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# Senate Environmental Resources and Energy Committee

Senator Mary Jo White  
Chairman

Patrick Henderson, Executive Director

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March 18, 2009

John Hanger, Acting Chairman  
Environmental Quality Board  
15<sup>th</sup> Floor Rachel Carson Building  
Harrisburg, PA 17105

Re: EQB Proposed Rulemaking: Oil & Gas Well Permit  
Fees (#7-431)

Dear Acting Chairman Hanger:

I am writing to share with you my comments regarding the above-referenced proposed rulemaking.

It is my understanding that under this rule, an average Marcellus Shale permit fee will increase from \$100 to approximately \$2,600. The actual cost of each permit will, in large part, be tied to the total wellbore length of the well. In summary, the farther or deeper a well is drilled, the higher the permit fee will be – increasing about \$100 per 500 feet drilled. I question what the relationship is between the length of a proposed well and the administrative costs incurred by DEP in reviewing and processing the application.

Additionally, I question the methodology utilized by DEP to arrive at a figure representative of what it costs to review and process an “average” permit application (again, using DEP’s “average fee” figure of \$2,600). To this end, it is worth noting that as part of his 2007-2008 FY budget, Governor Rendell proposed raising the oil and gas permit fee from \$100 to \$1,475. The Governor’s proposal – which was never enacted – is included in HB 1206 of the 2007-2008 legislative session. At this time – despite rising interest in the Marcellus Shale natural gas play, as well as an increase in well applications within the Marcellus Shale region – neither DEP nor the Governor made any distinction between application fees for Marcellus or non-Marcellus well permits. Further, the discrepancies between fee proposals put forth by the Administration (\$1,475 in 2007; \$2,600 in 2008) raise legitimate concerns whether DEP has properly identified the amount of revenue necessary to administer the program. The Department should explain this disparity in fee proposals.

DEP appears to levy a 10% fee penalty if the final wellbore length of a well exceeds the length specified in the permit application. Fees are intended to offset administrative review costs; this provision appears to be punitive and does not appear to be an appropriate use of the fee-setting structure. My understanding is that DEP does not intend to refund any portion of the fee if the drilled length of the wellbore is *less than* the length specified in the application.

I also note that the final-omitted regulation states “Fees are non-refundable” (§78.19(e)). This provision makes no exceptions, including for DEP’s money-back guarantee program whereby an applicant is to be refunded their fee if DEP fails to act on the application in a timely manner. I do not know if that was the intent of DEP, but believe this provision should be clarified in the final rulemaking.

I appreciate the Board’s consideration of these comments.

Sincerely,

Handwritten signature of Mary Jo White in cursive.  
Mary Jo White, Chairman  
Senate Environmental Resources