense and the burden to demonstrate that the company lacked the necessary financial resources to address the violations rests with the party making the claim).)

Resources’ income should be used for plugging, we think that relegating a business’ environmental obligations to a second-class status behind all other business expenses is equally wrong and inconsistent with the law of Pennsylvania.”¹² As such, the EHB indicated it will examine the merits underlying a business decision. The board’s 2020 adjudication analyzed business decisions related to financial expenditures, but found it inappropriate to speculate on some decisions, such as whether B&R Resources could have generated more revenue by investing money differently. The result is a mixed bag: The board is not going to rely upon the business judgment rule, but in practice seemed deferential to Mr. Campola’s business decisions.

Conclusion

In conclusion, under the Commonwealth Court’s decision in *B&R Resources*, personal liability under the participation theory can extend only to those violations the company could have addressed. That is necessary to establish a causal connection between the wrongful act and the violation. Appealing an administrative action that threatens individual liability under the participation theory will be fact intensive. If the company’s financial ability to address the violations is in question, the appellant—not DEP—will have the burden to prove that lack of resources. Finally, the EHB will not defer to the appellant’s business judgment. Regulated entities, no matter how small or large, should keep accurate financial records and document all loans or expenditures. Mr. Campola was able to carry his burden of proving B&R Resources could not plug 43 of the 47 wells because he presented accurate books through his expert. Without that evidence, an officer, director or shareholder may be unable to break the causal connection between their decisions and any unaddressed violations. ■

12 *Id.* at *5.

Governor vetoes petrochemical tax credit legislation

Governor Tom Wolf followed through with his threat and on March 27 vetoed legislation establishing a tax credit for large facilities that use Pennsylvania-produced natural gas in the manufacturing of petrochemicals or fertilizers. House Bill 1100, the Energy and Fertilizer Manufacturing Tax Credit, was modeled after the Pennsylvania Resource Manufacturing Tax Credit that helped bring Shell’s \$6-billion ethane cracker project to Western Pennsylvania, but in this case taking advantage of the dry-gas resources of the northeastern part of the Commonwealth.

Sponsored by Representative Aaron Kaufer (R-Luzerne), HB 1100 was part of House Speaker Mike Turzai’s Energize PA package of legislation intended to leverage Pennsylvania’s abundant energy resources to

help drive economic development and create jobs.

To be eligible for the tax credit under the legislation, a facility must have a minimum capital investment of \$450 million, create at least 800 full-time construction and permanent jobs, and the developer must make good-faith efforts to recruit and employ workers from the local labor market for the construction phase and encourage subcontractors to do the same. All workers during construction would have to be paid prevailing wage. The credit would be 47 cents per Mcf of Pennsylvania-produced natural gas used in the plant’s manufacturing processes, which could be applied against up to 20 percent of tax liability.

In rejecting the legislation, Wolf first cited the ongoing COVID-19 crisis. “Rather than enacting this bill, which gives a significant tax credit for energy and fertilizer

manufacturing projects, we need to work together in a bipartisan manner to promote job creation and to enact financial stimulus packages for the benefit of Pennsylvanians who are hurting as they struggle with the substantial economic fallout of COVID-19," the governor wrote in his veto message.

Wolf went on to question whether the bill is "a responsible use of the Commonwealth's limited resources" and cast doubt on whether the required capital investment and required job creation thresholds "align with this level of financial commitment from the Commonwealth." Finally, he criticized the proposal for not putting enough teeth in its prevailing wage requirements.

"I could be supportive of awarding an incentive such as this, but only after a thorough analysis of a proposed project and the inclusion of appropriate enforcement mechanisms to ensure that workers constructing these types of facilities rightfully are paid prevailing wages," the governor stated.

Senator John Yudichak (I-Luzerne), the sponsor of the Senate companion to HB 1100, emphasized that opponents of the bill painted it as a false choice between jobs and the environment.

"The veto of House Bill 1100 places Governor Wolf on the side of anti-job, radical environmentalists who have maliciously misrepresented the facts on this pro-worker, pro-jobs piece of legislation," Yudichak said in a statement, adding that the veto "places the Governor's policies squarely in opposition to legislation that has the potential to attract thousands of prevailing wage jobs and billions of dollars in private investment to Pennsylvania when we need jobs more than ever."

HB 1100 had passed both chambers of the General Assembly by overwhelming margins (final votes were

39-11 in the Senate and 157-35 when the House concurred with Senate amendments). The measure also had strong support from the building trades. It had been reported that two companies were planning to build plants in northeastern Pennsylvania if HB 1100 became law.

"With just the first two projects, House Bill 1100 would have attracted a billion dollars in upfront capital investment, hundreds of millions of dollars in wages to construct and staff the plants, and more than 3,500 direct, indirect, and induced jobs across northern and northeastern Pennsylvania," said David N. Taylor, President & CEO of the Pennsylvania Manufacturers' Association (PMA). "This manufacturing industry—and the value it

brings—could be the foundation of an entirely new economy, one that would provide family-sustaining jobs for generations to come. Governor Wolf's veto of House Bill 1100 forfeits that future."

