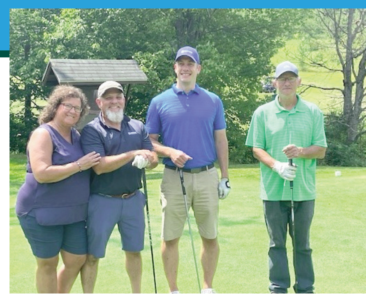
The PIOGA Press

The monthly newsletter of the
Pennsylvania Independent Oil & Gas Association
August 2024 • Issue 172

2024 Producers Golf Outing

Pennhills Club - Bradford, Pa.



On July 24, PIOGA welcomed producers from Northwest Pa. to join in on a round of golf and learn more about our state industry associations. The PIOGA membership committee, along with sponsors, Ergon Oil Purchasing, Inc. and American Refining Group, Inc. joined forces to help promote PIOGA, bolster membership and engage with producers in the industry.. .

Below is an article with updates and more information on PIOGA's Membership Committee.

PIOGA's Membership Committee

Greetings PIOGA members! We hope that your summer has been safe and productive. The Membership Committee wanted to provide you with this mid-year update to let you know what we have been working on so far this year and alert you to several committee initiatives that are underway. As always, PIOGA appreciates and thanks the membership, committee chairs, and the Board of Directors for their hard work and support.

CHECKING IN….As you know, PIOGA is always working to assist and guide its membership as our industry endeavors to provide Pennsylvanians with oil and natural gas and bring jobs in the midst of stiff headwinds to say the least. PIOGA has a long history of working in Harrisburg and locally to remain steadfast industry advocates, helping our members navigate uncertainty, meet market demands, community expectations, and compliance within an ever-changing business landscape. As usual, change is one of our constant themes! As our industry faces new challenges, PIOGA continues to change to meet the needs of our members.

CHANGES….In case you missed it, PIOGA has made changes at the top, announcing at the PIOGA annual meeting that Mr. Mike Hillebrand (Huntley & Huntley) as Board Chairman and Mr. Ben Wallace (Penneco Oil Company) as Vice Chairman. Most recently, PIOGA has welcomed Mr. Todd Pappasergi, Esq. as our new General Counsel and VP of Government Affairs, following the retirement of Mr. Kevin Moody, Esq. As PIOGA changes, the Membership Committee too has been changing over the past year. Last year at this time, Mr. Don Zuch (Fusilier Resources, LLC) became co-chair of the Membership Committee and was joined in 2024 by Mr. Jeff Walentosky (Moody and Associates, Inc.).

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PIOGA HAPPENINGS

AUGUST

22nd

PIOGA's Annual Divot Diggers Golf Outing

SEPTEMBER

12th

PIOGATech: Water & Waste Management

18th

PIOGA's Birds&BBQ Clay Shoot

PIOGA.ORG > EVENTS

2024 PIOGA Committee Schedule

Market Development and Environmental Committee (Market Development 9-10:30 am. Environmental 10:45 am - 12:30 pm.)

August 14; September 11; October 9; November 13 ; December 11

Membership Committee (Meetings will be held from 2-3 pm the second Thursday of each month) ***August 13; September 10; October 8; November 12; December 10***

Legislative Committee (1:30 - 3 pm. All Legislative Committee Meetings are virtual/call-in only.) ***Sept. 5; Oct. 3; Nov. 7; and Dec. 5.***

Diversity Committee (9-10 am. All Diversity Committee Meetings are virtual/call-in only.) ***Sept. 3; and Dec. 3.***

PIOGA committee chairs and staff are hoping to see more people in-person in 2024! The committee meetings are more collaborative and valuable when our members are in the same room.

Please contact Deana McMahan at deana@pioga.org or 724-933-7306 ext. 23 if you are interested in joining a committee or have any questions about the schedule.

Committee meetings are for PIOGA members only and dates are subject to change. Go to www.pioga.org for up*dates.*

Membership *Continued from page 1*

MEMBERSHIP COMMITTEE….The Membership Committee stays busy working on topics that support PIOGA through a focus on membership engagement and membership recruitment. The committee has worked and continues to work closely with Dan Weaver (PIOGA) and Debbie Oyler (PIOGA) to develop systems and regular activity to foster direct communication with our members and generate recruitment opportunities through direct contact and customized events – this is in addition to the full roster of golf, clay shoots, and other events that have become a popular staple within our industry!

WHAT WE'VE BEEN UP TO….These days, the Membership Committee meets on the second Tuesday of each month for 60-minutes and follows a streamlined agenda to focus on getting to what works for our PIOGA members. To accomplish our goals, the committee has formed a four work-group format:

- **Recruitment** - this work group develops and maintains a list of possible member companies and assigns champions to personally reach out to these companies. This approach supports our continued goal of growing our membership!
- **Engagement** - this work group focuses on member satisfaction and engagement by directly contacting existing PIOGA members to chat about their member experience. The membership engagement feedback we are getting is that our members really appreciate this effort and often provide constructive ideas to support PIOGA. However, we want to continue to hear from our members, as the Membership Committee outreach efforts will not stop in 2024 and beyond.
- **Event/Meeting Planning** - this work group, along with Dan Weaver, strives to create 3-4 annual customized membership events that are designed to be located in different areas of the PIOGA member footprint. These events will be developed to serve both as member recruitment and engagement events. We are working to bring a PIOGA event to a location near you!
- **Partnership** - PIOGA recognizes that many professional and social groups exist within the oil and gas industry. Where there is alignment with PIOGA goals and outside entities, PIOGA will seek opportunities to partner on special events and training. If you have ideas for partnership opportunities, please reach out to us.

WHAT YOU NEED TO KNOW….PIOGA customized membership-focused events have taken place and are planned for 2024:

- *Exclusive Invitation Only Producer Golf Event* – this event, announced in June was held on July 24th at the Pennhills Club near Bradford. This successful event was focused on producer recruitment and engagement. Thank you to our producers for their participation!
- *Member Engagement/Recruitment Event* – this event will be the last Membership Committee sponsored event of the year and will be held in October date TBD in the Clarion Area with a special focus on local member engagement and recruitment.

WHAT TO EXPECT….PIOGA leadership and the Membership Committee will continue to work to gain and retain membership in the association through direct member engagement, while providing the highest priority on the needs of the members by advocating daily for our members and responding to their needs.

The Membership Committee will plan an additional 3-4 customized membership engagement and recruitment events in 2025. These events will be planned at various locations throughout the PIOGA membership footprint. So, keep an eye out for more information to be announced in the first half of 2025 You will actually start to see these events start during the fall of 2024!

OF COURSE YOU MAY HELP….If you've seen anything in this update that was interesting to you and you're wondering whether or not there is an opportunity to help on a work group – or share an idea – the answer is…. Yes, of course you can help! Much like our other committees, the Membership Committee has room for volunteers to help with our current work groups!

Your company can sponsor a wide variety of events – including membership engagement and recruiting events! For more information feel free to contact: Debbie Oyler, Don Zuch, Jeff Walentosky.

