

The PIOGA Press

The monthly newsletter of the
Pennsylvania Independent Oil & Gas Association
September 2018 • Issue 101

Commonwealth Court invalidates portions of Chapter 78a regulations as unlawful

On August 23, the Commonwealth Court issued a unanimous opinion in *The Marcellus Shale Coalition v. Department of Environmental Protection and Environmental Quality Board*, 573 M.D. 2016 invalidating portions of the new pre-permit process created in 25 Pa. Code §§ 78a.1 and 78a.15(f) and (g), pertaining to new “public resources.” The Marcellus Shale Coalition (MSC) challenged the provisions as unlawful and unreasonable, seeking declaratory and injunctive relief.

There is no statutory right to judicial review of new regulations in Pennsylvania. Such challenges must proceed in the form of a declaratory judgment action in the Commonwealth Court or “as applied” in an appeal before the Environmental Hearing Board on a case-by-case basis. The latter course can be duplicative, lengthy and costly, offering only piecemeal relief. MSC challenged portions of the new Chapter 78a regulatory package through a declaratory judgment action in October 2016, seeking relief for its members from regulations beyond the scope of the Environmental Quality Board’s authority, regulations with high cost and little discernible benefit.

Count I of MSC’s Petition for Review challenged Sections 78a.15(f) and (g) and the related definitions contained in Section 78a.1 of the Chapter 78a regulations. The provisions created a new pre-permitting process for well permit applicants, requiring new notice and comment opportunities in addition to those expressly authorized by Act 13, as adopted in 2012.

Following MSC’s Petition for Review, the Common-

Author:



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Babst Calland
Attorneys at Law

wealth Court preliminarily enjoined application of portions of the regulations on November 8, 2016.¹ MSC filed an application for partial summary relief on Count I on August 31, 2017. Pending review of that application, the Pennsylvania Supreme Court affirmed the grant of preliminary injunctive relief as to Count I on June 1, 2018. 185 A.3d 985 (Pa. 2018).²

In its decision on the merits of Count I, the Commonwealth Court invalidated new public resources and new public resource agencies that had been created by the Environmental Quality Board beyond its legal authority.³

¹ The Commonwealth Court partially enjoined regulations challenged in Counts I (public resources), II (area of review), IV (impoundments) and V (site restoration). *MSC v. DEP*, Memorandum Opinion and Order, Nov. 8, 2016, as amended Feb. 14, 2017, J. Brobson. Counts for which injunctive relief was not granted include challenges to: Count III, 25 Pa. Code § 78a.58(f) (onsite processing), Count VI, § 78a.66 (remediation of spills), and Count VII, § 78a.121(b) (waste reporting).

² The Supreme Court also affirmed the preliminary injunctions related to Counts II, and IV as it applied to centralized impoundments, but vacated the injunction related to freshwater impoundments and Count V.

³ The order issued on August 23, 2018, stated:

1. The definitions of “other critical communities,” “common areas of a school’s property,” and “playground” contained in Section 78a.1 of Title 25, Chapter 78a of the Pennsylvania Administrative Code (Chapter 78a Regulations), 25 Pa. Code § 78a.1, are hereby declared void and unenforceable;

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Make plans to attend the PIOGA Oktoberfest!

You no doubt noticed that our summer Pig Roast and conference at Seven Springs Mountain Resort disappeared from the 2018 event calendar. We

heard from members that the event required too much time away the job and conflicted with vacations and other activities that time of year.

So, we've come up with something new at the same enjoyable location—the PIOGA Oktoberfest, Conference and Annual Meeting.

It will be fun, informative, full of great networking opportunities—and you can commit to a single day or two days, depending on your schedule and preferences.

2019: Challenges, Changes and Opportunities

The conference portion is **Wednesday, October 17**, with the theme, *2019: Changes, Challenges and Opportunities*. Registration and vendor exhibits will open at 9 a.m., with the program itself starting at 10. Below is a rundown of topics and speakers. A few of these will change as speakers and titles of some presentations are confirmed. Check the event page at www.pioga.org for the latest information.

- *The Future of Fossil Fuels*, Shawn Bennett, Deputy Assistant Secretary for Oil & Natural Gas, U.S. Department of Energy
- *2019 Regulatory Agenda and What to Expect*, Abigail Jones, Associate, Babst Calland
- *Oil and Gas Public Relations: The Battle Continues*, Jeff Eshelman, Senior Vice President of Operations and Public Affairs, Independent Petroleum Association of America and Energy In Depth
- Luncheon keynote – *Change Coming to Harrisburg: What will the General Assembly Look Like in 2019?* Dr. Terry Madonna, Center for Politics and Public Affairs, Franklin & Marshall College
- *PIOGA Update*, Dan Weaver, President & Executive Director, PIOGA
- *A Decade of Shale Gas in Pennsylvania*, Kathryn Klaber, Managing Partner, The Klaber Group
- *Marcellus to Manufacturing Conference Preview*, Joyce Turkaly, Director of Natural Gas Market Development, PIOGA
- *PIOGA Legal Update*, Kevin Moody, Vice President & General Counsel, PIOGA
- *Operator & Pipeline Panel – 2019 Forecast*, George Stark, Director of External Affairs, Cabot Oil & Gas; Carl Carlson, Director of Government Affairs, Range

Resources – Appalachia, LLC; Vasu Pinapati, Vice President of Engineering & Construction, Tenaska; and Energy Transfer Partners (invited)



Oktoberfest and Monte Carlo Night

After the conference wraps up at 5 p.m. on Wednesday, stay and enjoy an Oktoberfest-themed networking reception, where you can sample delicious German cuisine, desserts and beers. And then, back by popular demand, is Monte Carlo Night. Play games, win prize and have a great time! The Oktoberfest

runs from 5 to 7 p.m., and Monte Carlo Night is 7-9.

Annual meeting and sporting clays

PIOGA's Annual Meeting of the Members will be held **Thursday morning, October 18**, from 9 to 10:30. The agenda includes:

- Chairman's report and board member introductions
- Voting on bylaws changes
- President and executive director's report and staff introductions
- Committee activity updates
- Member open forum

There is no charge to participate. Please take this opportunity to find out more about the work of your association and provide us with feedback on how we can do a better job for you.

Sporting clays on the amazing Seven Springs course will round out the event, with lunch served at the facility at 11 and the shoot expected to wrap up about 3 p.m. Shotguns and ammo are not included as part of registration, although they will be available from Seven Springs at extra cost if needed.

Registration and sponsorship and exhibitor opportunities

Exhibitor space for Wednesday is available and includes two registrations for the conference, Oktoberfest and Monte Carlo Nights, as well as acknowledgment as a Bronze-level sponsor. There are also a variety of other sponsorship opportunities available to help make your company stand out.

Visit the PIOGA Events section at www.pioga.org to find out how to become an exhibitor or sponsor and to register today for the event.

Not only are we anticipating a great event, but we're also hoping for some spectacular fall colors on the mountain at Seven Springs. See you there! ■

Voting now open for Board of Directors

Eleven members are vying for nine seats on the PIOGA Board of Directors. A ballot has been mailed to the main representative of each PIOGA member company and must be returned to the PIOGA office by mail or hand-delivered **no later than 5 p.m. on October 12**. *Only one election ballot per member company may be submitted.*

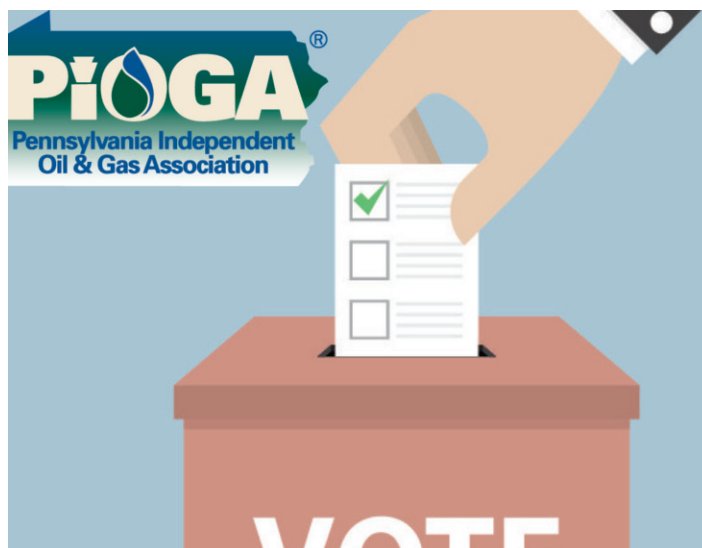
Under PIOGA's bylaws, board members are elected by simple majority. The nine candidates receiving the most votes will be chosen to serve three-year term beginning with the PIOGA Annual Meeting on October 18.

Biographies for the 11 candidates follow. Those marked with an asterisk (*) are current board members seeking reelection.

If you have questions about voting or if you did not receive your ballot in the mail, please contact Danielle Boston at 724-933-7306 ext. 28 or danielle@pioga.org.

BLX, Inc. – Represented by Stanley J. Berdell*

Stan Berdell is the President of BLX, Inc., a privately owned and operated company established in 1989. The company is an independent producer of natural gas and operates wells & leases in the Appalachian Basin. They were the first independent producer to drill and produce Marcellus Shale wells in Western PA. In addition, Stan is the managing partner of Redmill Drilling,



Kinzua Oil, LLC. And Mt. Pleasant Enterprises, all of which operate wells in Western PA. BLX, Inc. has been a member of PIOGA for 15+ years. Stan is very active in his community, serving with the YMCA board, school board and he is running for his third term on the PIOGA board.