A recent economic impact study by the PMA determined that the construction of two natural gas synthesis plants requires an upfront investment of \$954 billion. The construction of two plants would be responsible for 2,229 direct, indirect and induced jobs worth \$301.7 million in labor income over the life of the project. The total economic output, not including the upfront capital investment, totals \$812.2 million over 30 months. The jobs at the manufacturing facility once construction is complete totals 300 direct, but those 300 direct jobs will spur 717 indirect and induced jobs, the study indicated. The total labor wages of these jobs combined is \$119.1 per year. The total economic impact related to these jobs' totals \$524.5 million, per year.

Both chambers passed the bill with sufficient margins to override the governor's veto. But will that happen? Currently, lawmakers are focused on response to the COVID-19 crisis, so any action at this time is unlikely and probably would be portrayed as an inappropriate use of their time and efforts. Also, a significant number of Democrats would be leery of bucking their party's governor. Still, an override vote can occur anytime up until the current legislative session ends on November 30, and much can happen between now and then.

Both Yudichak and Turzai have said they hope to convince their colleagues to override Wolf's veto of HB 1100. "We will rally as a Commonwealth and beat back the coronavirus pandemic, and when we do it will be time to get Pennsylvanians back to work by overriding Governor Wolf's veto of House Bill 1100," Yudichak pledged.

As an interesting counterpoint, the same week that Wolf vetoed HB 1100, West Virginia's governor signed into law a measure establishing tax credit incentives for the production, transportation, storage and use of natural gas liquids in the Mountaineer State. ■



Producer Focused - Service Driven

Purchasers of Light Sweet Paraffinic Crude Oil

ARG's roots are deep in the PA oil fields.

Refining crude oil since 1881 in Bradford, PA,

ARG is committed to supporting the PA conventional oil and gas industry.

Dan Palmer
Crude Relationship Manager PA / NY
814-368-1263
dpalmer@amref.com

 AMERICAN REFINING GROUP INC.
Specialty Refining Solutions
www.amref.com
814-368-1200

Growth through helpful government programs

By Joyce Turkaly
Director, Natural Gas Market Development

PIOGA members interested in funding for downstream energy projects participated in the Appalachian Access to Capital Forum held at Oglebay in Wheeling, West Virginia, on March 11. This event was highlighted at the February PIOGA Market Development Committee meeting to connect PIOGA members who have project ideas with financing available from three federal government agencies.

Along with 200 attendees, staff from the Department of Energy (DOE), Small Business Administration and Department of Agriculture were on hand to listen to downstream energy project ideas for rural development and walk entrepreneurs through the various loan programs. By sharing business plans and information on project development ideas, this forum welcomed face-to-face meetings directly with government agency representatives who were open to understanding what is needed for support in the region. The overall economic opportunity is remarkable; Ken Humphreys DOE Principal Deputy Assistant, Office of Fossil Fuels, offered, "If we play our cards right, there is substantial upside potential."

By combining the resources of the three federal entities, there is access to lower interest financing than is available elsewhere. By federally guaranteeing these loans, an entrepreneur can work with a local lender who will evaluate the borrower with far less risk than they would without the security. Having access to these funds will allow entrepreneurs who would not otherwise be able to retain the upfront money to finance projects—projects that typically have a starting ask of \$20 million or more. The loan guarantee requirements vary by project by department; however, they are stackable, meaning you can use any or all from the various departments to finance your project.

Put quite simply, the forum was



Pictured here at the Appalachian Access to Capital Forum are (from left) Paul Castlenova, Vogel Holdings; Joyce Turkaly, PIOGA; Robert Beatty, Jr., Insight Fuel; and Mark Brodziski, U.S. Department of Agriculture.

Keep up with new projects and other market-related developments

By Sandy Spencer, Co-chair, PIOGA Market Development Committee
Appellation Construction Services, LLC

The New Projects Subcommittee, part of the PIOGA Market Development Committee, holds monthly calls to share updates on developments regarding new or in-progress projects. This includes pipeline, virtual pipeline, electric generation or any other industry-related projects. The most recent call included representatives from:

- National Fuel with updates on Northern Access and FM 100
- Williams with updates on Constitution, (cancelled), NESE, and Leidy South
- Dominion with updates on the Atlantic Coast Pipeline (seem to be positive developments with courts)
- NJ Resources with updates on Adelpia
- NiChe (LNG project almost complete)
- NG Advantage (supplied CNG to Northeast over winter months; station will continue providing gas for year-round customers)

We also had updates by some who work with UGI and others. Committee members are encouraged to support project development via "calls to action."