In the meantime, if you want to share information with a prospective member you can easily provide them with the value proposition contained within the Top Seven Reasons To Join PIOGA. Please follow this link and you can share benefits of the most active and affordable professional association around: PIOGA-7-Reasons.pdf

AS ALWAYS….Reach out to Debbie Oyler at *Debbie@pioga.org* or 724-933-7306 Ext. 22 for more information about **PIOGA membership**. *Carry on!* ■

Interview with PIOGA's New General Counsel & Vice President of Governmental Affairs - Todd M. Pappasergi, Esq.

Written by Meghan Keely - PIOGA

Recently, I had the opportunity to sit down (virtually) with PIOGA's new General Counsel and Vice President of Governmental Affairs, Todd Pappasergi, Esq. As he sat, in the oh-so-dreaded waiting room of an auto repair shop, Pappasergi, via a video call, gave insight into his legal career and his new position with PIOGA.

His van, now known by the PIGOA Staff as Sonic (the hedgehog) for its metallic bright blue color (a nickname created by Pappasergi's son) was not repaired at sonic-speed – giving the new legal eagle and I time to chat about work, life, family and …. to laugh some.

"Twenty-eight days in and I don't think I have laughed as much at a job as I have this one," Pappasergi joked. "The staff and members are just fantastic to work with. Everyone has been very welcoming and super knowledgeable. I have been a sponge the first month learning from everyone – especially Kevin" (Kevin Moody, Esq. – soon to be retired PIOGA General Counsel and VP of Governmental Affairs).

Pappasergi spent his time waiting for 'Sonic' (the van) to be repaired, answering questions and talking shop (i.e. legal stuff).

Brief Bio – Todd M. Pappasergi, Esq.

Pappasergi has lived in Southwestern, Pa. his entire life. He obtained both his undergraduate and law degrees from the University of Pittsburgh. After graduating law school in 2008, Todd clerked for Justice Max Baer of the Pennsylvania Supreme Court for six years. He then transitioned into private practice, working for two different Washington County law firms from 2014-2021, concentrating in commercial litigation (including an active oil and gas practice) while also serving as the appointed solicitor or outside general counsel for several municipal governments and non-profit organizations. Most recently, Todd was the Legal Director of Global Contract Management for Coupa Software, Inc.

The Interview

Q: Why did you decide to apply for the position at PIOGA?

A: I was ready for a change, and I missed being involved in legal and political issues that impacted Pennsylvania citizens and businesses. I am excited to make a positive difference for PIOGA, our members and all Pennsylvanians.

Q: What career experiences will help you as the new General Counsel & VP of Governmental Affairs?

A: Each previous job that I had (in brief bio) will lend a different hand/experience to help with my work at PIOGA. My work with the Pennsylvania Supreme Court, my private practice experience and background as an in-house general counsel allowed me to deal/be involved in local, county, state, political and government matters on a daily basis. I have dealt with oil and gas issues – those issues that our membership faces often.

Q: What are your goals as the General Counsel for PIOGA?

A: The remainder of 2024, I want to get to know the membership and be active in our members communities. I invite any member to email/call me to introduce themselves, ask questions or discuss industry matters. I want to know from a legal and regulatory perspective what is at the top of mind for our members.

Pennsylvania is continuing to be a leader in the industry, my main goal is to stay at the forefront of that. Continuing to advocate for our membership; ensure that our members are appropriately represented; and guide our membership into the future of the industry.

Q: How has the transition and training for your new position been going?

A: I have really big shoes to fill – Kevin is a wealth of knowledge and has been awesome during this training/transition. He (Kevin) has been teaching me and introducing me to the right people. Kevin and I have very similar priorities for PIOGA, while at the same time he is letting me take the organization forward and I couldn't have asked for a better predecessor.

Q: Most memorable law/legal case? (Any specific to the industry)

A: Act 13. Robinson Township vs. Commonwealth of Pennsylvania. (2013). In this case, the Pa Supreme Court found that several provisions of Act 13 were unconstitutional, but no clear majority could agree on the reasoning why. I was clerking for Justice Baer at the time, and I was fortunate enough to be the judicial clerk assigned to work with him on the case. Before the court even decided the case, you could feel the importance of this case and realize how earth-shattering the case was going to be from the moment it came into the court dockets. Being able to be involved with this case in a direct manner has certainly been a highlight of my career and has also been a springboard into my other experiences in oil and gas law.

Fun Facts

Q: What do you like to do for fun?

A: I like to golf as much as I can, but nowhere near as much as I want to.

My wife, kids and I are Disney people, we try to go to Disney at least once a year. My wife and I have been going every year since 2006. So, I am always looking forward to the next Disney trip.

My kids play six (6) sports combined – so I am very active with them.

I am an avid reader of Historical Fiction novels – especially the novels focused on early to mid-20th century – WWI, WWII and the Cold War.

Q: Favorite place you have ever traveled to?

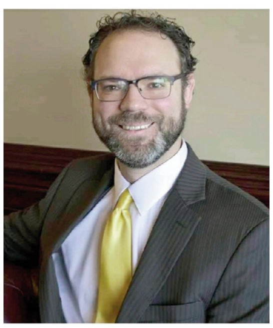
A: (Surprisingly not Disney). My wife and I, before kids, went to Ireland. We rented a car and drove around the country; we then jumped on a plane and went to Rome. Two really different vacations all in one period. I love Ireland and Rome equally for many reasons and I could live in both places.

Q: Favorite Food?

A: I like a lot of food … but I will go with pasta with a really good meat sauce.

Q: Favorite drink (adult)?

A: Scotch



Todd Pappasergi, Esq.

PIOGA's General Counsel and Vice President of Governmental Affairs.

Email: todd@pioga.org

Phone: (724) 933-7306 ext. 28

Pennsylvania Independent Oil & Gas Association

Diversity, Equity, and Inclusion (DEI) + Accessibility

Making the Oil and Gas Sector more accessible to ensure a sustainable future

Diversity Committee Article - Don Racey, Founder & CEO - Engage Energy & Industrial Consulting

For those of us who work in and support the oil and gas industry, we understand the importance of attracting top talent to keep our industry humming and meet the growing demands of the marketplace. A skilled and diverse workforce is crucial for our industry. To support this, Accessibility should be part of the discussion, as it empowers our workforce and ensures that everyone, regardless of their abilities, can contribute to our industry's success.

Accessibility is a critical aspect of Diversity, Equity, and Inclusion (DEI) because it guarantees that all individuals have equal access to resources, opportunities, and experiences. Accessibility involves designing and implementing policies, products, services, and environments to ensure access for as many people as possible. It ensures that people with disabilities are included in all aspects of life. Without accessible environments, a significant portion of the population is excluded, which goes against the principles of DEI.

