



Pennsylvania's watchdog for clean air, pure water, and a healthy climate.

Testimony of Larry J. Schweiger

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Chairman Metcalfe, Chairman Bradford, and members of the House State Government Committee, I want to thank you for this opportunity to testify at this public hearing. I am the President and CEO of PennFuture, a statewide environmental advocacy organization that currently represents more than sixty thousand members and supporters. We strongly support adequate funding for our agencies tasked with environmental protection, responsible enforcement of environmental laws, and the advancement of new policies that protect public health and natural resources for our citizens today and into the future.

To the point of this hearing, the hearing this Committee hosted on this topic recently, and the ongoing debate in the Capitol on government regulations, I believe we're grossly missing the mark. Let me explain.

First, the public wants and deserves effective environmental oversight to protect their air, water, and public lands. I worked here for the General Assembly when 82% of Pennsylvanians ratified Article 1, Section 27 of the Pennsylvania Constitution that reads:

"The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all of the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."

If this promise were placed on the ballot this fall, I firmly believe we would see the same result. **Pennsylvania voters want their air, water and environment protected and environmental regulations have played a significant role in doing so.**

We must now protect public health by regulating methane pollution. Methane, the main component of natural gas, when released into the environment, traps heat. In the first two decades after its release, a methane molecule is 84 times more potent than a carbon dioxide molecule in trapping heat. Methane also interacts

with NOx and sunlight and creates ground-level ozone that is a known threat to human health and a potent asthma trigger. I believe circumstances warrant legislative action to cut methane emissions and to protect public health and safety.

Methane emissions reported under the federal New Source Performance Standards by drillers and compressor station owners) have seen a 28.2% increase in methane leakage from 2014 to 2015 while at the same time, Pennsylvania's gas production rose about 12 percent, according to the Energy Information Agency. Any time emissions are rising faster than production, we can assume that voluntary efforts to cut emissions are not working.ⁱ

Pennsylvania, as the second largest natural gas producing state, must join major gas producing states like Colorado, Wyoming, Ohio and California and enact state-level methane controls and other best management practices for gas development.

Second, I believe the discussion at the previous hearing – and the recently passed Senate Bill 561, which now resides in this committee and would provide for a legislative veto of regulations – are dangerous and unconstitutional. Without a doubt, the General Assembly has an important role to play in providing direct oversight of the many statutes and the agencies that enforce them. Having worked for the General Assembly from 1971-1981, I served as a voting alternate on the Environmental Quality Board for then Republican Senator Roy Wilt and am well aware of the duties and responsibilities of committees of jurisdiction to provide consistent and meaningful oversight of the respective agencies and the laws they are charged with implementation. In short, the General Assembly already has the power and the staff resources to address regulatory and enforcement oversight through the Constitutional pathway of passing legislation.

Senate Bill 561, and similar legislation introduced in the House, fail to follow this basic Constitutional pathway. Instead each aim to break the separation of powers crafted in our constitution to allow the legislature to veto new regulations the executive branch is carrying out to follow the law. It would provide yet another bureaucratic hurdle in the regulatory process that puts public health, safety, and environment at risk. Pennsylvania already has the most burdensome and slow regulatory process in America and the solutions offered to-date would do nothing but make that process worse.

Third, while this Committee has almost solely heard testimony from those aiming to reduce the rules that protect our citizens, the public is increasingly bewildered by all the delays and disillusioned by the failure to protect their air from methane, carbon pollution and toxics, and their water supply from lead, toxics or fracking fluids. By creating a byzantine labyrinth of oversight agencies and additional

time-delaying impediments to the proper promulgation of regulations, the legislature should be working to strengthen the rules and make the process more streamlined, not adding more barriers to it.

Fourth, budget cuts coupled with efforts to weaken regulations threaten our air and water protection. In a post Citizen's United world, environmental enforcement has been increasingly under assault in Washington and, now, in Pennsylvania. In recent years, the power of the purse has been applied in a punitive way to constrain DEP's enforcement capacity including a reduction of 754 positions over the past decade at a time when Pennsylvania's gas production grew thirtyfold across the Marcellus gas field.

The newly proposed cuts pending in the House budget passed recently puts Pennsylvania's environmental and public health at extreme risk. Witnessing the draconian budget cuts that have been made to the DEP budget over the past number of years, it is clear that this underfunded agency is now unable to protect drinking water supplies or provide oversight to an extensive and expanding energy infrastructure. In fact, these budget cuts should be the center of hearings such as these as they are directly causing the permit delays plaguing certain regions of the state.