If anyone would like to be added to the email group for the call invitation, feel free to get in touch with me at sspencer@aprefab.com or Gene Pietrowski at gpietrowski@blackrockres.com. To learn more about the Market Development Committee, click on "Committees" at members.pioga.org.

about sharing information to help regional businesses capitalize on the economic opportunity by understanding how the three agencies can provide support to grow the region. From experience, many in the audience recognize the need for exports to stay in balance, concerned about resources staying in the region and with hopes that the future economic gains accrue in the region versus elsewhere. So, with exponential growth in natural gas production, Appalachian natural gas liquids (NGLs) ethane and propane are key feedstocks for the petrochemical industry. They are used to make plastic resins and intermediate chemicals that are used for consumer products such as cell phones and medical devices.

President Trump has visited the region many times for the consistent view that we wish to see energy resources converted to value-added products. According to the American Chemistry Council's (ACC) report, NGLs can support as many as five large petrochemical crackers in Appalachia. Ken Humphreys referred to the Shell facility in Beaver County as a "city growing up out of the ground overnight." In the petrochemical industry, for every plant job, seven other jobs are created in the economy. For example, 600 jobs will work at Shell when the facility is commissioned, 4,200 others will be hired

in jobs supporting just this one facility. More than a half-million workers are directly and indirectly working in Appalachia thanks to the Marcellus and Utica shale plays, contributing \$90 billion each year to the tri-state economy, with just about half of this total quantified as labor-related income.

Once you have front-end NGL processing and storage networks in place, it opens a host of downstream manufacturing opportunities. ACC estimates we can add as many as 100,000 permanent jobs in this region. Along with passing two pieces of legislation that will providing tax incentives for petrochemical and plastics manufacturers, West Virginia Governor Jim Justice has appointed Secretary Caperton from his Department of Environmental Protection to lead the state's downstream task force. The DEP in West Virginia believes that they are more capable of promoting the petrochemical renaissance than the department of economic development just due to their access to resources and petrochemical mapping data to aid with prospective site development. Secretary Caperton has quoted the task force efforts as *we are not reporting, we are doing*.

For more information on the federal loan programs, please contact me at joyce@pioga.org. ■

Producers' alliance seeks anti-dumping investigation for crude oil

The Domestic Energy Producers Alliance (DEPA) recently announced the organization's support for an American anti-dumping action petition to be filed with the United States Department of Commerce and the International Trade Commission requesting the initiation of an antidumping and/or countervailing duty investigation regarding crude oil price manipulation by

Great Gathering rescheduled for July

Now in its seventh year, the Great Gathering is an energy-themed mega-mixer. This year's version was scheduled for March 18, but had to be postponed due to the coronavirus epidemic. The new date is July 15, still from 6 to 9 p.m. at the Hilton Garden Inn Southpointe in Canonsburg.

If you already purchased tickets for the March event, they will be honored at the rescheduled event in July. PIOGA members can attend for a discounted registration fee of \$35. Included are hors d'oeuvres, cash bar, exhibitor tables, and networking with 1,000-plus Western Pennsylvania business owners and top-level executives. To register, visit www.greatgathering2020.com, and be sure to use PIOGA member check box to receive the discount.

Saudi Arabia, Russia and perhaps others.

The petition will seek a determination that the recent actions taken by Saudi Arabia, Russia and others to unreasonably increase their supply of crude oil at prices below-market value will result in material injury to the U.S. domestic crude oil industry.

DEPA is a national collaboration of 34 coalition associations—including PIOGA—that represents 10,000 individuals and companies engaged in domestic onshore oil and natural gas exploration and production.

DEPA Chairman Harold Hamm said, "This is a direct attack on U.S. oil and gas producers. They are taking advantage of this coronavirus pandemic that is sweeping the world to focus on this industry and to devastate it. These actions warrant the imposition of antidumping and/or countervailing duties on crude oil imported into the US from these countries. Saudi Arabia's and Russia's actions have already, and will continue to, harm U.S. domestic crude oil producers and industry."

The petition seeks to protect the domestic crude oil industry, U.S. energy security and the nation's economy.

On March 18, Senator Jim Inhofe of Oklahoma sent Commerce Secretary Ross a letter requesting just such an investigation. As Inhofe stated in his letter to Ross, "This manipulation of markets has roiled the economy, causing severe trauma to the American energy industry. It is essential that the American government respond with swift, decisive action...these actions taken by Saudi Arabia and Russia have added unprecedented hardship on American oil and gas producers and the thousands of blue-collar workers they employ." ■

Jack Crook retires



PIOGA congratulates Jack Crook on his retirement from Diversified Gas & Oil, and we commend him for 39 years working in the industry. Jack's leadership on the PIOGA Board of Directors and his service as Secretary of the Executive Committee will be greatly missed.

Jack is leaving his position as Senior Vice President of Environment, Health, Safety and Security for Diversified Gas & Oil Corporation in early April.

"Because of Jack's background as a Licensed Professional Geologist and his 24 years with the Department of Environmental Protection, he brought a wealth of knowledge and a collaborative approach to the oil and gas industry," said Dan Weaver, President & Executive Director of PIOGA. "Jack's passion for the

industry, first on the regulatory front and later on the business side, is why he was such a great board member for PIOGA. He was always willing to offer his assistance and guidance and was a great connector of people."