NG Advantage LLC – Represented by Enrico “Rico” Biasetti

Enrico Biasetti is Chief Executive Officer of NG Advantage LLC. He joined NG Advantage in 2016 and is an accomplished leader. He has more than 25 years of experience in the energy industry, has an entrepreneurial spirit and is an experienced board member.



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What Biasetti has to offer your board is diverse experience and enthusiasm. When he joined NG Advantage it was a stagnant company. He was given a very broad directive to change the company. Biasetti developed a vision to move the company forward to become a supplier of CNG to the power and LDC markets. His time as a consultant, energy expertise and manufacturing experience helped him to achieve the goal of expanding markets.

Before NG Advantage, he was General Manager of the \$25 million Sustainable Division of Cliff Natural Resources. In his various roles he provided energy consulting services served customers which include Alcoa, Nucor and Philip Morris. Biasetti's early career was focused on business development in energy services to industrial markets, commodity trading, risk management and M&A.

He received his Bachelor of Science in Finance from Salem State University, Salem, Massachusetts, and earned his Master of Business Administration in Finance from Northeastern University, Boston, Massachusetts. Biasetti is a Licensed Steam Engineer and successfully completed the Leadership Acceleration Program at the University of Notre Dame, South Bend, Indiana.

Civil & Environmental Consultants, Inc. – Represented by Rick Celender, RLA, C.E.T., CPESC, CPSWQ

Rick is a Vice President and Registered Landscape Architect/Civil Engineering Technologist at Civil & Environmental Consultants, Inc. Pittsburgh office. He has more than 25 years' experience in pipeline, well pad, compressor station, processing/fractionation plant design/permitting, stormwater BMP maintenance/inspection, ESCGP-2, NPDES permitting and civil engineering consulting. His experience with site design coupled with specialization in stormwater management provides a unique insight into current trends in stormwater design and construction. Rick has given presentations related to stormwater maintenance/inspection, erosion control practices, and unmanned aerial vehicle operations to Municipal Governments, the American Public Works Association, Pennsylvania Association of Conservation Districts (PACD), PIOGA, the PADEP, Oil/Gas Operators, Lawrence County Career & Technical Center and other organizations. He is an accredited instructor for the CPESC (Certified Professional Erosion/Sedimentation Control) exam review and is the West Virginia CPESC state representative. Rick is a Certified Professional in Storm Water Quality (CPSWQ), has obtained OSHA Confined Space Entry and Rescuer Certification (29CFR1910.146), Wetland Delineator Certification (IWEER) and is certified through the National Institute for Certification in Engineering Technologies. Rick leads CEC's Unmanned Aerial Vehicle (UAV) program (Optical Gas Imaging (OGI) inspection, topography, etc.), is a member of the Marcellus Shale Unmanned Aerial Vehicle Committee, and coordinates with state and federal regulatory officials related to the integration of UAV/robotic technologies for permitting and reporting purposes. Rick has been a volunteer firefighter/rescue technician for 30 years and looks forward to an opportunity to work more closely with the PIOGA Board and its membership.

Diversified Gas & Oil – Represented by Jack Crook*

Jack is currently the Senior Vice President of Environment,



**The Interactive Conference
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Join us November 9 at the Energy Innovation Center in Pittsburgh for an interactive conference combining knowledge and experience to help attendees develop long-term strategies to capitalize on the Marcellus phenomenon that will ensure attractive energy costs for industrial and commercial concerns for decades to come.

Marcellus to Manufacturing is for commercial and financial decision makers and those who support them, including:

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- Legal professionals
- Economists
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- Business development specialists
- Project managers
- Plant managers
- Tradesmen
- Business agents

Conference Agenda: In the morning we will focus on commodity-driven considerations: market dynamics, economic, world view and the advantages of locating in the Appalachian Basin. The second half of the day will examine the criteria for state financial incentives, resources at the economic development level, project cases studies, and lessons learned from from companies involved with project completion.



Join industry colleagues at the Energy Innovation Center and enjoy outstanding views of the city while networking at the **Cocktail Reception beginning at 5:00 p.m. on November 8.** A complimentary tour of this LEED Platinum facility will be offered.

Energy Innovation Center
1435 Bedford Avenue
Pittsburgh, PA 15219

Information/registration: www.pioga.org > PIOGA Events

Health, Safety & Security for Diversified Gas & Oil. Diversified is an Appalachian based producer. As a company focused on acquisitions and growth, due diligence for Environmental and Regulatory matters takes up a considerable amount of his time. A graduate of Penn State University he started work in the Denver-Julesburg Basin based in Ft. Morgan, Colorado, and also for a time in Houston, Texas. After a downturn in domestic drilling he returned to Pennsylvania to work as a regulator for 24 years for the Department of Environmental Protection. He is a Licensed Professional Geologist and is a Board and Executive Committee member for PIOGA (Pennsylvania Independent Oil & Gas Association) and serves on the PIOGA Legislative Committee as well as the OOGA (Ohio Oil & Gas Association) Regulatory Workgroup. In March 2015 & 2018 he chaired the Marcellus–Utica Water Management Initiative in Pittsburgh. He also sits on the Advisory Board - Shale Gas Tight Oil Water Management, for the London Business Conference Group and is a frequent speaker at many training and education events.

Freedom Energy Resources LLC – Represented by Sam Fragale President & CEO*

Sam is a Co-Founding Partner of Freedom Energy Resources LLC ("Freedom") and serves as its President and CEO. Freedom is a company engaged in the exploration and development of oil and gas assets currently in the Williston Basin, with a focus on conventional oil and gas.

Prior to the creation of Freedom, Sam worked in oil and gas industry for over 30 years. Most recently Mr. Fragale worked for Chief Oil & Gas, LLC as Senior VP Operations, managing and directing their Marcellus operations in Northeast PA. Under his leadership he built a highly skilled management and operations team which was directly responsible for drilling over 150 Marcellus wells while increasing production from 40 MMcf/d to 850 MMcf/d with over a BCF/d of capacity, which resulted in significant value creation.

Before joining Chief, Mr. Fragale had a 20-year career with Phillips Production Company/Phillips Drilling Company as Sr. Vice President/President & COO. During his tenure and leadership, he was responsible for managing and directing all aspects of drilling, completion, production, exploration, regulatory, safety and land. During this time his team drilled over 3,000 conventional wells and participated in and operated various exploration projects. He directed the transformation of the company into a Marcellus Shale operator, which resulted in the sale of the company to Exxon/Mobil in June 2011 for \$1.7 billion. He started his career working for Shell Offshore Inc. as a Reservoir Engineer.

Mr. Fragale graduated in 1983 from West Virginia University in

Morgantown West Virginia, with a B.S. degree in Petroleum Engineering.

Sam is a former Member of Technical Advisory Board for the PA Dept. of Environmental Protection and has served on the Pennsylvania Independent Oil and Gas Association ("PIOGA's") Board of Directors and the Executive Committee as Vice Chairman for nearly 20 and 10 years, respectively. He was member of the IOGA/POGAM merger committee which successfully merged the two organizations in 2010 to form PIOGA.

Command Systems, Inc. – Represented by Robert "Bob" Henry

Bob is the President of Command Systems, Inc., located in Oakmont, PA. Command Systems repairs industrial electrical, electronic, and gas detection monitoring equipment to the Oil & Gas, Mining, Utilities and Manufacturing industries.

Prior to joining Command Systems, Inc., he was Chief Operating Officer of PoleSet, Inc., a company located in Washington County, PA, that provides turnkey services for engineering and construction of electric power line and substation projects.

Prior to joining PoleSet Inc., Bob spent 32 years at West Penn Power / Allegheny Power (now FirstEnergy), where he held numerous executive / management roles.

Current activities include Member of the PIOGA Health & Safety Committee, and member of the PIOGA Pipeline and Gas Market development Committee. Bob is a member of SMC Business Council, where he is a member of the Government Relations Committee and leads the Energy Policy Working Group.

Bob was a faculty member for the Pennsylvania State University Advanced School of Engineering for 10 years, teaching courses in infrastructure asset management.

Bob earned a Bachelor of Science (B.S.) in Electrical Engineering from the University of Pittsburgh and an MBA from the University of Pittsburgh - Joseph M. Katz Graduate School of Business.

Kriebel Companies – Represented by James E. Kriebel*

James E. Kriebel is president and chief executive officer of the Kriebel Companies, which operate approximately 1,700 wells in western Pennsylvania. He graduated from the University of Miami with a bachelor's degree in Business Administration. Mr. Kriebel, a native of Clarion County, and his family have been involved in natural resource development in western Pennsylvania for over 40 years.

Jim is an active participant in the natural gas industry. He serves on the Board of Directors of the Pennsylvania Independent Oil & Gas Association of Pennsylvania, and also

Centennial commemorative Case knife

As part of PIOGA's celebration of 100 years of working together on behalf of Pennsylvania's oil and natural gas industry, we have commissioned a commemorative knife from W.R. Case & Sons Cutlery Company in Bradford. The limited edition, collector quality knife and wooden storage box feature PIOGA's 100th Anniversary logo.

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serves as a member of the Executive, Legislative and Pipeline & Gas Market Development Committees. Jim is a member of the Society of Petroleum Engineers and the Independent Petroleum Association of America. In his local community, Mr. Kriebel serves on the Finance Committee for the Trinity Point Church of God in Clarion and is a member of the Clarion Community Foundation and Clarion Hospital Authority.