"Accessibility is important in many areas, such as physical spaces, digital content, technology, and communication. It helps make the world more usable for everyone. By addressing physical, technological, and attitudinal barriers, organizations can ensure that everyone has an equal chance to fully participate. Examples include:

Physical Accessibility

- Ramps and Elevators: Providing ramps and elevators in buildings to accommodate individuals who use wheelchairs or have mobility impairments.
- Accessible Parking Spaces: Designating parking spaces near building entrances for people with disabilities.
- Automatic Doors: Installing automatic doors to ease entry for individuals with mobility issues.
- Handrails and Grab Bars: Handrails should be placed along stairs, and grab bars should be placed in restrooms for additional support.
- Wide Doorways and Hallways: Ensuring doorways and hallways are wide enough to accommodate wheelchairs and other mobility devices.

Digital Accessibility

- Alt Text for Images: Providing descriptive text for images to ensure screen readers can convey the content to visually impaired users.
- Keyboard Navigation: Designing websites and applications that can be navigated using a keyboard for users who cannot use a mouse.
- Text-to-Speech Options: Offering text-to-speech functionality to help users with reading difficulties.
- Accessible PDFs: Creating PDFs that are readable by screen readers, including proper tagging and structure.
- High Contrast Modes: Providing high contrast themes or modes for users with visual impairments.

Communication Accessibility

- Closed Captioning: Offering closed captioning for videos, live events, and broadcasts to assist those with hearing impairments.
- Real-Time Text (RTT): Implementing real-time text communication for phone calls to aid individuals with hearing or speech impairments.
- Braille and Large Print Materials: Producing materials in Braille and large print for individuals with visual impairments.

Workplace Accessibility

- Adjustable Workstations: Providing adjustable desks and chairs to accommodate employees with different physical needs.
- Assistive Technology: Offering assistive devices such as screen readers, speech recognition software, and ergonomic keyboards.
- Flexible Work Arrangements: Allowing flexible work hours and remote work options for employees with disabilities.
- Sensory-Friendly Spaces: Creating quiet or sensory-friendly areas to accommodate employees with sensory processing disorders.

Obviously given the strenuous physical demands of oil and gas field work, accessibility can be limited. But for other roles like engineering, technology, and administration we can open ourselves to a wider talent pool.

A career in the Oil and Gas sector may not even be a consideration for many due to issues regarding accessibility. Integrating accessibility into DEI policies is essential for creating truly inclusive, equitable, high-performing organizations. It goes beyond compliance, reflecting a genuine commitment to valuing and supporting all individuals, regardless of their physical abilities. ■

Donald Racey is CEO of Engage Energy & Industrial Consulting, a member of the PIOGA Diversity Committee, and an ESG Subcommittee member.

Tax Insurance is Reshaping Renewables Investments and Backstopping a Carbon Neutral Future

by Mike Sharkey and Seth Michaelson - NFP

Over the past 20 years, the U.S. energy market has experienced a surge in renewable energy investment due to increasing climate change concerns and ever evolving regulatory and market environments. Meanwhile, government-sponsored financial incentives, such as tax credits, and legislative updates are playing a role in the transition to a greener economy, making these projects as lucrative as ever for investors.

Given recent regulatory changes meant to increase appetite for developers and investors, Carbon Capture, Utilization and Storage (CCUS) projects, and their associated tax credits, are garnering a lot of attention from firms looking to deploy capital into green assets. Section 45Q of the Internal Revenue Code (IRC) grants tax credits for these projects that play a key role in securing financing from banks and investors for development. However, compliance with, and monetization of, these credits can be complex. It is essential for firms to understand regulatory requirements, and the implications of non-compliance, and how insurance strategies can offer protection in the event claimed credits are challenged or recaptured by the IRS.

Background on Section 45Q - In 2008, the IRC was amended to include the Section 45Q provision through Congressional passage of the Energy Improvement and Extension Act. The intent of Section 45Q aimed to encourage investment in, and development of, CCUS technologies, offering businesses a flat rate credit per metric ton of CO2 sequestered.

The credit was expanded in 2018 with the passage of the Bipartisan Budget Act, which increased the credit amounts, broadened the scope to cover sequestration of all carbon oxide beyond just CO2, and lowered minimum sequestration capacity requirements for qualified facilities.

Impact of the Inflation Reduction Act - Congress further expanded the 45Q credits in 2022 with the passage of the Inflation Reduction Act (IRA). The credit amount substantially increased (assuming compliance with prevailing wage requirements) to $85 per metric ton for permanent storage and $60 if used for Enhanced Oil Recovery (EOR) or other qualified uses. Additionally, minimum capacity requirements were again lowered, and the beginning of construction deadline was extended to January 1, 2033.

Aside from the substantial increase in the underlying value of the credits, the IRA's most impactful enhancement to 45Q centered on two new monetization mechanisms – direct pay and transferability. Traditionally, most developers turned to the tax equity market to monetize tax credits. Given that many developers do not have sufficient tax liability that can be offset with the credits, they would partner with a tax equity investor, typically a large financial institution, to realize their value. The tax equity investor would provide some portion of the development capital for a project in exchange for being allocated the generated credits, which the investor would then use to offset their own tax liability.

The direct pay and transferability mechanisms create two new and efficient avenues for 45Q developers to realize the value of their credits. Under direct pay, developers can elect to have the IRS treat the credits as an overpayment of income tax, making them eligible for a refund for the initial five-year project period. While transferability allows developers to sell the credits directly to an unrelated third-party for a cash payment.

An added benefit is the two may be used in a complementary fashion, where a developer can elect to take direct pay during the initial five-year period and then transfer credits for the remaining seven years of the credit eligibility period.

The addition of these two monetization mechanisms, along with the traditional tax equity structure, has given developers more flexibility in determining how best to monetize the credits for any particular project.

Potential Risks When Utilizing 45Q Credits - Because 45Q credits play such an integral role in securing financing and ensuring long-term profitability for CCUS projects, a proper risk management framework is key to overall success.

The tax insurance market has always played a role in securing investments in credit-generating assets. While solar and wind projects have been a mainstay in the tax insurance market, insurer appetite has since expanded to include newer products such as clean hydrogen production, advanced manufacturing and, of course, CCUS.

There are several risks developers and tax equity investors must consider when deploying capital into a project meant to generate 45Q credits. These include challenges to credit allocation in a tax equity structure, compli-

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Insurance *Continued from page 7*

ance with credit qualification requirements, credit recapture through a leakage event, and eligibility for credit transfer.

A successful challenge by the IRS in any of these areas can prove to be a minor hurdle at best and catastrophic at worst. Since IRA guidance was handed down, the tax insurance market has stepped in to alleviate these concerns for developers and investors by crafting a 45Q-focused insurance product.

Managing Risks with Tax Insurance - A 45Q policy mitigates the aforementioned risks and effectively shifts the exposure to an insurance company. Policies are bespoke in nature and can be tailored to meet the needs of any particular project.

In terms of policy size, the tax insurance market can absorb up to $1 billion in limits on a specific project. Policies are generally priced at a 2%–5% rate-on-line, or $20,000–$50,000 per $1M in coverage, and can usually cover a period of up to 10 years.

