

CPLV NEWS APRIL 2016



CITIZENS TO PRESERVE LIGONIER VALLEY

P. O. BOX 914 + LIGONIER, PA + 15658

Dedicated to preserving the quality of life in the Ligonier Valley so that it remains a safe, healthy, and attractive place for living, working, recreation, and tourism, for now and for generations to come.

<http://cplvweb.wix.com/preserveligoniertwp>

Facebook Site- We are using Westmoreland Marcellus Citizen's Group
<https://www.facebook.com/groups/1510469912594025/>

CPLV continues its work to protect the Ligonier Valley area. The legal team is preparing for our challenge and we have several new board members. We appreciate the continued input of community members.

CPLV Board Meetings are the Third Tuesday of each month, May 17, 7:30 at the Unitarian Church on Rt 30. All are welcome to attend

Permits/ Decisions

*****PA Gas Drilling Permit Issued in Donegal Twp Township-Kalp Well**

Gas permit issued on 2016-04-01 00:00:00 to WPX ENERGY APPALACHIA LLC for site **KALP 1-5H in Donegal Twp township**, Westmoreland county

*****Protect PT Applauds the Penn Township Zoning Hearing Board Decision:**

"The applicant has failed to adequately demonstrate that the drill site operations will not violate the environmental rights of the citizens..." the decision for the Beattie Central Pad-37 states.

"The decision — which is based on the township's draft zoning ordinance for drilling — hinges on a section of Pennsylvania's Constitution that guarantees citizens the right to "clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.""

"Apex provided air and water studies that showed the possible risks associated with accidental spills or emission releases at the site."

But they needed to provide information on NORMAL operations:

"According to the decision, the company did not provide "sufficient satisfactory information" showing how releases from normal gas operations on site (drilling, fracking, flaring) could impact air and water."

<http://publicsource.org/from-the-source/pittsburgh-suburb-just-denied-shale-gas-permit-based-environmental-concerns#.VxfrTArK73>

Court Cases

*****Middlesex Case- From Amy Nassif** "The last that we heard about the case, it is being appealed to the Commonwealth Court. There have been briefs sent but it looks like there will not be any arguments heard until the fall.

As for the SLAPP suit here in Butler County:

Thursday, May 19th at 2:00 PM

Butler County Courthouse

I do not have a courtroom assignment yet."

****DEP -- Right To Know**

Provided by Bob Donnan

RECAP : Commonwealth Court of Pennsylvania April 2016 Argument Session

“Even Judge McCullough remarked at the outset that the case most people were there to hear yesterday afternoon was also very interesting to her: Smith Butz LLC (law firm) v. the Pennsylvania DEP regarding Right-to-Know.

Kendra Smith, Esq. presented a strong case in front of attending judges Patricia McCullough, Michael Wojcik, and Rochelle Friedman regarding the exceedingly difficult time Smith Butz LLC has had trying to obtain documents, for the past 4 years no less, from the Pa. DEP related to a spill at the Yeager impoundment in August 2010.

Apparently, a Notice of Violation (NV) was entered in eFacts on the Pa DEP website regarding the spill, but no NV was ever issued. However, it has been an **ongoing struggle for Smith Butz in their repeated attempts to obtain documents related to that spill. The law firm has filed 14 informal requests along with 1 formal request, without any success at all.**

About the only excuse the Pa DEP attorney appeared to offer was they were too short staffed in 2010 to do their job. Therefore they could not provide those additional documents, partly since they had already provided Smith Butz with volumes of other documents related to the Yeager site.

Senior Judge Friedman took up the DEP’s side vigorously and implied Smith Butz did not properly and precisely word their document request, and therefore did not get the documents they wanted. Ms. Smith strongly countered that thesis, saying that was definitely not the case. **While she didn’t come right out and say it, they are being stonewalled by an uncooperative DEP.**

Depositions from the Haney lawsuit, related to the same Yeager site, were the ones that revealed the entire “suite code” issue (scandal?) at the Pa DEP, which only partially reveals water well test results around drilling and fracking sites, leaving huge gaps in extremely important information.

