



June 2019 Newsletter

Hello from Arthur Stewart, Secretary

Here's the news...

1: The Conventional Oil and Gas Act Advances in 2019

PRINTER'S NO. 2141

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1635 Session of
2019

INTRODUCED BY CAUSER, RAPP, METCALFE, BARRAR, BENNINGHOFF, BERNSTINE, COOK, COX, DAY, DIAMOND, DOWLING, DUNBAR, DUSH, EVERETT, FRITZ, GABLER, GLEIM, GREINER, GROVE, HEFFLEY, HERSHEY, HILL-EVANS, IRVIN, JAMES, JONES, JOZWIAK, KAIL, KAUFER, KAUFFMAN, KEEFER, M. K. KELLER, MACKENZIE, MARSHALL, MASSER, METZGAR, MILLARD, MOUL, NELSON, NESBIT, O'NEAL, OBERLANDER, ORTITAY, OWLETT, PICKETT, POLINCHOCK, PYLE, RADER, REESE, ROAE, RYAN, SANKEY, SAYLOR, SCHEMEL, SCHMITT, SIMMONS, SNYDER, SONNEY, STRUZZI, TOPPER, WALSH, WARNER, WENTLING, WHEELAND AND ZIMMERMAN, JUNE 14, 2019

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JUNE 14, 2019

AN ACT

1 Relating to conventional wells and the development of oil, gas
2 and coal; imposing powers and duties on the Department of
3 Environmental Protection; and providing for preliminary
4 provisions, for general requirements, for underground gas
5 storage. for enforcement and remedies. for related funds.

Rep. Causer re-introduced the same bill that passed the House in 2018. The list of co-sponsoring members is impressive.

In 2019 there is multi-front effort to enact a Conventional Oil and Gas Act (COGA). In the PA House of Representatives, Representative Marty Causer re-introduced the same bill that passed the House in 2018. To launch the 2019 bill (HB 1635) Representative Causer, Representative Kathy Rapp, and other House leaders, with the active involvement and effort of the PGCC, gathered an impressive list of over 60 co-sponsors. As you read that list you will recognize names of many representatives who have traveled to conventional well sites in northwest and southwest Pennsylvania to learn, first-hand, about our industry and the need for a COGA.

In the House, the bill has been referred to the Environmental Resources and Energy Committee (ERE). ERE is chaired by Republican Representative Daryl Metcalfe from Butler County. PGCC has been fortunate to meet with Representative Metcalfe many times; he has a great working knowledge of our industry and the challenges we face. In fact, there are many conventional wells in and around his district.

In the Senate, last year's bill's sponsor, Senator Scott Hutchinson, has worked closely with Senate President Pro Tempore, Joe Scarnati. In a series of meetings in April and May, members of PGCC's executive committee traveled to Harrisburg to meet with DEP officials and Senator Scarnati's staff, to hear DEP's concerns and to discuss enactment of a bill acceptable to all stakeholders.



Members of DEP and the conventional industry met with Senator Scarnati's staff this spring

By early June, after long hours of meetings with PGCC representatives and DEP staff, and legislative drafting by Senator Scarnati's staff, a new bill began to take shape. Under the leadership of Senator Scarnati, the Senator's staff put together a bill that was introduced as Senate Bill 790 on June 21, 2019. The bill is currently co-sponsored by Senators Hutchinson, Yaw, Kim Ward, Stefano, Vogel, Brooks, Langerholc, J. Ward, Folmer, Mensch and Martin. SB 790 has been referred to the Senate Environmental Resources and Energy Committee (ERE). The Senate ERE is chaired by Senator Gene Yaw, who is a practicing attorney, and who thoroughly understands oil and gas law. Senator Yaw played a key role in helping ensure that regulations for conventional oil and gas were bifurcated from unconventional regulations. Senator Yaw, and many of the members of his ERE Committee, are aware of the need for a separate legal framework for conventional oil and gas, and he will bring good guidance as SB 790 makes its way through the Senate.

With the 2019-2020 budget now signed into law the legislature will not reconvene until late September. During the summer PGCC hopes to continue to educate all decision makers and the public about our industry and the need for a law that is separate from the unconventional industry law.

2: EPA POTW Rule Coming to Successful Resolution?

Three years ago, PGCC filed suit, in federal court, to stop the EPA Publicly Owned Treatment Works (POTW) rule. The 2016 rule states that produced water from unconventional wells cannot be taken to municipal treatment plants; the rule defines all Pennsylvania's conventional wells as unconventional. Thousands of barrels of water from conventional wells (at least as PGCC members define "conventional") are treated at municipal plants every year.

When PGCC filed suit, the EPA admitted it did not realize its new rule would have an impact on our conventional businesses, and the EPA suspended the rule for three years as to conventional wells. In the meantime, the federal court ordered the EPA to revisit its process and determine if the EPA could find a new solution.

In April 2019 EPA invited PGCC Legal Committee chair, Arthur Stewart and PGCC President, David Clark, to meet in Pittsburgh to discuss an EPA solution. The EPA unveiled a novel solution, suggesting that the 2016 rule would not apply to PGCC members' conventional wells...not because those wells are "conventional", but because PGCC members' wells are "stripper wells" as defined under subpart F of the EPA's regulations. Specifically, the EPA categorizes a stripper well as follows: "The provisions of this subpart are applicable to those onshore facilities which produce 10 barrels per well per calendar day or less of crude oil and which are operating at the maximum feasible rate of production and in accordance with recognized conservation practices. These facilities are engaged in production, and well treatment in the oil and gas extraction industry."