Also, we can't forget to applaud Jack also for his charitable golf outing, the Corn Dog Open, that he and partner Bernie Sigler ran for 15 years, raising thousands of dollars for Make-A-Wish. The 16th Annual Corn Dog Open is anticipated for later this year.

We wish Jack Crook much happiness in retirement and hope to see him on the golf course soon! ■

Hillebrand elected board Secretary

Michael Hillebrand of Huntley & Huntley, Inc. has been elected by his fellow PIOGA Board of Directors members to Secretary and member of the Executive Committee. He replaces Jack Crook, who recently retired from Diversified Gas & Oil.



"As you know, Mike has brought a wealth of industry knowledge and experience to the PIOGA board and will be a great asset to the Executive Committee," PIOGA Chairman Gary Slagel of Steptoe & Johnson PLLC said.

In addition to Slagel and Hillebrand, the Executive Committee now consists of Sam Fragale of Freedom Energy Resources LLC (Vice Chairman), Jim Kriebel of Kriebel Companies (Treasurer) and Frank Ross of T&F Exploration, LP (Second Vice Chairman). ■

PIOGA Member News

Babst Calland's Mosites appointed to EHB Rules Committee

Babst Calland attorney Jean M. Mosites was recently appointed by Representative Mike Turzai, Speaker of the House of Representatives, to the Pennsylvania Environmental Hearing Board (EHB) Rules Committee. Committee members serve two-year terms and may be reappointed for additional terms.

The Rules Committee reviews and makes recommendations regarding procedural rules for matters brought before the EHB. The committee consists of nine attorneys who have practiced before the board for a minimum of three years or who have comparable experience.

As a shareholder in Babst Calland's Environmental and Energy and Natural Resources practice groups, Ms. Mosites has extensive experience representing clients in administrative appeals and environmental litigation in state and federal courts and before the EHB, as well as counseling on environmental compliance and resolving liabilities under federal and state law. ■

New PIOGA members — welcome!

CGIS LLC

20 Pacifica, Irvine, CA 92618
617-875-4494 • cgisllc.com

Allies & Providers—insurance and risk-management solutions

Epiphany Environmental

1435 Bedford Avenue, Pittsburgh, PA 15219
412-326-9801 • www.epiphanyenv.com

Allies & Providers—produced water treatment equipment and services

Marshall Insurance Brokers

1121 Boyce Road, Ste 1850, Pittsburgh, PA 15241
724-260-0721 • www.mibins.net

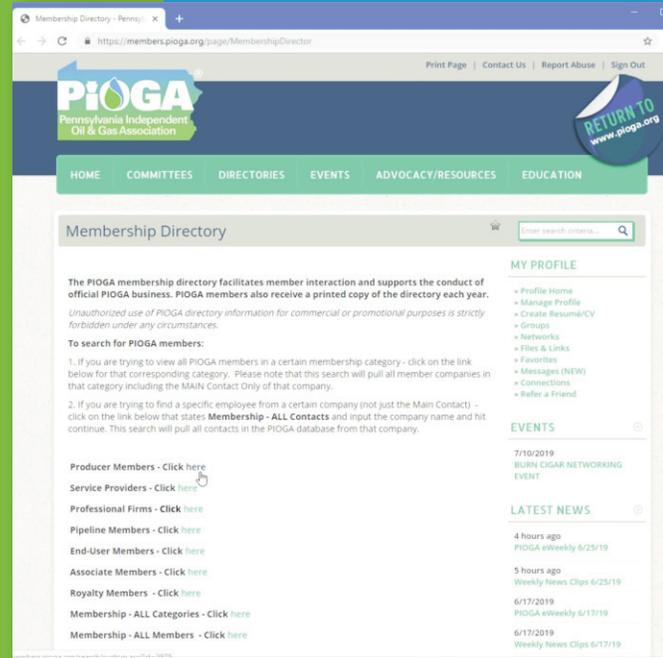
Allies & Providers—commercial insurance, focusing on the energy industry

Pipeliners Local Union 798

PO Box 470798, Tulsa, OK 74147
918-622-1900 • www.local798.org

Associate

Are you taking advantage of PIOGA's online Members' Only system?