Dominion Energy Field Services – Represented by David J. Marks

David Marks has been employed in energy for 41 years, beginning with Geosource (Houston) and Wildrose (Calgary), where he spent 12 years managing North American exploration crews. David has spent the last 28 years marketing natural gas and power, commercial services and gas technologies, beginning with Consolidated Natural Gas in Pittsburgh, and including Allegheny Energy in Greensburg, PA, and Dominion Energy in Clarksburg, WV, and Pittsburgh.

David currently manages a portfolio of more than 240 Appalachian Basin producers at Dominion Energy Field Services in Pittsburgh. Through Dominion, David is a member of OOGA, IOGA WV, PIOGA and SOOGA and is a subcommittee chairman for PIOGA. He also serves as a consultant to end users, municipalities and energy brokers, and promotes natural gas technologies for power generation and GTL specialty products through his business development role at Dominion Energy.

David is the executive producer of the Laugh & Learn Sessions on Energy and Public Policy, a public forum that discusses all aspects of energy in our region. He has produced 20 forums in the Pittsburgh area since 2008, and has served on energy panels for California State University, the Pennsylvania Independent Oil & Gas Association, the Southeast Ohio Oil & Gas Association, The Marcellus Shale Coalition and the Appalachian Basin Gas Processors Association. David served on Allegheny County's Energy & Environment Vision team under the leadership of Andrea Geraghty and County Executive Richard Fitzgerald in 2011 and 2012. David also volunteers as an instructor for Junior Achievement's energy curriculum, having taught in school districts across southwestern Pennsylvania for the past

seven years.

David holds a B.S. in accounting with a minor in mathematics from The University of Pittsburgh, also with focused studies in geology and geophysics. He has earned certification in geophysical surveying, utility management and the PJM Interconnect capacity auction.

TD Connections, Inc./Hydro Recovery LP – Represented by Teresa Irvin McCurdy

Teresa started TD Connections in January 2013 to provide personalized consulting services with a focus in the energy sector to guide clients through the government and regulatory process and assist them with their public relations needs. Utilizing years of connections and experience, Teresa helps her clients either get legislation passed or defeated, a permit pushed through an agency, change proposed regulatory language, or interact with state and local officials. Although government funding is more limited, there are still opportunities for state assistance that she helps clients maneuver through the process to get funds to start or grow your business.

As a consultant for Hydro Recovery since 2009, Teresa is their Sr. VP of Business Development, Government and Public Relations, where she recommends strategies in the business and government/public sectors to create win-win opportunities for both Hydro and its clients, natural gas operators and vendors. She assisted Hydro in working with the PA DEP in drafting the WMGR123 permit as the first permittee of a centralized wastewater treatment plant and in permitting their mobile treatment systems such as their patented mobile evaporator/crystallizer and dissolved air floatation (DAF) unit.

In order to help her clients, her clients' clients and the gas related organizations she is involved in stay abreast of the latest legislative and regulatory information, she can be found attending various PA DEP meetings, other agency meetings, conferences and legislative meetings. She has been the Subcommittee Chair of the PIOGA's Environmental Committee since 2011 and served as the Vice Chair for two years of the MSC's Water Resources and Waste Management Committee.

Teresa has been very active in PIOGA, which includes utilizing

some of her connections to set up meetings and advance PIOGA's positions at DEP meetings and in the legislature. She has also played an instrumental role in PIOGA Tech's Water and Waste Management Trainings the past two years.

For over a year, Teresa has been writing editorials for the Northeast ONG paper (formerly the ONG Marketplace) providing commentary and interviewing legislators and top staff in the Governor's Administration. Just recently she started to provide articles to the Pennsylvania Business Central which also publishes the Marcellus Business Central and Women In Business. Teresa has been honored by being named the "Top 100 People in 2016 and 2017" and "Women Making A Difference 2017."

In business development realm, she has used the above knowledge and con-



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nections to help various businesses make connections. Her company has partnered with another firm to offer utility rate analysis to ensure that customers are paying the best available rate for electricity and natural gas, which may include an audit of past usage to determine if a refund is owed.

Prior to starting her own business, she worked for lobbying firm in Harrisburg representing various clients in all sectors, but still with a majority of her time focused on energy. She got her start in Harrisburg by first working for a 50-state legislative tracking company and then starting a state legislative tracking company with a colleague. That legislative tracking service, myPLS, is used not only by lobbyist but by the state legislature and Administration.

Stream-Flo USA, LLC - Represented by Cliff Simmons

Cliff is currently the N.E. Region Sales Representative for Stream-Flo USA, LLC, a company providing Wellhead Products and Services to the industry in the North East and around the world. Cliff began his career working in the summers while attending Indiana University of Pennsylvania. Now in his 41st year in the industry, Cliff has held the positions of District Manager, (Key Energy Services) Corporate Sales Manager, (Appalachian Well Services) and Director of Operations (ABARTA Energy). He has been twice elected to the BOD previously and has worked closely with the PIOGA Staff on many of the events held over the past 15 +/- years.


Steptoe and Johnson PLLC – Represented by Gary Slagel*

Gary Slagel is a Government Affairs Specialist with Steptoe and Johnson PLLC. Gary works out of Steptoe's Canonsburg,

Pennsylvania, office and represents clients on legislative and regulatory issues impacting the natural gas and coal industries. Gary was formerly employed in various positions with Consol Energy and CNX Gas including Senior Advisor, Environmental Affairs and Director of Government Affairs. Gary is chairman and executive committee member of the Pennsylvania Independent Oil and Gas Association and the former chair of the Marcellus Shale Coalition's Regulatory Committee. He is the former Chairman of the West Virginia Oil and Natural Gas Association's Marcellus Shale Alliance and a member of the Independent Petroleum Association of America's Environmental and Safety Committee. He was appointed to and served as a member of the Pennsylvania Department of Environmental Protection's Oil and Gas Technical Advisory Board from 1990 until 2015 and was appointed to and served on Governor Corbett's Marcellus Shale Advisory Commission. Gary is also on the board of STRONGER (State Review of Oil and Natural Gas Environmental Regulations) as an industry representative. In 2016 he received an Energy Leadership Award by the Pittsburgh Business Times for his accomplishments with both the coal and natural gas industries.

Gary previously served as chairman of both the Pennsylvania Coal Association and the Virginia Coal Association. He served on the North Allegheny Board of School Directors from 1990 to 1998, the last two years as President of the Board. He earned a private pilot's license and frequently enjoyed flying with his father, Gilbert, in his Cessna 182 before his father passed in 2011.


His greatest joys were his wife, Joyce, and his sons Matthew and Mark and their wives, Adriane and Janet and his grandchildren, Arlo, Siena, Josie and Oscar. ■



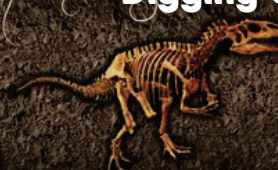
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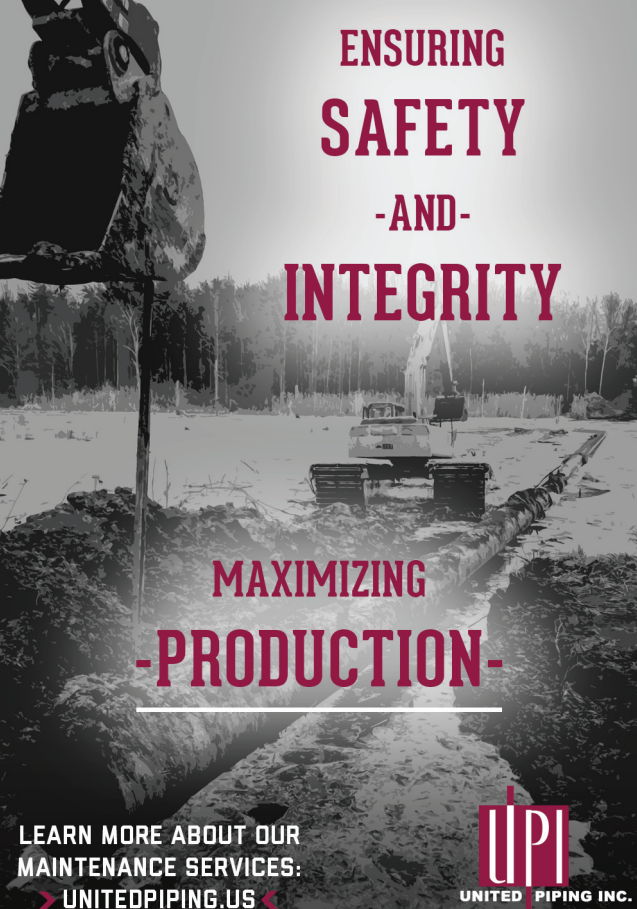


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PIOGA opposes proposed well permit fee increase

The Department of Environmental Protection has provided inadequate justification for an increase that will make Pennsylvania's unconventional well permit fees the highest in the nation, PIOGA said in formal comments on the department proposed hike in the fee to \$12,500 from the current \$5,000 for nonvertical wells and \$4,200 for vertical unconventional wells.

The association's comments came in response to the Environmental Quality Board's (EQB) July 14 notice seeking input on proposed increases in DEP's permit fees of 150 percent for nonvertical wells and nearly 200 percent for vertical wells. (Conventional well permit fees will remain unchanged and range from \$250 to \$1,950, depending on well bore length.)

