

# The PIOGA Press

The monthly newsletter of the  
Pennsylvania Independent Oil & Gas Association  
January 2018 • Issue 93

## PIOGA kicks off centennial celebration

This year marks 100 years of this trade association working on behalf of Pennsylvania's crude oil and natural gas industry. Actually not this trade association, as PIOGA was formed in 2010, but we can directly trace our roots to 1918 and the founding of the Pennsylvania Oil, Gas and Minerals Association. Minerals" later was dropped from the organization's formal name, but the "M" stuck around in the acronym POGAM.

Unfortunately, a fire in March 1986 gutted the building housing POGAM's office in Bradford, and the organization's historic records were lost. We can't tell you about the issues that consumed the association in its early days. However, we can relate some of the more recent facts about how we came to be the organization we are today.

From its beginnings in 1918 until the 1970s, POGAM was primarily focused on the shallow oil industry in northwestern Pennsylvania. There were natural gas producers who belonged to the organization and the association did deal with issues that affected those producers as well.

There were, however, major changes looming in the natural gas industry in the United States. The federal government had set the wellhead price of natural gas since the Philips Petroleum decision in 1954. The Federal Energy Regulatory Commission (FERC) kept prices artificially low, creating a major supply shortfall for interstate markets at the same time intrastate prices had risen at market prices which encouraged adequate

supplies on the intrastate market. The discussion of deregulation of wellhead prices was followed by discussion of unbundling of the delivery process from the purchase process.

Traditionally, the interstate pipeline companies and local distribution companies sold a bundled service and supply of commodity sales bundled with delivery and storage services to the end user. The discussions that raged nationally as well as here in Pennsylvania encouraged natural gas producers to become active participants in these discussions. In early 1979, natural gas producers met for lunch at the Duquesne Club in Pittsburgh to discuss a new organization to focus and address these and other natural gas issues.

The Pennsylvania Natural Gas Associates (PNGA) was born as a result. The group focused on these FERC issues, the Natural Gas Policy Act and qualification of Pennsylvania's natural gas producing sands as "tight sands" for FERC incentive pricing, the precursor of true free market commodity pricing.

As PNGA began to attract producers who were oil as well as natural gas producers, the name was changed to the Independent Oil and Gas Association of Pennsylvania. IOGA of Pennsylvania and POGAM both worked hard in representing the industry in Pennsylvania and routinely cooperated on legislative and regulatory mat-



*Continues on page 3*

Effort fails on severance tax amendments . . . . .	3
"Get Caught Doing Good" . . . . .	4
Tax reform prioritizes American energy . . . . .	7
Let us help get your gas flowing . . . . .	7
Legislature attempts to inject new life into expired leases . . . . .	8
Cold weather injury prevention . . . . .	10
Wanted: Safety Committee speakers . . . . .	11
Stay tuned for the 2018 PIOGA PoWER Series . . . . .	12
Compliance management and assurance training . . . . .	12
Become a PIOGA Partner . . . . .	13
Holiday mixer recap . . . . .	14
Personal liability imposed for failure to plug wells . . . . .	15
Shale development unrelated to mortality rates . . . . .	16
CELDf attorneys sanctioned in disposal well case . . . . .	18
FERC rejects plan to benefit nuclear and coal plants . . . . .	18
PIOGA Member News . . . . .	19
New members . . . . .	19
Oil & Gas Dashboard . . . . .	20
Calendar of Events . . . . .	23

# RLA Premier Conference Center

28 Meeting Rooms

Full Service – One Price

## Expectations Exceeded

- Non-Profit Organization
- Customized Meeting Packages
- Retreat-like Setting
- Green Meeting Center
- Ergonomic Furniture Design
- State-of-the-art Technology
- Executive Style Food Service

For inquires or a personal tour, call

**724-741-1024**

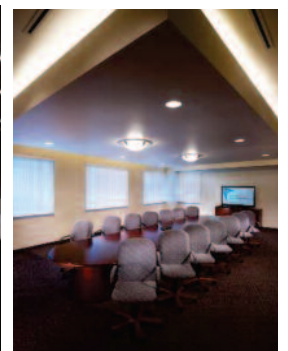
[info@therla.org](mailto:info@therla.org)



Regional Learning Alliance at Cranberry Woods 850 Cranberry Woods Drive Cranberry Township, PA 16066  
[www.therla.org](http://www.therla.org)



Meet. Learn. Succeed.





## PIOGA centennial *Continued from page 1*

ters.

In 2008, the newly arrived shale producers from the southwestern U.S. met with POGAM and IOGA-PA representatives to address the new and unique challenges of unconventional natural gas development in Pennsylvania. The result was the creation of the joint Marcellus Shale Committee of the two associations. A year later, in 2009, this group split from the existing state associations and formed the Marcellus Shale Coalition, a stand-alone organization.

Agreeing that the time was right to join forces, POGAM and IOGA-PA merged in April 2010 to form the Pennsylvania Independent Oil & Gas Association. We look forward to seeing what the second century of oil and natural gas producer representation holds in store for PIOGA.

To celebrate our centennial, we are rolling out the logo that accompanies this article. Watch for centennial-

## Effort narrowly fails to continue House floor debate on severance tax legislation

Shortly before state lawmakers recessed for the holidays, a late-night attempt by a bipartisan group of supporters of natural gas severance tax legislation in the House of Representatives failed to garner the constitutional majority needed to call the bill up to continue debate on the amendment process related to the legislation.

The attempt received 100 votes, just shy of the number needed to move the issue for further consideration. No additional action will occur before lawmakers return to work on January 29.

House Bill 1401 would establish a tax on unconventional natural gas production ranging between 2 cents to 3.5 cents per Mcf, depending on the annual average NYMEX price of natural gas. The Act 13 impact tax on unconventional wells would remain in effect as well. Those provisions mirror a tax passed by the Senate in late July as part of a budget revenue package. HB 1401 also would prevent operators from apportioning post-production costs as part of royalty payments.

The legislation was amended in early December to include several permitting reforms in an attempt to gain industry support for the tax (*December PIOGA Press, page 1*). In all, 424 amendments have been filed to HB 1401, reportedly a record in the Pennsylvania General Assembly. Many of the amendments have nothing to do with either the severance tax or the oil and gas industry.

PIOGA continues to vigorously oppose any severance tax legislation. ■

themed events throughout 2018. ■

*Thanks to former PIOGA President & Executive Director Lou D'Amico for much of the information in this article.*

*The April 1986 issue of the Pennsylvania Oil & Gas Association's newsletter described an overnight fire that destroyed the organization's office.*

*"We got together the next morning at the home of POGAM exec Steve Rhoads, bought pens and notepads, and started the long process of rebuilding our membership and financial records," recalls PIOGA's Matt Benson, who*

*was director of communications for POGAM at the time. "It's not something I'd ever want to go through again!"*



The advertisement for GZA GeoEnvironmental, Inc. features a top banner with a collage of six images: an oil pumpjack, a steel bridge, a green plant, a monarch butterfly, a waterfall, and a crane. Below the banner, the company name 'GZA GeoEnvironmental, Inc.' is prominently displayed in white on a blue background. To the left, a list of services is provided: Geotechnical, Environmental, Ecology, Water, and Construction Management. To the right, a list of specific services is shown, including Certified AST Inspection, Spill Planning, and Environmental Permitting. The advertisement also lists two key personnel: David Palmerton, Principal in Bridgeport, WV, and Carol McKnight, Sr. Project Manager in Cincinnati, OH. At the bottom, the Laurel Oil &amp; Gas Corp. logo is shown, along with the company's website addresses: www.gza.com and www.laureloilandgascorp.com.

# 'Get Caught Doing Good'

## ***A call to action from the Pennsylvania Grade Crude Development Advisory Council***

Perception is reality. While not necessarily the truth, it is oftentimes a narrative spun by forces outside our control.

Recently, much of the narrative spun around the oil and gas industry is largely negative—the dangers of hydraulic fracturing, gas migration, drinking water contamination, etc. These issues, while of grave concern, result in incidents that are actually few and far between. To ask the average citizen outside of the oil and gas producing regions, you would think we could light our rivers and streams ablaze from toxic oil slicks and gas vapors polluting them. This is certainly not the reality.

It is time to try to control some of the narrative that creates the public's perception of the reality of the conventional oil and gas industry of Pennsylvania. How do we do that? *Get Caught Doing Good*.

As conventional producers of oil and natural gas in

this historic industry, let's make this our goal. Let's make this our call to action. How do we *Get Caught Doing Good*? Currently, we do it every day when we use best practices in safety for our employees and the environment. But there is a way to take it a step above and beyond the everyday.

There are tens of thousands of orphan wells in Pennsylvania and not nearly enough resources to plug them all. The newly formed Pennsylvania Grade Crude Development Advisory Council is looking into ways of incentivizing well plugging through both legislation and grant funding. Even if these measures are successful, it will not be enough. However, volunteers from our conventional industry can help make a difference and, perhaps in doing so, help change the narrative that shapes the public's perception of the industry.

Why should we volunteer? The orphan wells are not, technically, our problem. We didn't drill them, nor did we profit from them. Maybe everyone who has ever enjoyed a home heated from natural gas or fuel oil or a vehicle powered by gasoline or diesel should pay their fair share of the plugging costs?

The simple reason to volunteer comes down to this: "community ownership." These are our communities. We live here, play here and raise our children here. We have the expertise, equipment and ingenuity to help solve this major problem facing our state. The well you choose to plug may be one of your own, your neighbor's or the state's property. The well you volunteer to plug today is a solution to tomorrow's problem.

The Department of Environmental Protection wants to be a cooperative partner in this volunteer effort. Two volunteer projects in the spirit of this cooperation have already been completed, with more on the way. Also, if you don't mind a little paperwork, you can even apply for coverage under the state's Environmental Good Samaritan Act, which frees you from any liability associated with the well after it has been plugged.

