

PADEP Preempted by PHMSA Regarding November 2022 Incident at Natural Gas Storage Facility

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The Pennsylvania Department of Environmental Protection (PADEP) and Equitrans, L.P. (Equitrans), have reached a settlement regarding the administrative order issued by PADEP on December 8, 2022 (Order). See Stipulation of Settlement, *Equitrans, L.P. v. PADEP*, EHB Docket No. 2023-003-B (Apr. 12, 2023). As previously reported in Vol. 40, No. 1 (2023) of this *Newsletter*, PADEP issued the order in response to the November 2022 incident at Equitrans' Rager Mountain Gas Storage Reservoir (Rager Mountain Facility) in Cambria County, Pennsylvania. The order required Equitrans to, inter alia, conduct mechanical integrity testing of its Rager Mountain storage wells, recondition and plug the wells as needed, and retain a third party to audit "all aspects of Equitrans' storage field operations." Equitrans appealed the Order in early January, arguing that PADEP's jurisdiction over the Rager Mountain Facility was preempted by the federal Natural Gas Act and Pipeline Safety Act, which grant certain exclusive jurisdiction to the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Federal Energy Regulatory Commission (FERC) with regard to interstate natural gas storage facilities.

The April 12 stipulation of settlement between PADEP and Equitrans provides that the Rager Mountain Facility is "subject to the jurisdiction of FERC under the Natural Gas Act pursuant to a certificate of public convenience and necessity, and to the jurisdiction of PHMSA under the Pipeline Safety Act." The stipulation of settlement further provides that PADEP would rescind its order and that Equitrans would withdraw its appeal and negotiate a final safety order with PHMSA regarding the Rager Mountain Facility.

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