



west virginia department of environmental protection

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Earl Ray Tomblin, Governor
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March 7, 2013

The Honorable Jeffrey V. Kessler
Senate President
Building 1, Room 227-M
State Capitol Complex
Charleston, WV 25305

The Honorable Richard Thompson
Speaker of the House of Delegates
Building 1, Room 228-M
State Capitol Complex
Charleston, WV 25305

Re: *W. Va. Code §22-6A-23 Impoundment and Pit Safety Study*

Dear President Kessler and Speaker Thompson:

As directed by the Natural Gas Horizontal Well Control Act enacted by the West Virginia Legislature on December 14, 2011, please find enclosed the Department of Environmental Protection's (DEP) Office of Oil and Gas (OOG) report pursuant to W. Va. Code §22-6A-23 on the safety of large pits and impoundments (W. Va. Code §22-6A-9) used in the drilling of horizontal natural gas wells that are not associated with a specific well work permit. Also, please find enclosed the accompanying study reports by West Virginia University's (WVU) Water Research Institute and Department of Civil and Environmental Engineering, along with OOG's response to issues discovered during the study.

Based on the results of this study, OOG finds that no additional rules are immediately necessary for the design and construction of these large pits and impoundments. Please note that WVU provided numerous recommendations based on field sampling results and literature review. Many of the recommendations, while outside the specific scope of the legislative mandate of W. Va. Code §22-6A-23, are already addressed by the OOG's existing regulatory framework, which ensures adequate controls for these large pits and impoundments (W. Va. Code §22-6A-9).¹ The study confirmed that "future construction, if done in accordance with the WVDEP guidelines, should pose minimal risk."

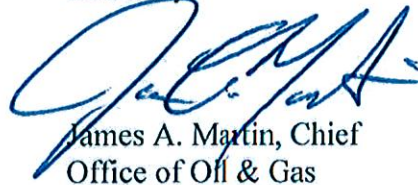
¹ The Rules Governing Horizontal Well Development (35CSR8), proposed for consideration during the 2013 legislative session, contains additional language detailing requirements associated with W. Va. Code §22-6A-9 structures.

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Please note the study required by W. Va. Code §22-6A-12(e) on the noise, light, dust and volatile organic compounds, generated by the drilling of horizontal natural gas wells as they relate to the well location restrictions regarding occupied dwelling structures, is still underway. The field component of this study has been completed, and WVU is currently compiling and analyzing the data.

Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



James A. Martin, Chief
Office of Oil & Gas

JAM/lmb

cc w/enclosures:

Joseph A. Lazell, Chief Counsel to Senate Judiciary Committee
Joseph A. Altizer, Chief Counsel to House Judiciary Committee