If you are interested in volunteering your expertise, but are concerned that you may not have the resources to join this effort, for a \$100 application fee you can submit a plugging project grant proposal under the Commonwealth Financing Authority's Orphan or Abandoned Well Plugging Program. Each year, the Commonwealth Financing Authority awards millions of dollars in grant funding for various programs. Although highly competitive, well plugging grants for up to \$250,000 per project are considered.

*Getting Caught Doing Good* is about "doing good" for ourselves, our communities, our state and our industry. Let's change the outside perception of our industry so others can see the reality—that we are good stewards for the communities we work and live in, and we care for that which has cared for us.

For information about getting caught in the act of doing good, please contact PIOGA's Dan Weaver at 724-933-7306 or dan@pioga.org. ■



Gas Field Specialists, Inc. is committed to providing diversified, competitive, quality service with integrity and professionalism to the oil and gas industry. Our gas field services include:

- ⌘ Meter/Regulator Station Construction
- ⌘ Water Hauling and Management
- ⌘ Compressor Station Construction
- ⌘ 500 bbl Mobile Frac Tank Rentals
- ⌘ Workover Rigs
- ⌘ Site Preparation
- ⌘ Certified Welders
- ⌘ Heavy Hauling



**Shinglehouse, PA**  
2107 SR 44 S  
Shinglehouse, PA 16748

P: 814-698-2122  
F: 814-698-2124

**Horseheads, NY**  
224 N Main St Bldg. 17-2  
Horseheads, NY 14845

P: 607-796-2523  
F: 607-796-5256

Visit [www.gfsinc.net](http://www.gfsinc.net) for more information on product & services offered.





Industry Intelligence. Focused Legal Perspective.  
**HIGH-YIELDING RESULTS.**



Meet our attorneys at [babstcalland.com](http://babstcalland.com).

Whether it's a state or federal regulatory matter, local land use or zoning challenge, acquisition of title and rights to land, or jointly developing midstream assets, we help solve complex legal problems in ways that favorably impact your business and bring value to your bottom line.

**Babst | Calland**  
Attorneys at Law

*Where Trust and Value Meet.™*

PITTSBURGH, PA | CHARLESTON, WV | STATE COLLEGE, PA | WASHINGTON, DC | CANTON, OH | SEWELL, NJ

# essentially, clients value five things in a law firm



strong relationships



clear communication



budget certainty/lean staffing



know-how



results

**TOP LISTED IN THE U.S. IN ENERGY LAW  
BY THE BEST LAWYERS IN AMERICA®**

Sharon O. Flanery • Chair, Energy and Natural Resources Department • [sharon.flanery@steptoe-johnson.com](mailto:sharon.flanery@steptoe-johnson.com)

THIS IS AN ADVERTISEMENT

**SJ** STEPTOE  
& JOHNSON  
P.L.L.C.

[steptoe-johnson.com](http://steptoe-johnson.com)

# Federal tax reform legislation prioritizes American energy

The newly enacted Tax Cuts and Jobs Act was a historic step to advance the most substantial reform to the U.S. tax code in decades, the Independent Petroleum Association of America (IPAA) reports.

Overall, the tax package will be positive for oil and natural gas producers, with all of the major current tax provisions supporting production retained in the tax code, including the Intangible Drilling Cost deduction and Percentage Depletion deduction—key issues IPAA has worked to educate lawmakers and the public about over the last decade and throughout the current tax reform debate.

IPAA President and CEO Barry Russell applauded the vote, stating: “The U.S. oil and natural gas industry is a

## Let us help get your gas flowing

Getting everyone’s natural gas flowing has been the goal of the PA PES (Production Enhancement Service) program on the Peoples Natural Gas system since 2001. With noted decreases in production, we need to know where the conventional production is going. At times, low market prices can drive down producer volumes via deliberate shut-ins; however, system operations can also affect flow.

As part of the PES program, the Project Review Committee (PRC) exists to help alleviate system problems. The PRC is made up of producer and Peoples representatives. The committee reviews issues related to the pipeline system and recommends maintenance projects, system improvements and other solutions.

When production is down, or meters are shut in voluntarily, we would like to know. Information helps us select, schedule and monitor projects to keep gas flowing.

PIOGA wants to hear from producers about issues they are having so that we can serve as a clearinghouse for information that will help the PRC identify projects. Please use the Contact link on our homepage ([www.pioga.org](http://www.pioga.org)) to provide the following information:

**Producer/Operator Name:** (required)  
**Contact email** (required)  
**Contact phone** (required)  
**Producer Operated (P.O.) meter #** (required)  
**Line #**  
**GPS or Coordinate**  
**General Comments** (What is your Issue?)

capital-intensive industry. We’re pleased to see the final bill includes pro-growth measures that support the unique nature of our businesses, while allowing producers to continue investing billions of dollars back into American energy and the U.S. economy. Meaningful tax policies including strong cost-recovery provisions (like full expensing of capital expenditures), repealing of the corporate Alternative Minimum Tax, and lowering corporate rates will help our member companies reinvest into new production and innovative technologies that will keep American energy affordable for U.S. consumers and create opportunities for the U.S. workforce.”

The tax reform package includes a number of pro-business actions that support American energy and the economy. Items include:

- Lowering the corporate tax rates from 35 percent to 21 percent.
- Repealing the corporate Alternative Minimum Tax.
- Allowing for full expensing of capital investments for five years.
- Creating a net operating loss carryforward structure and revising the structure of international taxation.
- Revising individual tax policy providing for lower rates and restructuring the tax treatment of pass-through entities in an effort to make them closer to corporate taxation. ■



**Moody**  
**and Associates, Inc.**  
*Groundwater & Environmental  
Professionals Since 1891*

**Call or visit us online for  
more information about  
our services for the Oil  
and Natural Gas industry:**

**Meadville, PA** Ph: 800-836-5040  
11548 Cotton Rd. | Meadville, PA 16335

**Houston, PA** Ph: 866-336-0000  
199 Johnson Rd. Bldg 2 Suite 101 | Houston, PA 15342

**Waverly, NY** Ph: 877-602-3120  
685 Broad St. Ext Suite 1 | Waverly, NY 14892

[www.moody-s.com](http://www.moody-s.com)



# Pennsylvania legislature attempts to inject new life into expired oil and gas leases

On October 30, Governor Tom Wolf signed House Bill 74, which amended the Pennsylvania Fiscal Code. The 90-page bill included Section 1610-E, entitled “Temporary Cessation of Oil and Gas Wells,” which codified certain rights of oil and gas lessors and lessees to extend leases during periods of temporary cessation of production. This article explores how traditional savings clauses found in leases and existing legal precedent may be impacted by Section 1610-E, and provides an analysis of potential challenges arising out of the application of this new law.

The new law provides:

## *Section 1610-E: Temporary Cessation of Oil and Gas Wells*

“(a) General rule.—An oil and gas lessor shall be deemed to acknowledge that a period of nonproduction under an oil and gas lease is a temporary cessation insufficient to terminate the lease and the lessor waives his right to seek lease termination upon those grounds if, prior to claiming the lease has terminated:

- (1) production is recommenced and the lessor accepts royalty payments for the production. Any first royalty payment following recommencement of production after a period of more than one year of inactivity shall be accompanied by an explanation, in plain terms, that acceptance of the royalty payment shall constitute acknowledgment of an existing lease with the operator; or
- (2) the operator, after notifying the lessor of its intent to drill a new well and giving the lessor 90 days within which to object, drills a new well under the lease.

(b) Lease provisions.—Nothing in this section is intended to waive lease requirements related to commencement of operations during a lease’s primary term or affect a lease provision expressly providing for lease termination following a fixed period of nonproduction.”

## **Savings clauses preventing lease termination**

Traditional Pennsylvania oil and gas leases typically terminate upon the: i) expiration of the primary term unless the lease entered its secondary term; or ii) cessation of production and/or other operations provided for in the lease, once the lease has entered its secondary term. However, more modern leases include savings clauses, such as shut-in clauses, cessation of production

clauses and continuous drilling operations clauses, which can prevent lease termination during a stoppage in production.

A shut-in clause allows a lessee to maintain a lease without actual production when and if a well has been drilled which is capable of producing gas in paying quantities but which is temporarily shut-in. 8-S *Williams & Myers, Oil and Gas Law Scope*. Similar to Section 1610-E, a shut-in clause is designed to prevent automatic termination of a lease due to non-production. Additionally, a cessation of production clause provides a lessee the right to preserve a lease during periods of non-production under certain circumstances, such as during well maintenance or an elapsed time between completion or abandonment of one well and the beginning of operations for the drilling of a subsequent well. 8-C *Williams & Meyers, Oil and Gas Law Scope*. Furthermore, aside from modern lease form language, courts have held that “a temporary cessation of production is not sufficient to terminate a lease.” *Cole v. Philadelphia Co.*, 345 Pa. 315 (Pa. 1942).

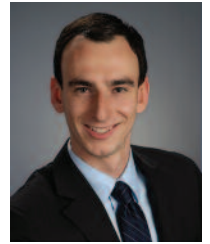
In certain circumstances, Pennsylvania courts have upheld a lessee’s usage of these savings clauses to continue the lease’s enforceability. Many modern lease forms include savings clauses, which Section 1610-E(b) acknowledges. Therefore, it is possible that the Legislature intended Section 1610-E to apply where a savings clause is not present or applicable, as opposed to limiting the application of contractual savings clauses.

## **Legal precedent for lease termination due to non-production**

The Pennsylvania Supreme Court has admitted that “the traditional oil and gas ‘lease’ is far from the simplest of property concepts.” *Brown v. Haight*, 255 A.2d 508 (Pa. 1969). As evidenced by the above savings clauses and the case law described below, non-production of an oil and gas lease is not necessarily the end of the life for the lease or the existing relationship between the lessee and lessor in Pennsylvania. In this way, Section 1610-E may not differ significantly from existing case law. Pennsylvania courts and the Legislature have established the relationship between a lessor and lessee and have dictated how termination of a lease can be formalized.