PIOGA argued that "an objective analysis of the proposed rulemaking and information submitted in the Regulatory Analysis Form (RAF) shows that PADEP's evaluation is inadequate to support the requested fee increases."

The oil and gas program operates almost exclusively on permit fees, fines and penalties. DEP contends that while permitting has declined since the last fee increase in 2014, the department's workload has increased (*March PIOGA Press, page 4*). Even by reducing the program's operating costs by 39 percent over the past three years and implementing a number of cost-saving measures, "the current well permit fee is no longer sufficient to fund DEP's Oil and Gas Program," the department said in its analysis presented to the EQB, the entity that must approve all DEP regulations. DEP estimates the fee increase would generate an additional \$15 million annually.

PIOGA's comments pointed out that DEP's exclusion from the oil and gas program's operating budget of \$6

Comments on DEP proposals

million allocated from Act 13 impact fee revenue cannot be justified. Similarly, none of the \$140 million allocated from the state's general fund in the current fiscal year, including \$2.5 million for 35 additional employees for permit review and environmental enforcement, has been assigned to the oil and gas program.

"By excluding these revenues, which simply cannot be viewed as *not related* to the Oil and Gas Program, it is readily apparent that PADEP is looking at the unconventional industry as a 'cash cow,' especially considering its prediction in Section 10 of the RAF: 'It is entirely foreseeable that the current fee proposal will not be adequate to fund the program.'"

Without a proper and adequate evaluation of the total fees paid by industry for all DEP approvals and authorizations, it is impossible to accurately assess if the proposed increases are indeed "minimal," as claimed by the department, PIOGA continued.

PIOGA additionally took issue with the department's cost estimates of the economic burden on the state (\$0) and the regulated community (\$100 million annually) and the benefits to the public (immeasurable) due to the increased permit fee.

DEP sought and secured unconventional well permit fee increases in 2010 and 2014 based on the same rationale being used to justify this proposal—that the fee increase is necessary to fully fund the oil and gas program while also enabling timely processing of permit applications. "However, in both past cases the agency failed to control costs to administer the program and failed to provide timely processing of permit applications," PIOGA commented. "This is no way to treat a regulated industry that the department agrees provides broad and immeasurable benefits to the public at large." ■

Legislators weigh in on well permit increase

In letters to the Department of Environmental Protection, members of the state House of Representatives and Senate strongly urged the department to use money from DEP's General Fund allocation as well as a portion of the agency's Act 13 impact fee revenue to help fund the oil and gas regulatory program rather than increasing the permit fees for unconventional wells.

In an August 10 letter to DEP Secretary Patrick McDonnell, 31 House Republicans and one Democrat stated opposition to the agency's proposal to increase unconventional drilling permit fees to \$12,500 from \$5,000 for horizontal wells and \$4,200 for vertical wells to pay the administrative costs of the program (*March Practical Operator, page 4*). The House members made these points in their communication to DEP:

- **Permit review timeframes.** While review times have improved in 2018, the department has referred to the permit fee increase as a "status quo" increase, meaning no additional efficiencies or improvements to review times will be realized under this proposal. "It is inconceivable that a permit fee increase of 150 percent, totaling nearly \$15 million in new revenue annually, will merely maintain a status quo that currently lags behind other states with which we are competing for capital investment and job creation," the letter stated.

- **Relevant statutory authority.** The Oil and Gas Act requires that any permit fee bear a reasonable relationship to the cost of overseeing the industry. The House letter points out that while the unconventional natural gas industry accounts for approximately 60 percent of DEP's workload, it contributes more than 99 percent of

the department's oil and gas program budget. The inequity will be exacerbated by adding another \$15 million in permit fees paid by shale operators. "More importantly," the representatives wrote, "we do not believe that the statutory authority granted to the Environmental Quality Board by the General Assembly allows for the department to propose such a disproportionate share of funding responsibility upon one segment of industry."

• **General Fund and impact fee support.** The House members indicated they do not support an increase in permit fees for the conventional industry but instead called on DEP to supplement a reasonable amount of the costs to run the oil and gas program from the department's General Fund appropriation—a move that would be consistent with nearly every other program administered by the agency. The budget recently approved by the General Assembly provides nearly \$140 million in unencumbered General Fund dollars to the department.

Additionally, the representatives said it was their understanding that DEP does not intend to include its \$6 million annual allocation from the Act 13 impact fee in the oil and gas program's basic operating budget and instead intends to use that money to add new staff or expand policy initiatives. "This approach is unacceptable," lawmakers wrote. "When crafting Act 13, the General Assembly expressly intended to provide a portion of funding to support the costs of overseeing the growing natural gas industry. These funds were also

intended to provide a stable, predictable annual funding stream to supplement the revenue from one-time permit application fees, which are highly volatile depending on the current economic health of the industry."

• **Competitiveness with other states.** Under the Regulatory Review Act, agencies are required to consider the negative implications of a proposed rule on the Commonwealth's economic competitiveness. The House members pointed out that in its permit fee analysis the department looked only at four adjacent states, two of which (New York and Maryland) have prohibited shale-gas development and so are irrelevant for consideration. "Based on our own comparison," the letter said, "it is clear that Pennsylvania's proposed permit application fee of \$12,500 will be the highest in the nation, yet another distinction that signifies Pennsylvania is not open for business."

The House letter continued: "At a time when Pennsylvania is already losing the competitive race for capital investment to states like Texas and New Mexico, where regulatory and tax climates are stable and therefore return on investment opportunities more predictable, it is impossible to conclude anything except that this proposal will worsen the economic and competitive climate of Pennsylvania. This proposal, combined with a broader agenda of over-regulating and micro-managing the industry's operations, sends a chilling message to anyone contemplating investment in Pennsylvania."



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Senate letter

A similar letter was sent to DEP by 14 Senate Republicans on August 20, making much the same arguments in opposition to the permit fee increase.

The letter from members of the Senate Environmental Resources and Energy Committee and their Senate colleagues also recommended DEP “pro-

vide General Fund appropriations to supplement costs to run the Oil and Gas Program. The Department can and should consider providing a General Fund appropriation to this Program before considering raising fees.”

As part of the rulemaking process, the Senate committee and its House counterpart will have the opportunity to hold hearings on DEP’s permit fee proposal. ■

PIOGA calls for more input on revised E&S general permit

After reviewing proposed changes to the Erosion and Sediment Control General Permit for earth disturbance associated with oil and gas activities—which will be known as ESCGP-3—PIOGA has recommended that the Department of Environmental Protection extend the current ESCGP-2 for an additional six to 12 months beyond December 2018 so that industry can provide DEP with meaningful input on an updated version “that will best serve both industry and the Commonwealth as a whole.”

PIOGA took advantage of a public comment period to highlight both general and specific problems with the draft ESCGP-3 and supporting documents that were made available in July. Pointing to a settlement between DEP and three environmental groups over erosion and sediment permits for the Mariner East 2 pipeline project (*August PIOGA Press*, page 14)—a settlement that didn’t even include the permittee—PIOGA’s August 13 comments opined that “it is especially critical that PADEP listen and learn from industry experts, persons with practical and technical knowledge of the industry, when their input is provided.”

General comments

The department had stated it wanted to work with

industry to develop ESCGP-3, but DEP’s actions did not match its words, PIOGA wrote. After administratively extending ESCGP-2 in late 2017 past its December 2017 expiration, DEP sent an email asking for industry representation in workgroups tasked with developing the new permit, saying the groups would meet in person four times prior to May. After setting up the workgroups, nothing further was heard from DEP until May 31, when all the draft documents had been completed without input from industry. The draft documents were disseminated on June 12 and a webinar to receive industry comment was held on June 25.

Less than three weeks later the draft ESCGP-3 was published in the *Pennsylvania Bulletin* with no changes made to reflect industry concerns but with an entirely new training section added. DEP offered a 30-day public comment period ending August 13 (without all supporting documents being available until 10 days into the comment period) and stated that the final version *will be* published September 15—further indication that the department never intended to consider stakeholder input and was not willing to make changes.

“After missed deadlines and lengthy delays, there is now a rush to bring this permit to final form,” PIOGA wrote. “DEP should administratively extend the ESCGP-2 to allow for sufficient time to thoroughly review and respond to comments. The ESCGP-3 should not be rushed where there is no compelling reason to do so. DEP should only finalize this package after a thorough vetting and a renewed commitment to serious discussions with the regulated community on how best to move forward.”

PIOGA also pointed out that DEP’s notice in the *PA Bulletin* stated that the department “is not proposing significant changes” from ESCGP-2. However, the association’s assessment found at least six changes that can easily be considered “significant.” These changes will impede timely review and issuance of permits, with only one change that would actually improve E&S control or water quality. Most noteworthy among the changes in PIOGA’s view were:

- Addition of several new criteria for expedited review eligibility that will effectively eliminate industry’s ability use the expedited review process. PIOGA understands that DEP plans to institute a new prioritized review process, but it is not yet available and without it in place the association is concerned the effect will be significantly longer permit reviews.
- Proposed new Pennsylvania Historical and Museum



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Commission (PHMC) review done in a manner that exceeds DEP and PHMC authority. A new PHMC policy for permitting is understood to be in the works, but all PHMC requirements should be removed from ESCGP-3 until the commission's obligations are finalized.

- DEP is establishing a punitive penalty for licensed professional based on the department's concerns with identification and delineation of natural resources. However, DEP has not demonstrated there is a significant problem with this section of the permit and has

ePermitting update and ESCGP-3 transition

By Paul Kanouff

Civil & Environmental Consultants, Inc.