Purchasing a 45Q insurance policy serves to de-risk a project, help facilitate indemnification negotiations amongst counterparties and provide added comfort to lenders providing debt financing. This strategy is an innovative solution and should be an essential part of every developer and investor's toolkit when they consider deploying capital in the space.

In addition to a tax insurance policy, an adequate property and casualty insurance program is a necessity in managing risk in CCUS projects. Environmental liability insurance can be considered a solution if the insured is only concerned with the risk around a potential leakage event and the recapture of tax credits.

Business interruption insurance is especially critical for unforeseen risks and the potential for supply disruption and delays. Risks covered by business interruption insurance include operational downtime due to equipment failures, supply chain issues, or natural disasters; income loss due to unforeseen regulatory changes that halt operations; and covering the loss of income if technological risks materialize.

Another type of relevant insurance coverage for carbon capture and sequestration projects is contingent business income (CBI) insurance. CBI insurance is designed to protect against losses arising from disruptions due to issues affecting the insured's suppliers or partners responsible for the carbon storage.

During the construction phase, delay in startup (DSU) insurance is another vital coverage for CCUS projects, particularly for protecting the business income related to 45Q tax credits. This insurance addresses the risks and financial losses associated with unforeseen delays in the commencement of operations of a project, thus enhancing the overall financial resilience and attractiveness of the project.

In the context of 45Q tax credits and CCUS projects, some insurance policies may need to be manuscripted, meaning custom-tailored to fit the needs and risk profile of the project or company, rather than relying on off-the-shelf policies. Using manuscripted insurance policies helps CCUS project developers ensure that their specific risks and needs related to 45Q tax credits are comprehensively covered, supporting the overall success and viability of CCUS projects.

45Q and Risk Management Recap - It's crucial that companies within the energy value chain, as well as industrial manufacturers seeking to reduce their carbon footprint with CCUS technologies, understand the challenges of, and solutions for, claiming 45Q credits.

Whether there are concerns around credit qualification and transferability, a desire to ringfence leakage recapture risk, or financing or indemnification requirements, a 45Q tax insurance policy is a cost-effective way to transfer a project's risks to a highly-rated insurance counterparty.

As capital continues to flow into the space and new assets come online, our expectation is that the insurance market will continue to be a valuable partner to investors and developers as we all work toward a lower-carbon future. ■

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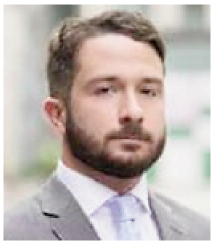

Mike Sharkey - Vice President - NFP - Transaction Advisory Group

Mike Sharkey is a Vice President in NFP's Transaction Advisory Group, and focuses on the structuring and placement of transaction insurance policies, including representations and warranties, tax, and contingent liability policies in connection with private equity and corporate M&A activity.

Seth Michaelson - Vice President - NFP - Energy Team

As Vice President for NFP's Energy team, Seth Michaelson specializes in the placement of Property & Casualty insurance lines associated with Energy companies in the Upstream & Midstream, Power Generation, and Construction space.

PIOGA Contact - Casey Maschue, Senior Advisor, Corporate Benefits- at NFP Somerset.

814.289.4228 | casey.maschue@nfp.com

Pennsylvania's Carbon Capture and Sequestration Act of 2024

Babst Calland - 7.23.24. Kevin Garber, Gina Falaschi Buchman and Sean McGovern

On July 17, 2024, Governor Josh Shapiro signed the Carbon Capture and Sequestration Act into law, effective immediately. This comprehensive new statute positions Pennsylvania to join a growing list of states, including North Dakota, Wyoming, Indiana, and West Virginia, that promote underground storage of carbon dioxide.

The Act authorizes the underground injection and sequestration of CO_2; confirms that the surface owner of real property owns the subsurface pore space; gives the Pennsylvania Department of Environmental Protection statutory authority to obtain primacy to issue injection permits; transfers title to stored carbon dioxide to the Commonwealth fifty years after injection ends; and establishes the Carbon Dioxide Storage Facility Fund to defray the Commonwealth's long-term monitoring and management costs.

The Act has three key aspects – pore space ownership, permitting and operating an injection and storage facility, and liability and long-term responsibility for sequestered CO_2.

Pore Space Ownership. The Act provides that the owner of the surface property interest owns the pore space beneath surface lands and waters of Pennsylvania. "Pore space" means subsurface strata, formations, cavities, or voids, whether natural or artificially created, that can be used to store CO_2. Conveying surface ownership also conveys the pore space unless it is (or has been) excepted and reserved, similar to the conveyancing of oil, gas, and minerals. The Act does not change Pennsylvania law regarding dominance of the mineral estate. A notice regarding pore space, like the coal notice, is now required in property deeds.

If, through negotiations with pore space owners, a prospective operator obtains at least 75% of the ownership interest in pore space for a storage facility, the Environmental Hearing Board may include the remaining 25% in the proposed facility by issuing a "collective storage order" if the EHB finds that the operator satisfied the notice and other provisions of the Act. Other state statutes have different thresholds for pooling; for example, the threshold is 60% in North Dakota, 70% in Indiana, and 75% in West Virginia. Unless the landowner or manager agrees, the EHB may not approve a collective storage order for land owned by a governmental entity or by a charitable organization that is used to protect natural or scenic values or wildlife, or to preserve historical and cultural resources.

Permitting. The new law directs the Environmental Quality Board to promulgate permitting criteria and regulations. Although DEP is not specifically directed to apply to EPA for primacy to issue Class VI Underground Injection Control permits, the Act does provide authority for DEP to do so if it chooses, and DEP recently announced its intent to apply for primacy. Until primacy is obtained, EPA will issue UIC injection permits in Pennsylvania.

The EQB's regulations must address several specific subjects for permitting injection wells and operating storage facilities, including community and cumulative impacts, environmental justice, and seismicity monitoring. A storage facility must be designed to isolate CO_2 from coal, oil, gas, and other commercially valuable minerals. DEP may condition or deny a permit based on these considerations. We can expect the EQB to publish proposed regulations soon to implement the Act.

CO_2 Ownership, Liability and Long-Term Responsibility. The storage operator is presumed to own the CO_2 injected into a storage facility. The Act protects pore space owners from liability for the effects of injecting CO_2 for sequestration based solely on their interest in the pore space and it protects storage operators from claims for damage or migration unless a claimant proves the injection or migration was performed without reasonable care and caused injury. DEP may issue a certificate of project completion 50 years after injection ends if the operator demonstrates that the injected CO_2 will remain within its pore space boundary and does not threaten drinking water, human health, safety, or the environment. Thereafter, title to and responsibility for the injected CO_2 passes to the Commonwealth and the storage operator is released from regulatory requirements regarding the facility. The Carbon Dioxide Storage Facility Fund will subsidize the Commonwealth's cost to monitor and manage the closed storage facility. Other states (for example, North Dakota and West Virginia) have agreed to accept long-term responsibility for sequestered CO_2.

