



January 16, 2020

To: Members of the Pennsylvania House of Representatives

RE: Opposition to Senate Bill 790 (P.N. 1446)

Dear Representatives:

The Environmental Defense Fund (EDF) and Pennsylvania Environmental Council (PEC) wish to convey our opposition to Senate Bill 790. While we recognize that there can be appreciable differences between conventional and unconventional operations, this legislation includes dramatic reductions to health and environmental protections that are unwarranted and unsafe. Instead of adjusting for true differences between conventional and unconventional operations, Senate Bill 790 inappropriately shifts the costs and risks inherent in conventional operations to the citizens of the Commonwealth.

The following represent the most overt issues with the legislation.

**1. Protection of Drinking Water**

Act 13 of 2012 ensured that if well operations impact, through disruption or contamination, a private water supply, the operator would be required to provide a replacement supply that meets Safe Drinking Water Act standards. Section 308 of Senate Bill 790 removes that requirement. It is inconceivable that our state would allow operators to damage a water supply with the only obligation being to provide an unsafe replacement.

**2. Financial Assurance – Bonding and Well Transfers**

Pennsylvania already faces extraordinary cleanup legacy costs with hundreds of thousands of orphaned and abandoned wells scattered across the state. While the legislation is framed as a means to help sustain the viability of the industry, Senate Bill 790 arbitrarily limits bonding and other financial assurance measures and thus increases the risk of another generation of remediation costs that may be ultimately borne by taxpayers of the Commonwealth. While bonding can be reasonably scaled in relation to the number of active and idled wells owned and operated, in no instance should an artificial ceiling be placed on bonding requirements.

In addition, this legislation fails to account for, or guard against, the increasing frequency of conventional wells being transferred en masse to under-capitalized entities. This is a growing concern in our state – just this year tens of thousands of wells were transferred without full accounting of what the financial and environmental risks might be to the Commonwealth in the event of bankruptcy or other default. DEP should be provided with the authority to review, and right to deny, a proposed well transfer based on permit compliance and the adequacy of financial assurance and corporate solvency.

### **3. Spill Reporting**

Section 704(f) of Senate Bill 790 would not require *any* reporting of brine spills of any volume provided they are below 10,000 (mg/kg) total dissolved solids (TDS). Such spills are nevertheless quite damaging to land and water resources, and this exemption would create an extraordinary risk to groundwater and streams and increase the ultimate costs of site remediation. Current regulations provide a much more appropriate standard in accordance with accepted industry practice.

### **4. Well Integrity and Plugging**

In multiple sections, Senate Bill 790 relaxes well integrity, groundwater protection, and plugging and remediation standards that run counter to common industry practices already employed in Pennsylvania today. Current regulations provide clear and achievable protections that should be preserved.

Senate Bill 790 also contains provisions that limit local government input, public participation, and public resource protection.

While we recognize that low commodity prices have hampered the conventional industry, that challenge is wholly unrelated to environmental protection. It certainly does not warrant the unraveling of standards that have been in place, and practiced by both the conventional and unconventional industries, for decades.

EDF and PEC are willing to come to the table and work with the General Assembly, Administration, and conventional industry to develop more appropriate legislative language. At the moment, Senate Bill 790 does not represent the proper vehicle for that outcome. As such, we urge you to oppose Senate Bill 790.

Thank you for your consideration.

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Environmental Defense Fund

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Pennsylvania Environmental Council