

In addition, the Texas letter asked EPA to stay the enforcement of greenhouse gas permitting requirements until court challenges are resolved.

“Given that you are unable to ascribe the benefits of your greenhouse permitting regime, it is difficult to see why you would refuse to stay the effectiveness of your greenhouse gas rules,” the letter said.

EPA and Texas also are involved in a dispute over the state’s flexible air permitting program. EPA formally withdrew approval of the program July 15 (75 Fed. Reg. 41,312; 135 DEN A-11, 7/16/10).

By STEVEN D. COOK

The Texas letter on EPA greenhouse gas permitting is available at <http://op.bna.com/env.nsf/r?Open=jsun-87y4pf4>.

The Florida letter is available at [http://op.bna.com/env.nsf/id/jsun-87yq3g/\\$File/floridano.pdf](http://op.bna.com/env.nsf/id/jsun-87yq3g/$File/floridano.pdf).

The North Dakota letter is available at <http://op.bna.com/env.nsf/r?Open=jsun-87y4ttt>.

The Virginia letter is available at <http://op.bna.com/env.nsf/r?Open=jsun-87y4ttd>.

Air Pollution

Conservationists, Citizens Question Efficacy Of Current EPA Rules for Oil, Gas Industry

DENVER—The Environmental Protection Agency’s existing regulatory structure for oil and gas operations is “insufficient” to control air pollution and protect the environment, conservationists and private citizens said Aug. 3 at a public meeting here.

“We urge EPA to strengthen its regulations,” said Rob Harris of Western Resource Advocates, a conservation group with offices in five Western states. “Business as usual is failing to protect western lands.”

For their part, representatives of industry question whether a “one-size-fits-all federal approach” would work, said Kathleen Sgamma, director of government affairs for the Western Energy Alliance, which represents some 400 companies engaged in exploration and production of oil and natural gas in Western states.

The hearing was one in a series that EPA agreed to hold as part of a 2009 legal settlement with the environmental group WildEarth Guardians.

Broad Look. Speakers representing both views addressed a panel of Environmental Protection Agency officials in Denver as part of an agency review of air regulations for the oil and gas industry. The public meeting in Denver and one held in Arlington, Texas, on Aug. 2 were part of a “broad look across the sector to identify sources of air pollution emissions, quantify those emissions, and consider how they can be reduced,” EPA said.

In a consent decree proposed in December 2009, EPA agreed to review the air pollution and air toxics control standards for oil and natural gas production facilities by 2011. The agreement settles a lawsuit filed in the U.S. District Court for the District of Columbia by environmental groups (*WildEarth Guardians v. Environmental Protection Agency*, D.D.C., No. 09-00089, 12/3/09; 235 DEN A-6, 12/10/09).

In the lawsuit, WildEarth Guardians and the San Juan Citizens Alliance alleged that EPA had failed to perform periodic reviews of various air pollution standards for oil and natural gas facilities as required by Sections 111 and 112 of the Clean Air Act. Under the agreement, EPA will review and propose any necessary revisions to the new source performance standards for crude oil and natural gas production facilities as well as the national emissions standards for hazardous air pollutants for oil and natural gas production and natural gas transmission and storage facilities.

The agency will also review the residual risk to public health posed by air toxics emissions from oil and natural gas facilities after implementing existing hazardous air pollutant standards.

Tight Time Frame. Bruce Moore, senior technical adviser in EPA’s Office of Air Quality, Planning and Standards in Research Triangle Park, N.C., said EPA was under a tight timeline for the review. The consent decree requires the agency to propose any regulations by Jan. 31, 2011, which would be followed by a public comment period. EPA must take final action by Nov. 30, 2011, he said.

Environmental advocates question the wisdom of “having industry monitor itself,” said Dave Hendricks, a private citizen and member of the Sierra Club. “That has been totally inadequate.”

Kim Weber, a member of the Western Colorado Congress, attested to the health effects of energy production on Black Mountain near her home in DeBeque, Colo. “My son became ill . . . the work was aggravating his asthma,” she said. “I find it suspicious there are so many symptoms among other townspeople in the same place and time.”

Energy companies have been working to reduce emissions per unit of production, Sgamma said. The alliance has been working with the Western Regional Air Partnership—a federal, state and tribal effort administered by the Western Governors’ Association—on a comprehensive, accurate, air emissions inventory for all aspects of exploration and production of oil and natural gas, she said.

WRAP Inventory. Sgamma recommended that EPA use the Western Regional Air Partnership Phase III data as part of its review of the air regulations affecting the oil and natural gas industry. She said the partnership’s “Phase III” inventory was a substantial improvement on previous inventories “in terms of number of emissions sources included from a broader base of company participation.” The inventory includes all six criteria pollutants specified in the Clean Air Act, she said.

John R. Jacus, an attorney for Davis, Graham & Stubbs in Denver, told the EPA panel the data to be generated by the Western Regional Air Partnership’s Phase III efforts will “provide relevant and valuable information.” Jacus is chairman of the Colorado Association of Commerce and Industry’s Energy and Environmental Council, according to law firm’s website.

