

The PIOGA Press

The monthly newsletter of the
Pennsylvania Independent Oil & Gas Association
April 2021 • Issue 132

Water law update: Five topics to watch in 2021

State and federal water law permitting can pose significant obstacles for natural gas construction projects that impact waterbodies (e.g., wells pads, access roads and pipelines). The following five new and proposed regulatory changes are likely to significantly affect project design and construction in Pennsylvania.

1. Waters of the United States (WOTUS)

The definition of WOTUS identifies which waters are federally regulated under the Clean Water Act (CWA) and therefore determines when a federal permit is required for projects that involve dredging or filling of a waterbody (i.e., a Section 404 permit). The current WOTUS definition was promulgated in 2020 under the Trump administration. It has been criticized by environmental groups as federally regulating fewer types of waterbodies than the WOTUS definition promulgated under the Obama administration. For example, ephemeral streams are not regulated under the current WOTUS definition.

President Biden has already signaled he intends to change the current WOTUS definition. In his first week in office, he asked the U.S. Army Corps of Engineers and the U. S. Environmental Protection Agency (EPA) to consider revising or rescinding the current definition. He has also asked courts to stay judicial challenges to the current WOTUS definition while his administration reconsiders the issue.

The Biden administration is expected to eventually propose its own definition of WOTUS, which will

Author:



Lisa M.
Bruderly

—
Babst Calland

Pennsylvania Supreme Court rules against attorney general's use of consumer protection law

In a case that had potentially significant adverse consequences for our industry, the Pennsylvania Supreme Court on March 24 ruled against Pennsylvania Attorney General Josh Shapiro's attempt to bring claims under Pennsylvania's consumer protection law on behalf of private landowners against a natural gas exploration and production company for its alleged deceptive, misleading and unfair practices in obtaining natural gas leases from the landowners.

The attorney general also pursued antitrust remedies under the same statute, the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL), but the court concluded that neither of these legal "theories are cognizable under the UTPCPL," which, as the title of the law states, "aims to protect the consumers [or purchasers] of the Commonwealth against fraud and unfair or deceptive business practices." *Commonwealth of Pennsylvania v. Anadarko Petroleum Corporation and Anadarko E&P Onshore, L.L.C.*, No. 81 MAP 2019.

PIOGA, along with the Marcellus Shale Coalition and

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UTPCPL case *Continued from page 1*

the American Petroleum Institute, had filed an *amicus* brief arguing that an oil and gas “lease,” through which an E&P company seeks to obtain a fee simple determinable in the landowner’s oil and gas estate, is not a consumer transaction—the company is not offering to sell or distribute any goods, services or property, as the company is the *purchaser*, not the seller. In addition, as noted by the court, industry’s joint *amicus* brief also pointed out that the legislature has regulated the oil and gas industry outside of the UTPCPL, referring to the Oil and Gas Lease Act and the Recording of Surrender Documents from Oil and Gas Lease Act.

Finally, industry argued that applying the UTPCPL to our industry would introduce a great deal of uncertainty and complication into oil and gas leasing transactions that have been carried on in the Commonwealth for almost 200 years and would impact the entire industry—including small family-owned operators, companies qualifying as small business and publicly traded companies—whether they are engaged in lease transactions regarding unconventional shale formations or traditional shallower conventional formations.

Supreme Court action in another UTPCPL case

The significance to our industry of the court’s decision in the *Anadarko* case is

emphasized by the Pennsylvania Supreme Court’s decision about five weeks earlier in another UTPCPL case. On February 17, in a 4-3 decision the court held—for the first time—that a business’s state of mind is not relevant for a consumer to sustain a private cause of action under the UTPCPL’s “catch-all” provision, which makes it unlawful to engage in “fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” The court stated that without a state of mind requirement, the catch-all provision “fairly may be characterized as a strict liability offense.” *Gregg v. Amerprise Financial Inc.*, No. 29 WAP 2019.

It is apparent that a ruling applying the UTPCPL to our industry, along with the decision in the *Gregg* case, would have created even more problems for our industry than we had suggested in our joint *amicus* brief. ■

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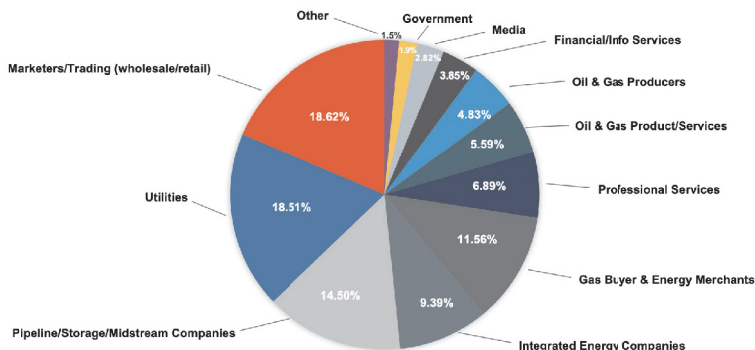


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An open letter to the president on shale energy

Dear Mr. President:

We are reaching out to you as a group of trade organizations that collectively represent the largest natural gas producing region in the country. Our operational footprint is comprised of Pennsylvania, Ohio, West Virginia, Kentucky, and Virginia. Our member-companies employ hundreds of thousands directly and indirectly and contribute billions to our region's economy.

Our goal is to work with you and your Administration to provide the critical feedstock necessary to create jobs, rebuild our economy, power and heat our homes, and provide the petrochemical building blocks necessary for manufacturing virtually all of the products Americans rely on daily. In the process, we commit to continuing to operate in an environmentally responsible fashion while significantly contributing to the reduction of the American economy's carbon footprint.

We recognize and appreciate your commitment to addressing global climate change and our industry's commitment to reducing our environmental footprint is equally as strong. The continued growth in the use of natural gas nationally has led to the 30-year low in total energy-related CO2 emissions the country is experiencing.

We have significant concerns as to how your plans will impact the hundreds of thousands of Americans that work in, rely on, or benefit from the Appalachian shale energy industry. Even more alarming may be the harm we believe measures you have already taken, and are contemplating, may ultimately and negatively exact on all Americans and our position in the global economy.

Implementing policies that hinder natural gas and oil development will result in far more than the decline of another industry and the millions of paychecks it provides nationally. These policies will negatively impact the quality of life of all Americans and reverse the significant geopolitical benefits of being the world's top energy producer.

As you work to implement your agenda, we ask that you consider the vital role our energy-producing states play in meeting the demand for affordable electricity and consumer products and the impact some policies would have on the hard-working men and women our thousands of member-companies employ.

Natural gas generates nearly 40 percent of the electricity powering this country, providing safe, clean, reliable baseload power to all energy consumers.

The development of our assets right here in Appalachia has led to the United States' transition from a net importer to a net exporter of natural gas. The continued reduced reliance on foreign sources of energy better positions our country to play a key role in reducing emissions globally.

Along with heat and power generation, natural gas is a critical feedstock for manufacturing. In Pennsylvania alone, the construction of an ethane cracker facility is currently underway, supporting over 6,000 on-site construction jobs. Once operational, the facility will produce feedstock to produce plastic and chemical components that makeup almost every product Americans use such as phones, personal protective equipment, and home goods.

It is critical that we preserve and expand our region's and the nation's pipeline infrastructure so we can maximize the benefits of our gas, oil, and liquids production for all Americans. These projects not only transport these resources safely and reliably to processing facilities and new markets but are massive job creators as well.

As the nation and the world responds to the COVID-19 global pandemic, natural gas and related by-products have been integral to the production of medical equipment, medications and newly emerging vaccines that are helping to save the lives of tens of thousands of our fellow citizens.

You have specifically pointed to the benefits of the domestic manufacturing of solar panels and wind turbines for the transition to a cleaner energy future. This cannot be accomplished without the enormous amounts of petrochemicals the natural gas and oil industry produce.

