

January 22, 2020

To: Members of the Pennsylvania House of Representatives  
*RE: Opposition to Senate Bill 790 (P.N. 1446)*

Dear Representatives:

The undersigned members of the environmental, conservation, clean energy, and faith communities in Pennsylvania write to state our continued opposition to Senate Bill 790, as was amended by the Pennsylvania House Environmental Resources & Energy on January 13, 2020. We expect this bill to be considered by the PA House of Representatives this week.

We previously wrote in opposition to SB 790 (P.N. 1051) on November 19, 2019 primarily for the following reasons:

- SB 790 would weaken standards for the conventional oil and gas industry that were established by Act 13 of 2012. This bill includes language related to the preemption of local ordinances regulating land development that clearly runs afoul of the Pennsylvania Supreme Court's 2013 Robinson Township decision. This legislation also weakens current environmental and public health protections by eliminating the requirement to report any spills less than 5 barrels of oil (200 gallons) or 15 barrels of brine (600 gallons). This is far weaker than current reporting requirements of 5 gallons of a regulated substance like oil and more than 5 gallons of brine in a 24-hour period.
- SB 790 would allow well operators to provide replacement water for drinking water they contaminated that does not meet safe drinking water standards. Current law requires that replacement water supplies meet Safe Drinking Water Act Standards or better, but SB 790 only requires the quality of the replaced water be comparable to the quality of the water supply before it was contaminated. Residents and businesses would have to test their water supply before any possible contamination by the oil and gas industry to ensure a comparable replacement, adding a burden and cost to the public while giving the conventional oil and gas industry a way to dodge current requirements.
- Section 707 of SB 790 would allow "produced water" – groundwater, often mixed with drilling chemicals, that has been brought to the surface during oil and gas production operations – to be applied to unpaved roads as a dust suppressant and road stabilizer. Unfortunately, this is a waste disposal practice of convenience and not a road maintenance practice of verified efficacy. A 2018 Penn State University study also found conventional drilling wastewater used as a dust suppressant can harm aquatic life and pose health risks to humans. There are approximately 70,000 conventional oil and gas wells in production in Pennsylvania and recent years have seen a marked increase in the number of violations at these wells, with violations more than tripling between 2015 and 2017. These wells, just like unconventional wells, pose significant risks to public health and the environment and must be tightly regulated.

In addition, SB 790 would limit bonding and other financial assurance measures and thereby lead to another generation of remediation costs that will be borne by taxpayers of the Commonwealth, rather than the responsible parties.

Amendment A04433, offered by Representative Causer in the House Environmental Resources & Energy Committee meeting, changed SB 790 in three ways. First, it removed limitations that the bill currently imposes on the DEP's authority to consider impacts of conventional well operations on public natural resources. Second, it lowered the threshold for reportable spills of oil from 5 barrels in a 24-hour period to 2 barrels, and lowered the threshold for reportable spills of brine from 15 barrels in a 24-hour period to 5 barrels. Third, the amendment eliminated section 707 (described above) in its entirety.

We appreciate these changes, as they address some of our concerns stated above. However, A04433 did not amend section 308 of the bill, which eliminates responsibility for drillers to provide adequate replacement water, when operations have affected a landowner's water supply; nor does it address SB 790's unacceptable limitation of bonding and other financial assurance measures. Consequently, we believe that SB 790 would pose significant health and environmental risks even being amended by A04433, and therefore oppose it in that event.

**Please oppose Senate Bill 790 (P.N. 1446). Thank you very much for your consideration.**

Sincerely,

Mark Szybist, Senior Attorney, Climate & Clean Energy Program  
Natural Resources Defense Council (NRDC)

Jacquelyn Bonomo, President & CEO  
PennFuture

Jennifer Quinn, Legislative & Political Director  
Sierra Club – Pennsylvania Chapter

Joseph Otis Minott, Esq., Executive Director & Chief Counsel  
Clean Air Council

Steve Hvozdovich, PA Campaigns Director  
Clean Water Action

Stacy Carr-Poole, Executive Director  
Bucks County Audubon Society

Glenn Olcerst & Barbara Talerico, Founders  
Rail Pollution Protection Pittsburgh

Julie DiCenzo & Gail Murray, Communications & Outreach  
Communities First – Sewickley Valley

Rev. Douglas Hunt  
Unitarian Universalist PA Legislative Advocacy Network

Jim Vogt, President  
Aquashicola-Pohopoco Watershed Conservancy

Brenda Lynn Smith, Executive Director  
Nine Mile Run Watershed Association

Rebecca Kennedy, President  
Watershed Coalition of the Lehigh Valley

David Masur, Executive Director  
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Katie Blume, Political Director  
Conservation Voters of Pennsylvania

Tracey DePasquale, Director  
Lutheran Advocacy Ministry in PA

Jeff Smoyer, CEO  
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Joy Bergey, Director, EJ Center  
Chestnut Hill United Church

Vanessa Lynch, M.Ed., Field Organizer  
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Mike Gondell, Executive Board  
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