Another chapter of this story continues when Smith Butz once again appears in front of Commonwealth Court to appeal the Judge Renwand EQB ruling in favor of the Pa DEP over Loren Kiskadden in his water well contamination case in Amwell Township, Washington County, PA.

Evidence acquired during those same Haney depositions indicate that the Kiskadden ruling did not take into account all the latest evidence related to the Yeager drilling pad and impoundment, hence this appeal.”

*****Kishkadden Water Contamination Case**

“The full panel of seven Commonwealth Court judges heard arguments April 13, regarding an appeal in a lawsuit that claims Range Resources contaminated well water at an Amwell Township property in June 2011.

The overlooked evidence, according to Kendra Smith, included **contradictory testimony from one of Range Resources’ geologists**, Elizabeth Perry, in which she first said water in the area water table moved laterally because of several impervious surfaces, but later said it was possible for it to go as deep as 500 feet. The well in question reaches nearly 200 feet beneath ground. Kiskadden first reported gray sludge, foamy water and a rotten-egg odor emanating from his well water in 2011.

President Judge Mary Hannah Leavitt asked Smith if the properties in between the impoundment and Kiskadden’s property were found to be without contamination and whether that would prove there was no connection to the Yeager site.

“No, those properties aren’t fine. In fact, our client (and seven other plaintiffs) are

part of a suit against Range Resources seeking damages for contaminated water in those intermediate sites. And they're using water buffalos, not well water," Smith said.

Smith's husband and legal partner, John, explained after the hearing the case involving those residents is still in the preliminary stages.

DEP fined Range \$1.4 million for spills and unreported leaks at the Yeager impoundment leading up to that suit filed in 2012. It was part of record-setting fines totaling \$4.5 million for leaks and problems at six of the company's water impoundments in Washington County.

Further evidence overlooked, Smith said, was data from well monitors that tracked potential contaminants throughout the area."

http://www.observer-reporter.com/20160413/commonwealth_court_hears_amwell_dep-range_suit

Ordinance Activity

***South Strabane Planning

Planning Commission member Joe Kopko: "We're not here to make sure everybody gets gas royalties. We're here to ensure the quality of life in South Strabane. The short-term gain will be far outweighed by the loss of quality of life going forward."

"In February, three supervisors recommended **deep-well drilling as a conditional use only in I-1 and I-2 industrial areas**, and shallow drilling in industrial and A-1 agricultural areas.

They also recommended electric motors for compressor stations and well pad sites and minimum setback requirements of 1,800 feet from residences, retail stores and restaurants, and 2,500 feet from schools and parks.

...many residents who opposed the amendment (opposed) the restrictions to drilling in all but industrial-zoned areas and set-back requirements.

A curative amendment, approved in September, that put a moratorium on approval of gas company applications for new permits expired, said Cambest. Any applications to the township at this point would have to meet the pending ordinance.

At the conclusion of public testimony, the board decided to continue the hearing to their April 27 meeting."

[http://www.observer-](http://www.observer-reporter.com/20160419/residents_speak_out_on_south_strabane_gas_ordinance)

[reporter.com/20160419/residents_speak_out_on_south_strabane_gas_ordinance](http://www.observer-reporter.com/20160419/residents_speak_out_on_south_strabane_gas_ordinance)

***Industry Challenges St. Mary's Ordinance

ST. MARYS – True to their word, Seneca Resources has challenged zoning modifications pinned to the industry by the St. Marys City council. Overall, Seneca is arguing that it "is being deprived of constitutionally protected property rights to access, use and develop its oil and gas interests within the city."

Seneca owns approximately 42,474 acres of oil and gas interests, or 67 percent of the interests, within the city's borders.

"We will aggressively defend our property interests within this community where we have safely developed and operated oil and gas wells for more than 100 years."

The ordinance in question took a council committee over a year to draft with input from the industry, as well as residents, in a series of closed door meetings. While the company takes many issues with the city's ordinance, those it stressed were that development of oil and gas is now excluded from large portions of the city where it was formerly permitted.