These petrochemicals are the foundational components to the construction of wind turbines and solar panels. Their construction cannot be done in a globally competitive market without the low-cost fuel source natural gas offers to those manufacturers.

The growth in natural gas usage is helping to meet the nation's carbon reduction objectives while also supplying the on-demand power requirements to scale up wind and solar energy.

We respectfully ask that you recognize and consider the vital role of the Appalachian and U.S. shale energy industries as your Administration crafts energy, climate, and economic policy. With your help, we commit to work with you to accomplish our shared objective of mitigating the harmful effects of global climate change in a responsible and strategic fashion.

Dan Weaver
Pennsylvania Independent Oil & Gas Association

David Callahan
Marcellus Shale Coalition

Matthew Hammond
Ohio Oil & Gas Association

Charlie Burd
Gas & Oil Association of West Virginia

Ryan Watts
Kentucky Oil & Gas Association

Lawton Mullins
Virginia Oil & Gas Association



PIOGATech

PIOGA's Technical Seminar Series

Spill Discovery, Reporting and Remediation Training

Hosted by:

PIOGA's Environmental Committee

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CEU Partner



Date: Tuesday, April 27

Location: Virtual Training

Time: 9:00 a.m. - 2:30 p.m.

Fee: PIOGA Members - \$100
Non-PIOGA Members - \$175

Fee includes the training and Continuing Education Units (CEUs) and Professional Development Hours (PDH).

PIOGA's Environmental Committee is pleased to host this training in conjunction with our partners **Babst Calland, Diversified Gas & Oil, Moody & Associates, New Pig Energy and Snyder Brothers.**

Spill Discovery, Reporting and Remediation

Introduction and Spill Discovery	Ken Fleeman; Todd Kunselman , Snyder Brothers; and Kirk Elkin , Diversified Gas & Oil
Reporting Obligations and DEP Spill Policy	Jeff Walentosky , Moody & Associates
Legal Considerations and Liabilities	Kevin Garber , Babst Calland
Application of Spill Control Products	Beth Powell , New Pig Energy
Cleanup Operations	Kirk Elkin , Diversified Gas & Oil, and Todd Kunselman , Snyder Brothers
Site Sampling and Waste Disposal	Mark Miller , Moody & Associates
Operator and DEP Insights Panel	Kirk Elkin , Diversified Gas & Oil; Todd Kunselman , Snyder Brothers; Ken Fleeman ; and TBA , DEP

Information about CEUs and PDHs:

You will receive 5 PDH and .5 CEUs

Questions?

Should you have any questions about the training or the PDH or CEU's, please contact Deana McMahan at deana@pioga.org

Registration

Register online at pioga.org/events/pioga-events. Payment must be received prior to the training session. **Deadline is Friday, April 23.** *Please note - you'll receive the webinar link prior to the training. Please save the date on your calendar.

Cancellation Policy

You may cancel without penalty if written cancellation requests are received by Friday, April 23. Due to financial obligations incurred by the host, we will not provide a refund after this date.



Changing the Narrative in Energy Perception and Policy



PIOGA Spring Meeting & Exhibition



Not only do we have an excellent lineup of speakers and relevant topics, but this will be one of the first in-person events of 2021 after more than a year of “virtual everything.” The meeting will take place in the new, expansive event space at Rivers Casino, and all CDC and Pennsylvania Department of Health COVID-19 protocols will be followed. The day features the conference, lunch, an exclusive exhibitor area, reception and other networking opportunities, plus casino time. You don’t want to miss it!

Registration opens at 8 a.m., with the conference kicking off at 9 and running until 5 p.m. The networking reception and casino time is from 5 to 7 p.m.

Speakers

Opening Speaker: Overcoming These Challenging Times – Dr. Kevin Elko, nationally renowned performance consultant and bestselling author **Appalachian Basin Energy Forecast and Overview** – Charles Schliebs, Stone Pier Capital Advisors, LP
Regulatory Review – Technical Guidance

Document and FAQ Updates – Joe Kelly and Steve Brokenshire, Pennsylvania Department of Environmental Protection

Keynote Speaker: Nicholas Deluliiis, President and CEO, CNX Resources Corporation

A Message from the Chair of the U.S. Senate Energy and Natural Resources Committee – Senator Joe Manchin III of West Virginia

Federal Updates: A New Day in Washington, D.C. – Ryan Ullman, Independent Petroleum Association of America

Pipeline Pitfalls – Legal Challenges & Obstacles – Jean Mosites and Kevin Garber, Babst Calland

Solutions to Moving Gas – Virtual Pipeline Opportunities Panel – David Kailbourne, REV LNG, LLC; Sara White, Pivotal LNG; Enrico Biasetti, NG Advantage; and Robert Beatty, Insightfuel

New Market Projects: KeyState Natural Gas Synthesis & Carbon Storage – Perry Babb, KeyState Natural Gas Synthesis, LLC

Closing Speaker: Pennsylvania State Updates – Representative Bryan Cutler, Speaker of the House



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Make your company stand out

Exclusive exhibit area. Only 20 spots are available in total, and it's first-come, first-served. Exhibiting at our 2021 Spring Meeting will help reinforce your company's position or introduce your presence in the region's oil and gas market. This is an in-person event, and you'll enhance productivity by building face-to-face contacts and partnerships. Reserve your table today!

Secure a sponsorship. There is literally a sponsorship level for every budget. By signing on now your company will be highlighted on the event webpage (with a live link to your website) in all pre-event email blasts, and on the day of the event in the program booklet, signage and slide presentations. Talk about bang for the buck!

Register now and save

As always, PIOGA members enjoy a substantial dis-

count on registration fees. You can save even more by taking advantage of the early-bird rate before April 23.

Register today or find out more about the event by clicking on PIOGA Events at pioga.org. We'll plan on seeing you there!



Get all the details and register today:
pioga.org > PIOGA Events

State legislation of note so far this session

Even though the 2021-2022 legislative session is only a few months old, we already are tracking a sizeable number of bills aimed at the industry in one way or another. Some would have a devastating impact by imposing a severance tax, banning hydraulic fracturing, further limiting waste-disposal options, hamstringing infrastructure development or mandating a phaseout fossil fuels entirely. Fortunately, these are unlikely to advance in today's Republican-controlled legislature, although we still must remain vigilant.

There also are some beneficial pieces of legislation introduced so far, like a package of reforms to improve business recovery from the COVID-19 crisis described below. Here is a look at some of the more "friendly" proposals introduced so far.

"Commonwealth's COVID Comeback" economic recovery plan

Led by Representative Josh Kail (R-Beaver), the House Republican Caucus unveiled a pro-jobs and pro-growth legislative package focused on rebuilding Pennsylvania's economy, known as "Commonwealth's COVID Comeback." The proposals are intended to incentivize manufacturers, provide protections to small businesses, and offer tax and regulatory reform to businesses. The specific legislative proposals contained in the Commonwealth's COVID Comeback plan include the following:

- **House Bill 600** (Kail) would allow the

Commonwealth Financing Authority to designate strategic and targeted zones in the state in order for them to be used as the base of operations for manufacturing. Further, this legislation would provide businesses in those zones with tax abatements for state and local taxes, and they would also be eligible for targeted job creation tax credits. This legislation is an effort to "re-shore" manufacturing in the Commonwealth and was created out of a recognition that during the pandemic the Commonwealth, and the United States, faced a shortage in goods because they are now manufactured in other countries and were impacted by shipping constraints.

- **HB 198** (Dunbar, R-Westmoreland) would allow Pennsylvania businesses impacted by the COVID-19 pandemic to deduct 100 percent of Net Operating Losses (NOL) in order to assist in the continued reinvestment in Pennsylvania. Further, this legislation would require the additional 60 percent of NOL deductions to be from losses that occurred in 2020 and clarify that it would not apply to losses carried forward from prior tax years.

- **HB 602** (Owlett, R-Tioga) would create the Career and Technical Education Investment Incentive Program,



which would provide a tax credit for companies investing in skilled training and workforce development programs. With over 200,000 skilled job vacancies existing before the pandemic, the bill is intended to create partnerships between job creators and educators in order to support those job creators that invest in the education system.

