

Policy Office
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

June 16, 2020

RE: Residual Waste General Permit WMGR123; Proposed Modifications and Renewal

Dear policymakers,

I am a frontline resident along with my family – my parents and grandparents – all of whom live in the path of a nearby oil and gas waste facility permitted by PA DEP under the WMGR123 General Permit in 2019. This permit – WMGR123NC038 – was issued without our knowledge or input, despite the fact that the operation had the potential for and has indeed resulted in great impact on our lives. Therefore, I'd like to thank you for amending this permit to provide the public with an opportunity to comment on future proposed operations. This is a step in the right direction. However, several modifications are required to make this new requirement equitable and effective:

1. **Broaden opportunity for public participation to adjacent municipalities as well as residents and communities along transportation routes.** Facilities permitted under WMGR123 General Permits involve heavy industrial truck traffic, noise, and the transportation of toxic and radioactive materials that poses potential environmental and public health risks. By excluding parts of the public who bear potential impacts, simply because they do not reside in the same municipality as the sited facility, is unfair, exclusionary and inequitable.
2. **Require operators to notify residents and communities within a 'zone of potential impact' directly.** A shrinking minority of the public gets information from print newspapers or public bulletins. To ensure that all residents within a 'zone of potential impact' receive notification of an opportunity to participate in the permitting process for a proposed facility, targeted communication strategy is required (e.g. direct mail).

During the shelter-in-place order from Governor Wolf due to the coronavirus pandemic, the waste facility near our home – JKLM Energy's Sweden Valley Tank Farm – drastically increased operations. The truck traffic on our road went from a few trucks per day to over a dozen trucks every hour. These operations persisted all hours of the day and night, resulting in sleep deprivation and associated health problems. This is particularly dangerous for my grandparents, both of whom suffered and are recovering from serious illnesses. Therefore, I am very glad to see "noise" added as a specific type of nuisance prohibited by this permit.

However, when we requested the PA DEP enforce the nuisance prohibition already in place, we were told the department does not handle noise or transportation issues. The provision in current WMGR123 General Permit states:

"The processing, storage and transportation of the oil and gas waste and any other wastes that are generated shall be conducted in a manner that will not create a nuisance or be harmful to the public health, safety or the environment of this Commonwealth." (emphasis added)

Despite the clarity of this directive, I received emails from DEP staff stating an inability or unwillingness to enforce the above provision:

"Please be advised that the Department does not regulate noise..."
 – March 27, 2020 email from DEP staff person Ruth Priester

"...the permit for this facility does not address hours of operation, and we do not regulate vehicular use of public roads." – April 10, 2020 email from Megan Lehman, DEP Community Liaison

3. Please amend this draft permit modification to include enforcement language and provisions to ensure DEP action and operator compliance on nuisance abatement.

Our homes are between 8 and 18 yards from the road used by JKLM Energy’s contracted trucking firms to transport liquid oil and gas waste from hydraulically fractured wells, which many studies show contains high levels of radioactive materials in addition to carcinogenic chemicals and other toxins. The table below outlines just a few of the published, peer-reviewed studies on this waste:

STUDY	SAMPLE	RAD LEVEL
USGS (2011): Radium Content of Oil- and Gas-Field Produced Waters in the Northern Appalachian Basin https://pubs.usgs.gov/sir/2011/5135/pdf/sir2011-5135.pdf	Produced Water – Non-Marcellus formations	1,011 pCi/L
<i>Ibid.</i>	Produced Water – Marcellus Shale formation	2,460 pCi/L
<i>Ibid.</i>	Produced Water – NY Marcellus Shale	5,490 pCi/L
<i>Ibid.</i>	Produced Water – Greene Co. fracked well	Up to 6,100 pCi/L

<i>Ibid.</i>	Produced Water – Ra-226 Marcellus	Several over 10,000 pCi/L
USGS (1999): Naturally Occurring Radioactive Materials (NORM) in Produced Water and Oil-Field Equipment— https://pubs.usgs.gov/fs/fs-0142-99/fs-0142-99.pdf	Scale (pipes, equipment)	up to 400,000 pCi/g
Geochemical evaluation of flowback brine from Marcellus gas wells in Pennsylvania, USA – https://www.sciencedirect.com/science/article/abs/pii/S0883292712002752	Marcellus flowback	Up to 6540 pCi/L
PA Dept. of Environmental Protection TENORM study – http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/RadiationProtection/PA-DEP-TENORM-Study_Report_(Section_Text)_May_2016_track_change.pdf	Produced water – Marcellus Shale	40.5 – 26,600 pCi/L of Radium 226
<i>Ibid.</i>	Produced water – Marcellus Shale	26.0 – 1,900 pCi/L

Despite the well-documented and broadly understood hazards of oil and gas wastewater, particularly waste from Marcellus Shale wells, waste characterization will only be required by this modified permit for waste that is processed; testing for stored waste will no longer be required. If adopted, this version of the WMGR123 permit will mean that the Sweden Valley Tank Farm near my family's homes, which stores but does not process wastewater, will no longer be subject to testing requirements.

Of our family's two water supplies, one (a natural spring) runs under the road used to transport this fracking waste, and the other (a private water well) is immediately down gradient of the road. In the event of a spill, our water supplies, land and personal safety would be in jeopardy.

In our region (north-central PA) there have been several fracking wastewater trucking crashes this year alone, resulting in pollution of wetlands, roadsides and at least one resident's yard. In other words, this is not an unwarranted concern, and I urge you to adopt transparent measures to provide access to critical health and safety information regarding the contents of the wastes approved for transportation by this permit.

When I asked DEP on April 14th, 2020 to provide a sample analysis of the waste being trucked to and from Sweden Valley Tank Farm over our water supplies, and share the results to my family, that request was denied. On April 16th, Community Liaison Megan Lehman wrote:

“Applicable regulations do not require such an analysis to be performed by DEP. Additionally, based on the required sampling provided as part of the application process, as well as continued sample collection and reporting by the applicant as required by the GP-123 permit, the Department currently does not see a need at this time for any additional Department-initiated sampling.”

Ms. Lehman’s rationale for DEP’s denial of our request to sample is that the company is already required to collect samples of the waste it is transporting over our water supply. However, DEP does not require these waste analyses be submitted to the department, only that the company keep the records for five years and grant the DEP access to those records when requested. This policy keeps crucial safety data off the public record and inaccessible through Right-to-Know Law.

When I followed up with Ms. Lehman to request that DEP obtain the lab analyses conducted by the operator as a requirement of the permit and provide that data to my family, she replied via email with one word – “No.”

It goes without saying that the radiological content of oil and gas waste should be public knowledge. Oil and gas wastewaters are highly toxic substances, and the DEP is 1) not requiring the industry make test results of its wastes part of the public record, and 2) denied access to those records for an impacted family for their own health and safety. Therefore, please amend the permit modification to:

- 4. Require operators to conduct certified, third-party lab analysis of all wastewater prior to transport and carry those analyses in manifests that travel with the waste so the precise content is immediately known in the event of a spill or other incident.**
- 5. Require operators to submit all wastewater analyses to the department on a timely, routine basis and make those analyses accessible online to the general public.** That way, any resident in the pathway of wastewater transport has access to critical health and safety information about wastewater constituents in the event of an incident where onboard manifests containing waste analyses are not accessible.

Thank you for considering these revisions to the WMGR123 permit modification.

Sincerely,



Melissa A. Troutman
PO Box 488, Coudersport, PA 16915