



West Virginia Environmental Council
2206 Washington Street East ~ Charleston, WV 25311
(304) 414-0143 www.wvecouncil.org

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Mr. James Martin
Chief, Office of Oil and Gas
WV Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304-2345

Dear Chief Martin:

Thank you, and Secretary Huffman, for the invitation to participate in the April 12 “kick-off” meeting which will begin your agency’s comprehensive review of the state’s oil and gas regulatory program.

As Legislative Coordinator for the West Virginia Environmental Council, I represent a diverse coalition of environmental groups and individual citizen members. WVEC agrees that this is the appropriate time for the Office of Oil and Gas to conduct such a review and we hope that the outcome will be beneficial to the agency, the industry, and the environment.

After last year’s rule-making process on 35CSR4, your agency is more than aware of the laundry list of concerns about oil and gas drilling activity voiced by citizens, landowners, and the environmental community. The agency did, in fact, address some of those matters in the rule. However, many of the major issues were outside the scope of the rule. That’s why this comprehensive programmatic review is so important.

Rather than re-hash the “laundry list” of concerns here, it is our hope that the agency will focus on the following major issues.

Water: Regulation from “Cradle to Grave”

- **Water Withdrawals** – The “Addendum” to the oil and gas permit is inadequate to insure minimum in-stream flows that are protective of aquatic life. This is particularly critical for high quality headwater streams. While Marcellus Shale wells require much more water than conventional vertical wells, all well drilling requires large volumes of water for drilling and fracturing. While the Legislature has given the Office of Water and Waste Management three more years to develop a statewide water resources protection plan, the current increase in drilling activity requires action now. The state should develop a permit system for water withdrawals immediately, perhaps by an “emergency rule.”

- **Water Content** – The state must get a better handle on the contents of frac fluids. There is currently no requirement for public disclosure of, let alone regulation of, the chemicals that are added when fracturing a well.

- **Waste Water Disposal** – There is a recognized lack of approved underground injection wells and wastewater treatment disposal facilities capable of handling the huge increase in frac flow-back water and produced fluids. Something – probably a variety of things – must be done. The agency should consider requiring the use of a “closed loop” system for large volume fracs. The agency should also re-examine the adequacy of the general permit for land application of pit water. The state must also develop a statewide water quality standard for total dissolved solids (TDS), that is protective both of drinking water and aquatic life. The agency also needs a better understanding of the levels of naturally occurring radioactive materials (NORMs) from Marcellus Shale flow-back water. The agency should also prohibit the disposal of oil and gas well waste water in underground mines.

Solid Waste Disposal – Pits: The agency should re-examine the practice of burying drilling pits on site. What alternatives are there for disposal of pit solid waste?

Abandoned Wells: The agency’s program for dealing with abandoned, orphaned and inactive wells is inadequate and underfunded.

Staffing and Funding: The increase in drilling activity has left the agency in the position of lacking both the funds and the staff to adequately review, evaluate and issue permits, observe field activities and perform compliance monitoring. It is clear the agency needs more field inspectors, as well as administrative staff. Yet permit fees are extremely low compared to what it costs to drill a well. The agency must re-examine its revenue source options. It is also time to take another look at the adequacy of the state’s “blanket bond” provisions.

Other Issues: The Marcellus Shale activity in particular raises other issues that should be addressed. These include, but are not limited to, increased sedimentation from well roads, damage to the state road system from increased truck activity, dust and other air quality issues, increased land disturbance and habitat fragmentation caused by well spacing issues, and potential problems of drilling in areas of “karst” geology.

In closing, the West Virginia Environmental Council thanks you again for the opportunity to participate in this process. It is our hope that in the coming weeks and months there will be an opportunity to involve more of our members and member groups in these discussions.

Sincerely,

Donald S. Garvin, Jr.
WVEC Legislative Coordinator
Email: DSGJr@aol.com
Phone: (304) 395-0078

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People Who Want to Breathe Clean Air and Drink Clean Water**