Carbon capture and sequestration has been touted as a solution to reduce carbon emissions from fossil fuel-fired power plants[1] and a mechanism to generate valuable

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Carbon *Continued from page 9*

emission reduction credits for sale or trading. Pennsylvania did not have the statutory framework in place to compete with other states in this area until it adopted the Carbon Capture and Sequestration Act. Determining whether Pennsylvania has sufficient deep geology to make capture and sequestration economically attractive and developing the regulations to govern the industry are the next steps in this energy evolution. ■

For more information on the Carbon Capture and Sequestration Act, please contact Kevin J. Garber at (412) 394-5404 or kgarber@babstcalland.com, Gina Falaschi Buchman at (202) 853-3483 or gbuchman@babstcalland.com, or Sean M. McGovern at (412) 394-539 or smcgovern@babstcalland.com, or any of our other environmental attorneys.

Marginal Well Credit for 2024 Natural Gas Production Announced

PIOGA Tax Committee - Don Nestor, CPA

The Internal Revenue Service announced on July 1, 2024, in Notice 2024-52 that the Marginal Well Production Credit (MWC) under Internal Revenue Section 45i for natural gas production from qualifying wells in calendar year 2024 is $0.77 per MCF for the first 18 mcf of daily production. A more detailed discussion of this credit and its calculation will be presented in a future PIOGA Newsletter.

PIOGA and its Taxation Committee are committed to staying up to date on issues such as this that will benefit its members and those who serve them. If you have any questions concerning this information please contact Tax Committee member Don Nestor at 304-439-0568 (donnestor67@gmail.com) or Taxation Committee Chairman Woody Morris at 724-875-7857 (wmorris@schneiderdowns.com).

Article of Interest

Article Published by The Associated Press. 8.5.24 (updated). Marc Levy.

Harris once wanted to ban fracking. Trump wants voters in energy-rich Pennsylvania to remember

Facing the need to win battleground Pennsylvania, Vice President Kamala Harris is swearing off any prior assertion that she opposed fracking, but that hasn't stopped Republican Donald Trump from wielding her now-abandoned position to win over voters in a state where the natural gas industry means jobs.

Last week, in his first appearance in Pennsylvania since Harris became the Democrats' presumptive nominee, Trump repeatedly warned that Harris would ban fracking — a position she held as a presidential primary candidate in 2019 — and devastate the economy in the nation's No. 2 natural gas state.

"She's against fracking, she's against oil drilling, she wants everybody to have one electric car and share it with the neighbors," Trump told rallygoers at a Harrisburg rally on Wednesday, which was also his first appearance in the state since he was wounded in a July 13 assassination attempt in Butler County. "Harris has stated repeatedly that she supports, quote, banning fracking. I'll ban fracking, I'll ban it on my first day."

Harris' campaign, in a statement, insisted she would not ban fracking, and called Trump's claims an "attempt to distract from his own plans to enrich oil and gas executives at the expense of the middle class."

Still, Trump criticized Harris' support as a senator and candidate in 2020's presidential primary for a Democratic resolution to create a "Green New Deal," a sweeping progressive effort to shift the country toward renewable energy. Trump called the platform — never fully translated into policy proposals — a "$100 trillion green new scam designed to abolish the oil, coal and natural gas industry entirely."

While Harris considers choosing popular Pennsylvania Gov. Josh Shapiro as a finalist to be her running mate on the Democratic ticket, Trump has made it clear that he won't concede the swing state, part of the decisive "blue wall" along with Michigan and Wisconsin. Trump repeatedly has said his administration would "drill baby drill" and dismissed Harris' change of position with these words of caution: "Remember, a politician always goes back to what their original thought was."

Fracking is nearly always on the ballot in Pennsylvania. Formally named hydraulic fracturing, it has made the United States an oil and gas superpower over the past decade, along with horizontal drilling.

Republicans routinely attack Democrats over fracking to drive a wedge into the party's fragile alliance between its left wing, which is hostile to fossil fuels, and its bedrock building trade union base, whose workers are building an expanding network of gas pipelines, power plants and processing facilities in Pennsylvania.

Republicans have used similar attacks in the past two election cycles, both unsuccessfully, against Joe Biden in 2020's presidential race and against Sen. John Fetterman in 2022.

To attack Biden in 2020, Republicans seized on a series of confusing statements — such as remarks on the oil industry from a debate just a couple weeks before the election — to claim he intended to "ban" or end national gas extraction. That was not Biden's official position, and if he intended to restrain the extraction method, it was hard to find evidence of it in energy production data during his first three years in office.

Biden has sought to slow down leasing on federal lands and emphasize conservation as part of a large-scale effort to slow global warming. But U.S. natural gas production and crude oil production have hit record monthly highs in the past year, according to federal energy statistics. The same thing has happened with gas production in Pennsylvania, which also has posted record monthly highs during Biden's time in office.

Harris has backed Biden's plan to reach net-zero greenhouse gas emissions by 2050. But that plan never included a ban on fracking, and Biden has said he viewed those energy sources as necessary during the transition.

Trump, meanwhile, has heavily courted the gas industry in Pennsylvania and has ridiculed the science behind increasingly urgent warnings for immediate action to stave off the worst of climate damage by cutting fossil fuel emissions.

Oil and gas producers have opposed a range of energy policies under Biden, including tougher regulations on tailpipe emissions and vehicle fuel economy that they see as a de facto electric vehicle mandate, clamping down on leases on federal lands and delaying liquefied natural gas projects.

Energy companies want to know whether Harris will continue down those roads.

"It's safe to say that we and a lot of other folks are eager to hear from the vice president," said Dustin Meyer, a senior vice president at the American Petroleum Institute.

Attacking Harris over fracking is reminiscent of Republican efforts to turn union workers against Democrat Hillary Clinton in 2016. In tenor and scale, Trump's overtures to the industry have echoed the unfulfilled promises he made to save the coal industry during his first campaign.

Clinton was hammered for saying "we're going to put a lot of coal miners and coal companies out of business" when describing her climate plan, a comment that was used to suggest she had declared war on coal.

Democrats in Pennsylvania — such as Fetterman, Shapiro and U.S. Sen. Bob Casey — have successfully run on getting tough on fracking through stronger regulation. They shun talk of a fracking ban, although they may not necessarily support every aspect of Biden's energy policy if unions oppose it.

When Biden dropped his candidacy, the United Association of Union Plumbers and Pipefitters, whose members work on pipelines and in power plants, quickly endorsed Harris in a unanimous vote.

Mark McManus, the union's general president, pointedly noted that Harris "did have a previous position in a previous role in a different state," but said she has been clear about her new position on fracking.

"And it's a good position for the United Association," McManus said. "She's a nationwide candidate right now."

McManus described Harris' energy approach as being joined at the hip with Biden, a Pennsylvania native the union endorsed twice in his races against Trump, including this year's campaign. McManus embraced what he described as an "all of the above energy approach."

Still, in a heavily populated and heavily contested state where Trump won by just over 44,000 votes in 2016 and Biden won by just over 81,000, any marginal change is significant, campaign strategists and pollsters say.