- **HB 604** (Fritz, R-Susquehanna) would create a permitting framework at the Department of Environmental Protection to ensure that decisions on permits are rendered reliably and in a timely manner. Under this legislation, DEP permit applications would be deemed administratively complete if accompanied by a professional engineer's affidavit attesting to the application's sufficiency. Unless DEP shows evidence before a neutral referee that the application is not sufficient, the permit would be deemed approved. Further, HB 604 would require DEP to act on a permit application within 45

days of its receipt for a permit or authorization that is not accompanied by an affidavit by a professional engineer.

- **HB 605** (Ecker, R-Adams) would create an expedited review and resolution of lawsuits arising out of exposure to COVID-19 by separating the bad actors from businesses that are following both federal and state public health guidelines.

- **House Resolution 60** (O'Neal, R-Washington) would establish a Select Committee on the Jobs of the Future, which would be charged with investigating, reviewing, and making recommendations regarding opportunities for the development of new industries in the Commonwealth. According to the proponents of the resolution, the Department of Labor and Industry has testified that more than 5,000 jobs were lost in Pennsylvania due to the pandemic. However, the Wolf Administration has not focused on business recovery, but rather they've focused on driving away Pennsylvania businesses through the continuation of its tax and spend policies, as well as their proposed regulatory initiatives that will eliminate jobs and increase costs to both businesses and consumers.

Other legislation

Here are a few other beneficial pieces of legislation directly impacting our industry that we are watching:

- **HB 199** (Dunbar) would amend the tax code to bring oil and gas depletion in line with federal tax law.

- **HB 257** (Grove, R-York) would create a process by which the Independent Regulatory Review Commission could review regulatory agency requirements such as permits and guidance documents to determine whether they should have been promulgated as a formal regulation.

- **HB 637** (Struzzi, R-Indiana) and **SB 119** (Pittman, R-Indiana) would require legislative approval before implementing a carbon dioxide cap and trade program such as DEP's current regulatory initiative to join the Regional Greenhouse Gas Initiative.

- **SB 275** (Yaw, R-Lycoming) would prohibit a municipality from adopting a policy that restricts or prohibits the connection or reconnection of a utility service based on the type or source of energy to be delivered to an individual consumer within the municipality.

- **SB 301** (Yaw) would change how appointments are made to the Air Quality Technical Advisory Committee so the process mirrors other DEP advisory boards.

- **SB 534** (Hutchinson, R-Venango) and **HB 1144** (Causer, R-McKean) would create the Conventional Oil and Gas Act with a separate regulatory framework for the conventional oil and gas industry. ■



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Setting the record straight on pipelines

Pipelines are an essential part of safely and efficiently delivering oil, natural gas and related liquids to where they are needed, and they will continue to be indispensable to the nation's energy equation far into the future. In the April edition of our Just the Facts series—titled **“Oil & Gas Pipelines: Safe, Regulated and Vital to the Delivery of Affordable and Reliable Energy”**—we address safety and integrity, state and federal regulation, growing demand, and other facts about pipelines.

The bottom line: “At a time when natural gas demand is increasing, along with efforts to reduce carbon emissions, the U.S. needs clear thinking and lead-

ership in recognizing that pipelines that take gas from regions with vast supplies to the rest of the nation are vital to both meet our future energy needs and to work in tandem with the increased use of renewable sources.”

Visit the Latest News and Blog section at pioga.org to read the fact sheet. We've also included a downloadable version that you can print or forward to share with employees, colleagues, family, neighbors and legislators to help spread the facts about the role of natural gas and oil in meeting the energy needs of Pennsylvanians and the nation.



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Clubs & Cocktails 2021



It's was a chilly, damp evening, but the nearly 120 PIOGA members and guests who turned out for our Clubs & Cocktails networking event on March 18 at Topgolf in Bridgeville had a great time anyway. Thanks to our sponsors and for everyone who attended. For more scenes, visit the Photo Galleries section at pioga.org.



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Membership directory updates needed by May 1

We are getting ready to publish the 2021-2022 PIOGA Membership Directory & Service Guide, and one of the biggest tasks is to make sure each member company's information is correct—including the mailing address, phone and fax numbers, website, and individual contacts within the company.

The main contact of each member company recently received a letter showing all of the information in our membership database and requesting that the form be returned with any updates **no later than May 1**. If you are the primary contact and haven't already reviewed the information, please do so now. For individual contacts shown, it is particularly important that email addresses be included, as most of our communications with members are done electronically.

If you did not receive the letter or have questions, please contact Deana McMahan at 724-933-7306 ext. 23 or deana@pioga.org.

Help your company stand out with an advertisement

Elsewhere in this issue is information about advertising opportunities in the 2021-2022 hardcopy directory. Three sizes of ads are available in the Preferred Suppliers section of the book, as well as premium cover positions. For questions about advertising, or to reserve your space, contact Debbie Oyler at 724-933-7306 ext. 22 or debbie@pioga.org. ■

Long-time members receive Emeritus membership honor



At the March PIOGA Board of Directors meeting, Bruce Grindle and past board member Cathy Kirsch were approved to become Emeritus members for their long-time commitment to the Pennsylvania oil and gas industry. Over many years, both Cathy and Bruce were very engaged with the state trade associations and always involved legislatively fighting for the conventional industry. They recently sold their company, Oil & Gas Management, Inc., and we wish them all the best in retirement. PIOGA is pleased to offer them this honorary membership so they can remain a part of the association.

PIOGA Diversity Committee's first Lunch & Learn of 2021

On April 6, more than 20 people attended virtually the Diversity Committee's first Lunch & Learn of 2021, which addressed veterans in the workplace. Mark Jeffries of Steptoe & Johnson PLLC took the first half of the webinar. He offered a quick background of his military experience, explaining that actively serving 22 years in the U.S. Air Force, he was taught tactics that he uses every day in his labor and employment practice.

While in the Air Force, Mark flew 85 combat missions in Iraq and Afghanistan, enabling him to effectively develop strategies, operate under pressure, meet vital timelines and never lose sight of the goal. The battles Mark fights for clients aren't in the cockpit of an airplane, he related, but the same tactics still apply. Mark's presentation dis-

cussed veterans in the workforce, the advantages of hiring a veteran and why they make good employees. He then explained some of the issues veterans face in the workforce today in regards to not being used to their full potential. Mark's presentation concluded with information on affinity groups, the purpose they serve and how they are important in businesses today.

Melissa Ernst was the second presenter of the Lunch & Learn. She has worked in the veteran field since 2014 in employment, suicide prevention, advocacy and development. Her presentation enlightened the group about the Veteran Leadership Program's mission statement and the wide variety of ways they are helping veterans. Their programs focus on wellness, career development and housing. They also host several fund-raising events throughout the year including, biking, hiking and running marathons.

PIOGA extends a sincere thank-you to committee chair Deana Stephens of Steptoe & Johnson on her efforts to bring the Diversity Committee's awareness in a new and positive light. Stay tuned for two more committee Lunch & Learn webinars later this year. ■



Mark Jeffries



Melissa Ernst



2021 — 2022

Membership Directory & Service Guide

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1/4 page ads - \$600 each

NEW this year, we are offering a rare opportunity to non-member organizations/ businesses to be included in the advertising directory section of the annual PIOGA Membership Directory & Service Guide, which is distributed directly to multiple key contacts of EVERY MEMBER of the Pennsylvania Independent Oil & Gas Association. Do not miss this opportunity to spotlight your company in front of target decision makers in the oil & gas industry.

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Words have meaning: Unconventional vs. conventional reservoirs

By Dan A. Billman

Since the Marcellus Shale play started 10-plus years ago, we have been using the terms *unconventional* and *conventional* incorrectly. And “we” includes the state, the public, the press and much of our own industry. First, let us notice that the title of this article includes the word “reservoirs,” not “wells,” not “production,” not “gas” and not a lot of other possible, relevant nouns.