Finally, we must learn from past mistakes. The failure to properly regulate coal, oil and gas development has had profound consequences for generations of Pennsylvanians. Lax laws, inadequate rules and lack of law enforcement have privatized profits while socializing the external costs in the form of air and water pollution. Much of the real costs of past energy development have been passed on to future generations.

Poorly regulated Coal Mining:

When the original Clean Streams Act was passed in 1937, the coal industry was explicitly exempted from regulations. More than 100 years of unregulated and later poorly regulated anthracite and bituminous coal mining has profoundly changed surface and groundwater hydrology and contaminated streams with acidity, and toxic metals. At one time, drainage from thousands of abandoned coal mines affected more than 10,000 miles and seriously contaminated more than 3,000 miles of streams and associated ground waters in Pennsylvania. Mine drainage continues to be the most extensive water-pollution problem affecting the four major river basins in Pennsylvania.

In February 1971, I was hired by the Joint Legislative Conservation Committee in part, to provide oversight over Project 500. We monitored "Operation Scar-lift" and tracked the expenditure of \$200-million to address mine drainage, burning culm banks and removal of dangerous high walls. The money expended in

1970's solved many serious threats but barely scratched the surface of the mine scars.

Recent studies by the U.S. Geological Survey (USGS) have documented the continuing extent of surface-water and groundwater degradation associated with past coal mining in Pennsylvania and have evaluated the effects of mining and reclamation practices and water-treatment methods intended to reduce contamination by mines. USGS summarized their assessment: "Because coal-mine drainage can contain toxic concentrations of acidity, metals, and sediment, many of the mining impacted streams contain 'no fish'. Consequently, Pennsylvania loses approximately \$67 million annually that could be generated if sport fishing were restored in the affected streams. The estimated cost for restoring the damaged watersheds is \$5 billion to \$15 billion."

Abandoned Oil and Gas Wells:

As early as 1899, John D. Rockefeller's Standard Oil lobbied the Pennsylvania legislature to avoid any regulatory restraints on the oil industry. Shallow oil and gas drilling remained largely unregulated throughout its heyday. Today, taxpayers of Pennsylvania are facing at least a \$7.5 billion liability to address this historic failure to properly regulate oil and gas drilling.

No one is really sure how many abandoned wells exist but best estimates are that Pennsylvania has about 300,000 orphan and abandoned oil and gas wells many of which, leak unknown quantities of methane and brine to the surface or to groundwater. The average cost to plug wells has been about \$25,000 per well. (The Commonwealth has capped wells with costs as high as \$250,000 per well.)

In 2012, the well plugging program was revived with the Act 13 drilling impact fees with limited resource to address a limited number of wells presenting the biggest environmental or safety threats. By 2014, DEP began to digitize well locations and plugged a little more than 3,000 abandoned and orphan wells or about one percent of the total. We must find a way to pay for well plugging in order speed efforts to stem methane pollution and to restore water quality while we learn from the mistakes of the past including the failure to properly regulate.

Pennsylvania currently has about 104,000 active oil and gas wells, compressor stations and processing facilities and leaking aging gas pipelines that expose about 1.5 million Pennsylvanians with two types of health impacts (*increased cancer risks and respiratory health risks*) resulting from toxic gas and infrastructure air emissions. This infrastructure must be properly regulated and the laws must be enforced.

The Commonwealth must avoid socializing the costs of energy extraction by handicapping responsible rulemaking and enforcement. The state must empower its regulating agencies to establish adequate regulations and to protect public

health through proper rule making, enforcement and to make sure there are adequate fees and sufficient bonding to restore all damages.

Instead, the title of this hearing seems to be asking a question tailored to a specific outcome: further relieve requirements on permittees who will potentially adversely impact the environment or threaten the health, safety or welfare of citizens.

It is said that history repeats itself because we fail to read the minutes from previous generations. We must stop making the same mistakes again and again by vilifying government regulations to benefit the very few at the cost of the health and safety of the Commonwealth.

Thank you.

ⁱ These inventories are industry's self-reported data, and as the Environmental Protection Agency has previously noted, actual emissions could be considerably higher than what is being reported.