The Department of Environmental Protection's Erosion and Sediment Control General Permit (ESCGP-3) will be published as final on September 15. However, the ESCGP-3 will not be available for the electronic ePermit system until September 29 as the department works out the last remaining bugs. If needed, DEP will delay the release of the permit until all issues are resolved.

The release of Chapter 78 well drilling permits to the electronic ePermit system will also be delayed until September 29. Chapter 105 General Permits are still scheduled to be available on the electronic ePermit system on September 19.

All other dates as outlined in the Pennsylvania Bulletin for the ESCGP-3 release will remain the same. Paper copy submittals of the ESCGP-3 will not be accepted by the Office of Oil and Gas Management after December 29. All ESCGP-3 NOIs and associated documents and attachments required for submission to county conservation districts and the Bureau of Waterways, Engineering and Wetlands will continue to be paper copy submittals until further notice. ESCGP-2 applications will still be accepted until October 15. These applications must be approved, denied or withdrawn by the expiration of the ESCGP-2 on December 29.

ESCGP-3 trainings. DEP is planning to conduct two-hour training webinars on the ESCGP-3 on September 25, 26 and 27. Please note these training sessions will cover different topics each day, so you will want to complete all three webinars. In-person trainings are being planned in Pittsburgh on October 10 and in State College on October 18. You do not need to attend both of the in-person trainings as they will cover the same topics. Please note attendance at one of the in-person trainings is not a requirement for submittal as it was when the original ESCGP-1 was issued.

Paul is co-chair of the Erosion & Sedimentation, Waterways and Endangered Species Subcommittee of PIOGA's Environmental Committee. PIOGA thanks him for his involvement in these matters.

acknowledged the problem it is seeking to address is an isolated one. PIOGA suggested that in instances where DEP believes a licensed professional is not suitably qualified or that the person's work is substandard, the department should bring the matter to the attention of the appropriate licensing board.

PIOGA highlighted more than a dozen other concerns about specific provisions of the proposed ESCGP-3 in its comments, which can be found in the Members Only section of the association website. We thank the members of the PIOGA Environmental Committee for their work on developing these extensive comments. ■

PIOGA recommends UIC permits be removed from proposed DEP Environmental Justice policy

In July, the Department of Environmental Protection announced and invited public comment on proposed changes to its 14-year-old Environmental Justice Public Participation Policy. The policy is to be used for certain permit applications by applicants, affected communities and DEP itself to promote participation in the decision-making process by minority and low-income Pennsylvanians living in or near what are known as Environmental Justice (EJ) Areas.

The department's 2004 EJ participation policy included no consideration of oil and gas permits, but the draft policy update adds one—underground injection (UIC) disposal well permits—to the list of "Trigger Permits."

In formal comments submitted on August 28, PIOGA cautioned that the change has the potential to unnecessarily complicate the review and issuance of these permits, which have already been subject to intense local community involvement. The association is concerned that UIC well permits have been added simply because they involve a waste product.

In requesting that UIC permits be removed from the updated policy, PIOGA points out that unlike the locations of waste treatment facilities that originally spawned the EJ movement, the location of a disposal well is dependent on geology and not in any way on issues presented by communities of minority and low-income Pennsylvanians.

Further, the association cautions that the standards for DEP's determining of "Opt-In Permits" that would undergo EJ involvement are so broad as to potentially include any and all regulated activities, and the process for DEP's making these determinations is not clear. Any permit not on the list of Trigger Permits may serve as Opt-In Permits if DEP believes they warrant special consideration, but the policy does not state when or how DEP will make such a determination during the permitting process.

Finally, PIOGA points to the fact that the proposed

policy has the potential to add an additional layer of public involvement to the existing array of provisions for notice and comment, meetings and hearings associated with permits. DEP should clarify how and when it will decide that either public meetings or hearings are necessary so that all applicants understand and know in advance if these will be required and how they will affect permit and project timelines. The department also should clarify which of its programs and staff will be making such decisions and coordinating and communicating with permit reviewers, applicants and other stakeholders throughout the review process. ■

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Safety Committee Corner

Sleep deprivation and excessive sleep

By Carol C. Delfino, CIH, CSP
SE Technologies, LLC

Lack of sleep is a health issue. It can affect your mood, memory and general health. It also can affect your judgement so that you don't notice its effects. There are 6,000 fatal car crashes caused by drowsy driving each year and one in every 25 adults fall asleep at the wheel each month.

The lack of sleep can also affect your weight. It causes more cravings for sweet, salty and starchy food. When you are sleep deprived your body produces a higher level of the "hunger hormone" called ghrelin and has lower levels of the "appetite control hormone" called leptin. People who get less than five hours of sleep nightly are at a 50 percent higher risk for obesity due to the shift in hormones being produced.

The lack of sleep also affects our brain function: With the consistent lack of sleep our brains can age by three to five years and we are at a 33 percent increase for developing dementia. There is also a greater risk for depression, irritability, anxiety forgetfulness and fuzzy thinking.

Because of the lack of sleep our health can be greatly affected. There is a risk of high blood pressure, the development of heart disease, colorectal cancer and type 2 diabetes.

Conversely, getting too much sleep can also affect our health, causing an increase in the risk of diabetes, heart disease stroke and death.

So how much sleep is healthy? While sleep requirements vary slightly from person to person, most healthy adults need seven to nine hours of sleep per night to function at their best.

Our sleep needs do not increase with age. Most older people still need seven hours of sleep each night.

There are certain changes in your environment that can aid in achieving more sleep:

- Remove the TV, computer and other mind-stimulating sources of blue light from the bedroom.

- Make your bed every morning.
- Turn down the heat; 68 degrees is optimum.
- Keep a flashlight by your bed.
- Replace your pillows every two years.

The following are tips for healthy sleep:

- Set regular times for going to bed and getting up.
- Do not allow yourself any more than a 45-minute nap during the day.
- No alcohol within four hours of bedtime.
- No caffeine six hours before bed.
- No heavy, spicy or sugary foods four hours before bed.
- Reserve your bedroom for sleeping. It is not an



office, a workroom, a movie theater or TV viewing venue.

Fatigue in the oil and gas industry

A recent article in *Industrial Safety and Hygiene News* (www.ishn.com) described the effects of fatigue and sleep deprivation on workers in the oil and gas extraction industry, particularly those working long shifts in the field.

A notable problem is motor vehicle accidents among fatigued workers; statistics gathered by the Centers for Disease Control found that over a five-year period

approximately one-third of oilfield worker deaths were attributed to road accidents. About 56 percent involved only one vehicle. Additionally, excessively sleepy or fatigued workers are 70 percent more likely to be involved in industrial accidents than alert, well-rested individuals.

The *ISHN* article said employers can reduce the risk of worker fatigue by:

- Examining staffing issues such as workload, work hours, understaffing and worker absences, scheduled and unscheduled, which can contribute to worker fatigue.
- Arranging schedules to allow frequent opportunities for rest breaks and night-time sleep.
- Making adjustments to the work environment such as lighting, temperature and physical surroundings to increase alertness.
- Providing worker education and training addressing the hazards of worker fatigue, the symptoms of worker fatigue, the impact of fatigue on health and relationships, adequate quality and quantity of sleep and the importance of diet, exercise and stress management strategies to minimize the adverse effects of fatigue.
- Considering implementing a Fatigue Risk Management Plan under which, like other risk factors, fatigue can be managed. ■

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DEP Annual Oil and Gas Report:

No evidence fracking having direct impacts to water supplies

By Nicole Jacobs
Energy In Depth

The Pennsylvania Department of Environmental Protection recently released its 2017 Annual Oil and Natural Gas Report, and like DEP's 2016 report, it is full of great news for the Commonwealth. In particular, the report shows Pennsylvania's unconventional industry is not only experiencing record-breaking production, it's doing so while maintaining "a strong 95 percent compliance rate" on DEP inspections.

Notably DEP's report also debunks a key "keep it in the ground" (KIITG) talking point by explaining, "there is no evidence that hydraulic fracturing has resulted in a direct impact to a water supply in Pennsylvania."

And while the report acknowledges that stray gas issues (methane migration) have occurred at times, recent peer-reviewed studies conducted near oil and natural gas operations in the Appalachian Basin have found that shale development is not a major threat to groundwater.

Here are a few additional important highlights from the report:

■ Pennsylvania natural gas production is skyrocketing.

In 2017, Pennsylvania's unconventional industry produced 5.36 trillion cubic feet of natural gas—second only to Texas in U.S. natural gas production. That's a 5 percent increase over the state's 2016 production and a 1,360 percent increase since 2010.

Incredibly, this trend has continued in 2018. DEP's January through June production data show the state produced 2.9 Tcf during those months, compared to 2.6 Tcf during the same timeframe in 2017, representing about a 10 percent increase in production levels for the first half of 2018.

■ Southwest Pennsylvania saw the most new shale wells drilled.

There were 810 new unconventional shale wells drilled in Pennsylvania in 2017, compared to 503 in 2016. Washington (209) and Greene (158) counties in

Southwest Pennsylvania saw the most wells drilled in 2017, followed by Susquehanna County (94) in the northeast.

While much of the focus of the last decade has been on the Marcellus Shale, about 5 percent of the wells drilled in 2017 were in Pennsylvania's share of the Utica Shale. As was the case in 2016, Potter County (17) saw the most Utica Shale wells drilled in 2017, followed by Tioga County (10).

■ Permits issued in 2017 were more than double 2016.