Unconventional reservoirs are defined as those reservoirs (rock formations) that have low permeabilities and/or contain product that is very viscous (thick, like molasses) (Cander, 2012). Permeability accounts for the ability for a fluid to move through the rock. In the case of our Marcellus Shale, we are talking about moving natural gas through the rock, or how pore spaces are connected. Natural gas is not a viscous substance, so viscosity must not be the issue. If we were discussing heavy oil deposits or tar sands, those would be unconventional reservoirs based on the viscosity of the fluid in the rock. So, if our Marcellus Shale is an unconventional reservoir (and it is), it must be a low permeability rock formation (and it is). Permeabilities in the Marcellus Shale range from 130 to 2,000 microdarcies (Zagorski, et al., 2012) to nanodarcy permeability. A darcy is a measure of permeability. A microdarcy is 0.000001 of a darcy. It is really small! So, an unconventional well typically needs a permeability enhancement, during completion of the well. We will address completions a bit later.

So, where does horizontal/lateral drilling fit in? It is only a drilling technique. Over the last 15 to 20 years the industry has been perfecting the technique, which allows for much more of a reservoir to be encountered by the borehole. If drilling vertically in Washington County, an operator might encounter +/- 75 feet of Marcellus. But if drilling horizontally, they could encounter 5,000 to 10,000 feet, or longer, by drilling laterally through the Marcellus Shale. Although lateral drilling is an expensive process, it is a process that is incredibly impactful to the economics of a well, as the borehole will encounter thousands of feet of reservoir. Although the perfection of horizontal drilling is only a recent phenomenon, it is not “unconventional” and is not used only for unconventional reservoirs. Already in Pennsylvania, numerous lateral wells have been drilled

through conventional reservoirs.

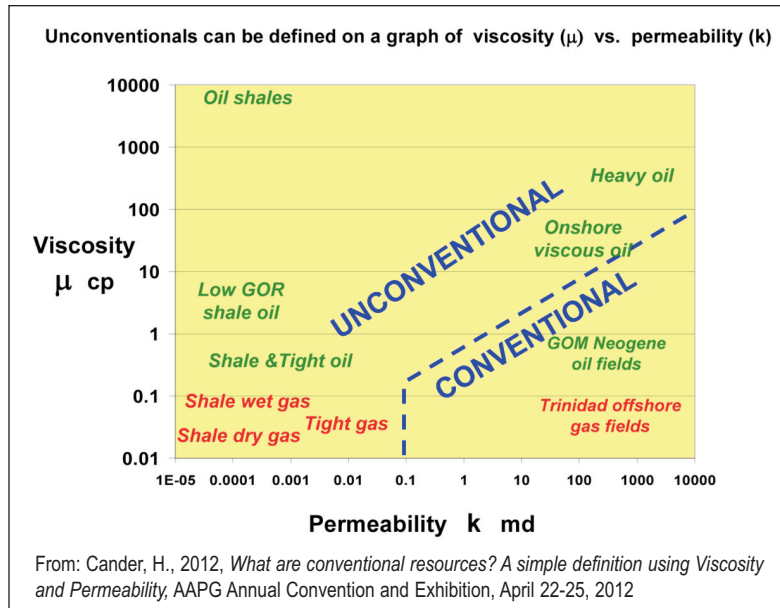
So, what about hydraulic fracturing? Hydraulic fracturing is a completion technique that can be utilized in both vertical and horizontal wells. There are numerous completion techniques, but for the purposes of this discussion, we are going to address hydraulic fracturing. Typically, conventional reservoirs do not need hydraulic fracturing, as the permeability is large enough that gas can flow freely from the reservoir. Numerous wells in Pennsylvania are “free-flowing” wells that did not require hydraulic fracture treatments. However, the vast majority of our legacy, vertical wells were indeed

hydraulically fractured and are producing from unconventional reservoirs. The Medina/Whirlpool Sandstones in northwestern Pennsylvania are tight (low permeability) gas sandstones and require hydraulic fracturing to enhance the permeability, to allow the well to produce natural gas or oil in economic quantities. Pennsylvania’s legacy Upper Devonian wells throughout the southwestern and central parts of the state are

unconventional reservoirs, too. Most Upper Devonian sandstone wells also require a hydraulic fracture treatment for economic production. Certainly, the hydraulic fracturing of a vertical tight gas sandstone (like the Upper Devonian or the Medina Sandstones) require a different fracture treatment than a lateral, thousands of feet long within the Marcellus Shale well. Thousands of feet of Marcellus Shale require significantly more water, sand (proppant to hold created fractures open) and chemicals used in pumping the “frac job.” The scale of the hydraulic fracture treatment has certainly increased from the vertical well to the horizontal well. Both the Marcellus Shale and the Medina Sandstone reservoirs are unconventional, as the permeability needs to be enhanced to obtain economic production.

Both horizontal drilling and hydraulic fracturing have seen incredible technological advances over the last 10 to 20 years. And as incredible as these advances have been, they are not the basis of an “unconventional well.” An “unconventional well” is defined by the rock formation encountered, not the drilling or completion techniques used for that encounter.

In the future, it is assumed we will see many more conventional reservoirs drilled horizontally. Commonly high permeability reservoirs (conventional reservoirs)



are compartmentalized, meaning the natural gas or oil resides in separate compartments within the reservoir. And if one can drill to connect those compartments, a highly economic well may be the result. A conventional reservoir, drilled with horizontal drilling, is a "conventional well." Again, the reservoir (rock formation) dictates that classification.

Ultimately, why does this matter? It matters because words mean things. Words are what the state uses to regulate our oil and natural gas industry. Words are used by the media to inform (or misinform) the popu-

lous. Government and the media, along with a lot of others, typically refer to the processes of horizontal/lateral drilling and high-volume hydraulic fracturing as an "unconventional well"—and this classification is incorrect. It is the rock formation that dictates the "unconventional" or "conventional" classification, and not how the well is drilled and completed. ■

Dan Billman, P.G./C.P.G., is president of Billman Geologic Consultants, Inc. in Houston, Pennsylvania.

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pioga.org/publication_file/2021_PIOGA_Partners_Flyer.pdf

OSHA Consultation Program: 'Pennsylvania's best-kept secret'

Did you know there is a free on-site consultation service for small and medium-size businesses aimed at preventing occupational injuries and illnesses, helping companies comply with OSHA regulations, and avoid penalties and prosecutions, thereby reducing workers compensation costs and minimizing property damage and costs associated with accidents? John Mulroy, PhD, CSP, told PIOGA's Safety Committee that the OSHA Consultation Program is "Pennsylvania's best-kept secret."

Presenting at the most recent PIOGA Safety Committee meeting, Mulroy, Director of the Pennsylvania OSHA Consultation Program, explained that the U.S. Department of Labor created the consultation services program in 1975 following pushback by small businesses in the wake of the adoption of the Occupational Safety and Health Act of 1970. Ninety percent of the funding for the program comes from OSHA, and in Pennsylvania the remaining 10 percent is provided by the state Department of Labor and Industry's Bureau of Workers Compensation. Pennsylvania's program has been based out of Indiana University of Pennsylvania since 1983.

Mulroy said a consultation visit is a voluntary activity conducted at the request of an employer. A telephone call, email message or request via the OSHA Consultation Program website can initiate the visit. The employer's only obligation is to correct, within a reasonable time frame, any "serious," unsafe or unhealthful working conditions discovered by the consultant. The process works like this:

- **Request for services.** The consultant discusses the employer's specific needs and sets a convenient date for a visit.
- **Initial meeting.** The consultant arrives at the worksite for the scheduled visit and conducts an opening conference with the employer and employee representative to explain the consultant's role and the obligations of the employer.
- **Walk-through.** Together, the employer, employee representative and the consultant examine conditions in the workplace and the consultant evaluates potential hazards, physical work practices and the employer's safety and health management program.
- **Closing conference and follow-up.** The consultant reviews detailed findings with the employer and employee representative in a closing conference. The employer will learn not only what improvements are needed but also what is being done right. Following the closing conference, the consultant sends the employer a detailed written report explaining the findings and confirming any abatement schedules.
- **Correcting hazards.** When a situation is determined to be a "serious" hazard, the consultant will assist the employer to develop a specific plan to correct the hazard within a reasonable time frame, typically 60

Safety Committee Corner



days. In rare instances, where the consultant finds an "imminent danger" situation during the walk-through, the employer must take immediate action to protect workers.

