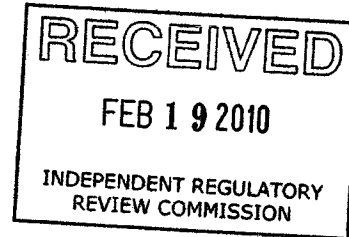


From: Martin Boksenbaum [martin@sustainlv.org]
Sent: Monday, February 08, 2010 4:39 PM
To: EP, RegComments
Cc: PA_clean_water@yahoogroups.com
Subject: 25 PA Code Ch. 95 Wastewater Treatment Requirements

From:
 Alliance for Sustainable Communities-Lehigh Valley
 1966 Creek Road
 Bethlehem PA 18015

To:
 Environmental Quality Board
 Pennsylvania Department of Environmental Protection
 PO Box 8477
 Harrisburg PA 17105-8477



February 8, 2010

Re: Pennsylvania Department of Environmental Protection's Environmental Quality Board (EQB) proposed amendment to the regulations on Wastewater Treatment Requirements.

Dear Members of the Environmental Quality Board,

We welcome the DEP's expression of concern re: the threats from oil and gas wastewater produced by Marcellus Shale drilling operations and agree with the need to protect Pennsylvania's drinking water and waterways. And while we commiserate with the EQB and the DEP on the unenviable task of trying to reign in industrial polluters rushing ahead on Marcellus Shale natural gas extraction, we call on you to do more than you have proposed. We do not find that the proposed regulatory changes provide the protections necessary. The fracking process is inherently an unacceptable assault on the environment and therefore on us humans dependent on that environment.

We demand that the DEP ban the hydrofracturing process and institute a moratorium on all natural gas drilling until environmentally sustainable methods of extraction are available. In this regard, the Alliance for Sustainable Communities-Lehigh Valley reminds and calls upon the Department of Environmental Protection to carry out the purpose for which it was formed, namely that of protecting and preserving the land, air, water, and energy resources of the Commonwealth. And in carrying out that purpose, we argue that the Pennsylvania Constitution should take precedence over regulations or any law that fails to meet the requirements of Article I, §27:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

We call on the DEP to:

- Issue cease and desist orders immediately for all Marcellus Shale Drilling unless and until alternative processes of extraction can be found that do not threaten the environment or public health.
- Similarly stop issuance of any new Marcellus Shale gas drilling permits
- Immediately prohibit the hydrofracturing or "fracking" process, since it is clear that this process is inherently of considerable harm to the environment and to people.
- Convene a Marcellus Shale Commission of scientists, water and wastewater engineers, geologists, administrators, environmental advocates, and public parties from the regions where Marcellus Shale drilling is anticipated to take place, and charge them with ascertaining what, if any, alternative processes of extraction can be found that do not threaten the environment or public health.
- Propose a severance tax on any such extraction -- indeed, on all mineral extraction -- in Pennsylvania, should a sound alternative process be found.

- Further, ask the legislative body of the Commonwealth to develop a reasonable plan for the application of these severance taxes which will primarily ensure the protection of Pennsylvania's air, water, and soils as well as the deployment of alternative energy technology infrastructure within the Commonwealth.
- Allow drilling within municipalities only with the consent of the people of that municipality.
- Allow drilling on public lands only with the consent of the residents of the commonwealth.
- Promote implementation of programs of conservation, efficiency and true clean energy technologies, rather than promotion of a carbon fuel – the extraction of natural gas runs counter to the state's efforts of the past several years to grow greener, since use of the natural gas, unless directly replacing coal usage, will increase the state's carbon footprint).

The DEP's proposed approach, that of establishing permissible levels of toxins for the fracking process, does not adequately protect the environment nor the people of the Commonwealth. A few of the many reasons why the proposed levels are inadequate;

- The permitting process still allows toxins to be introduced into the commonwealth's water resources, into the air, and onto the land.
- Of all the toxins resulting from this extraction process, including those introduced to facilitate the process, only a limited number of them are here under regulatory review – this is not only short-sighted but scientifically naïve.
- In the carrying out of this extraction process, the DEP would be relying upon the work of corporations that have demonstrated disregard for the environmental impact of their actions and of the importance of understanding sustainable energy processes.
- The Commonwealth has neither described a viable plan to treat the millions of gallons of contaminated wastewater that will be generated by these extraction processes, nor has the DEP verified that there is enough treatment capacity within the state to handle these effluents.
- The companies that have submitted permitting documents required by the DEP have not demonstrated adequate reclamation plans for what they leave behind once the gas is harvested.

It is unconscionable for the DEP to take the position that the economic benefits of drilling for gas in the Marcellus Shale are worth the inevitable environmental damage and the public health threats that will result, even though such damage includes the poisoning of water sources. Have we not learned anything from past mining activities?

If the DEP, because of regulatory law, decides it is unable to refuse to issue drilling permits, members of the DEP should vote to terminate the Department and resign rather than approve damage to the environment or violate the rights of people, communities and ecosystems.

We regard any DEP-issued permits allowing hydrofracking in the Marcellus Shale geology to be in violation of the rights of the citizens of the Commonwealth, its communities and ecosystems and to be therefore null and void.

Be on notice that we hereby claim our rights to clean air, pure water, and to the preservation of the environment as stipulated in the Pennsylvania Constitution. Continued ignoring of the rights of the people is and will remain totally unacceptable.

Signing for the Alliance for Sustainable Communities-Lehigh Valley:

Gabriel Arroyo, Martin Boksenbaum, Suzie Buller, Peter Crownfield, Rex D'Agostino, Tom Ickes, Philip Jones, Ted Morgan, Joris Rosse, Chiharu Tokura