DEP issued about 58 percent fewer unconventional permits in 2016 than in 2014, following a trend of decreased permitting. But that number is once again on the rise, with 2017 seeing 2,028 permits issued—or about 53 percent more than were issued in 2016.

The southwest had the most permits issued in 2017. The top counties for permits issued were Washington (515), Greene (453), Susquehanna (194), Butler (122), Allegheny (117) and Tioga (112).

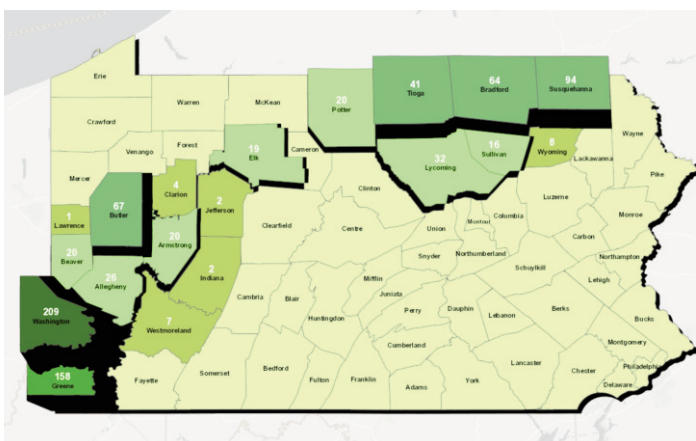
Conclusion

As DEP explained in its report, all of this uptick in activity has occurred while the industry has maintained a 95 percent compliance rate—and that's despite DEP conducting increasingly more inspections each year.

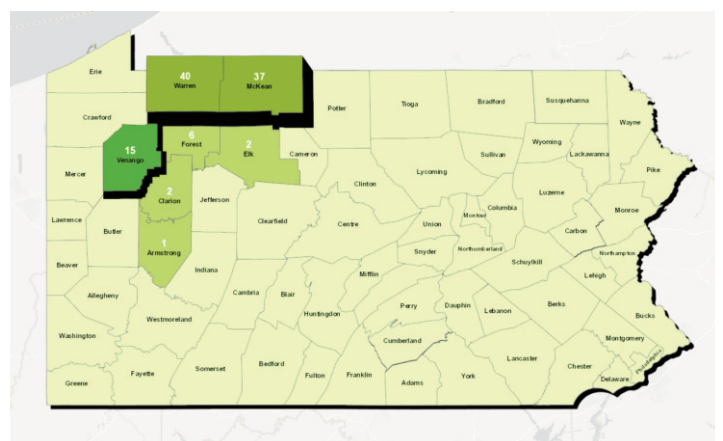
Further, this is just the latest of several Pennsylvania agency reports released this year that have confirmed the state has been able to experience this record-breaking production—and all of the benefits that come with it—without the detrimental environmental and health impacts the KIITG crowd has repeatedly claimed would occur:

- The Department of Conservation and Natural Resources (DCNR) released a report in July analyzing the impacts of shale development on state forest lands that builds on the DCNR's 2014 shale gas monitoring report (*August PIOGA Press, page 14*). The 2018 report concluded, "Water quality monitoring efforts by the bureau and its partners have not raised significant concerns on

Unconventional Wells Drilled by County, 2017



Conventional Wells Drilled by County, 2017



state forest headwater streams to date.”

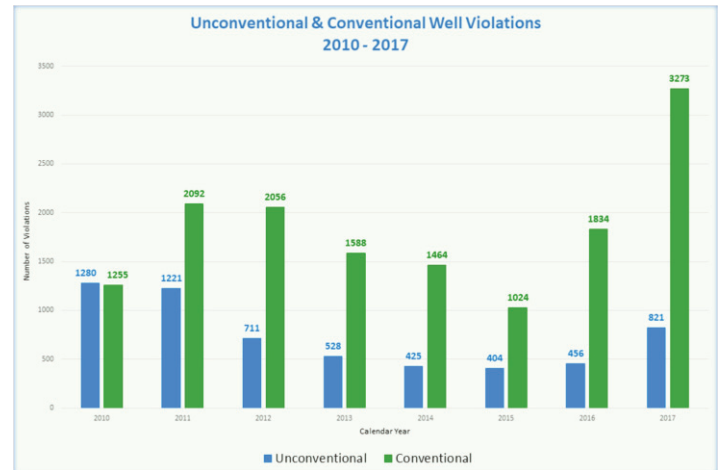
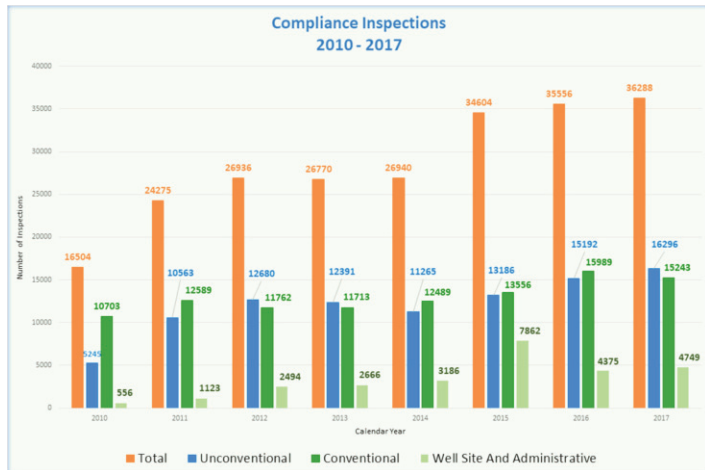
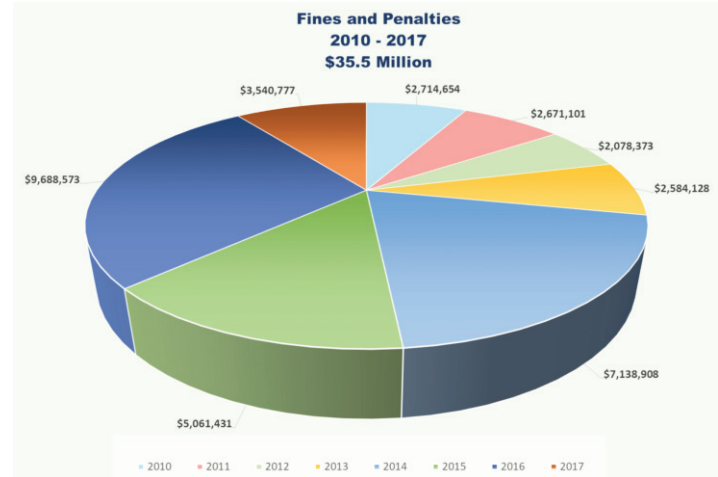
• Also in July, the Pennsylvania Department of Health and the DEP released two companion reports on shale development in the Commonwealth that have encouraging findings: There is little risk of shale development harming public health. DEP’s report included data for long-term air monitoring of Marcellus sites in Washington County, while the DOH’s report analyzed that data for potential health impacts.

• In April, the DEP released its comprehensive analysis of the structural integrity of shale wells across the Commonwealth (*May PIOGA Press, page 18*). The Mechanical Integrity Assessment Program report “shows that the majority of wells in the state are being operated in a manner that greatly reduces the risk for groundwater impacts,” according to DEP.

All told, the last decade of shale has created incredible opportunities for the Commonwealth, while proving time and again that the industry can and does operate in a manner that is protective of our environment and health. And with 2018 already on a path to once again shatter previous production records, and new investments being made in infrastructure for midstream and

downstream projects, it would appear that the best parts of this story have yet to be written. ■

Find it at www.depgis.state.pa.us/2017oilandgasannualreport



State Supreme Court refuses Mariner East pipeline appeals

The Pennsylvania Supreme Court on August 28 declined to hear the appeal of two Commonwealth Court decisions that found local zoning ordinances do not apply to the Mariner East 2 (ME2) pipelines in Chester and Delaware counties.

Delaware Riverkeeper v. Sunoco Pipeline sought to prevent Sunoco from constructing the Mariner East pipelines in a manner that violates the West Goshen Township zoning ordinance. The Commonwealth Court upheld the Chester County court’s findings that the township’s power to regulate the location of the ME2 pipeline was preempted by Pennsylvania Public Utility Commission authority; the county court lacked subject

matter jurisdiction over the plaintiffs’ claims; the plaintiffs did not establish a claim based on substantive due process; the ME2 pipeline is a public utility facility; and the plaintiffs were not entitled to injunctive relief.

The other case, *Meghan Flynn et al v. Sunoco Pipeline*, sought an injunction from a Delaware County court decision to prevent Sunoco from constructing the Mariner East Pipelines in violation of a Middletown Township subdivision and land development ordinance. Commonwealth Court had upheld the county court’s findings on grounds similar to the Chester County case. ■

21st Annual Divot Diggers Outing



114 golfers turned out on August 23 to make this year's Divot Diggers another success. The event, supported by the PIOGA Environmental Committee, is known for the great collection of prizes that are given away (below). The highlight this year was a shot-gun donated by Jeff Juart of Juart Brothers. Special thanks go to all of our sponsors and to our special "volunteers" Ken Fleeman of ABARTA Oil & Gas Company and Bruce Snyder of Fire Cherry Consulting.



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Thank you!