The ordinance restricts oil and gas development to the rural-conservation

district of the city and prohibits development in any area where the population density is in excess of 1,086 people per square mile.

The final draft includes a setback of 1,250 feet from the center of the well bores from the nearest structure, as well as a 1,000 foot setback of 1,000 feet from compressors or generator on a well site.

In its appeal, the company said the setbacks and other requirements provided in the amendment are unfair as they are not applied to other industries. It also added the city has little to no data to support why it chose its setback.

The appeal came on March 15, exactly one month after they were unanimously passed by the St. Marys City council. Seneca has requested a hearing with the city's zoning hearing board."

http://www.thecourierexpress.com/news/local/seneca-challenges-st-marys-zoning-modifications/article_6ed2cb3f-83e1-596d-a183-ac61f094c0c7.html

Other Fracking News

***** The Opposed Tenaska Plant Proceeds**

"Construction has begun on a long-delayed \$780 million gas-fueled power plant in South Huntingdon that has drawn fire from environmentalists and neighbors almost since the day it was proposed in 2009.

In those seven years, regulatory hurdles, threats from opponents and a weak market for selling electricity have caused Nebraska-based Tenaska Inc. to delay plans to build the plant on 50 of the 400 acres it owns south of Interstate 70 near Route 31.

But on Tuesday, Tenaska spokeswoman Timberly Ross wasted no words in announcing that the project, which received its final air quality permit from the state Department of Environmental Protection this year, has received full financing and is finally under way."

****Rice Energy fined \$393,500**

For permit violations including wastewater spill

"Rice Energy agreed to pay fines totaling \$393,500 for a series of permit violations and other issues around several well pads and pipelines in Washington and Greene counties, said the PA DEP.

The violations by the Cecil-based gas producer and two affiliates date to 2012 and included a wastewater spill at one site, a landslide at another and improperly permitted pipelines between others."

<http://triblive.com/business/headlines/10251504-74/rice-energy-spill>

*****PA Air Monitoring** The DEP announced it is spending \$1.56 million on 10 installations that will continually monitor fine particulate matter, prompted by ongoing community concerns in areas around natural gas development.

Monitors are to be installed in Wyoming and Susquehanna, Fayette, Indiana and Lycoming counties by the end of the year. The DEP will install monitors in Clarion, Jefferson and McKean counties by fall 2017. Installations in Towanda Twp., Bradford County, and Holbrook Twp., Greene County, were completed in March.

The DEP has not announced where it will position the monitors, and with only one planned for each county, placement is critical, Mrs. Krafjack said.

Most of Wyoming County's industrial activity — the Procter & Gamble factory complex in Washington Twp., natural gas well pads and compressor stations — takes place in its central and northwestern sections. So an air monitor in the mountainous

southwestern corner, mostly state game lands, might not reveal possible effects of gas production.

There is no public comment period before the department decides where to place the monitors, DEP spokesman Neil Shader said.

The monitors will detect fine particulates less than 2.5 micrometers in diameter. Fine particles are created by industrial activity but also by things like burning firewood or driving a car. They can irritate the lungs and throat, cause asthma attacks and, in some cases, trigger heart attacks, according to the EPA.

The group Breathe Easy, Susquehanna County's citizen science efforts, has been calling for more monitoring in areas with heavy drilling concentration for years. Federal and state agencies, however, do not regulate ultrafine particles"

<http://thetimes-tribune.com/news/state-installing-air-monitors-in-drilling-areas-1.2036345#.VyHi4DjA62w.facebook>

*****Range Resources Sites Gas Wells Away From Large Home**

"We heard Range Resources say it sites its shale gas wells away from large homes where wealthy people live and who might have the money to fight such drilling and fracking operations," said Patrick Greuter, an attorney and Center for Coalfield Justice executive director, who attended the lawyers' forum. A handful of attorneys in the audience confirmed that account

Joanne Kilgour, an attorney and director of the Sierra Club Pennsylvania Chapter, who attended the meeting, said Mr. Bossert's statements "pose significant environmental justice issues, and raise the question whether the companies coming into communities are really operating in the best interests of those communities."