Early Pennsylvania cases defined the relationship between a lessor and lessee after production ceases as a tenancy at will. A tenancy at will is a tenancy for an uncertain period of time that can be terminated by either party. 30 *P.L.E. Landlord and Tenant* § 74. If a lessor did not “enter and repossess himself of the premises demised” after a period of non-production, a tenancy at will was created. *Cassell v. Crothers*, 44 A. 446 (Pa. 1899); See also *Brown v. Haight*, 255 A.2d 508 (Pa. 1969). Unless a lessor or lessee exhibited an action evidencing

Author:



Nicholas Habursky, Esq.

**Babst Calland**  
Attorneys at Law



intent to terminate the lease and the tenancy at will, a non-producing lease could be continued under Pennsylvania law. However, it is unclear whether the tenancy at will and right to recommence production would exist in perpetuity or just for a reasonable amount of time after a period of non-production begins.

More recent Pennsylvania cases hold that if oil and gas is produced “a fee simple determinable is created in the lessee, and the lessee’s right to extract the oil or gas becomes vested.” *T. W. Phillips Gas & Oil Co. v. Jedlicka*, 42 A.3d 261 (Pa. 2009). Upon the occurrence of a specific event, the fee simple determinable estate automatically reverts back to the lessor. *Id.* at 267. See also *Seneca Res. Corp. v. S & T Bank*, 122 A.3d 374 (Pa. Super. Ct. 2015). The specific event would be determined by the lease terms.

Pennsylvania also provides a statutory framework for the formal release or forfeiture of a lease. Within 30 days of termination, expiration or cancellation, the lessee is required to deliver to the lessor a surrender document in recordable form. 58 P.S. § 903(a). Similarly the lessor can provide notice of termination to the lessee, and if no challenge is received within 30 days, the lessor can record an affidavit of termination. 58 P.S. §§ 901-905.

### Impact and scope of Section 1610-E

Based upon Section 1610-E, non-production alone is insufficient to definitively terminate an oil and gas lease.

Despite the parameters set forth in Section 1610-E preventing the automatic termination of an oil and gas lease, the law explicitly defers to the terms of the oil and gas lease that deal with termination after a specific period of non-production. Thus, the practical scope of the law may be limited to older oil and gas leases whose secondary term is commonly defined as “...and so long thereafter as oil and gas is producing in paying quantities...” and which do not contain numerous savings clauses. Many modern oil and gas leases contain language that more broadly defines a secondary term, such as a period when a well located on the leased land is capable of production. Additionally, modern leases are more likely to include savings clauses such as cessation of production clauses or continuous drilling opera-

tions clauses whereby Section 1610-E would likely be inapplicable. Therefore, Section 1610-E likely will have a greater impact on older held-by-production leases requiring production in paying quantities for the lease to remain in effect.

### Potential issues with the application of Section 1610-E

In the event a temporary cessation of production occurs, and if the lease does not contain terms regarding rights or obligations of the lessee and lessor as to the force and effect of the lease, then Section 1610-E may provide curative rights. These curative rights are available only if neither the lessor nor the lessee has terminated the lease. Section 1610-E may be utilized if one of two criteria exists: (1) lessee must recommence production and lessor must accept a royalty payment for this production; or (2) if after providing 90 days’ notice of its intent to drill a new well, and absent objection, the lessee drills a new well. Both steps require either an affirmative action by the lessor and lessee or acquiescence to drilling on the part of a notified lessor. The new law does not provide an affirmative right of the lessee to continue operations without first either confirming the lessor will not object to new drilling or risk recommencing production dependent upon the lessor accepting future royalty payments.

As a result, the new law does not provide any greater certainty or clarity as to the effectiveness of leases with historical production. This is especially true if the lessor or lessee do not provide record notice that the lease has expired or terminated. Section 1610-E does not define what is meant by its usage of the phrase “prior to claiming the lease has terminated.” Unless a lease is terminated pursuant to statutory provisions, it is not always clear what action is required to claim lease termination. Therefore, a lessor may disagree as to whether Section 1610-E is even applicable. This can lead to further litigation between lessors and lessees in the event of a temporary cessation of production.

It is also unclear whether the “period of non-production” discussed in the statute has any limit. The law acknowledges the period can be more than a year, but does not definitively state a limit to the application of the law to revive a lease for non-production, beyond the use of the term “temporary” cessation. Additionally, there could be a conflict between a lease and the application of the new law if a lease contains a shut-in limitation regulating the length of time a well can be shut-in.

As Section 1610-E is utilized in the future, it is likely that these issues will be addressed by lessors, lessees and the courts. ■

For more information, contact Nicholas Habursky at 412-253-8859 or [nhabursky@babstcalland.com](mailto:nhabursky@babstcalland.com).



Targeted technical training on the environmental and safety matters you deal with every day.

**PIOGATech**  
PIOGA's Technical Seminar Series

# Cold weather injury prevention

By Wayne Vanderhoof, RJR Safety Inc.

Two common injuries that may occur while working outdoors during late fall, winter and early spring months are hypothermia and frostbite. Preventing exposure to cold weather and reducing the potential for these cold-weather injuries start with understanding the injuries and then prevention methods.

It is very important to always contact an immediate supervisor and persons trained in first-aid to assist in the caring of a person with any type of cold injury.

The first cold weather injury is **hypothermia**, when the body loses heat faster than it can produce heat, causing the core body temperature to fall below 95 degrees Fahrenheit. Hypothermia can result from exposure to cold air or water temperatures, or both. The air or water temperature does not have to be below freezing for hypothermia to occur. Exposure for extended periods to cold, wet, breezy or windy conditions and wearing damp or wet clothing increase risk for hypothermia at temperatures above 32 degrees, such as 40 and even 50 degrees.



**Signs and symptoms of hypothermia** to look for in yourself and coworkers include being disoriented or confused, having a “glassy” stare, uncoordinated movements, slurred speech, light-headedness, fatigue, slow movements and responses, and profuse sweating (yes, sweating). Initially, the person may shiver, but as the hypothermia progresses the shivering may stop. This is a sign that the person’s condition is worsening and immediate medical care is needed.

**First-aid for hypothermia** includes gradually re-warming the person by getting him or her to a warm place, removing damp or wet clothing and covering with dry clothing or blanket, as well as covering the hands and head to conserve heat. You may blow warm air in the direction of the person though not directly on the skin. If the person is conscious and able to swallow, give small sips of warm non-caffeinated liquids such as broth or warm water. Monitor the person for improvement and warming. If the person does not seem to improve or the condition worsens to a slowing of breathing or a decrease in the level of consciousness, contact emergency services immediately.

The other cold weather injury is **frostbite**, which is

when the fluid in the skin tissue cells freeze because of extended exposure to freezing or below-freezing temperatures. The most common areas affected include ears, nose, fingers, toes and exposed areas of skin. Frostbite can lead, if untreated, to loss of the affected areas.

**Signs and symptoms of frostbite** include the affected area being numb and the skin is cold to the touch and appears waxy, with the skin color being white, yellow, blue or red. In severe cases, there may be blisters and the skin may turn black.

When providing **first-aid for frostbite** for mild cases, handle the affected area gently. Never rub the frostbitten area, as this can cause additional damage to the tissue. Move the person into a warm area, allowing warm (not hot) air to blow onto the affected area. Using skin-to-skin contact (for example, cupping the affected area in your hands) may be sufficient to rewarm the frostbitten body part. For more significant frostbite, you can rewarm the affected body part by soaking it in warm water until normal color and warmth returns (about 20 to 30 minutes). The water temperature should not be more than 100-105 degrees F. If you do not have a thermometer, test the water with your hand. It should feel warm (about body temperature), not hot. In severe cases where blisters appear, do not break them. You should loosely bandage the area with a dry, sterile bandage. If the fingers or toes were affected, place cotton or gauze between them before bandaging the area. The person with blisters caused by frostbite needs more medical attention than first-aid.

**Prevention of cold weather injuries**, specifically hypothermia and frostbite, include dressing for being in cold weather for extended periods. Dressing in layers can help to protect you from exposure to cold temperatures.

The first layer, called the base layer, is next to your skin. The base layer helps to regulate body temperature by wicking perspiration away from the skin, which is important because if perspiration gets trapped inside your clothes, you can become chilled rapidly, which can lead to hypothermia. Fabrics best at wicking sweat away from the skin are silk, merino wool and certain synthetics. Cotton is not a good choice because it traps moisture, rather than wicking it away.

The job of the middle layer is insulation. This layer keeps you warm; it helps you retain heat by trapping air close to your body. Natural fibers such as wool and goose down are excellent insulators. So is synthetic fleece. Vests, jackets and tights are examples of clothing that can be worn for insulation.

The shell or outer layer protects you from wind, rain or snow. For cold weather, the shell layer should be both waterproof and “breathable.” This will keep wind and water from getting inside of the other two layers while allowing perspiration to evaporate. The shell also



should be roomy enough to fit easily over the other layers without restricting movement.

In addition to layering your clothes, wear items to cover other areas to allow you to stay warm in cold weather. These items include a hat that also covers your ears, a knit mask that covers your face and mouth, insulated gloves (though mittens keep your hands warmer), insulated socks and water-resistant boots.