A large contingent of members of PIOGA's Pipeline and Gas Market Development Committee and guests toured UGI's Temple liquefied natural gas facility outside Reading in August. The company has operated the facility since 1972 and uses it for storage, associated peak shaving services and tanker-truck loading. The two storage tanks hold a total of 15 million gallons of LNG, or a 1.25 Bcf equivalent. Daily liquefaction capacity is 120,000 gallons/day (10,000 Dth). Maximum daily withdrawal is 205,200 Dth. Natural gas is taken from Texas Eastern and delivered back into the pipeline or into UGI Utilities. Two additional tanker-filling bays are planned. The facility also has two solar arrays with output of 2.05 megawatts, which helps run operations or is sold back to the electric utility. (Interesting fact: The volume of natural gas needed to fill a 16-inch-diameter beach ball becomes the size of a 1.5-inch ping pong ball when liquified.) Thanks to UGI for hosting the tour and the committee meeting afterward.



The court held that by defining “other critical communities” to include “species of special concern,” Section 78a.1 unlawfully expanded the list of public resources identified in Section 3215(c) of Act 13. The court further held that the regulatory definition of “other critical communities” as including “species of special concern” included in the Pennsylvania Natural Diversity Inventory (PNDI) database violates the Commonwealth Documents Law, circumventing rulemaking requirements for notice and comment by the public.

The court also held that the regulatory definitions of “common areas of a school’s property” and “playground” are not of the same general class or nature as their statutory counterparts. The court declared that the regulatory definition of “playground” is so broad as to defy quantification and compliance, the sheer diversity of which renders the regulation unreasonable. The court concluded that the addition of these new “public resources” was unlawful.

The court also concluded that the addition of “playground owners” as a public resource agency is void. Given the definition of “playground,” playground owners are not easily identifiable and they are neither government agencies nor “trustees” with any duties or obligations to protect the environmental trust under Article I, Section 27 of the Pennsylvania Constitution.

Finally, the court concluded that Section 78a.15(g)’s requirement that DEP will consider comments and recommendations submitted by municipalities fails absent statutory authority. In *Robinson Township v. Commonwealth*, the Supreme Court had invalidated Section 3215(d) which provided that DEP “may consider the comments submitted under section 3212.1 (relating to comments by municipalities and storage operators) in making a determination on a well permit.” 83 A.3d 901 (Pa. 2013).

On the other hand, the court concluded that the department may seek information from well applicants and comments from public resource agencies as part of its impact consideration required under Section 3215(c) of Act 13, limited in accordance with this decision. The court declined to invalidate Section 78a.15(g) of the regulation as unconstitutionally vague, leaving further evaluation of the legal limits of the regulation to be made on a case-by-case basis. The court also declined to invalidate the regulation for DEP’s failure to estimate the costs of mitigation of impacts to public resources, find-

2. The definition of “public resource agency” in Section 78a.1 of the Chapter 78a Regulations, 25 Pa. Code § 78a.1, to the extent that it includes “playground owners,” is hereby declared void and unenforceable; and

3. Section 78a.15(g)’s requirement that the Department will consider comments and recommendations submitted by municipalities is declared unconstitutional and unenforceable based on the Supreme Court’s decision in *Robinson Township v. Commonwealth*, 83 A.3d 901, 984, 1000 (Pa. 2013) (Robinson II), in which it declared Section 3215(d) of Act 13 of 2012, 58 Pa. C.S. § 3215(d)—the statutory authorization for this regulatory provision—unconstitutional and enjoined its application and enforcement.

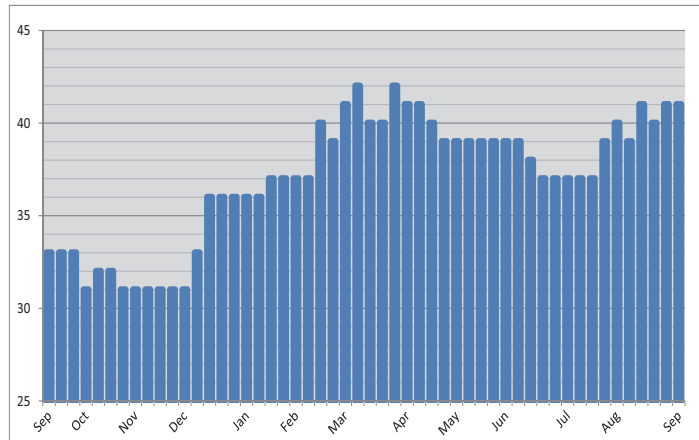
ing no evidence to suggest that the Independent Regulatory Review Commission's review was thwarted by the lack of a cost estimate.

The court's decision confirms that the obligations of oil and gas operators seeking well permits under Act 13 and Chapter 78a related to public resources are consistent with those obligations as they existed before Chapter 78a was adopted in October 2016. What is new is the addition of an express regulatory notification obligation that had been part of industry practice for the protection of threatened and endangered species and listed resources, such as scenic rivers, national landmarks and archaeological sites.

The court has tentatively scheduled oral arguments on the remaining counts in October. ■

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
October 2018	\$2.776
November	2.790
December	2.878
January 2019	2.965
February	2.937
March	2.841
April	2.582
May	2.557
June	2.587
July	2.618
August	2.622
September	2.604


Prices as of September 7

Sources


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

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- Compression, fractionation and other infrastructure facilities
- CNG & LNG fueling stations

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Northeast Pricing Report – September 2018

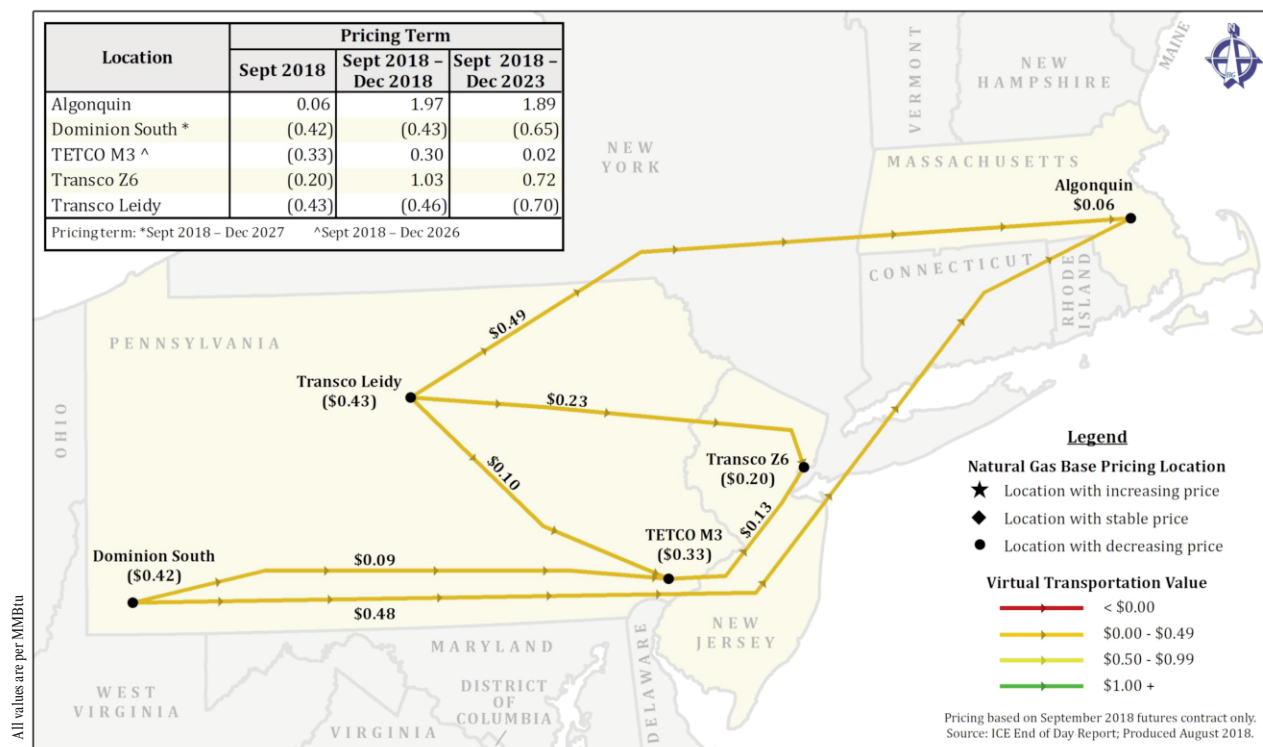
Pricing was mixed for every trading point across all trading time periods. While diverse, volatility was minimal. For the front month, Transco Z6 had the largest decrease of \$0.18 per MMBtu and Transco Leidy had the greatest increase of \$0.16 per MMBtu. For the one-year trading term, Dominion South was flat, while Algonquin had the greatest increase of \$0.09 per MMBtu. For long-term pricing, Dominion South had the greatest decrease of \$0.03 per MMBtu and Algonquin saw the largest increase of \$0.11 per MMBtu. Front month trading for Dominion South has crept up to some of the highest levels in several years.

Transportation values became very consistent for September. The difference from August to September for Transco Leidy to TETCO M3, Leidy to Algonquin, and TETCO M3 to Transco Z6 decreased nearly the same value of \$0.17 per MMBtu. Transco Leidy to Transco Z6 decreased \$0.34 per MMBtu, which is the greatest among all the transportation routes. Dominion South to TETCO M3 and Dominion to Algonquin stayed virtually the same.