<http://powersource.post-gazette.com/powersource/latest-oil-and-gas/2016/04/18/Executive-s-remark-about-shale-gas-well-sites-prompts-sharp-criticism-calls-for-review/stories/201604180027>

Veronica Coptis
Deputy Director
Center for Coalfield Justice
724-229-3550

***** 1000 Health Professionals Call For Protection From Fracking in PA**

"PennEnvironment was joined by several of the Commonwealth's top health experts—including **Alliance of Nurses for Healthy Environments, Physicians for Social Responsibility, SEIU Healthcare, and Southwest Pennsylvania Environmental Health Project**—to form Pennsylvania Health Professionals for a Livable Future. This coalition, representing tens of thousands of health professionals across the Commonwealth, is committed to addressing the impact of fracking and fracking infrastructure on the health of Pennsylvanians. **They will release a series of letters to the Wolf Administration representing the backing of 1000+ health professionals calling for increased protections for Pennsylvanians from fracking.**

Priority policies supported by these health professionals include:

*Establish a public health registry for healthcare professionals and affected individuals to report health impacts associated with fracking and other natural gas activities in Pennsylvania.

*Train health professionals, including those employed by the PA Department of Health, about the health impacts of natural gas.

*Address the known public health risks posed by fracking, including banning open-air waste pits.

- *Remove the health professional “gag rule” from Act 13.
- *Remove exemptions of the fracking industry from key environmental laws.
- *Require a minimum setback of one mile for all fracking operations and associated infrastructure relative to schools, childcare providers, hospitals and nursing care facilities.

“The number one public health threat in Pennsylvania is fracking,” asserts former President of the American Public Health Association and former Health Commissioner of Philadelphia, Dr. Walter Tsou with Physicians for Social Responsibility. “Fracking has been linked to groundwater contamination, air pollution, radioactivity in flowback water, and even earthquakes. Nosebleeds, skin rashes, asthma, and respiratory difficulties are commonly found in areas where fracking occurs. Later complications such as premature births, cancer and tumors are very real threats,” he reminds us.
<http://www.pennenvironment.org/news/pae/pennsylvania-health-professionals-call-stop-fracking>

***New DEP Regs Pass

(It's not close to sufficient, but some new regs did pass. However the industry and some PA legislators, still fight to overturn even these basic changes.

Elimination of waste pits- that does not include centralized impoundment pits- looks like the biggest gain.)

"The Marcellus Shale industry would also be barred from storing waste in pits, and using brine for dust suppression or de-icing."

"After a seven-hour public meeting, the Independent Regulatory Review Commission (IRRC) voted 3-2 to give the green-light. "

"The regulations, known as Chapter 78 and 78a govern both conventional drillers and the newer, unconventional, Marcellus Shale industry. Changes include updates to the permitting process. Drillers will now have to identify public resources such as schools and playgrounds. They will also have to identify old or abandoned wells that could be impacted by new drilling. If a water supply is tainted, the driller will have to restore or replace it to federal Safe Drinking Water Act standards, or the pre-drilling conditions, if they were better. The Marcellus Shale industry would also be barred from storing waste in pits, and using brine for dust suppression or de-icing."

Research

***Hormonal Changes from Wastewater, 2016

“Researchers working with the U.S. Geological Survey say they found evidence of chemicals that could cause **hormonal changes in animals in a stream near a West Virginia facility that disposes of gas drilling wastewater in a deep underground well.** “We found levels of these endocrine disrupting chemicals high enough to threaten health,” said Susan C. Nagel, director of the study and an associate professor of biological sciences at the University of Missouri.

EDCs can interfere with hormones in animals and humans. **“The level of EDC activity was within the range or higher than the level known to impact the health of aquatic organisms,”** the statement added.

The chemicals found by the scientists have been linked to **switched genders in fish, lowered fertility in mice, and hyperactivity in children.**

They can also cause cancer, birth defects, and developmental disorders, according to the National Institute of Environmental Health Sciences.