**To review**, there are two common cold weather injuries that may occur while working outdoors during late fall, winter, and early spring: hypothermia and frostbite. Preventing exposure to cold weather and reducing the potential for these cold-weather injuries start with understanding the injuries and how to prevent them with the correct layering of clothing and minimizing exposed skin by covering everything. It is very important to always contact an immediate supervisor and persons trained in first-aid to assist in the caring of a person with any type of cold injury. It is equally important for us to watch out for each other for the symptoms of cold weather injuries. We will notice a cold weather injury in our coworker before we recognize it in ourselves. ■

*This article was written as a toolbox or tailgate talk that can be read word for word by a supervisor, then workers can sign a sign-in sheet that can be attached. It was compiled from materials published by the American Red Cross.*

## Wanted: Safety Committee speakers

PIOGA's Safety Committee serves as a forum to improve the safety performance of Pennsylvania's oil and gas industry through the exchange and communication of best practices, education and training, incident review and sharing, and by identifying and communicating industry trends. Toward these goals, the committee is seeking PIOGA subject matter experts interested in making presentations on safety-related topics at the group's meetings.

Potential topics include regulatory matters, best practices, training, legal issues and industry trends. Speakers would have approximately an hour. "Sales pitches" will not be considered.

The committee meets every other month on the second Wednesday at the Regional Learning Alliance in Cranberry Township, just prior to, and at the same location as, the monthly meeting of the Environmental Committee. The next meeting is February 8.

To discuss potential presentations, please contact committee Chairman Wayne Vanderhoof of RJR Safety Inc. at [wayne@rjrsafety.com](mailto:wayne@rjrsafety.com) or 724-809-4234.



## Responsible Reclamation

*An opportunity to restore diversity*

- Conservation seed mixes
- Pollinator forage
- Native seeds
- Bioengineering materials

[ernstseed.com](http://ernstseed.com)

[sales@ernstseed.com](mailto:sales@ernstseed.com)

800-873-3321



## Stay tuned for the 2018 PIOGA PoWER Series!



The PIOGA Board of Directors is pleased to announce a new quarterly series of interactive presentations focused on providing women in the energy sector with tools, tips, and discussions for betterment and personal growth.

The PIOGA Women's Energy Roundtable (PoWER) Series was launched in June 2017 at the summer meeting with a presentation by motivational speaker Monique DeMonaco focusing on the unique challenges of being a woman executive or business owner and how to avoid burnout. A second presentation facilitated by Board Member Beth Powell of New Pig Energy was held prior to the Annual Membership Meeting in October. Beth's discussion focused on unconscious bias and how thoughts influence judgment and professional and personal interactions.

As a member benefit, PIOGA will continue this roundtable series on a quarterly basis throughout 2018 via lunchtime webinars, and at times paired with already planned PIOGA events for the spring, fall and winter. Tentative topics include: Effective Negotiation; Mentor & Mentee: How to Find a Great Fit; Gaining Influence in a Male Dominated Industry; and Building Resilience and Grit. If you have topic or speaker suggestions, please send them to Joyce Turkaly at joyce@pioga.org.

Stay tuned for details of the 2018 PoWER series!

*Submitted by Sara Blascovich, Regional Regulatory Lead, Associate, HDR Inc., and PIOGA board member*

## PIOGATech a valuable training on compliance management and assurance

On December 14, the Environmental Committee hosted its fourth PIOGATech training of 2017, focusing on compliance management and assurance. Compliance management and assessing your company's risk are critical to a successful business. At the PIOGATech, the more than 15 attendees learned about the new landscape of compliance/assurance as new local, state, regional and federal issues arise; new regulations are promulgated; best practices evolve; and opponents have opened new fronts of attack. The seminar focused on the role of leadership and culture in preventing serious injury, along with tools, techniques and products that can help a company assure compliance.

Thank you to ECBM, LLC, Langan Engineering & Environmental Services, Inc., and RJR Safety, Inc. for putting together a very relevant program and for providing their expertise on this important topic for our members. And a very special thank-you to Ken Fleeman from ABARTA Energy, co-chair of the Environmental Committee, for his leadership and guidance on all the 2017 PIOGATech sessions.

**Come join us on February 27** in Clarion for the next Environmental Committee's PIOGATech focused on abandoned wells and well plugging. More information and registration coming soon! ■



*Adrienne Viguera (above) from ECBM discusses cyber risk and insurance during the seminar. Wayne Vanderhoof (right) of RJR Safety highlights training techniques to keep employees safe on the job.*





# Become a PIOGA Partner

PIOGA traditionally has offered sponsorship opportunities throughout the year as events approach. However, we've heard from a number of members who would prefer a more inclusive, get-it-all-done-at-once approach to sponsoring. With that

in mind, we have launched the 2018 PIOGA Partners program. The seven levels of sponsorship offer something for everyone's budget, all offering a variety of perks and types of recognition for your company.

We hope you will consider signing on to be a PIOGA Partner as a way of supporting the work of your association. Of course, we will also continue to offer event-by-event sponsorships throughout 2018 as well. Shown here are our Partners so far.

To learn more about the program, go to [www.pioga.org/publication\\_file/PIOGA-Partners-2018.pdf](http://www.pioga.org/publication_file/PIOGA-Partners-2018.pdf).

## Meeting Partners



## Golf Partner



# IDC

## Westmoreland County

### WE KNOW THE DRILL!

- Rail service
- Prime location
- Established supplier network

724.830.3061

WestmorelandCountyIDC.org

# ECBM

INSURANCE BROKERS & CONSULTANTS

EFFECTIVE  
COST  
BASED  
MANAGEMENT

Side by Side  
With You  
Into the Future

Digging Out Potential Savings

Adrienne Viguera

Vice President Energy Division

aviguera@ecbm.com

888-313-3226 ext. 1335

WWW.ECBM.COM

**PIOGA's holiday membership mixer**

# MIX, MINGLE & JINGLE!

Thanks to all who attended and sponsored our holiday gathering last month. Mark your calendar for December 18 at The Chadwick in Wexford for the 2018 edition!



**Thank You to our  
SPIRITS  
SPONSORS!**



**Thank You to our  
MILK &  
COOKIES  
SPONSORS!**



**Thank You to our  
STOCKING  
STUFFER  
SPONSORS!**



**Clipper Enterprises, LLC  
Eastern Construction &  
Excavating, Inc.  
Stream-Flo USA LLC**





# Limits on limited liability

## **Recent EHB action imposed personal liability for company's failure to plug wells**

The Environmental Hearing Board (EHB) recently dismissed an appeal of a Department of Environmental Protection administrative order that imposed personal liability on the sole member of a limited liability company for that company's failure to plug 47 abandoned oil and gas wells.<sup>1</sup> The August 8, 2017, adjudication and order is significant because it allowed DEP to impose personal liability on a corporate officer, director or shareholder without either proving the individual committed a bad act and without piercing the corporate veil. It marks a significant step in the EHB's jurisprudence and greatly diminishes the legal protections and limited liability afforded to corporate officers, directors and shareholders.

Readers of *The PIOGA Press* will recognize that the facts presented in this appeal are common among shallow producers in Pennsylvania. Richard Campola is the managing and sole member of B&R Resources, LLC, a limited liability company engaged in the exploration and production of oil and natural gas. Mr. Campola bought B&R Resources in 2011. At the time of purchase, B&R Resources owned and operated 157 oil and gas wells in Pennsylvania. Not all of these wells were producing oil or gas when Mr. Campola purchased the company.

Almost immediately after purchasing the company, Mr. Campola found himself facing hostile landowners, lawsuits and issues in the field—including the isolation of the gathering line that accepted gas produced by B&R Resources. In addition, DEP inspected many of the 157 wells and found that 47 appeared to be “abandoned” as that term is defined under the 2012 Oil and Gas Act.<sup>2</sup> Moreover, gas prices dropped to historic lows.

B&R Resources found itself short of cash. DEP issued an administrative order on June 29, 2015, directing B&R Resources and Mr. Campola, in his individual capacity, to plug the 47 abandoned wells. Mr. Campola was held jointly and severally liable with B&R Resources for the plugging obligations under a participation theory of individual liability.

The participation theory is a narrow exception to the general rule that corporate officers,<sup>3</sup> directors or shareholders are not liable for the actions of the corporation.<sup>4</sup> The participation theory holds a director or officer of a corporation individually liable in tort for personally participating in a wrongful act. That doctrine applies only when misfeasance (the wrongful act) is the basis for the violation. The law in Pennsylvania is well-settled, that “corporate officers and directors may not

be held liable for mere nonfeasance”—in other words, their failure to act.<sup>5</sup> That legal precedent did not protect Mr. Campola for B&R Resources' failure to plug the 47 abandoned wells. Because Pennsylvania's jurisprudence had never recognized individual liability under a participation theory for an officer's nonfeasance, Mr. Campola appealed DEP's administrative order to the EHB.

The board dismissed the appeal, relying on its 2000 decision in *Whitemarsh Disposal Corporation, Inc. v. Department of Environmental Protection* that found individual liability under the participation theory without a showing of misfeasance.<sup>6</sup> In *Whitemarsh*, Whitemarsh Disposal owned a sewage treatment plant that caused illegal discharges into the waters of the Commonwealth without a permit. David Miller, general manager of the corporation, was held personally liable under the participation theory for violations of Pennsylvania's Clean Streams Law.<sup>7</sup> Whitemarsh Disposal discharged raw sewage into a water of the Commonwealth on repeated occasions in violation of the Clean Streams Law. Despite having an opportunity to shut down the plant and allow his customer to interconnect with a municipal sewer system, Mr. Miller directed the plant to continue operating. Relying on the Commonwealth Court's decision in *Kaites v. DER*, the EHB analyzed whether Mr. Miller was individually liable under the participation theory.

Quoting *Kaites*, the board noted that individual liability attaches to the corporate officer's own tortious actions:<sup>8</sup>

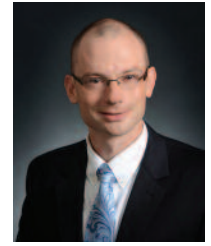
As a general rule, corporate officers are individually liable for their own tortious actions. In Pennsylvania, the participation theory imposes liability on the individual as an actor rather than as an owner. Such liability is not predicated on a finding that the corporation is a sham and a mere alter ego of the individual corporate officer. Instead, liability attaches where the record establishes the individual's participation in the tortious activity. Thus, in order for liability to attach the officer must actually participate in wrongful acts. He may be held liable for misfeasance but not for *simple* nonfeasance.