- Connect with other members
- Register for PIOGA events
- Search for products and services
- Access committee resources
- Update your membership profile
- Pay your dues
- Company main contacts can add/delete other company contacts
- Update your profile
- Take advantage of government advocacy and education resources

Here are some of the things you can do:

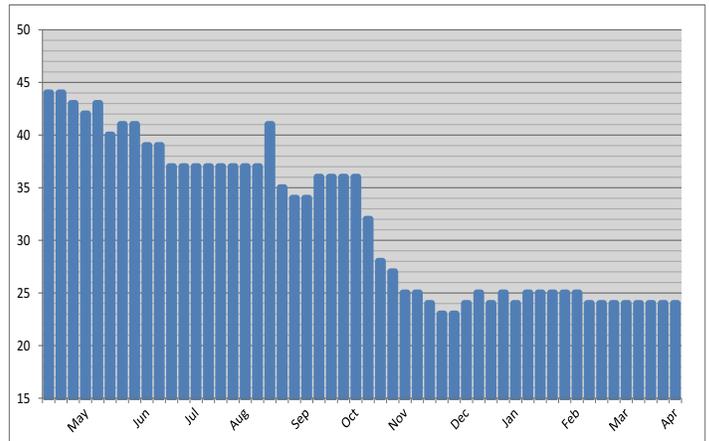
It's easy and fast to log into your account!

Just click on the Login link at the top of our homepage, pioqa.org, and input your username (usually your email address) and password. If you don't remember your password, just click *Reset my password* and you'll receive a new one via email.

Try it today!

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
May	\$1.905
June	2.000
July	2.102
August	2.151
September	2.170
October	2.215
November	2.417
December	2.710
January 2021	2.828
February	2.787
March	2.683
April	2.420

Prices as of April 7

Sources

American Refining Group: www.amref.com/Crude-Prices-New.aspx
 Ergon Oil Purchasing: www.ergon.com/prices.php
 Gas futures: quotes.ino.com/exchanges/?r=NYMEX_NG
 Baker Hughes rig count: phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-report-sother
 NYMEX strip chart: Nucomer Energy, LLC, emkeyenergy.com

Northeast Pricing Report – April 2020

Front month prices continue to contract. Algonquin had the largest decrease of \$0.45 per MMBtu. Transco Z6 dropped the second most at \$0.24 per MMBtu. Dominion South decreased the least by \$0.08 per MMBtu. Overall, the supply area trading points decreased less than the demand points. Neither the one-year term nor long-term trading time periods changed significantly from March. TETCO M3 increased by \$0.10 per MMBtu for the one-year term, which was the largest variation from the previous month. For the long-term trading term, Algonquin had the largest decrease of \$0.14 per MMBtu. Dominion South was flat for the term. Dominion South has seen some strengthening over the past few months for all trading time periods.

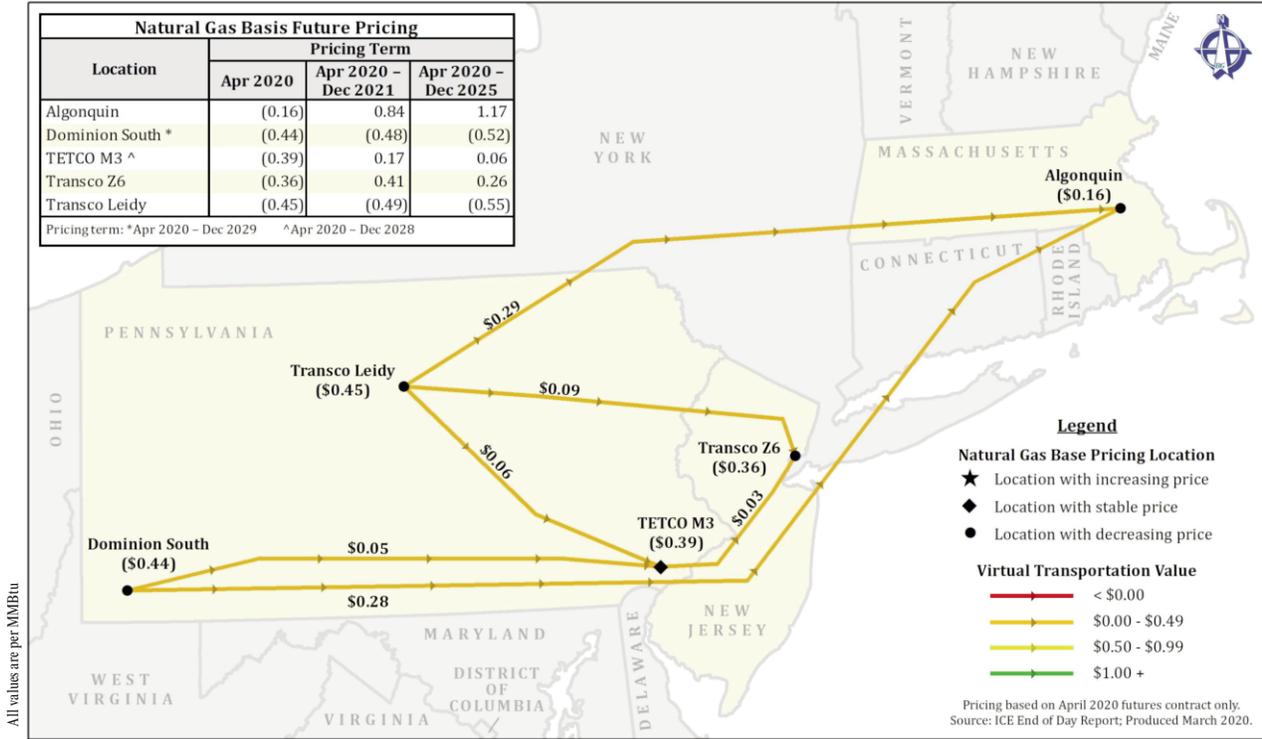
For the third month in a row, all transportation values decreased. This is very common for the Feb-Apr time period. Dominion South and Transco Leidy to Algonquin decreased the most at \$0.37 and \$0.36 per MMBtu respectively. Transco Leidy to Transco Z6 and Dominion South to TETCO M3 decreased \$0.15 and \$0.10 per MMBtu as well. As a percentage change, all transportation routes have decreased by 57% to 67% from last month. Traditionally there is some transportation value recovery going into May. With the current COVID-19 situation, BG does not expect much recovery, if any, over the next month.