Jacus said a “federal regulatory overlay” could disrupt the partnership’s information-gathering process. “Despite the timeline from the consent decree, I am troubled by the timing of this review,” he said. “It is out of step with these other efforts.”

In addition, he said, inconsistency between federal and state regulations “could cause confusion for operators.” He said Wyoming and Colorado already have

state regulations for volatile organic compound and hazardous air pollutant controls that “are among the most restrictive and effective” in the country.

By TRIPP BALTZ

Additional information on the EPA rule and implementation information for oil and gas production is <http://epa.gov/ttn/atw/oilgas/oilgaspg.html>.

Drilling

Report Tallies Environmental Violations By Shale Drillers in Pennsylvania Since 2007

PHILADELPHIA— Pennsylvania regulators have cited 43 companies drilling for natural gas in the Marcellus Shale a total of 1,435 times since January 2008 for violations of state environmental laws and regulations, according to a report issued Aug. 2 by the Pennsylvania Land Trust Association.

The association of 80 Pennsylvania conservation organizations compiled the report based on records obtained from the Pennsylvania Department of Environmental Protection under the state Right to Know law, Elana Richman, the group’s projects coordinator, told BNA.

The association identified 483 violations that “seemed unlikely to endanger the environment and/or the safety of communities,” according to the report. Another 952 violations were judged to have the most potential for a direct environmental impact.

Richman said violations that were administrative in nature or for which the potential impact was not clear, such as failure to properly post permits or failure to provide proper notice to the DEP in the event of a pollution event, were categorized as unlikely to pose a threat.

The 952 violations that fell into the “potentially harmful” category are further classified into one of 10 categories.

Erosion Controls, Wastewater Pits. Almost half the potentially harmful violations involved improper development or implementation of erosion and sediment control plans (277 violations) or improper construction of wastewater impoundments where wastewater from the hydraulic fracturing process is stored (268 violations).

The other major categories of violations involved improper discharge of industrial waste (154 violations) and violations of the Pennsylvania Clean Streams Law (100 violations).

Faulty pollution prevention practices accounted for 65 violations, while companies were cited only 10 times for improper construction of well casings.

East Resources Inc. had the most violations (138) during the 18-month period from Jan. 1, 2008, through July 25, 2010, but it operated 140 wells in Pennsylvania and ranked near the bottom in terms of the number of violations per well drilled, the report said.

JW Operating Co., with one well in the state, was cited 11 times, and Citrus Energy had 14 violations at its two wells.

Kathryn Klaber, president of the Marcellus Shale Coalition, which represents the state’s drilling industry, said the industry is tightly regulated and “arguably un-

der more scrutiny than any other operating in the Commonwealth.

“We will continue to work with regulators and other officials each day to ensure that Marcellus natural gas development is done effectively and environmentally responsibly, and in a way that continues to help create thousands of jobs and affordable supplies of clean-burning, homegrown energy for all Pennsylvanians,” Klaber said in a statement.

By LORRAINE MCCARTHY

The Pennsylvania Land Trust Association report is available at http://conserveland.org/uploaded_files/0000/0596/report_finalaug10.pdf.

Enforcement

Former N.J. Site Owners to Pay \$2.5 Million To End Potential Liability for Contamination

PHILADELPHIA—Former owners of a New Jersey industrial property have agreed to pay state environmental regulators \$2.5 million to resolve their alleged liability to the state for past and future cleanup costs and natural resource damages resulting from discharges at the site, under terms of an administrative consent judgment proposed Aug. 2.

Notice of the proposed Spill Compensation and Control Act settlement between the New Jersey Department of Environmental Protection (DEP) and Raymond and Jeanne Mellen was published in the *New Jersey Register* Aug. 2.

At issue in the settlement is a 7.5-acre property in Avenel, N.J., that the Mellens bought from a predecessor of High Voltage Engineering Corp. in 1978.

An environmental investigation conducted in connection with the Mellens’ proposed 1985 sale of the property to Pride Solvents & Chemical Co. of New Jersey Inc. revealed hazardous substances in soil and groundwater at the site, according to the proposed settlement.

Under a 1989 administrative consent order with the DEP that resolved litigation over the cleanup, High Voltage was to pay for and conduct the cleanup and post financial assurance to cover the cost, while the Mellens were required to remediate only if High Voltage was unable to meet its obligations.

Since 2005, when High Voltage filed for bankruptcy, Pride Solvents, High Voltage, the Mellens, and the DEP have been funding and remediating the site, according to the draft settlement.

Bankruptcy Estate Payments. In 2008, the High Voltage bankruptcy estate paid the Mellens \$2.25 million in exchange for a release of all claims against the company with regard to completing remediation of the site. High Voltage also waived any claim to the \$1.6 million in financial assurance funds it had posted with the state, in exchange for a release from the DEP.

In 2009, the bankruptcy estate settled its liability with Pride Solvents for \$270,000, also in exchange for a release of all claims.

Under the proposed settlement, the Mellens will pay the DEP \$2.5 million in exchange for a release of all liability related to hazardous substances at the High Voltage site, migration of any hazardous substances off-site, vapor intrusion on- or off-site, and any natural resource