From that standard, the board questioned what the Commonwealth Court meant by including the term “simple.” In an effort to determine what was meant by the word “simple,” the EHB noted that the Commonwealth Court wrote in *Kaites* that an officer “could be

### Authors:



**Brian Pulito**



**Jon Beckman**

**Steptoe & Johnson, PLLC**

held liable if it was shown that he contributed, by personal actions of intentional neglect or misconduct, to the violation.” The board observed that “[i]t appears, then, that *actual affirmative acts are not necessary to find liability*. It is enough that there is ‘intentional neglect,’ which must be what the court meant when it said that there must be more than ‘*simple nonfeasance*.” The EHB found Mr. Miller personally liable for the civil penalties assessed against Whitemarsh Disposal.

The board applied the “intentional neglect” standard created in *Whitemarsh* to impose individual liability on Mr. Campola, finding that he “actively avoided dealing with the [abandoned wells].” Intentional neglect has never been the standard for imposing individual liability on a corporate officer, director or shareholder under the participation theory. Nevertheless, the EHB allowed personal liability to attach to Mr. Campola’s purported nonfeasance.

The implications of the board’s August 8, adjudication and order are troubling. If the EHB’s decision is allowed to stand, DEP can impose personal liability on the directors and officers of a corporation without first proving misfeasance on the part of the individual. In essence, corporate officers, directors and shareholders could find individual liability for the corporation’s failure to act when faced with even a strict liability violation. An officer will be forced into costly, fact-intensive litigation each time DEP asserts individual liability or face joint and several liability with the corporation, regardless of the individual’s actions. *Whitemarsh* and the board’s continued jurisprudence eliminates the bright-line, objective rule that requires misfeasance.

Furthermore, imposing liability under the participation theory without requiring misfeasance allows the DEP to disregard the corporate shield of limited liability without the stringent requirements to pierce the corporate veil. The board’s adjudication and order erodes the limits of liability afforded to corporate officers and effectively makes those officers guarantors on the company’s legal obligations by requiring them to personally

pay to remedy a potential regulatory violation.

While no appellate court in Pennsylvania has imposed personal liability under a participation theory on a corporate officer or director for nonfeasance, the EHB’s adjudication opens the door for DEP to do so. Mr. Campola has appealed the adjudication and order to the Commonwealth Court.<sup>9</sup>

PIOGA has filed an amicus brief in support of Mr. Campola. ■

---

<sup>1</sup> *B&R Resources, LLC, v. DEP*, EHB Docket No. 2015-095-B, 2017 WL 3585535 (Pa.Env.Hrg.Bd.), *appeal pending*, 1234 CD 2017 (Pa. Commw. Ct.).

<sup>2</sup> See 58 Pa. Cons. Stat. § 3203.

<sup>3</sup> The principles of corporations law related to limited liability, piercing the corporate veil, and the participation theory—being principles of law and equity—apply with equal force to the managing member(s) of a limited liability company pursuant to 15 Pa. Cons. Stat. § 110 (“Unless displaced by the particular provisions of this title, the principles of law and equity, including, but not limited to, the law relating to principal and agent, . . . shall supplement its provisions”).

<sup>4</sup> The participation theory has been recognized in practice in Pennsylvania for over 150 years. See *Appeal of Spering*, 71 Pa. 11 (1872) (directors of a corporation are not liable for nonfeasance, but may be liable for acts constituting fraud, embezzlement, willful misconduct, or breach of trust); *Swentzel v. Penn Bank*, 147 Pa. 140, 23 A. 405, 415, (1892) (directors may be held liable for fraud but may not be held personally liable for “failing to know” of a fraud occurring during their service). The Supreme Court of Pennsylvania recognized the participation theory by name in *Wicks v. Milzoco Builders, Inc.*, 503 Pa. 614, 470 A.2d 86 (1983).

<sup>5</sup> *Wicks v. Milzoco Builders, Inc.*, 503 Pa. at 621, 470 A.2d at 90 (1983); see also *Kaites v. Dep’t of Env’tl. Res.*, 108 Pa. Cmwlth. Ct. 267, 529 A.2d 1148 (1987) (concluding an individual with authority to direct the affairs of the corporation may be held liable for misfeasance but not for nonfeasance).

<sup>6</sup> 2000 EHB 300, 2000 WL 305765.

<sup>7</sup> 35 Pa. Stat. §§ 691.1 *et seq.*

<sup>8</sup> *Whitemarsh*, 2000 WL 605765 at \*31 (quoting *Kaites*, 529 A.2d at 1151) (internal citations and quotations omitted) (emphasis supplied).

<sup>9</sup> *B&R Resources v. DEP*, 1234 CD 2017 (Pa. Commw. Ct.).

## Report finds shale development unrelated to mortality rates

By Nichole Jacobs  
Energy In Depth

Mortality rates in the six Pennsylvania counties with the most Marcellus Shale development have declined or remained stable since shale production began in the region, according to a new report commissioned by Energy In Depth (EID), a project of the Independent Petroleum Association of America. The findings directly refute accusations from anti-energy groups that the in boom unconventional gas development is a threat to public health.

Key findings include:

- “There was no identifiable impact on death rates

in the six counties attributable to the introduction of unconventional oil and gas development. In fact, the top Marcellus counties experienced declines in mortality rates in most of the indices.”

- “The proportion of elderly-to-total population increased significantly in the top Marcellus counties compared to the state. Based on this fact, death rates in these six counties would be expected to increase, **but this expected increase did not occur.**”

- “Unconventional gas development was **not associated with an increase in infant mortality** in the top Marcellus counties, as the mortality rate significantly declined (improved), even surpassing the improvement



of the state.”

• “Unconventional gas development **was not associated with an increase in deaths related to chronic lower respiratory disease (including asthma)** in the top Marcellus counties, as the overall chronic lower respiratory disease mortality rate declined (improved) or was variable for the six-county area. The only exception was Greene County, where the increased mortality rate was consistent with the increase in the elderly population.”

• “During the period that unconventional gas development was introduced to these counties, the **trends reflected a positive economic change in the area.** Therefore, any increases in the death rates in the top Marcellus counties cannot be associated with negative changes to the economic viability of the population.”

• “Unconventional gas development **was not associated with an increase in deaths related to cancer, heart disease, cerebrovascular disease, influenza or pneumonia, nephritis or nephrotic syndrome, or septicemia** in the top Marcellus counties, as the mortality rates significantly declined (improved).”

The report analyzed Pennsylvania Department of Health data for the state as a whole and the counties of Bradford, Greene, Lycoming, Susquehanna, Tioga, and Washington from 2000 to 2014. The report explains the significance of using the state’s data, noting:

“Pennsylvania has a comprehensive database and a decades-long history of reporting this data, providing the reviewer a consistent, reliable and sanctioned independent database to draw from for this study. Most importantly, the source of the data is the Pennsylvania State Health Department, as part of the National Center for Disease Control reporting system, and therefore is not data generated by the researcher. This protects the conclusion from bias and ensures that the study can be replicated when peer-reviewed.”

According to the report, these counties were chosen because of the level of unconventional gas activity they have seen—more than 900 wells in each—since 2004, when the first Marcellus Shale well was developed in Washington County.

Study author Sue Mickley explains, “In all six counties that had the highest development activity in Pennsylvania, the death rates declined or remained stable despite a significant increase in the elderly population. This indicates that health and longevity did not decline as some have said would happen, and in fact, longevity increased as the average household income and employment in these counties improved. **None of the categories saw a negative impact on health from natural gas resource development**” (*emphasis added*).

The unconventional industry has been operating in Pennsylvania for more than a decade now—an ample amount of time for health trends, both positive and negative, to show in a community. Mickley explained that to EID, stating, “It has been common

knowledge in the field of public health that the economic health of a community influences the status of its citizens.”

While the report did not specifically evaluate whether the shale industry has been responsible for the decline in mortality rates, Marcellus development has increased tax revenues, saved consumers money, and spurred economic development in these counties and the state as a whole.

As EID Executive Vice President Jeff Eshelman said, “The oil and gas industry has been operating in the Marcellus for a decade now, turning Pennsylvania into the second largest natural gas producing state in the country. This report confirms what we have been saying for years: The shale industry has an overwhelmingly positive impact in the communities in which it operates. The ‘Keep it in the Ground’ movement has tried to destroy jobs and economic growth in parts of the Commonwealth that desperately need both, arguing that oil and natural gas development is a threat to public health. Everyone should welcome the release of this report, which confirms those anti-energy claims are without merit.”

The new report adds to the growing body of research that shale development is protective of public health, and has led to reductions in local air pollution.

The full report is available at [eidhealth.org/category/research](http://eidhealth.org/category/research). ■

Have you discovered the many features of  
PIOGA's membership-management system?  
Click on Members Only at the top right of  
our homepage to get started.

[www.pioga.org](http://www.pioga.org)



Bridgeport, WV  
304.624.5471

Buckhannon, WV  
304.472.5550

Charleston, WV  
304.346.0441

Columbus, OH  
614.223.9209

Lewisburg, WV  
304.645.6261

Meadville, PA  
814.336.2133

Morgantown, WV  
304.225.6000

New Castle, PA  
724.658.1565

Pittsburgh, PA  
412.635.6270



- Tax preparation and planning
- Accounting and auditing
- Business and succession planning
- Business performance
- Small business services
- Tax and accounting seminars
- Due diligence for purchases and sales
- Oil and gas revenue distribution
- Production tax preparation and review
- Personnel training and support
- Production revenue audits

[www.actcpas.com](http://www.actcpas.com)

## CELDF attorneys sanctioned in legal fight over disposal well

A federal judge on January 5 sanctioned attorneys representing a small Indiana County community \$52,000 for their “continued pursuit of frivolous claims and defenses” in their effort to block an oil and gas wastewater disposal well from operating in Grant Township.