It was emphasized during the Safety Committee presentation that consultation is completely separate from OSHA enforcement. There are no citations or penalties, and a worksite is exempt from "programmed" OSHA inspections while in "open consultation." The employer establishes and controls the scope of the visit. If an employer refuses to correct a hazard, however, the consultation program director is obligated to refer it to OSHA enforcement—something Mulroy indicated is very rare. Otherwise, the consultation remains completely confidential and no information is divulged to OSHA enforcement or attorneys pursuing liability cases and written reports are protected from subpoenas.

On average, the consultants identify 12 regulatory violations per visit, saving the employer as much as \$150,000 in OSHA citations.

For more information about the Pennsylvania OSHA Consultation Program, call 800-382-1241 or visit www.iup.edu/pa-oshaconsultation. ■



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PIOGA Centennial commemorative knife closeout sale!

Get yours now for just \$75

As part of PIOGA's 2018 celebration of 100 years of working together as a trade association on behalf of Pennsylvania's crude oil and natural gas industry, we commissioned a commemorative knife from W.R. Case & Sons Cutlery Company.

The collector quality knife and wooden storage box feature PIOGA's 100th Anniversary logo. It's a great collector's piece and also makes a unique gift for coworkers, industry colleagues and petroleum history enthusiasts. Only 100, individually numbered knives were made.

The knives originally sold for \$100. We're making the last few available for just \$75. To get yours before they're all gone, email Deana McMahan at deana@pioga.org today! ■



PIOGA Member Profile



Fisher Associates was founded in 1984 by Claire Fisher, PE, in Rochester, New York, and delivers engineering, environmental and geomatic consulting services to the energy, land development and transportation market sectors. The firm has grown to over 120 employees, with employees and offices across the U.S., including Pennsylvania offices in Canonsburg and Erie.

Services for oil & gas sets us apart

Whether you are drilling in the Marcellus or Utica shale formations, installing transmission, gathering lines or well pads, upgrading power lines, or designing new/updating compressor stations, you need a consultant who understands the pressure of development and how important it is for the process to go smoothly. Less time spent on design and permitting means construction starts quickly. It means your gas or electricity will get to market sooner. It means you may also get a leg up on others who want to build competing projects in the area. With the wide selection of servic-

es that Fisher Associates offers in-house, we are the consultant for you.

Our services include:

- **Site/civil engineering** for midstream gathering lines, transmission lines, well pads, compressor stations, mitigation plans, stormwater ponds, access roads, including erosion/sediment control plans, stormwater management permits, including inspections and more.
- **Environmental services** including routing, wetland and watercourse delineations, federal and state permitting, Sections 7 and 106 agency consultations, initial habitat assessments, environmental monitoring, site restoration plans, and more.
- **Land surveying and GIS services** including topographic surveys, boundary and right-of-way surveys, mapping, GIS, data management, and more.
- **Transportation engineering** including road/rail-road crossing and access permits, roadway and bridge condition assessments, structural engineer, traffic control plans, and more.

Fisher's Clientship™ philosophy is what sets us apart from other consultants. This philosophy is based upon our commitment to serve our clients through accessibility, attention, follow-through, recovery and responsiveness.

Fisher has completed numerous projects for the oil and gas industry in Pennsylvania. With locations in Canonsburg (Southpointe) and Erie, we have grown our employee count in the Commonwealth to better serve our clients in the oil, gas and renewable energy markets.

Visit our website at fisherassoc.com or contact Brook Bertig-Coll in our Canonsburg office at 724-916-4250 ext. 386.

PIOGA board welcomes new Ergon representative

Nick Andreychek serves as the regional manager of crude and condensate supply for Ergon's domestic operations as well as marketing Ergon's NGL production in the region. A graduate of the University of Pittsburgh, Nick has spent 15 years in the energy sector. Beginning his energy career in engineered solutions with SemGroup in 2007, he moved to Westinghouse Electric Company in 2009 as a Senior Marketing Engineer in the Safety Analysis and Licensing division for Nuclear Power Plant Services. Nick joined Ergon in 2011 to work in the Asphalt and Emulsions group and in 2014 moved into his current role.



Ergon has a large foundation in the region's oil and gas industry, operating a specialty refinery in Newell, West Virginia, five crude oil terminals, a fleet of more than 100 crude oil and condensate hauling trucks, and one of the largest inland barging fleets in the U.S. This network of operations within the region demonstrates Ergon's long-term commitment to the industry.

Ergon is the largest distributor of paving asphalt and asphalt emulsions in the country, operates the largest

inland barging fleet in the U.S., and is a major supplier of Group II and Group III Base Oils internationally. In support of the oil and gas industry in Pennsylvania, Nick and Ergon continue to be active members and a key sponsor of PIOGA and look forward to providing leadership to the industry in the coming years.

"Nick's knowledge of the energy sector and crude oil market will be a real asset to PIOGA and its members. Ergon has been a long-time supporter of PIOGA and we look forward to Nick's contributions on the board," said Dan Weaver, President & Executive Director. ■

Members talk about the value of PIOGA

I joined PIOGA because NG Advantage was new to Pennsylvania and thought it was an opportunity to meet local contractors. I was right in my decision. NG Advantage finished Phase One of our construction project in Springville, PA, a 30,000 Dth/day CNG facility. We compress natural gas into high-tech, carbon fiber trailers supplying CNG to large industrial users and institutions without access to natural gas, and LDCs, gas marketers, and power plants negatively affected by pipeline bottlenecks.

The best part of building the facility was that PIOGA members built a significant portion of the site. PIOGA members completed mechanical, electrical, civil, fabrication, equipment supply, construction services, and more. In total, NG Advantage awarded PIOGA members nearly \$10 MM in contracts in the last 24 months. As NG Advantage prepares for expansion, I plan to continue working with various PIOGA members.

**Enrico Biasetti, CEO
NG Advantage**

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PIOGATech report:

'Reasonable Suspicion Training and Addressing Substance Use and Mental Illness in a Virtual World'

On March 25, a group of more than 20 participated in our virtual PIOGATech, "Reasonable Suspicion Training and Addressing Substance Use and Mental Illness in a Virtual World," hosted by PIOGA's Safety Committee. The three-hour training was led by Ryan West, MS, CFI Manager, Corporate Trainings & Business Development, Chemical Addiction Specialist at the Greenbriar Treatment Center in Wexford.

Not only did the class learn about identifying and responding to employee impairment while working remotely, but they also became acquainted with the "four rules" for responding to suspected employee impairment, what "reasonable suspicion" really means, the most commonly used drugs of abuse and their signs of impairment, adulteration of urine specimens, and common barriers that prevent supervisors and managers from reporting suspected impairment, even when they know that they should. The final portion of this seminar focused on the employee confrontation, offering proven tips and techniques that boost supervisor effectiveness when informing employees they will be drug tested. Ryan kept the group engaged by asking true-or-false questions throughout the course.

Participants received a certification of completion from Ryan and CEUs from Wilkes University.