Christopher Borick, director of the Muhlenberg College Institute of Public Opinion in Allentown, said fracking simply won't be a decisive factor for most Pennsylvania voters because opinions on it are highly divided in the state.

The gas industry has flushed money into some local economies. But it has also inspired a backlash in other communities, most notably in Philadelphia's suburbs.

The sweet spot for statewide candidates — such as Casey, Shapiro and Fetterman — has been not calling for a ban, but calling for tight regulation, clear disclosure about the process and limits on where it can be done, Borick said.

"It's been successful for all of them," Borick said, "and that's where you see Harris going now." ■

Two Major SCOTUS Decisions Changing Federal Regulation Landscape

Steptoe & Johnson PLLC - 7.24. Dallas F. Kratzer III, Devon Alt & Mattie F. Shuler.

In the final days of the term that just ended, the Supreme Court of the United States (SCOTUS) issued two major decisions changing the federal regulation landscape – Loper Bright and Corner Post.

First, in Loper Bright Enterprises v. Raimondo, No. 22-1219, 2024 WL 3208360 (U.S. June 28, 2024) the Supreme Court ended Chevron deference. For 40 years, Chevron required courts to defer to an agency's reasonable interpretation of rules and regulations within its purview. Chevron handed interpretative power to the executive branch, so as a practical matter, interpretations could change from one administration to another. Writing for the majority, Chief Justice John Roberts explained that Chevron is inconsistent with the Administrative Procedure Act and, for that reason, overruled it. Going forward, courts — not agencies — will interpret rules and regulations. Courts may still look to agency interpretations for guidance, but they owe those interpretations no deference.

Second, in Corner Post Inc. v. Bd. of Governors of Fed. Rsrv. Sys., No. 22-1008, 2024 WL 3237691 (U.S. July 1, 2024) the Supreme Court clarified when the statute of limitations runs on an Administrative Procedure Act claim. Section 2401(a) provides a six-year statute of limitations for claims against the United States. And Corner Post called on the Supreme Court to decide whether that period runs from publication of a regulation or from the injury caused by agency action. Writing for the majority, Justice Amy Coney Barrett reasoned that the period runs from the injury because that is when the plaintiff has a "complete and present cause of action." As a result, long-standing regulations are not immunized by the passage of time, and a party may seek redress if they do so within six years of the injury.

Together, Loper Bright and Corner Post open new avenues in cases involving federal regulations. For one, courts are no longer restricted by agency interpretations, so parties have greater opportunities to advance regulation interpretations that do not align with the interpretation of an administration. Nor is a party bound to accept an injurious administrative action based on a decades-old regulation; rather, they retain the ability to seek relief.

The post-Chevron landscape is quickly developing. The same day the Supreme Court announced Loper Bright, Alaska litigants challenged new oil development restrictions from the Bureau of Land Management. And in the few days since Loper Bright, federal courts in Texas, Kansas, Missouri, and New York have published decisions applying it. The decision is also likely to affect state regulations because several states, including West Virginia, Kentucky, and Ohio, adopted Chevron deference and, although free to continue using Chevron, may abandon it in favor of the Loper Bright approach.

The Supreme Court concluded that Chevron deference was inconsistent with § 706 of the Administrative Procedure Act, which empowers reviewing courts to decide all properly presented questions about agency action, considering the whole and taking into account the rule of prejudicial error. There are areas, however, where deference to agency interpretation of its own rules may survive after the Loper Bright decision, particularly in areas affecting the energy industry. For example, the Clean Air Act provides that § 706 doesn't apply in Clean Air Act cases. A reviewing court could, therefore, continue to defer to agency interpretations of Clean Air Act regulations. Additionally, since the Court also reiterated that clear delegation to an agency makes deference appropriate, deference may still be applicable where the Federal Power Act and the Natural Gas Act are involved. Both acts delegate to agencies authority over many matters.

Alternatively, Loper Bright may bring with it significant changes to the energy industry in the absence of Chevron deference. Notably, one recent case pending in the Fifth Circuit is challenging a Department of Labor rule elevating considerations of environmental, social, and governance (ESG) factors. ESG considerations have become increasingly prevalent in the energy industry over the past few years. The DOL rule was previously upheld under Chevron, so this more recent case challenging the rule will provide a view into the new post-Chevron landscape. Moreover, the role of FERC may be subject to change, as Republican attorneys general raise objections to a recent rule on transmission, known as new Order 1920. Looking ahead, more so than ever, we will likely see agencies and industry advocates going to court to convince judges that their interpretation of a statute is correct. ■

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Baker Hughes rig count: bakerhughesrig-count.gcs-web.com/na-rig-count
NYMEX strip chart: Mid American Natural Resources
Basis futures values: BHE Eastern Energy Field Services

