



Pennsylvania Department of Environmental Protection

2 Public Square
Wilkes-Barre, PA 18711-0790
November 9, 2009

Northeast Regional Office

570-826-2511
Fax 570-830-3016

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 7009 1680 0001 0022 7366

Mr. James E. Grey
Chesapeake Appalachia, LLC
900 Pennsylvania Avenue
Charleston, WV 25302

Re: Robson #1 Well, Permit No. 127-20008
Oregon Township, Wayne County

Dear Mr. Grey:

On October 15, 2009, the Department conducted an inspection of your company's Robson Well (Permit No. 127-20008) located in Oregon Township, Wayne County. During our inspection, soil to the North of the recently regraded location appeared to be impacted by some sort of petroleum product. The contamination was later confirmed analytically to be a weathered petroleum product, possibly transmission oil or pump oil. The lab results issued October 22, 2009 and the visibly impacted soil constitute the following violations of the Clean Streams Law of Pennsylvania, 35 P.S. §691.1 *et seq.*; the Solid Waste Management Act, 35 P.S. §6018.101, *et seq.*; the Oil and Gas Act, 58 P.S. § 601.101 *et seq.* and the rules and regulations promulgated under these statutes:

1. Unpermitted disposal of residual waste.

Our investigation revealed that an uncontained release of a petroleum product had occurred at the site. This is a violation of Section 301 of the Solid Waste Management Act, 35 P.S. §6018.301, which provides:

"No person or municipality shall store, transport, process, or dispose of residual waste within this Commonwealth unless such storage, or transportation, is consistent with or such processing or disposal is authorized by the rules and regulations of the department and no person or municipality shall own or operate a residual waste processing or disposal facility unless such person or municipality has first obtained a permit for such facility from the department."

2. Potential Pollution.

The investigation of the site revealed that fluids were discharged to a forested area. The release has created the potential for polluttional substances to enter Waters of the Commonwealth. This is a violation of Section 402 of the Clean Streams Law, 35 P.S. § 691.402(a), which provides:

“Whenever the Department finds that any activity, not otherwise requiring a permit under this act, including but not limited to the impounding, handling, storage, transportation, processing or disposing of material or substances creates a danger of pollution of the waters of the Commonwealth or that the regulation of the activity is necessary to avoid such pollution, the Department may, by rule or regulation, require that such activity be conducted only pursuant to a permit issued by the Department or may otherwise establish the conditions under which such activity shall be conducted, or the Department may issue an order to a person or municipality regulating a particular activity.”

3. Pits and tanks for temporary containment.

The investigation revealed that polluttional substances generated from activities associated with drilling were not contained in a pit or tank. This is a violation of 25 PA Code § 78.56(a), which provides:

“Except as provided in §§ 78.60(b) and 78.61(b) (relating to discharge requirements; and disposal of drill cuttings), the operator shall contain polluttional substances and wastes from the drilling, altering, completing, recompleting, servicing and plugging the well, including brines, drill cuttings, drilling muds, oils, stimulation fluids, well treatment and servicing fluids, plugging and drilling fluids other than gases in a pit, tank or series of pits and tanks.”

A violation of the Solid Waste Management Act or the rules or regulations promulgated thereunder is contrary to Sections 601 and 610 of that Act, for which the Department could institute administrative, civil, and/or criminal proceedings. The Act provides for up to \$25,000 per day in civil penalties and up to \$25,000 in criminal penalties for each violation. Each day of continued violation constitutes a separate offense.

A violation of the Oil and Gas Act or the rules or regulations promulgated thereunder is contrary to Sections 505 and 509 of that Act, for which the Department could institute administrative, civil, and/or criminal proceedings. The Act provides for up to \$25,000 in civil penalties plus \$1,000 for each day of a continued violation and up to \$5,000 in criminal penalties for each violation. Each day of continued violation constitutes a separate offense.

Please notify me in writing within 10 days of your receipt of this notice, as to the cause(s) of this incident, when the above listed violations were or will be corrected and what steps are being taken to prevent their recurrence.

This Notice of Violation is neither an order nor any other final action of the Department of Environmental Protection. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

Mr. James E. Grey

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If you have any questions concerning the above, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael O'Donnell". The signature is fluid and cursive, with a large, stylized initial "M" and "O".

Michael T. O'Donnell
Water Quality Specialist
Oil and Gas Management

Mr. James E. Grey

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bcc: John Ryder
Eric Rooney
NCRO File

MTO:sp
WP: O3-9546.doc
H(Ashare)P: 11/6/09; T(F): 11/9/09