Provided by Bertison-George, LLC
www.bertison-george.com

Location	Pricing Term		
	Apr 2020	Apr 2020 - Dec 2021	Apr 2020 - Dec 2025
Algonquin	(0.16)	0.84	1.17
Dominion South *	(0.44)	(0.48)	(0.52)
TETCO M3 ^	(0.39)	0.17	0.06
Transco Z6	(0.36)	0.41	0.26
Transco Leidy	(0.45)	(0.49)	(0.55)

Pricing term: *Apr 2020 - Dec 2029 ^Apr 2020 - Dec 2028



Legend

Natural Gas Base Pricing Location

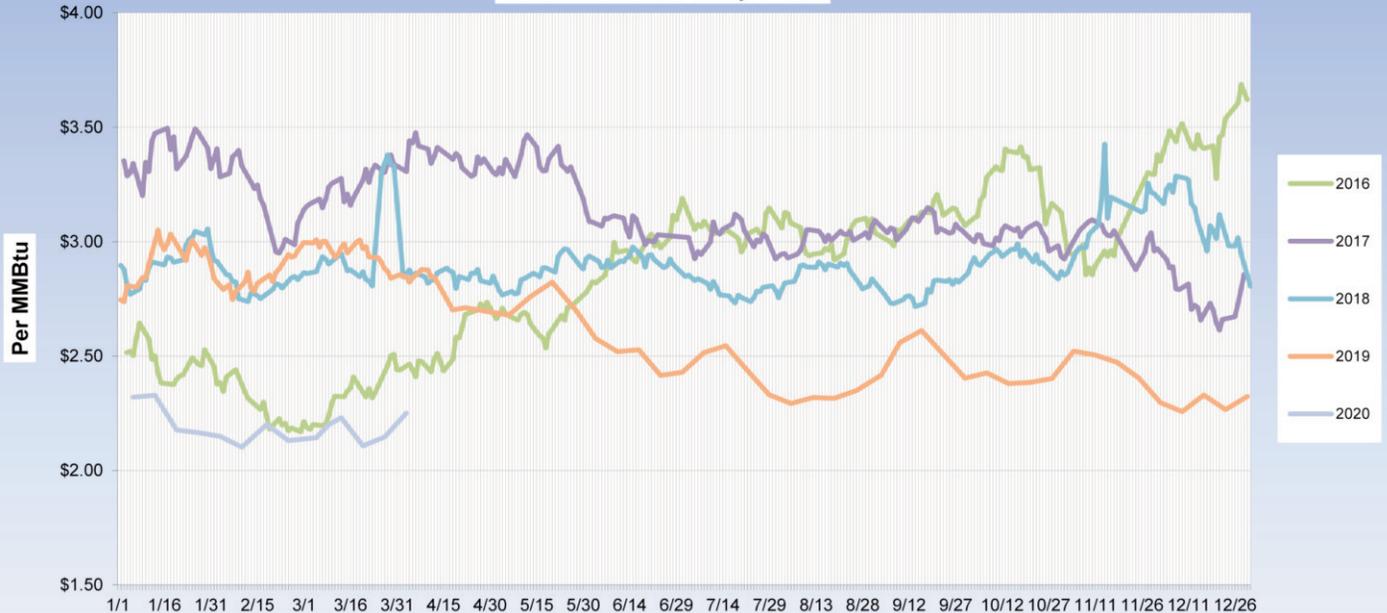
- ★ Location with increasing price
- ◆ Location with stable price
- Location with decreasing price

Virtual Transportation Value

- < \$0.00
- \$0.00 - \$0.49
- \$0.50 - \$0.99
- \$1.00 +

Pricing based on April 2020 futures contract only. Source: ICE End of Day Report; Produced March 2020.

NYMEX Annual Strip Price



Spud Report: March 2020



available at www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports.

The table is sorted by operator and lists the total wells reported as drilled last month. **Spud** is the date drilling began at a well site. The **API number** is the drilling permit number issued to the well operator. An asterisk (*) after the API number indicates a conventional well.