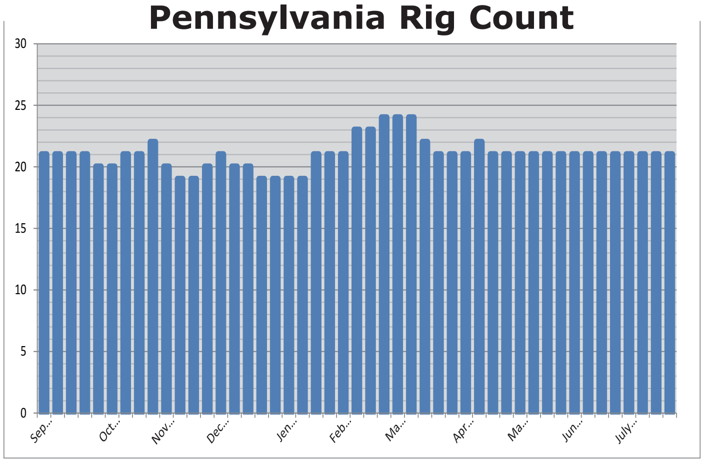
Penn Grade Crude Oil Prices

Natural Gas Futures Closing Prices

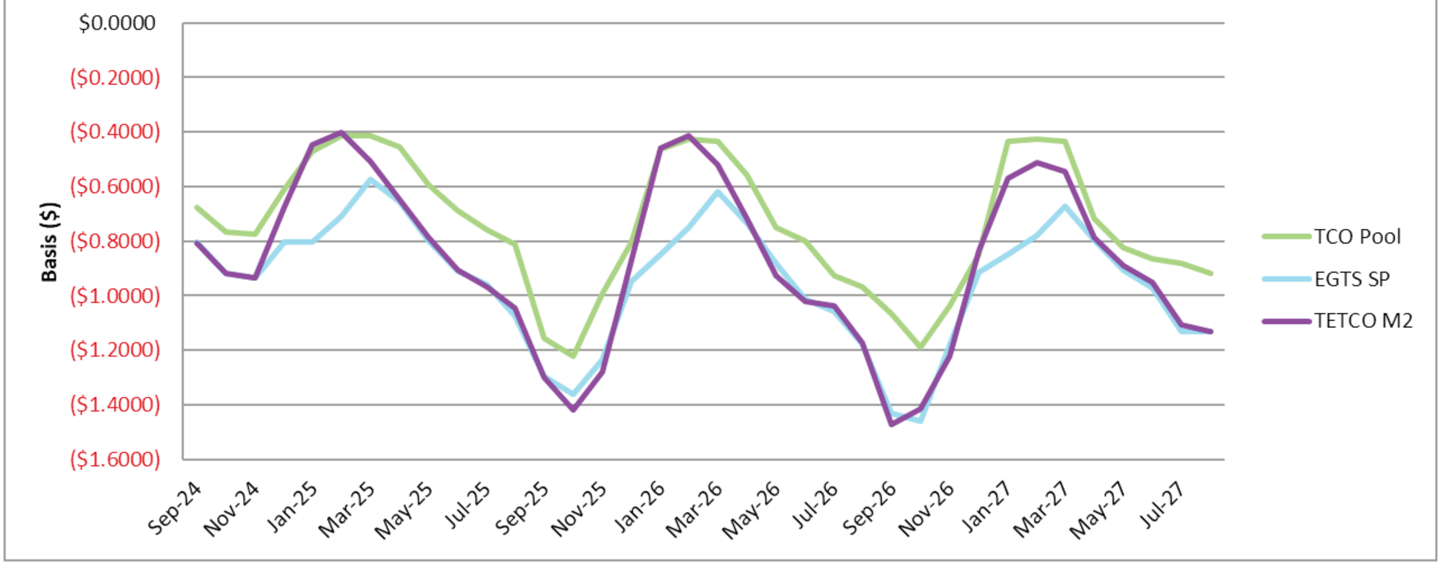
September 2024	2.172
October	2.314
November	2.769
December	3.327
January 2025	3.618
February	3.454
March	3.090
April	2.942
May	2.986
June	3.127

Prices as of August 8, 2024

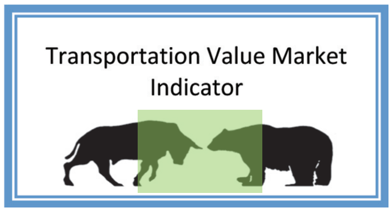
Pennsylvania Rig Count



Basis Futures Values



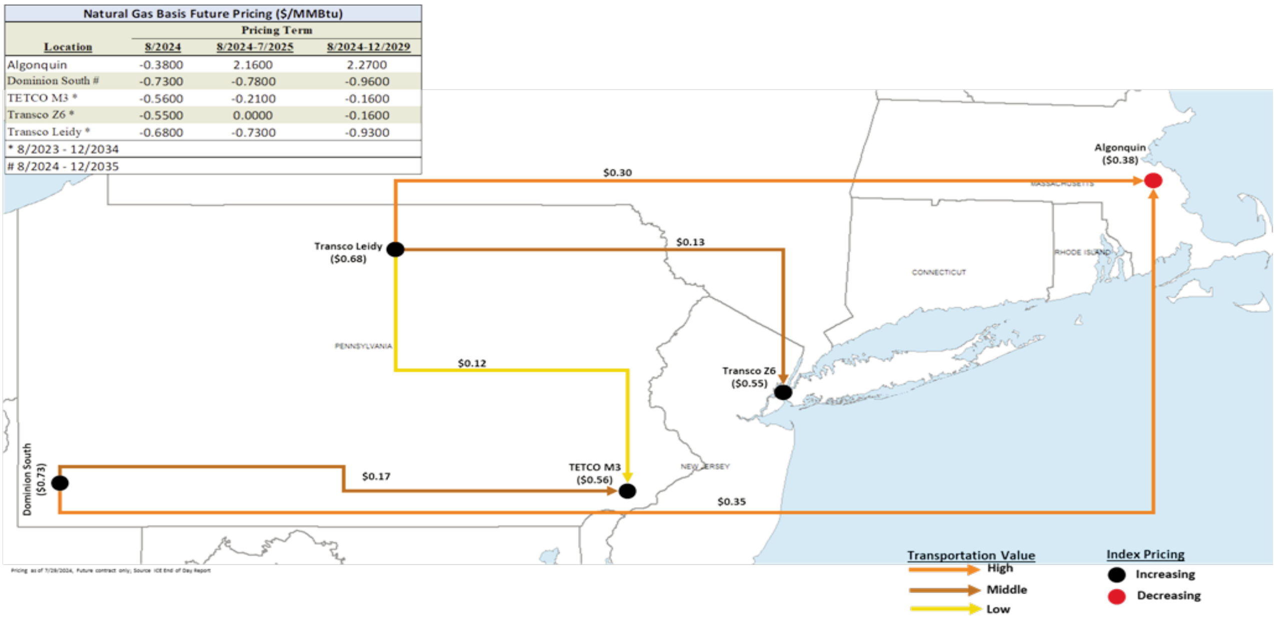
Northeast Pricing Report — August 2024



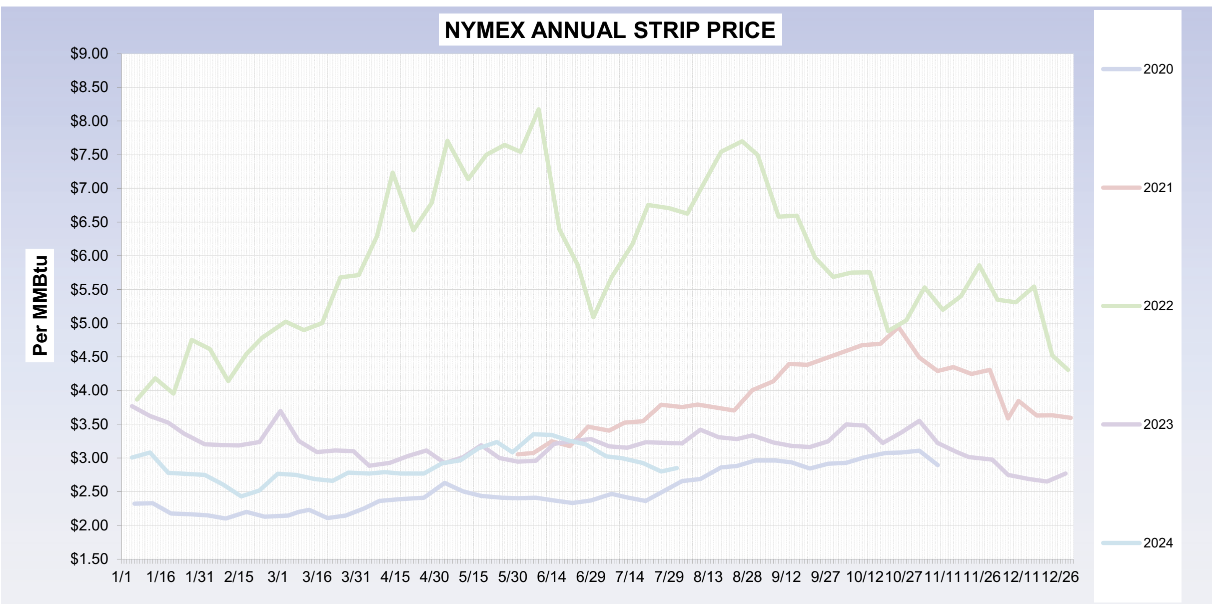
Provided by Bertison-George, LLC
www.bertison-george.com

The current demand for natural gas is driven by hot weather which is expected to last for another week. However, the market remains oversupplied. The weather did not provide sufficient support to natural gas markets in the first two months of summer, and it remains to be seen whether the supply/demand balance would improve in August. Natural gas has found strong support in the $2.00 – $2.05 range. Recent price increases have been mostly due to short-covering rather than real buying interest. To sustain upward momentum, real buyers are needed, but they may wait for additional positive factors before investing in a potential rebound. In the Northeast, front-month basis prices increased at every location except Algonquin which decreased by $0.43 per MMBtu. All other periods increased for every trading point.