U.S. Magistrate Judge Susan Paradise Baxter ordered attorneys Thomas Linzey and Elizabeth Dunne of the Community Environmental Legal Defense Fund to pay about 10 percent of the more than \$500,000 in attorneys’ fees and costs that Pennsylvania General Energy said it incurred while challenging a community bill of rights ordinance that Grant enacted in 2014 to ban such disposal wells.

Judge Baxter also referred Mr. Linzey to the Pennsylvania Supreme Court’s Disciplinary Board for possible further punishment. She did not impose any sanctions directly on the township.

The Franklin County-based Community Environmental Legal Defense Fund (CELDF) has represented dozens of communities in Pennsylvania and elsewhere against unpopular industrial activities by pursuing the principle that local community self-government trumps corporate property rights and certain state and federal laws.

But Judge Baxter wrote that the group’s legal theories have repeatedly been discredited across 15 years of federal litigation in Pennsylvania.

Regardless, CELDF attorneys “continue to pursue nearly identical and rejected theories unabated,” she wrote. Those actions “substantially and inappropriately prolonged this litigation, and required the court and PGE to expend significant time and resources eliminating these baseless claims.”

Warren-based Pennsylvania General Energy is pleased with the decision, its general counsel Lisa McManus said, while Kevin Moody, general counsel for the Pennsylvania Independent Oil & Gas Association, said the decision “is a win for the rule of law over people who want to take the law into their own hands.”

Undeterred, the legal defense fund said in a press release that the ruling is evidence that “corporate forces once again have been able to wield our institutions of government to punish those working to elevate the rights of communities over fossil fuel corporations.”

Judge Baxter already ruled in favor of the company on most of its federal constitutional claims. A jury trial to resolve the company’s remaining claims in the case is scheduled for May.

*Pittsburgh Post-Gazette*

## FERC rejects Trump plan to help coal and nuclear power plants

Federal regulators rejected U.S. Energy Secretary Rick Perry’s plan to bail out struggling coal and nuclear plants, instead asking grid operators to suggest their own ways to ensure reliable power supplies.

In a January 8 order, the Federal Energy Regulatory Commission terminated a proceeding that had begun in response to Mr. Perry’s September directive that suggested power plants should be rewarded for having 90 days of fuel on site. The proposal would’ve largely benefited coal and nuclear power plants.

“We appreciate the Secretary reinforcing the resilience of the bulk power system as an important issue that warrants further attention,” according to the order. “We expect to review the additional material and promptly decide whether additional Commission action is warranted to address grid resilience.”

The defeat is a setback for President Donald Trump’s efforts to revive the coal industry and put miners back to work. The Energy Department plan drew criticism from natural gas producers, grid operators and others who argued it would undermine competition in wholesale power markets. Consumers in more than a dozen states would have been stuck footing the bill.

Mr. Perry ordered the commission to consider his plan in September, invoking an obscure 30-year-old statute. His idea was to pay plants a premium to store at least 90 days of fuel on site in an effort to make grids

more reliable. Coal and nuclear generators would be uniquely suited because, unlike gas plants, they aren’t fed by pipelines. Wind and solar farms, meanwhile, require no fuel.

The energy commission initially had a December 8 deadline to act on the proposal. The day he was sworn in, FERC Chairman Kevin McIntyre asked Mr. Perry for a 30-day extension, saying he needed time to review the flood of public comments.

Critics of the proposal said it could have let some coal and nuclear plants continue to operate even if they’re not economic to run. That could slow development of gas, wind and solar projects, whose growth depends on aging power plants closing.

Mr. Perry has repeatedly said that storing fuel on site makes coal and nuclear plants less prone to shutdowns than other power generators in the event of disasters and attacks. An Energy Department study released in August doesn’t support that claim, finding instead that “attempts to achieve fuel diversity in market designs explicitly would likely result in inefficient and potentially discriminatory practices that are inconsistent with the Federal Power Act.”

Grid operators and utilities also rejected Mr. Perry’s claim, contending instead that resilience has more to do with power lines than about fuel supply.

*Bloomberg News*



### PIOGA's first Emeritus members

At the PIOGA Annual Meeting in October, members approved the creation of two new membership categories, Student and Emeritus. Emeritus membership is awarded by the Board of Directors to individuals who have retired and provided distinguished service to the association and the oil and gas industry during their careers. The board chose the first two Emeritus members recently—Lou D'Amico and Burt Waite. D'Amico retired in late 2016 after a long career with various oil and gas companies and then as president and executive director of the association. Waite, who retired in 2016 from Moody & Associates, was a long-time board member. He actively championed the industry in regulatory matters and continues to represent PIOGA as one of our two members on the Pennsylvania Grade Crude Development Advisory Council. Shown in the photo at right with certificates recognizing their Emeritus status are D'Amico (left) and Waite (right).

### CEC welcomes a new air quality expert

Ali Lashgari, Ph.D. joins the Air Quality practice in the Pittsburgh office of Civil & Environmental Consultants, Inc., with experience in surface mining design and planning, economic evaluation, feasibility studies, reserve estimation, occupational health and safety, and environmental impact assessment. His specific areas of focus include fugitive dust emission estimation, emission



inventory calculation, particulate dispersion modeling, fugitive dust control, noise exposure assessment and control, assessment of personal exposure to respirable silica dust, emission source characterization, compliance sampling, dust control technologies, MSHA and OSHA regulations, and safety management systems.

He earned his B.S. and M.S. in mining engineering and his Ph.D. in energy and mineral engineering. He is a member of the American Society of Safety Engineers, the Air & Waste Management Association, and also the Society for Mining, Metallurgy and Exploration, where he is an executive member of the Health and Safety Division. ■

## New members — welcome!

### Erie County Redevelopment Authority

1524 Enterprise Road, Corry, PA 16407  
814-664-3884 • erieredevelopment.com  
Associate

### Greylock Energy

500 Corporate Landing, Charleston, WV 25311  
304-925-6100 • www.greylockenergy.com  
Oil & Gas Producer

### NG Advantage LLC

480 Hercules Drive, Colchester, VT 05446  
802-760-1167 • www.ngadvantage.com  
Service Provider—marketer of natural gas with innovative technology as compressed natural gas (virtual pipelines)

### NuWave Industries USA Inc.

Suite 200, 2425 West Loop South, Houston, TX 77027  
844-583-3600 • www.nuwaveindustries.com  
Service Provider—surface well and pipeline abandonments without the means of excavation

### PG2 Inc.

1900 Main Street, Suite 107 PMB 55, Canonsburg, PA 15317  
412-855-6431 • www.pg2inc.com  
Professional Firm—environmental consulting firm specializing in energy transactions, environmental and operational due diligence, environmental litigation support, permitting, compliance, storage tank services, well plugging and abandonment, and oil-field decommissioning

### SWCA Environmental Consultants

Suite 207, 200 Bursca Drive, Bridgeville, PA 15017  
412-839-1001 • www.swca.com  
Professional firm—services that allow clients meet their project goals in the context of environmental resources and regulations, including air quality, cultural resources, natural resources, environmental permitting/compliance/planning, water resources, etc.

### Topco Oilsite Products

502 Pipers Cove, Rayne, LA 70578  
337-384-4340 • www.topcoilsite.com  
Service provider—engineered products used in fluid control, as well as a manufacturer of thread compounds, well servicing equipment and production expendables; also provides services for the inspection, repair and recertification of oilfield fluid control equipment

# Are you taking advantage of PIOGA's online Members' Only system?



- Connect with other members
- Register for PIOGA events
- Search for products and services
- Access committee resources
- Update your membership profile
- Pay your dues
- Company main contacts can add/delete other company contacts
- Update your profile
- Take advantage of government advocacy and education resources

## It's easy and fast to log into your account!

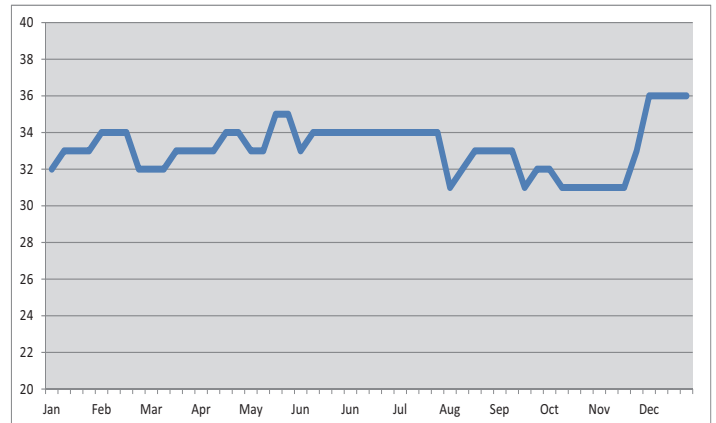
Just click on the Members Only link at the top of our homepage, [www.pioga.org](http://www.pioga.org), and input your username (usually your email address) and password. If you don't remember your password, just click *Reset my password* and you'll receive a new one via email.