PIOGA extends a sincere thank-you to Safety Committee Co-Chairs Wayne Vanderhoof of RJR Safety, Inc. and Eric Staul with Diversified Gas & Oil for all their efforts to organize this virtual seminar and provide this valuable educational event to PIOGA members and guests. A special thanks goes to Ryan West of Greenbriar Treatment Center. ■

Items from DEP's Oil and Gas News Line

The Pennsylvania Department of Environment Resources issues a periodic electronic newsletter called Oil and Gas News Line (sign up at signup.e2ma.net/signup/1892226/1790186). Here are two items from the edition sent last month:

Operator well inventory requirements

Oil and gas operators are encouraged to routinely compare their well inventory to the DEP Oil and Gas Well Inventory Report on the DEP Oil and Gas Reports webpage. This is strongly recommended before submitting required electronic reports such as production, waste and mechanical integrity assessment.

If you sold a well, purchased a well or if the status of a well has changed (example: the well has been



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plugged), and this information does not display as you think it should in DEP's oil and gas well inventory report, contact the DEP oil and gas district office where the well is located and request the proper forms to update your information to resolve these issues. DEP must receive proper documentation to update records, ownership or well status.

Order of the Commonwealth Court of Pennsylvania dated January 6 in *Marcellus Shale Coalition v. Department of Environmental Protection of the Commonwealth of Pennsylvania and Environmental Quality Board of the Commonwealth of Pennsylvania*, Docket No. 573 MD 2016

The department is providing notice of the January 6 order of the Commonwealth Court of Pennsylvania which clarifies the compliance deadlines in 25 Pa. Code § 78a.59c(a) (relating to centralized impoundments). The Commonwealth Court issued its order in response to a joint application for relief requesting clarification of the compliance deadlines in 25 Pa. Code § 78a.59c(a) filed by the department, the EQB and the MSC in the case cited above. The court's order directed the department to publicize the order in the *Pennsylvania Bulletin*, notifying the regulated community and public of the correct compliance dates. The Commonwealth Court's order extends the April 8, 2017, deadline from 25 Pa. Code § 78a.59c(a) to June 7, 2021, and extends the October 8, 2019, deadline to January 8, 2024. The notice appeared in the January 30 issue of the *Pennsylvania Bulletin*. ■

**New/returning PIOGA members
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Water law update *Continued from page 1*

undoubtedly be more expansive than the current definition and require more projects to obtain federal CWA permitting. Among other things, the Biden administration's definition of WOTUS is likely to regulate waters (including ephemeral streams) that are considered to have a "significant nexus" with traditionally navigable waters. This definitional change is expected to extend the time and increase cost of permitting for many natural gas projects.

2. Nationwide Permits (NWP)

In Pennsylvania, qualifying projects impacting federally regulated waters may be eligible for one of two types of Section 404 general permits (i.e., NWPs or the Pennsylvania State Programmatic General Permit (PASPGP)), in lieu of the more costly and complicated process of obtaining an individual Section 404 permit.

In January, the Corps and EPA revised and reissued 12 existing NWPs and created four new NWPs, all of which were effective on March 15. The revised NWPs largely relate to energy industry activities, including the revision of NWP12 relating to oil and gas pipeline activities.

Pennsylvania subsequently finalized new/revised regional conditions to the NWPs. Many of these regional conditions apply to all NWPs (i.e., regional general conditions); however, other regional conditions apply to a specific NWP or Corps District. For example, the regional conditions for NWP12 include requiring a pre-construction notification (PCN) for activities under NWP12 (consistent with the 2017 NWP12).

When planning a project, it is crucial to identify and comply with the new regional general conditions, as well as conditions applicable to the specific NWP and/or Corps District to avoid project revisions and/or the need to switch from an NWP to a generally more costly and more complicated individual permit. For example, the regional conditions for the reissued NWP12 differ from the regional conditions for the 2017 NWP12. The 2021 regional conditions eliminate the prohibition from using NWP12 for projects involving the permanent loss of more than 300 linear feet of stream bed for a single and complete project. In addition, the 2021 regional conditions require a remediation plan, with the PCN, for pipeline projects completed by horizontal directional drilling or other boring methods to address "any anticipated temporary structures, fills or work within waters of the U.S. necessary for the remediation of inadvertent returns of drilling fluids."

As a further consideration, projects intending to use an NWP should evaluate whether the NWP's applicability criteria have changed recently and whether the proposed project still is eligible for coverage, either through grandfathering of the prior NWP or coverage under the revised/new NWP. In some instances, a project may no longer be eligible for a NWP, and the project may need to be redesigned or permitted under the lengthier individual permitting process. This is especially true if the prospective permittee does not have a written verifica-

tion letter, or the permitted activity was not commenced, or under contract to commence, by March 14, 2021.

Lastly, while use of many NWP, including NWP12, historically have been suspended in Pennsylvania, the most recent NWP final regional conditions allow use of nine of the new/reissued NWPs in “areas within Pittsburgh District’s area of responsibility in the Commonwealth of Pennsylvania.” Previously, the PASPGP (discussed below) was the only general permit available for many activities. This exception to the NWP suspensions offers increased flexibility to use NWPs rather than a PASPGP in the western part of Pennsylvania. However, reliance on the NWPs is not guaranteed because the Pittsburgh District still has discretion to select the permitting tool it considers to be the most effective when evaluating a specific action.

3. PASPGP-6

PASPGP-5 expires on June 30, 2021. The Corps has not yet finalized PASPGP-6, which was proposed in September 2020. PASPGP-6, as proposed, would reduce its eligibility threshold from one acre of temporary and/or permanent impact to 0.5 acre of permanent impact and unlimited acreage of temporary impact. In addition, the reporting threshold, triggering the need for Corps review, would be based on impacts from the overall project (i.e., all regulated activities), rather than from each crossing single and complete project (i.e., crossing of a single water). Future projects that are anticipating PASPGP-6 authorization should evaluate applicability with these proposed thresholds (if finalized as proposed).

4. Section 401 Conditional State Water Quality Certification for NWPs

On December 15, 2020, PADEP conditionally granted 401 Water Quality Certification (WQC) for the new/revised NWPs. The conditions of the 401 WQC are incorporated into the NWP regional conditions at Regional General Condition II.H, as summarized below:

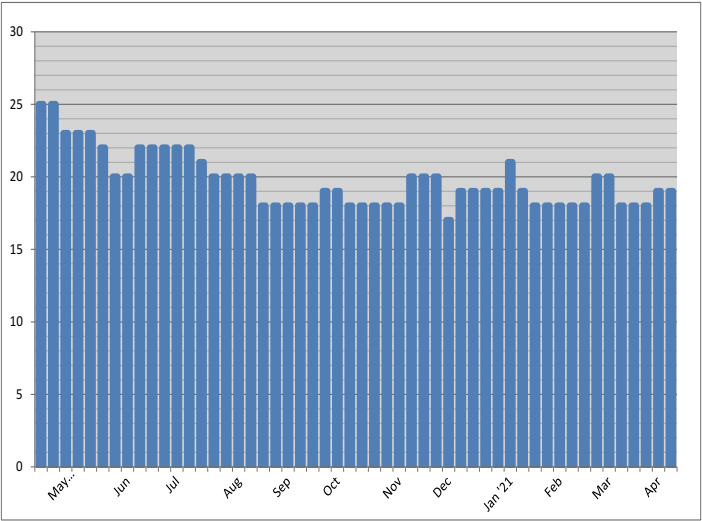
- All necessary environmental permits or approvals must be obtained from the Pennsylvania Department of Environmental Protection and all necessary environmental assessments must be submitted to DEP before beginning any activity authorized by the Corps under an NWP.
- Fill material may not contain any waste as defined in the Solid Waste Management Act.
- Applicants and projects eligible for these NWPs must obtain all necessary state permits and/ or approvals to ensure that the project meets Pennsylvania’s applicable water quality standards, including any project-specific WQC.

Project conditions should be reviewed to determine whether they conform with the 401 WQC. If not, the project could require an individual 401 WQC or waiver.