The data show below comes from the Department of Environmental Protection. A variety of interactive reports are

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Cabot Oil & Gas Corp	4	3/30/2020	115-22679	Susquehanna	Bridgewater Twp
		3/30/2020	115-22678	Susquehanna	Bridgewater Twp
		3/30/2020	115-22677	Susquehanna	Bridgewater Twp
Cameron Energy Co	3	3/30/2020	115-22676	Susquehanna	Bridgewater Twp
		3/10/2020	123-48445*	Warren	Sheffield Twp
		3/18/2020	123-48446*	Warren	Sheffield Twp
Chesapeake Appalachia LLC	10	3/25/2020	123-48443*	Warren	Sheffield Twp
		3/5/2020	015-23522	Bradford	Monroe Twp
		3/6/2020	015-23503	Bradford	Monroe Twp
CNX Gas Co LLC		3/14/2020	015-23578	Bradford	Terry Twp
		3/14/2020	015-23577	Bradford	Terry Twp
		3/14/2020	015-23579	Bradford	Terry Twp
		3/23/2020	131-20615	Wyoming	Meshoppen Twp
		3/23/2020	131-20614	Wyoming	Meshoppen Twp
		3/24/2020	131-20613	Wyoming	Meshoppen Twp
		3/24/2020	131-20616	Wyoming	Meshoppen Twp
		3/25/2020	131-20617	Wyoming	Meshoppen Twp
		3/18/2020	125-28733	Washington	East Finley Twp
		3/18/2020	125-28705	Washington	East Finley Twp
EQT Prod Co	6	3/18/2020	125-28844	Washington	East Finley Twp
		3/19/2020	125-28732	Washington	East Finley Twp
		3/19/2020	125-28706	Washington	East Finley Twp
		3/19/2020	125-28845	Washington	East Finley Twp
	8	3/2/2020	125-28813	Washington	Amwell Twp
		3/2/2020	125-28814	Washington	Amwell Twp
		3/2/2020	125-28808	Washington	Amwell Twp
		3/2/2020	125-28811	Washington	Amwell Twp
	3/2/2020	125-28809	Washington	Amwell Twp	
	3/2/2020	125-28810	Washington	Amwell Twp	

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Olympus Energy, LLC	3	3/2/2020	125-28812	Washington	Amwell Twp
		3/2/2020	125-28815	Washington	Amwell Twp
		3/4/2020	003-22579	Allegheny	Plum Boro
Pennhills Resources LLC	1	3/4/2020	003-22578	Allegheny	Plum Boro
		3/4/2020	003-22581	Allegheny	Plum Boro
Range Resources Appalachia	4	3/2/2020	083-57238*	McKean	Wetmore Twp
		3/25/2020	125-28775	Washington	Amwell Twp
		3/25/2020	125-28774	Washington	Amwell Twp
STL Resources LLC	2	3/25/2020	125-28773	Washington	Amwell Twp
		3/8/2020	035-21322	Clinton	Gallagher Twp
		3/8/2020	035-21323	Clinton	Gallagher Twp
SWN Prod Co LLC	8	3/3/2020	115-22584	Susquehanna	Jackson Twp
		3/4/2020	115-22583	Susquehanna	Jackson Twp
		3/5/2020	115-22580	Susquehanna	Jackson Twp
		3/6/2020	115-22581	Susquehanna	Jackson Twp
		3/14/2020	125-28805	Washington	West Finley Twp
		3/14/2020	125-28806	Washington	West Finley Twp
Windfall Oil & Gas Inc	1	3/25/2020	131-20580	Wyoming	North Branch Twp
		3/26/2020	131-20579	Wyoming	North Branch Twp
		3/20/2020	033-27255*	Clearfield	Brady Twp

	March	February	January	December	November	October
Total wells	50	46	77	60	30	57
Unconventional Gas	45	42	74	51	23	43
Conventional Gas	0	0	0	0	0	1
Oil	3	2	3	5	7	13
Combination Oil/Gas	1	2	0	4	0	0
Disposal	1	0	0	0	0	0



Premium Service for Your Premium Product.

Whether buying or transporting crude, Ergon Oil Purchasing's integrated network of assets offers diversity to the market. Through Ergon's refineries, network of terminals, barge and trucking fleets, we understand the needs of the crude oil industry.

1.800.278.3364 eopsales@ergon.com [f](#) [in](#)



Calendar of Events

PIOGA events

Information: pioga.org > PIOGA Events

Due to uncertainty surrounding the COVID-19 crisis, please check the event page for any changes to events and event dates.