**Try it today!**

Here are some of the things you can do:

## Oil & Gas Dashboard

### Pennsylvania Rig Count



### Penn Grade Crude Oil Prices



### Natural Gas Futures Closing Prices

Month	Price
February	\$2.838
March	2.770
April	2.667
May	2.672
June	2.714
July	2.752
August	2.783
September	2.766
October	2.760
November	2.825
December	2.949
January 2019	3.031

Prices as of January 8

#### Sources

American Refining Group: [www.amref.com/Crude-Prices-New.aspx](http://www.amref.com/Crude-Prices-New.aspx)  
 Ergon Oil Purchasing: [www.ergon.com/prices.php](http://www.ergon.com/prices.php)  
 Gas futures: [quotes.ino.com/exchanges/?r=NYMEX\\_NG](http://quotes.ino.com/exchanges/?r=NYMEX_NG)  
 Baker Hughes rig count: [phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reportsoter](http://phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reportsoter)  
 NYMEX strip chart: Emkey Energy LLC, [emkeyenergy.com](http://emkeyenergy.com)



# Northeast Pricing Report – January 2018

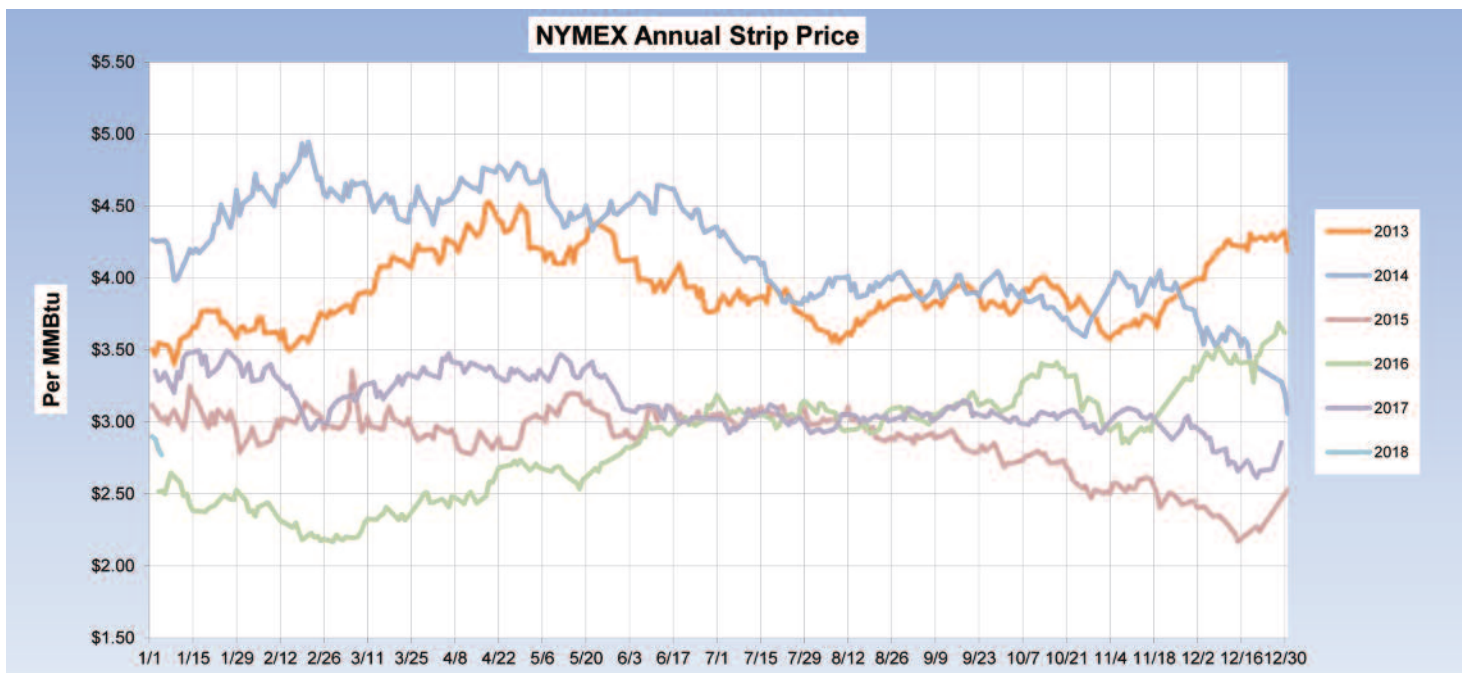
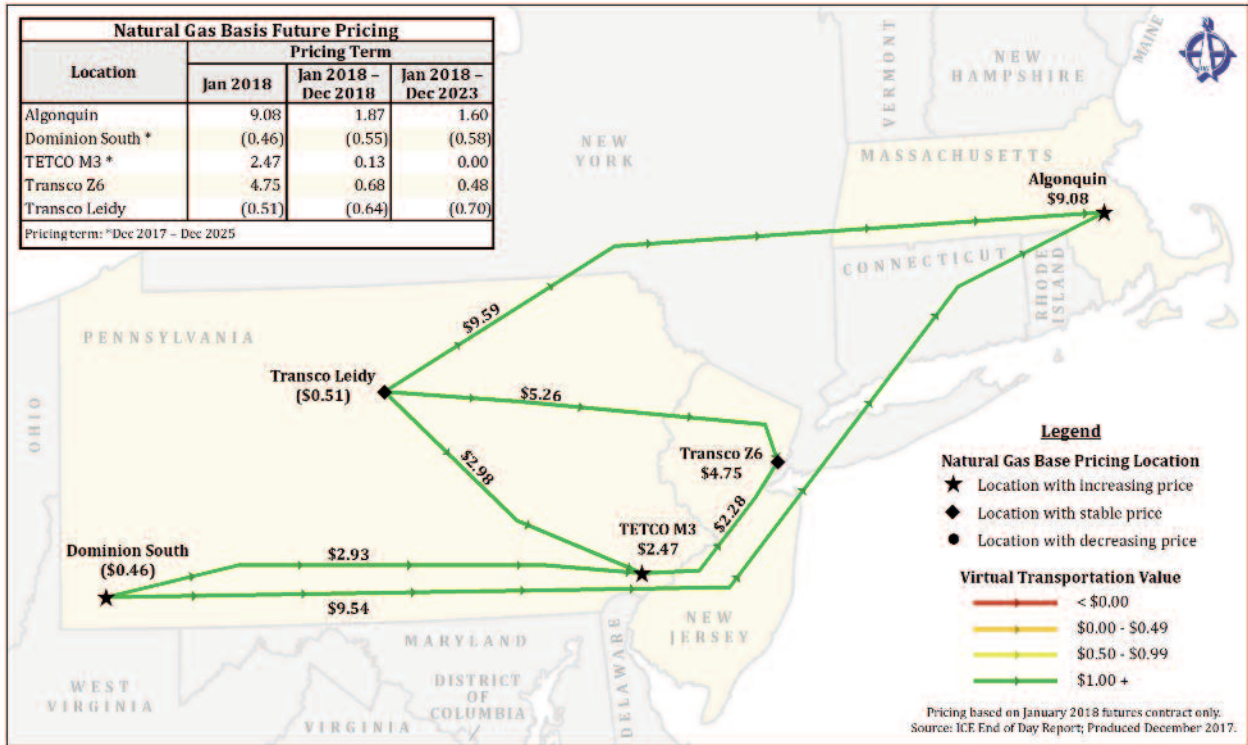
Front month pricing for all trading points increased from December. Algonquin, Transco Z6 and TETCO M3 had the greatest increases. Of the three, Algonquin was the greatest at \$6.26 per MMBtu. Transco Z6 and TETCO M3 jumped \$3.49 and \$2.33 per MMBtu respectively. The one-year term pricing for each trading point, except Transco Z6, increased as well. The increases ranged from \$0.38 per MMBtu for Algonquin, to \$0.08 per MMBtu for TETCO M3. Long-term pricing changed little for all of the trading points.

For the second straight month, transportation saw dramatic increases. Access to the Northeast was especially impacted. Transportation from Leidy to Algonquin increased \$6.09 per MMBtu to a total value of \$9.59 per MMBtu. Dominion South to Algonquin increased \$6.15 per MMBtu to a total value of \$9.54 per MMBtu. All other transportation routes had increases that ranged from \$1.16 to \$3.32 per MMBtu.

Colder air continues to drive up both commodities and transportation prices. The lack of infrastructure and expected pull from storage will likely extend this trend for the next couple of weeks.



Provided by Bertison-George, LLC  
www.bertison-george.com



# Spud Report: December



The data show below comes from the Department of Environmental Protection. A variety of interactive reports are

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
ARD Operating LLC	2	12/14/17	081-21701	Lycoming	McIntyre Twp
		12/20/17	081-21702	Lycoming	McIntyre Twp
Blackhawk Energy LLC	1	12/26/17	083-56951*	McKean	Hamilton Twp

available at [www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports](http://www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports).

The table is sorted by operator and lists the total wells reported as drilled last month. **Spud** is the date drilling began at a well site. The **API number** is the drilling permit number issued to the well operator. An asterisk (\*) after the API number indicates a conventional well.