The EPA is suggesting that, because all PGCC's members' wells produce less than 10 barrels per day, the wells (and more specifically, the water produced by the wells) is exempt from the EPA's 2016 rule. PGCC's reaction is one of guarded approval. The solution would seem to work so long as the solution is recorded and so long as we understand the nuances of when a well might fall outside the stripper definition. For example, PGCC's legal counsel located an EPA permit that denied stripper well status for a well making less than 10 barrels per day, because at some point in the well's earlier life the well had made more than 10 barrels per day.

PGCC has requested that EPA memorialize its solution by expressly stating that the 2016 rule (issued under subpart C of the EPA’s regulations) and the stripper well exception (set forth under subpart F) are mutually exclusive and that stripper wells are excluded from the 2016 rule. The EPA has given verbal assurance it intends to do this. We await EPA action.

If the EPA provides the written assurance, PGCC will have achieved a solution that satisfactorily addresses the vast majority, if not all, of the water produced by PGCC members.

3: PGCC Comments on Beneficial Use of Produced Water

You may recall that, in September 2018, an EPA team, headed by Engineer Jesse Pritts, traveled to Pennsylvania to learn about water treatment needs. The EPA finds that in most states, produced and frac water are disposed of in underground injection facilities. Pennsylvania is unique in that its underground geology does not provide many injection opportunities. PGCC met with Mr. Pritts twice, first at a meeting of conventional and unconventional industry representatives in Harrisburg, and second at a meeting of the PA Crude Oil Development Advisory Council.



Jesse Pritts (3d from left) meets with PGCC board members and representatives of the unconventional industry, September 19, 2018, in Harrisburg

At those meeting PGCC stressed to Mr. Pritts the dwindling number of options available in Pennsylvania for the treatment or disposal of produced and frac water. The EPA has now issued its draft study. Based in part on comments PGCC made last fall, the EPA is now asking for additional input on the beneficial use, reuse, and recycling of produced water.

In June 2019 PGCC submitted additional written comments urging that reuse and beneficial use should be prioritized over all disposal options. PGCC cited, as one example, the spreading of brine on non-paved roads for dust control. PGCC pointed out that in the early 1990's the EPA provided funding to support the DEP's study of the potential impacts of brine spreading on surface and groundwater. PGCC reminded EPA that the study concluded that DEP guidelines are effective in regulating the brine spreading, subject to recommendations related to rates, frequency and slope restrictions. PGCC's comments also pointed out that following the completion of the study the DEP had approved brine spreading and that dozens of municipalities had relied on brine spreading to manage local road networks at reasonable cost.

It appears that in addition to the EPA's outreach, significant federal funding may also be available to study reuse and beneficial use of produced water. We hope to have more information available in the next quarterly newsletter.

4: Educational Visits in Harrisburg

PGCC members traveled to Harrisburg in April and May to introduce new legislators to the conventional industry. Typical was a May visit with freshman Republican Tim O'Neal (pictured below), who represents parts of Allegheny and Washington Counties. PGCC's members use photos, stories, and economic information to educate new legislators about the conventional industry and to make sure our industry is not confused with the unconventional shale industry.



Sue Phillips, Rep. Tim O'Neal, Rep. Mike Reese, Dave Clark, Dan Palmer and Wally Phillips in May

The visits are a great way to tell the story of our sometimes-forgotten industry, to remind the public that PGCC members are small businesses, and to communicate that we care about our communities because we live where we work.



Paul Morris, Dave Clark, Mike Ward, Arthur Stewart, Jay Curtis and Wally Phillips waiting to see Rep. Marty Causer in April

5: Incentives to Plug Orphan Wells

The number of orphan and abandoned wells in Pennsylvania is unknown; some estimates put the number at 200,000; some say three times that high. What is certain is that DEP's plugging funds are funded from permit fees, and that with few new permits being issued, DEP has very limited plugging funds.

In addition to permit fees, Pennsylvania can fund plugging through the Marcellus Legacy Fund. Under Act 13 a portion of the Marcellus Impact Fee is set aside for various environmental improvement projects, including plugging of orphan and abandoned wells. Unfortunately, the authority that awards the grant money has not given high priority to well plugging projects. Less than 1/10th of one percent of the Marcellus Impact Fee has gone to well plugging.

At the Pa Grade Crude Oil Development Advisory Council (CDAC), PGCC members and others have carried the message that the window to plug ancient wells is closing. The May 2019 CDAC meeting focused exclusively on plugging; members of the conventional industry shared with DEP, DCED, and guests the difficulties of plugging deteriorating wells.



PGCC members showed photographs of deteriorating wells to impress the need for funding

PGCC has long taken the position that a robust conventional industry is needed in Pennsylvania. Who but the conventional industry has the equipment and expertise to tackle the plugging of problem legacy wells? A robust plugging program would help secure clean ground and surface water and would keep rigs, cementing companies, and vac trucks moving when times would otherwise be slow.

A new COGA can help lead the way for a robust plugging program. The COGA legislation considered in 2017-18 contained a streamlined process, for operators who voluntarily plug orphan wells, to obtain liability protection under the State’s “Good Samaritan” law. That COGA legislation also provided a small amount of grant funding for the voluntary plugging of orphan wells. In 2019, both the House and Senate versions of the bills being considered, contain similar provisions. PGCC believes that COGA plays a key role in dealing with the orphan and abandoned well problem. PGCC will continue its efforts to education decision makers and the public about the closing window and the need for prompt action.

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