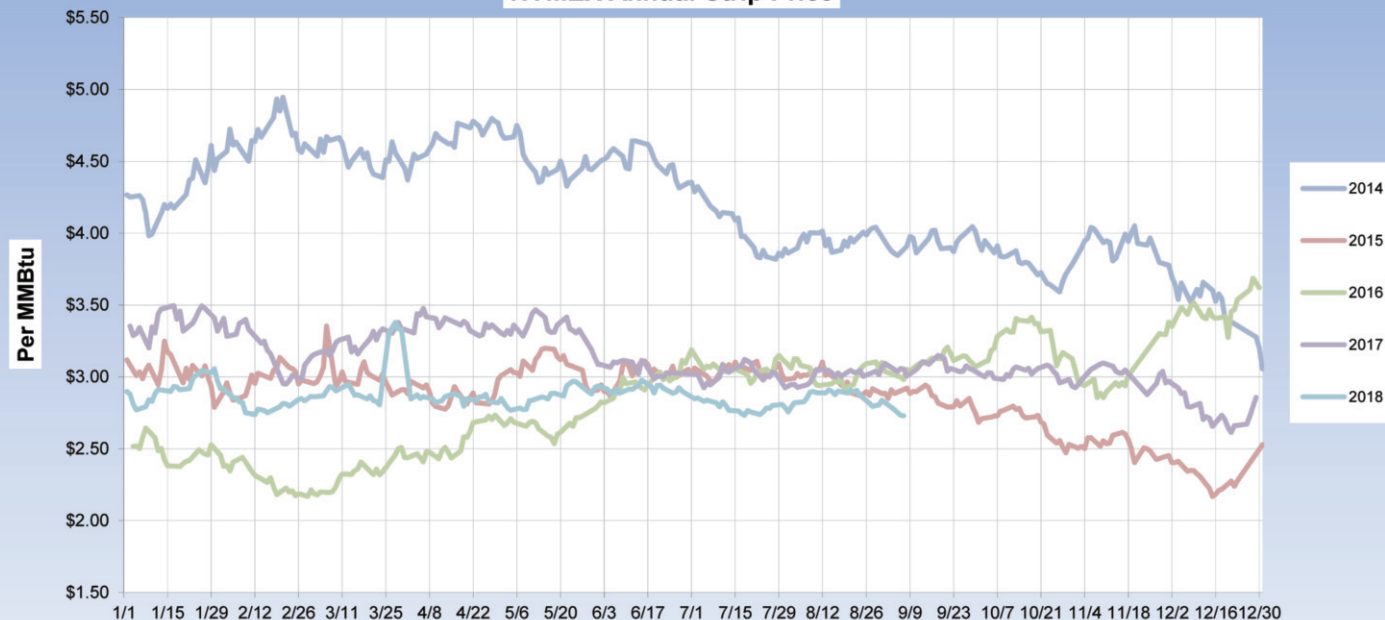
Transportation Value Market Indicator



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



NYMEX Annual Strip Price



Spud Report: August 2018



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

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

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

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
ARD Operating LLC	4	8/16/18	081-21738	Lycoming	Cascade Twp
		8/16/18	081-21743	Lycoming	Cascade Twp
		8/16/18	081-21744	Lycoming	Cascade Twp
		8/16/18	081-21745	Lycoming	Cascade Twp
Bald Hill Oil	2	8/13/18	053-30845*	Forest	Howe Twp
		8/21/18	053-30848*	Forest	Howe Twp
Cabot Oil & Gas Corp	9	8/6/18	115-22501	Susquehanna	Harford Twp
		8/6/18	115-22507	Susquehanna	Harford Twp
		8/6/18	115-22508	Susquehanna	Harford Twp
		8/6/18	115-22509	Susquehanna	Harford Twp
		8/6/18	115-22502	Susquehanna	Harford Twp
		8/6/18	115-22503	Susquehanna	Harford Twp
		8/6/18	115-22504	Susquehanna	Harford Twp
		8/6/18	115-22505	Susquehanna	Harford Twp
		8/6/18	115-22506	Susquehanna	Harford Twp
Cameron Energy Co	2	8/2/18	123-48097*	Warren	Sheffield Twp
		8/21/18	123-48138*	Warren	Sheffield Twp
Chestnut Oil LLC	2	8/15/18	123-48175*	Warren	Glade Twp
		8/21/18	123-48176*	Warren	Glade Twp
Chevron Appalachia LLC	10	8/2/18	129-29000	Westmoreland	Sewickley Twp
		8/2/18	129-29001	Westmoreland	Sewickley Twp
		8/2/18	129-29002	Westmoreland	Sewickley Twp
		8/2/18	129-29008	Westmoreland	Sewickley Twp
		8/2/18	129-29005	Westmoreland	Sewickley Twp
		8/2/18	129-29006	Westmoreland	Sewickley Twp
		8/2/18	129-29007	Westmoreland	Sewickley Twp
		8/2/18	129-29003	Westmoreland	Sewickley Twp
		8/2/18	129-29004	Westmoreland	Sewickley Twp
		8/17/18	129-29044	Westmoreland	Sewickley Twp
		8/17/18	059-27715	Greene	Morris Twp
CNX Gas Co LLC	15	8/17/18	059-27716	Greene	Morris Twp
		8/17/18	059-27717	Greene	Morris Twp

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Lindell & Maney LLC	1	8/17/18	059-27718	Greene	Morris Twp
		8/17/18	059-27516	Greene	Richhill Twp
		8/17/18	059-27517	Greene	Richhill Twp
		8/17/18	059-27518	Greene	Richhill Twp
		8/17/18	059-27519	Greene	Richhill Twp
		8/17/18	059-27520	Greene	Richhill Twp
		8/1/18	125-28505	Washington	East Finley Twp
		8/1/18	125-28506	Washington	East Finley Twp
		8/1/18	125-28507	Washington	East Finley Twp
Minard Run Oil Co	5	8/1/18	125-28510	Washington	East Finley Twp
		8/1/18	125-28508	Washington	East Finley Twp
		8/1/18	125-28509	Washington	East Finley Twp
		8/30/18	123-48010*	Warren	Brokenstraw Twp
MSL Oil & Gas Corp	3	8/3/18	053-30863*	Forest	Howe Twp
		8/10/18	053-30864*	Forest	Howe Twp
		8/16/18	053-30865*	Forest	Howe Twp
		8/27/18	053-30861*	Forest	Howe Twp
Range Resources Appalachia	4	8/20/18	083-57065*	McKean	Lafayette Twp
		8/23/18	083-57064*	McKean	Lafayette Twp
		8/31/18	083-57062*	McKean	Lafayette Twp
		8/16/18	125-28167	Washington	Hanover Twp
Rice Drilling B LLC	7	8/16/18	125-28168	Washington	Hanover Twp
		8/16/18	125-28195	Washington	Hanover Twp
		8/17/18	125-28595	Washington	Hanover Twp
		8/30/18	125-28582	Washington	N Strabane Twp
Rockdale Marcellus LLC	2	8/30/18	125-28583	Washington	N Strabane Twp
		8/30/18	125-28585	Washington	N Strabane Twp
		8/30/18	125-28586	Washington	N Strabane Twp
		8/30/18	125-28587	Washington	N Strabane Twp
Weldbank Energy Corp	2	8/30/18	125-28588	Washington	N Strabane Twp
		8/13/18	117-21998	Tioga	Liberty Twp
		8/17/18	117-21999	Tioga	Liberty Twp
		8/14/18	123-48165*	Warren	Mead Twp
Wilmoth Interests Inc	1	8/17/18	123-48166*	Warren	Mead Twp
		8/28/18	123-48184*	Warren	Mead Twp

	August	July	June	May	April	March
Total wells	69	99	87	79	76	113
Unconventional Gas	51	89	75	72	72	104
Conventional Gas	0	0	0	0	0	3
Oil	13	9	12	7	4	6
Combination Oil/Gas	5	0	0	0	0	0

CPI's gas compression training program

Central Pennsylvania Institute of Science and Technology (CPI) has a new natural gas compression program. The Gas Compression-CAT/Ariel Emphasis AST Degree consists of hands-on training in the natural gas compression field. Students work to obtain basic knowledge and abilities to troubleshoot natural gas engines and compressors.

Partnered with Caterpillar, Cleveland Brothers Caterpillar and Ariel Corporation, CPI is training technicians to service today's Ariel natural gas compressors and Caterpillar engines. CPI is looking for new students and companies to work with to provide training needs. This program is also looking for companies to place our current students.

For more information about this and other programs at CPI call 814-359-2793 or visit www.cpi.edu.

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Calendar of Events

PIOGA events

Info: www.pioga.org/events/category/pioga-events

Oktoberfest, Conference and Annual Meeting

October 17-18, Seven Springs Mountain Resort, Champion

Marcellus to Manufacturing

November 8-9, Energy Innovation Center, Pittsburgh

Other association & industry events

Appalachian Basin GPA Midstream 2nd Annual Appalachian Regional Conference

September 20, Washington, PA

Info: abgpamidstream.org

WVONGA Fall Meeting

October 1-2, Morgantown (WV) Marriott at Waterfront Place

Info: www.wvonga.com/events/upcoming-events.html

IPAA Annual Meeting

November 11-13, New Orleans, LA

Info: www.ipaa.org/events/annual-meeting-2018

IOGANY 38th Annual Meeting

November 1, Holiday Valley Resort, Ellicottville, NY

Info: www.iogany.org/events.php

Find more events at www.pioga.org

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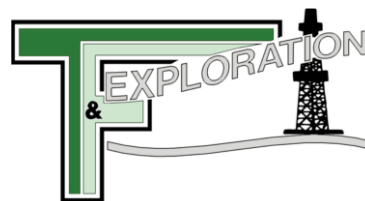
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