Most of the values for transportation decreased. Dominion South and Leidy to Algonquin decreased by $0.50 and $0.51 per MMBtu. Transco Leidy to Transco Z6 decreased $0.02 per MMBtu. The value for Transco Leidy to TETCO M3 increased by $0.01 per MMBtu respectively. Dominion South to TETCO M3 rose by $0.02 Per MMBtu.



Natural Gas Basis Future Pricing ($/MMBtu)			
	Pricing Term		
Location	8/2024	8/2024-7/2025	8/2024-12/2029
Algonquin	-0.3800	2.1600	2.2700
Dominion South #	-0.7300	-0.7800	-0.9600
TETCO M3 *	-0.5600	-0.2100	-0.1600
Transco Z6 *	-0.5500	0.0000	-0.1600
Transco Leidy *	-0.6800	-0.7300	-0.9300
* 8/2023 - 12/2034			
# 8/2024 - 12/2035			



The information in this report was obtained from reliable sources but is not guaranteed for accuracy.
The views and opinions set forth are solely those of the author(s), and are subject to change without notice.

Spud Report: July

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 Operator indicates a conventional well.

Operator	Wells	Date	API#	County	Municipality
Branch John D. *	3	7/1/24	123-48789	Warren	Warren City
		7/22/24	123-48788	Warren	Warren City
		7/31/24	123-48794	Warren	Warren City
Bull Run Resources *	2	7/5/24	123-48946	Warren	Pleasant Twp
		7/15/24	123-48947	Warren	Pleasant Twp
Cameron Energy Co. *	3	7/2/24	053-31110	Forest	Howe Twp
		7/11/24	053-31108	Forest	Howe Twp
		7/18/24	053-31111	Forest	Howe Twp
Chesapeake Appalachia	7	7/31/24	015-23905	Bradford	Monroe Twp
		7/31/24	015-23906	Bradford	Monroe Twp
		7/31/24	015-23907	Bradford	Monroe Twp
		7/2/24	015-23936	Bradford	Wyalusing
		7/2/24	015-23937	Bradford	Wyalusing
		7/2/24	015-23934	Bradford	Wyalusing
		7/2/24	015-23935	Bradford	Wyalusing
Coterra Energy	3	7/15/24	115-23176	Susquehanna	Bridgewater
		7/15/24	115-23177	Susquehanna	Bridgewater
		7/15/24	115-23165	Susquehanna	Bridgewater
Elder Oil & Gas *		7/17/24	031-25829	Clarion	Perry Twp
First Amer Energy	3	7/23/24	123-48840	Warren	Mead Twp
		7/24/24	123-48844	Warren	Mead Twp
		7/29/24	123-48843	Warren	Mead Twp
MSL Oil & Gas *	2	7/25/24	083-57664	McKean	Hamilton Twp
		7/31/24	083-57668	McKean	Hamilton Twp
Olympus Energy	2	7/3/24	129-29251	Westmoreland	Upper Burrell
		7/3/24	129-29252	Westmoreland	Upper Burrell
Seneca Resources	8	7/22/24	117-22244	Tioga	Sullivan Twp
		7/22/24	117-22247	Tioga	Sullivan Twp
		7/22/24	117-22250	Tioga	Sullivan Twp
		7/22/24	117-22251	Tioga	Sullivan Twp
		7/23/24	117-22245	Tioga	Sullivan Twp
		7/23/24	117-22246	Tioga	Sullivan Twp
		7/23/24	117-22248	Tioga	Sullivan Twp
		7/23/24	117-22249	Tioga	Sullivan Twp

	July	June	May	April	March
Total Wells	**39**	**35**	**47**	**35**	**37**
Unconventional Gas	21	19	32	16	29
Conventional Gas	0	0	0	0	0
Oil	15	8	10	17	5
Combination Oil/Gas	3	7	5	2	3

PIOGA Pennsylvania Independent Oil & Gas Association

PIOGATech
PIOGA's Technical Seminar Series

PIOGATech
Water & Waste Management Training

September 12th - 9 am - 4 pm. @ Hilton Garden Inn - Cranberry.

Includes Full-day Training, Breakfast/Lunch and Reception. Also Continuing Education Credits (CEUs) and Professional Development Hours (PDH) certificates.

Tentative Topics: PFAS; UIC Wells; ESCG4; DEP Updates; Legal & Regulatory Updates; Critical Element Study; Trenchless Technologies.

For more information and to register:

https://pioga.org/event/piogatech-water-waste-management/

PIOGA Pennsylvania Independent Oil & Gas Association

Calendar

PIOGA events

Information: www.pioga.org > PIOGA Events

PIOGA's Annual Divot Digger Golf Outing
August 22. Tam O'Shanter. Hermitage, Pa.

PIOGATech: Water & Waste Management
September 12. Hilton Garden Inn. Cranberry, Pa.

PIOGA's Birds & BBQ Clay Shoot
September 18. West Penn Sportsmen' Club. Murrysville, Pa.

Other events

Pipeline Security for Rural Communities
August 26
(https://pioga.org/event/pipeline-security-for-rural-communities/)

SOOGA Annual Trade Show
September 19-20
(https://pioga.org/event/sooga-annual-trade-show/)

WVU Extension - Hazards Recognition and Standards for On-Shore Oil & Gas
October 15-18
(https://pioga.org/event/wvu-extension-hazards-recognition-and-standards-for-on-shore-oil-and-gas-exploration-and-production/)

Mineral Appraisal Workshop
October 16
(https://pioga.org/event/mineral-appraisal-workshop/)

Full Calendar - PIOGA Event & Meeting Schedule -
https://pioga.org/event/pioga-event-and-meeting-schedule-2024/

PIOGA Members and Industry Partners - Please email meghan@pioga.org to advertise upcoming events.

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100 Allegheny Drive, Suite 104. Warrendale, PA 15086
724-933-7306 • www.pioga.org

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

Oil Region Office (Meghan Keely)
304 East Bissell Ave., Oil City, PA 16301
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