Continues on page 22

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
May	\$2.552
June	2.630
July	2.709
August	2.740
September	2.731
October	2.752
November	2.835
December	2.989
January 2022	3.081
February	3.022
March	2.844
April	2.514

Prices as of April 9

Sources

American Refining Group: www.amref.com/Crude-Prices-New.aspx
Ergon Oil Purchasing: www.ergon.com/crudeoil
Gas futures: quotes.imo.com/exchanges/?r=NYMEX_NG
Baker Hughes rig count: bakerhughesrigcount.gcs-web.com/na-rig-count
Appalachian fixed price moving averages: David Marks, BHE Eastern Energy Field Services

Northeast Pricing Report – April 2021

Front-month trading for Algonquin and Transco Z6 continued their free fall in April. Algonquin and Transco Z6 fell \$1.22 and \$0.34 per MMBtu respectively, representing a 137% and 131% drop in value. Every other pricing point decreased between \$0.10 and \$0.25 per MMBtu. The one-year rolling term was relatively quiet. Algonquin increased \$0.09 while Dominion South and Transco Leidy both dropped \$0.02 per MMBtu. The long-term trading period had minor changes since March. Transco Leidy decreased \$0.03 per MMBtu while Transco Z6 increased \$0.02 per MMBtu. There's little indication of fundamentals greatly impacting pricing for the rest of the month.

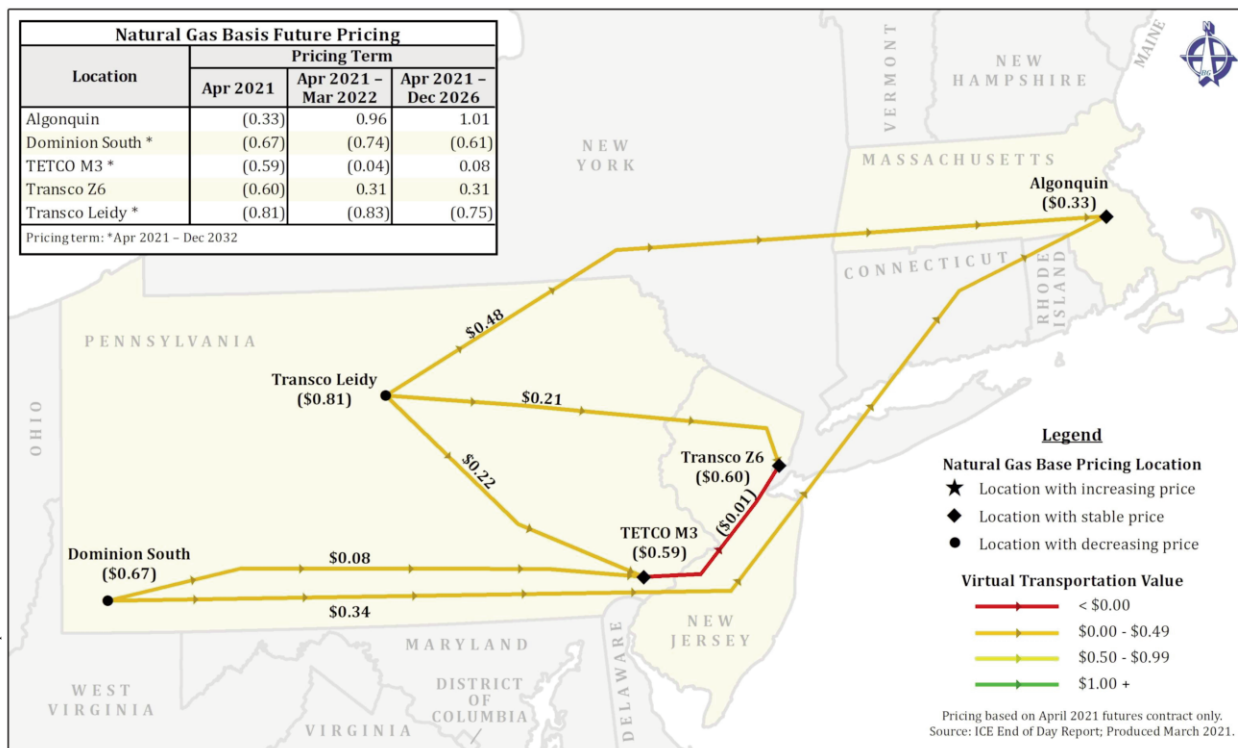
All transportation routes dropped for another month. Dominion South and Transco Leidy to Algonquin had the largest decreases of \$1.12 and \$1.08 per MMBtu, respectively. The decrease in value represents 77% and 69%, respectively. TETCO M3 to Transco Z6 had the lowest decrease of \$0.09 per MMBtu. This change represents the first time in a while where that transportation route resulted in a negative value.

Transportation Value Market Indicator

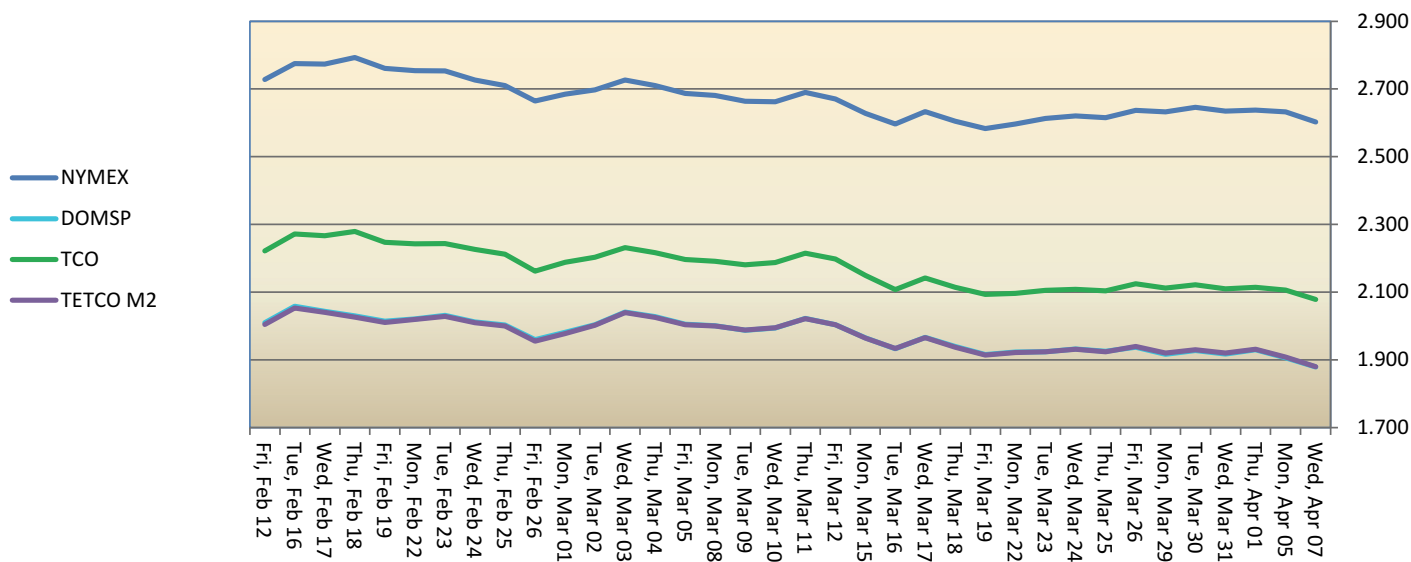


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36 - Month Appalachian Fixed Price Moving Averages



Spud Report: March 2021



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

available by going to the Office of Oil and Gas Management page at www.dep.pa.gov and choosing Report from the menu. 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.