Published in the journal, Science of the Total Environment, lead author Susan Nagel, associate professor in the Department of Obstetrics, Gynecology and Women's Health at the University of Missouri." <http://triblive.com/business/headlines/10257732-74/facility-chemicals-gas>

*****Pavillion Study –Are States and Industry Testing For The Right Chemicals And How Accurate Are They**

“DiGiulio -published a comprehensive, peer-reviewed study last week in *Environmental Science and Technology* that suggests that **people’s water wells in Pavillion were contaminated with fracking wastes that are typically stored in unlined pits** dug into the ground.

The study also suggests that the **entire groundwater resource in the Wind River Basin is contaminated with chemicals linked to hydraulic fracturing, or fracking.**

Encana Corp., the company that operated in the Pavillion basin, said repeated testing has shown people’s water wells are safe for consumption.

“Conducting a groundwater investigation related to fracking is extremely complicated,” DiGiulio said. “It is difficult because a lot of the compounds used for hydraulic fracturing are not commonly analyzed for in commercial labs.”

These labs were originally set up for the Superfund program, under which EPA cleans up the most contaminated sites in the nation. They are great at detecting chemicals found at Superfund sites but not as good at detecting chemicals used in fracking, DiGiulio said.

*“You have some of these **very water-soluble exotic compounds** in hydraulic fracturing, which were not amenable to routine lab-type analysis,” he said.*

*One such chemical was **methanol**. The simplest alcohol, it can trigger permanent nerve damage and blindness in humans when consumed in sufficient quantities. It was used in fracking in Pavillion as workers pumped thousands of gallons of water and chemicals at high pressure into the wells they were drilling. About 10 percent of the mixture contained methanol, DiGiulio said.*

*So the presence of methanol in the Pavillion aquifer would indicate that fracking fluid may have contaminated it. But **methanol degrades rapidly and is reduced within days to trace amounts. Commercial labs did not have the protocol to detect such small traces, so DiGiulio and his colleagues devised new procedures, using high-performance liquid chromatography, to detect it. They devised techniques for detecting other chemicals, as well.***

When DiGiulio retired from EPA in 2014, he trained his sights on Pavillion. He felt he had to finish his work. He obtained EPA’s methanol testing results through a Freedom of Information Act request and downloaded the rest of the information from the Wyoming oil and gas regulator’s website. All of it was publicly available, waiting for the right person to spend a year crunching the information.

The end result: a peer-reviewed study that reaffirms EPA’s findings that there was something suspicious going on in Pavillion. More research is needed.

The sampling wells contained methanol. They also contained high levels of diesel compounds, suggesting they may have been contaminated by open pits where operators had stored chemicals, DiGiulio said.

The deep groundwater in the region contained high levels of salt and anomalous ions that are found in fracking fluid, DiGiulio said. The chemical composition suggests that fracking fluids may have migrated directly into the aquifer through fractures, he said.

Nearly half the 19 chemicals found are unstudied, and scientists do not know the safe level of exposure, EPA stated.

Jackson stressed that the contamination seen at Pavillion could occur in other states where, according to a study published last year in Environmental Science & Technology on which he was the lead author, fracking sometimes occurs at shallow depths.”

<http://www.scientificamerican.com/article/fracking-can-contaminate-drinking-water/>

*****Harvard Study: Fracking Wont Save Us From Climate Change Due To Methane Leakage**

“ This new Harvard data, which comes on the heels of other aerial surveys showing big methane leakage, suggests that our new natural-gas infrastructure has been bleeding methane into the atmosphere in record quantities. And molecule for molecule, this unburned methane is much, much more efficient at trapping heat than carbon dioxide.

The EPA insisted this wasn't happening, that methane was on the decline just like CO2. But it turns out, as some scientists have been insisting for years, the EPA was wrong. Really wrong.”

<http://www.thenation.com/article/global-warming-terrifying-new-chemistry/>

Newsletter information-Please Contact Jan Milburn