Ted Cranmer Memorial Golf Outing & Steak Fry

June 1, Wanango Country Club, Reno

Sporting Clays Networking Event

July 9, Promised Land Sporting Clays Club, Freeport
Rescheduled from May 7

PIOGATech: Federal Transportation Safety Regulations Refresher

July 21, The Chadwick, Wexford. *Rescheduled from March 17*

PIOGATech: Water and Waste Management

August 19, location TBA

23rd Annual Divot Diggers Golf Outing & Steak Fry

August 20, Tam O'Shanter Golf Course, Hermitage

Fall Conference, Golf Outing and Sporting Clays

September 22-23, Seven Springs Mountain Resort, Champion

PIOGATech: Safety Topic

October 22, TBA

Annual Oil & Gas Tax and Accounting Seminar

November 18, Holiday Inn Express, Canonsburg/Southpointe

Marcellus to Manufacturing Conference

November TBA

PIOGATech: Environmental Topic / Holiday Mixer

December 15, The Chadwick, Wexford

Other association & industry events

Ohio Oil & Gas Association Summer Meeting

July 13-14, Glenmoor Country Club, Canton, OH
www.ooga.org/events

The Great Gathering (GGVII)

July 15, Hilton Inn Garden Inn, Southpointe
www.greatgathering2020.com
Rescheduled from March 18; PIOGA member discount

PIOGA Case knife

To commemorate PIOGA's 100th anniversary, we commissioned this knife from W.R. Case & Sons Cutlery Company in Bradford. The limited edition, collector quality knife and wooden display box feature the Centennial logo. It makes a great gift! Get yours before they're gone at members.pioga.org.



PIOGA Board of Directors

Gary Slagel (Chairman), Steptoe & Johnson PLLC
Sam Fragale (Vice Chairman), Freedom Energy Resources LLC
Frank J. Ross (2nd Vice Chairman), T&F Exploration, LP
James Kriebel (Treasurer), Kriebel Companies
Michael Hillebrand (Secretary), Huntley & Huntley, Inc.
Robert Beatty Jr., InsightFuel / Robert Beatty Oil & Gas
Stanley J. Berdell, BLX, Inc.
Brook Bertig-Coll, Fisher Associates
Enrico Biasetti, NG Advantage LLC
Dan Billman, Billman Geologic Consultants, Inc.
Brian Bittinger, Bittinger Drilling, LLC / D&B Gas Production, LLC
Sara Blascovich, HDR, Inc.
Mike Cochran, Greylock Energy
Ken Fleeman, ABARTA Energy
Jessica Houser, WGM Gas Company Inc. (2019-2022)
David Marks, Dominion Energy Field Services
Teresa Irvin McCurdy, TD Connections, Inc.
Daniel McGraw, Pennsylvania General Energy Co., LLC
Dan Palmer, American Refining Group, Inc.
Beth Powell, New Pig Energy
Jake Stilley, Patriot Exploration Corporation
Bryan Snyder, Snyder Brothers, Inc.
Chris Veazey, EnerVest Operating, LLC
Jeff Walentosky, Moody and Associates, Inc.
Ben Wallace, Penneco Oil Company, Inc.
Diversified Gas & Oil Corporation, *awaiting replacement for Jack Crook*

Committee Chairs

Diversity Committee
Jennifer Mosesso, Steptoe & Johnson PLLC
Environmental Committee
Paul Hart, Diversified Gas & Oil Corporation
Ken Fleeman, ABARTA Energy
Legislative Committee
Ben Wallace, Penneco Oil Company
Market Development Committee
David Marks, Dominion Energy Field Services
Sandy Spencer, Appellation Construction Services, LLC
Power of Women's Energy Roundtable (PoWER)
Sara Blascovich, HDR, Inc.
Safety Committee
Wayne Vanderhoof, RETTEW
Eric Staul, Diversified Gas & Oil Corporation
Tax Committee
Bill Phillips, Arnett Carbis Toothman, LLP

Staff

Dan Weaver (dan@pioga.org), President & Executive Director
Kevin Moody (kevin@pioga.org), Vice President & General Counsel
Debbie Oyler (debbie@pioga.org), Director of Member Services and Finance
Matt Benson (matt@pioga.org), Director of Internal Communications (also newsletter advertising & editorial contact)
Joyce Turkaly (joyce@pioga.org), Director of Natural Gas Market Development
Danielle Boston (danielle@pioga.org), Director of Administration
Deana McMahan (deana@pioga.org), Administrative Assistant & Committee Liaison

Pennsylvania Independent Oil & Gas Association

115 VIP Drive, Suite 210, Wexford, PA 15090-7906
724-933-7306 • fax 724-933-7310 • www.pioga.org

Harrisburg Office (Kevin Moody)

212 Locust Street, Suite 300, Harrisburg, PA 17101
717-234-8525

Northern Tier Office (Matt Benson)

167 Wolf Farm Road, Kane, PA 16735
Phone/fax 814-778-2291

© 2020, Pennsylvania Independent Oil & Gas Association



Pennsylvania: The Keystone to America's Energy Future®

115 VIP Drive, Suite 210
Wexford, PA 15090-7906

Address Service Requested

PRESORTED
STANDARD
U.S. POSTAGE PAID
PITTSBURGH, PA
15290
PERMIT NO. 1211