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Blackhawk Energy LLC	1	3/1/21	083-57231*	McKean	Wetmore Twp
Cabot Oil & Gas Corp	7	3/1/21	115-22765	Susquehanna	Dimock Twp
		3/1/21	115-22767	Susquehanna	Dimock Twp
		3/1/21	115-22768	Susquehanna	Dimock Twp
		3/1/21	115-22766	Susquehanna	Dimock Twp
		3/1/21	115-22769	Susquehanna	Dimock Twp
		3/1/21	115-22770	Susquehanna	Dimock Twp
		3/1/21	115-22771	Susquehanna	Dimock Twp
Chesapeake Appalachia LLC	7	3/16/21	015-23662	Bradford	Monroe Twp
		3/16/21	015-23660	Bradford	Monroe Twp
		3/16/21	015-23586	Bradford	Monroe Twp
		3/17/21	015-23661	Bradford	Monroe Twp
		3/10/21	015-23685	Bradford	Overton Twp
		3/10/21	015-23684	Bradford	Overton Twp
		3/11/21	015-23683	Bradford	Overton Twp
CNX Gas Co LLC	8	3/27/21	059-28081	Greene	Richhill Twp
		3/27/21	059-28022	Greene	Richhill Twp
		3/27/21	059-28080	Greene	Richhill Twp
		3/27/21	059-28079	Greene	Richhill Twp
		3/27/21	059-28082	Greene	Richhill Twp
		3/27/21	059-28078	Greene	Richhill Twp
		3/27/21	059-28077	Greene	Richhill Twp
		3/27/21	059-28076	Greene	Richhill Twp
EQT Prod Co	7	3/31/21	059-28094	Greene	Springhill Twp
		3/31/21	059-28097	Greene	Springhill Twp
		3/31/21	059-28026	Greene	Springhill Twp
		3/31/21	059-28092	Greene	Springhill Twp
		3/31/21	059-28095	Greene	Springhill Twp
		3/31/21	059-28096	Greene	Springhill Twp
		3/31/21	059-28093	Greene	Springhill Twp
Kylander Oil Inc	3	3/1/21	123-48489*	Warren	Glade Twp
		3/8/21	*	Warren	Glade Twp
		3/31/21	123-48491*	Warren	Glade Twp
Lindell & Maney LLC	5	3/3/21	123-48435*	Warren	Brokenstraw Twp
		3/9/21	123-48436*	Warren	Brokenstraw Twp
		3/18/21	123-48437*	Warren	Brokenstraw Twp
		3/24/21	123-48439*	Warren	Brokenstraw Twp

<u>OPERATOR</u>	<u>WELLS</u>	<u>SPUD</u>	<u>API #</u>	<u>COUNTY</u>	<u>MUNICIPALITY</u>	
		3/30/21	123-48440*	Warren	Brokenstraw Twp	
Rice Drilling B LLC	4	3/12/21	125-28929	Washington	N Bethlehem Twp	
		3/12/21	125-28928	Washington	N Bethlehem Twp	
		3/12/21	125-28930	Washington	N Bethlehem Twp	
		3/12/21	125-28931	Washington	N Bethlehem Twp	
Seneca Resources Co LLC	5	3/26/21	117-22093	Tioga	Chatham Twp	
		3/26/21	117-22094	Tioga	Chatham Twp	
		3/26/21	117-22095	Tioga	Chatham Twp	
		3/26/21	117-22096	Tioga	Chatham Twp	
		3/26/21	117-22097	Tioga	Chatham Twp	
Snyder Bros Inc	8	3/2/21	005-31371	Armstrong	East Franklin Twp	
		3/2/21	005-31372	Armstrong	East Franklin Twp	
		3/2/21	005-31373	Armstrong	East Franklin Twp	
		3/2/21	005-31374	Armstrong	East Franklin Twp	
		3/4/21	005-31375	Armstrong	East Franklin Twp	
		3/4/21	005-31376	Armstrong	East Franklin Twp	
		3/4/21	005-31377	Armstrong	East Franklin Twp	
		3/4/21	005-31378	Armstrong	East Franklin Twp	
STL Resources LLC	2	3/27/21	035-21324	Clinton	Grugan Twp	
		3/28/21	035-21325	Clinton	Grugan Twp	
SWN Prod Co LLC	3	3/25/21	115-22754	Susquehanna	Great Bend Twp	
		3/26/21	115-22756	Susquehanna	Great Bend Twp	
		3/27/21	115-22755	Susquehanna	Great Bend Twp	
Tilden Bradford LLC	4	3/16/21	015-23675	Bradford	Springfield Twp	
		3/16/21	015-23678	Bradford	Springfield Twp	
		3/16/21	015-23676	Bradford	Springfield Twp	
		3/16/21	015-23677	Bradford	Springfield Twp	
Wilmoth Interests Inc	3	3/2/21	123-48482*	Warren	Mead Twp	
		3/15/21	123-48481*	Warren	Mead Twp	
		3/22/21	123-48483*	Warren	Mead Twp	
	March	February	January	December	November	October
Total wells	67	44	49	24	50	45
Unconventional Gas	55	41	47	20	45	34
Conventional Gas	0	0	0	0	0	0
Oil	12	3	1	3	5	11
Combination Oil/Gas	0	0	1	1	0	0

Water law update *Continued from page 20*

5. Chapter 105

On December 5, 2020, DEP proposed its first substantive revisions to its stream and wetland regulations (i.e., 25 Pa. Code Chapter 105) since 1991. Chapter 105 regulates obstructions and encroachments of waters of the Commonwealth, similar to the Corps' Section 404 permitting program under the CWA.

Approximately 20 definitions would be added or amended by the proposed rulemaking. Many of the proposed amendments would codify existing application requirements. However, other amendments introduce new or expanded requirements, which could introduce new hurdles for applicants. Many of these revisions relate to performing an alternatives analysis to demonstrate that the project's impacts to regulated waters have been minimized or avoided. For example, the alternatives analysis must consider "reasonably foreseeable future development" within the watershed. DEP intends to issue a technical guidance document regarding the Chapter 105 alternatives analysis by July 2021 to enhance the existing alternatives analysis in the Chapter 105 Environmental Assessment form.

The proposed revisions would also provide specificity regarding the application requirements for cumulative impact analyses and water dependency and stormwater management demonstrations. In addition, applicants would be required to develop a compensatory mitigation plan for unavoidable impacts to ensure "no net loss" of wetland resources. If finalized as proposed, the rulemaking will likely increase cost and effort required to obtain a Chapter 105 permit.

Conclusion

As discussed above, 2021 already has, and will continue to, present challenges regarding the permitting of projects that disturb regulated waters, including wetlands, in Pennsylvania. Natural gas project designers and developers should stay abreast of these regulatory changes to anticipate and prepare for new requirements and avoid unnecessary delays. ■

Lisa M. Bruderly is chair of Babst Calland's Environmental Group and primarily focuses her practice on water law issues. She can be reached at lbruderly@babstcalland.com.

Calendar of Events

PIOGA events

PIOGATech: Spill Discovery

April 27, virtual event

Clay Shoot Networking Event

May 6, Promise Land Sporting Clays, Freeport

Spring Meeting & Exhibition

May 19, Rivers Casino, Pittsburgh

Ted Cranmer Memorial Golf Outing and Steak Fry

June 7, Wanango Country Club, Reno

The Great Gathering (GGVII)

July 14, Washington Wild Things Park, Washington

Info: www.greatgathering2021.com; PIOGA member discount

Cigar Dinner Networking Event

July 15, BURN by Rocky Patel, Pittsburgh

LDC Gas Forum Northeast

July 19-21, Boston. Register at www.ldcgasforums.com/ne using discount code NEPIOGA125 for \$125 off

PIOGATech: Safety Topic TBA

July 22, venue TBA

PIOGATech: Water & Waste Management

August 18, venue TBA

24th Annual Divot Diggers Golf Outing

August 19, Tam O'Shanter of Pennsylvania, Hermitage

Annual Membership Meeting and Fall Sports Outing

September 15-16, venue TBA

Pins & Pints Networking Event

October 21, venue TBA

PIOGATech: Safety Topic TBA

October 26, venue TBA

Annual Oil & Gas Tax and Accounting Seminar

November 17, venue TBA

Wine Tasting Networking Event

November 18, venue TBA

PIOGATech: Air Quality Compliance

December 16, The Chadwick, Wexford

Mix, Mingle & Jingle Holiday Party

December 16, The Chadwick, Wexford

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