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Chesapeake Appalachia LLC	1	12/21/17	015-23385	Bradford	Rome Twp
Chief Oil & Gas LLC	8	12/2/17	015-23345	Bradford	Overton Twp
		12/2/17	015-23346	Bradford	Overton Twp
		12/2/17	015-23343	Bradford	Overton Twp
		12/2/17	015-23344	Bradford	Overton Twp
		12/2/17	015-23350	Bradford	Overton Twp
		12/2/17	015-23348	Bradford	Overton Twp
		12/2/17	015-23347	Bradford	Overton Twp
		12/2/17	015-23349	Bradford	Overton Twp
CNX Gas Co LLC	1	12/17/17	125-28277	Washington	East Finley Twp
EQT Production Co	7	12/21/17	059-26974	Greene	Morgan Twp
		12/21/17	059-27567	Greene	Morgan Twp
		12/21/17	059-27568	Greene	Morgan Twp
		12/21/17	059-27569	Greene	Morgan Twp
		12/21/17	059-27564	Greene	Morgan Twp
		12/14/17	059-27425	Greene	Washington Twp
		12/14/17	059-27426	Greene	Washington Twp
Huntley & Huntley Energy Expl	1	12/21/17	129-28960	Westmoreland	Penn Twp
Range Resources Appalachia	9	12/7/17	125-28295	Washington	Hopewell Twp
		12/7/17	125-28302	Washington	Hopewell Twp
		12/8/17	125-28304	Washington	Hopewell Twp
		12/8/17	125-28292	Washington	Hopewell Twp
		12/8/17	125-28293	Washington	Hopewell Twp
		12/8/17	125-28294	Washington	Hopewell Twp
		12/8/17	125-28301	Washington	Hopewell Twp
		12/8/17	125-28303	Washington	Hopewell Twp
		12/9/17	125-27988	Washington	Hopewell Twp
RE Gas Dev LLC	5	12/14/17	019-22698	Butler	Penn Twp
		12/14/17	019-22695	Butler	Penn Twp
		12/15/17	019-22717	Butler	Penn Twp
		12/15/17	019-22718	Butler	Penn Twp
		12/15/17	019-22699	Butler	Penn Twp
Rice Drilling B LLC	20	12/11/17	059-27536	Greene	Aleppo Twp
		12/11/17	059-27534	Greene	Aleppo Twp
		12/11/17	059-27537	Greene	Aleppo Twp
		12/28/17	059-27554	Greene	Aleppo Twp
		12/28/17	059-27553	Greene	Aleppo Twp
		12/30/17	059-27399	Greene	Franklin Twp
		12/30/17	059-27406	Greene	Franklin Twp
		12/30/17	059-27402	Greene	Franklin Twp
		12/30/17	059-27403	Greene	Franklin Twp
		12/30/17	059-27404	Greene	Franklin Twp
		12/30/17	059-27405	Greene	Franklin Twp
		12/30/17	059-27400	Greene	Franklin Twp
		12/30/17	059-27401	Greene	Franklin Twp
		12/21/17	059-27477	Greene	Springhill Twp
		12/21/17	059-27478	Greene	Springhill Twp
		12/21/17	059-27479	Greene	Springhill Twp
		12/21/17	059-27474	Greene	Springhill Twp
		12/21/17	059-27480	Greene	Springhill Twp
		12/21/17	059-27475	Greene	Springhill Twp
		12/21/17	059-27476	Greene	Springhill Twp
SV ABS Interest Wetmore Proj	1	12/6/17	083-56950*	McKean	Wetmore Twp
SWN Production Co LLC	8	12/6/17	115-22383	Susquehanna	New Milford Twp
		12/7/17	115-22384	Susquehanna	New Milford Twp
		12/9/17	115-22404	Susquehanna	New Milford Twp
		12/10/17	115-22406	Susquehanna	New Milford Twp
		12/11/17	115-22405	Susquehanna	New Milford Twp
		12/15/17	117-21924	Tioga	Liberty Twp
		12/16/17	117-21928	Tioga	Liberty Twp
		12/17/17	117-21927	Tioga	Liberty Twp
Wilmoth Interests Inc	2	12/14/17	123-48122*	Warren	Mead Twp
		12/21/17	123-48127*	Warren	Sheffield Twp
XTO Energy Inc	1	12/11/17	019-22696	Butler	Butler Twp

	December	November	October	September	August	July
Total wells	67	79	114	84	66	83
Unconventional Gas	63	70	91	78	58	72
Conventional Gas	0	0	0	1	0	0
Oil	4	9	23	5	8	10
Combination Oil/Gas	0	0	0	0	0	1

**Producer Focused - Service Driven**

**Purchasers of Light Sweet Paraffinic Crude Oil**

ARG's roots are deep in the PA oil fields.  
Refining crude oil since 1881 in Bradford, PA,  
ARG is committed to supporting the  
PA conventional oil and gas industry.

**Dan Palmer**  
Crude Relationship Manager PA / NY  
814-368-1263  
dpalmer@amref.com

**CEC**  
Civil & Environmental Consultants, Inc.

**RELIABLE  
RESOURCES...**  
*from exploration to market*

CEC delivers integrated engineering, ecological and environmental solutions to all sectors of the energy industry.

- o Well sites, impoundments and dams
- o Gathering and transmission pipeline projects
- o Compression, fractionation and other infrastructure facilities
- o CNG & LNG fueling stations

offices nationwide | [www.cecinc.com](http://www.cecinc.com) | 800.365.2324



## Calendar of Events

### PIOGA Events

Info: [www.pioga.org/events](http://www.pioga.org/events)

#### PIOGATech: Well Plugging & Abandonment Workshop

February 27, Clarion University, Clarion

#### Spring Meeting

March 21, Rivers Casino, Pittsburgh

#### Ted Cranmer Memorial Golf Outing & Steak Fry

June 4, Wanango Golf Club, Reno

#### 21st Annual Divot Diggers Golf Outing

August 23, Tam O'Shanter Golf Club, Hermitage

#### Fall Oktoberfest and Annual Meeting

October 17-18, Seven Springs Resort, Champion

### Industry events

#### IOGAWV Winter Meeting

January 23-24, Marriott Town Center Hotel, Charleston

Info: [iogawv.com](http://iogawv.com)

#### OOGA Winter Meeting

March 7-9, Hilton Columbus at Easton, Columbus, OH

Info: [www.ooga.org](http://www.ooga.org)

#### IPAA Midyear Meeting

June 25-27, Austin, TX

Info: [www.ipaa.org/events](http://www.ipaa.org/events)

#### IOGANY Summer Meeting

July 11-12, Peek n' Peak, Clymer NY

Find more events at [www.pioga.org](http://www.pioga.org) >>

### PIOGA Board of Directors

Gary Slagel (Chairman), Steptoe & Johnson PLLC  
Sam Fragale (Vice Chairman), Freedom Energy Resources LLC  
Frank J. Ross (2nd Vice Chairman), T&F Exploration, LP  
James Kriebel (Treasurer), Kriebel Companies  
Jack Crook (Secretary), Diversified Resources, Inc.  
Thomas M. Bartos, ABARTA Energy  
Robert Beatty Jr., "O" Ring CNG Fuel Systems/Robert Beatty Oil & Gas  
Stanley J. Berdell, BLX, Inc.  
Sara Blascovich, HDR, Inc.  
Carl Carlson, Range Resources - Appalachia, LLC  
Don A. Connor, Open Flow Energy  
Michael Hillebrand, Huntley & Huntley, Inc.  
Jim Hoover, Phoenix Energy Productions, Inc.  
Ron Kiecana, IMG Midstream  
Bryan McConnell, Tenaska, Inc.  
Sam McLaughlin, Fisher Associates  
Lisa McManus, Pennsylvania General Energy Co., LLC  
Bill Murray, American Refining Group, Inc.  
Bill Polacek, Environmental Tank & Container  
Beth Powell, New Pig Energy  
Stephen Rupert, Texas Keystone, Inc.  
Jake Stilley, Patriot Exploration Corporation  
Todd Tetrick, EnerVest Operating, LLC  
Jennifer Vieweg, Greylock Energy  
Jeff Walentosky, Moody and Associates, Inc.  
Ben Wallace, Penneco Oil Company, Inc.  
Steve Williams, Summit Petroleum, Inc.

### Committee Chairs

Environmental Committee  
Paul Hart, Fluid Recovery Services, LLC  
Ken Fleeman, ABARTA Energy  
Legislative Committee  
Ben Wallace, Penneco Oil Company  
Kevin Gormly, Steptoe & Johnson PLLC (Vice Chairman)  
Pipeline & Gas Market Development Committee  
Robert Beatty Jr., "O" Ring CNG Fuel Systems / Robert Beatty Oil & Gas  
Safety Committee  
Wayne Vanderhoof, RJR Safety, Inc.  
Tax Committee  
Donald B. Nestor, Arnett Carbis Toothman, LLP

### Staff

Dan Weaver ([dan@pioga.org](mailto:dan@pioga.org)), President & Executive Director  
Kevin Moody ([kevin@pioga.org](mailto:kevin@pioga.org)), Vice President & General Counsel  
Debbie Oylar ([debbie@pioga.org](mailto:debbie@pioga.org)), Director of Member Services and Finance  
Matt Benson ([matt@pioga.org](mailto:matt@pioga.org)), Director of Internal Communications (also newsletter advertising & editorial contact)  
Joyce Turkaly ([joyce@pioga.org](mailto:joyce@pioga.org)), Director of Natural Gas Market Development  
Danielle Boston ([danielle@pioga.org](mailto:danielle@pioga.org)), Director of Administration  
Deana McMahan ([deana@pioga.org](mailto:deana@pioga.org)), Administrative Assistant & Committee Liaison

### Pennsylvania Independent Oil & Gas Association

115 VIP Drive, Suite 210, Wexford, PA 15090-7906  
724-933-7306 • fax 724-933-7310 • [www.pioga.org](http://www.pioga.org)

#### Harrisburg Office (Kevin Moody)

212 Locust Street, Suite 300, Harrisburg, PA 17101  
717-234-8525

#### Northern Tier Office (Matt Benson)

167 Wolf Farm Road, Kane, PA 16735  
Phone/fax 814-778-2291

© 2018, Pennsylvania Independent Oil & Gas Association



**Advertise your products and services in The PIOGA Press**

*A great way to reach other members — and a great value!*

With your PIOGA member discount, rates per issue are as low as:

Business card	\$68
Quarter page	\$136
Half page	\$272
Full page	\$544

Contact Matt Benson at 814-778-5897 or [matt@pioga.org](mailto:matt@pioga.org) to learn more and schedule your ad

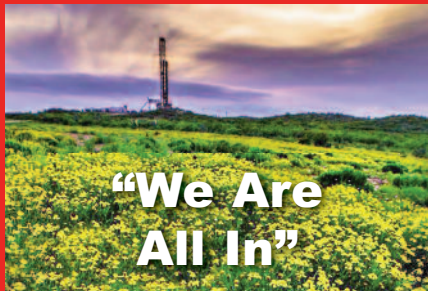


PRESORTED  
STANDARD  
U.S. POSTAGE PAID  
PITTSBURGH, PA  
15290  
PERMIT NO. 1211

115 VIP Drive, Suite 210  
Wexford, PA 15090-7906

**Address Service Requested**

# ***Save the Date!***



**“We Are  
All In”**



**PIOGA Spring Meeting**

**March 21 • Rivers Casino, Pittsburgh**