



December 12, 2014

James A Martin, Chief
Office of Oil and Gas
West Virginia Department
of Environmental Protection
601 57th Street, SE
Charleston, WV 25304-2345

**Re: Permit Application(s)
Well numbers MIP 3H and 5H
Preliminary Comments and FOIA Request**

Dear Mr. Martin,

I write to express strong concerns related to the proposed wells, and to request information regarding the proposed operations.

You will recall that two previous wells were drilled and completed at the subject site in 2011, and that the Permits for that previous work contained special safeguards negotiated between Morgantown Utility Board (MUB) and Northeast Natural Energy (NNE). Recall that the well pad is located immediately adjacent to our Zone of Critical Concern and runoff from the well pad arrives at the Monongahela River only 1500 feet upstream of our drinking water intake.

Special safeguards are needed at the subject site due to its extremely close proximity to the primary water intake for the MUB water treatment plant. Unfortunately, NNE has notified MUB that it will not provide all those same safeguards (from 2011) for the proposed work. NNE has similarly rejected MUB's request for additional safeguards for the proposed wells. Please see enclosed correspondence:

- From MUB to NNE, dated October 3, 2014
- From NNE to MUB, dated November 12, 2014
- From MUB to NNE, dated December 11, 2014

You will note from the above referenced correspondence that we have requested certain technical information from NNE regarding plans for the proposed work. We await their response. Similarly, and perhaps more importantly, our consultant Downstream Strategies (DS) has previously contacted OOG on November 25 to request information related to the permit application(s). As of the date of this letter, neither DS nor MUB have received the requested information, this despite DS having made follow up contacts to OOG on December 8 and 9. Awaiting such technical information from both NNE and DEP, MUB is unable to complete a review of the proposed work, and therefore may be unable to provide complete comments within the time period allowed by DEP permitting procedures.

Our ability to make timely comments has also been impaired by a flaw in the public notice that was published for the subject wells. You will note in the attached public notice, published on October 22, 2014, that the affected watershed was incorrectly identified as Dunkard Creek. Because we review such public notices based on affected watershed, and Dunkard Creek is downstream of and beyond our area of concern, that published mistake caused us to overlook the subject notice. That oversight delayed the beginning of our review of the subject permit.

For the above reasons, we respectfully request the following:

That this letter be considered a formal FOIA request pursuant to WV Code §29 B-1-1, et seq, for any and all information submitted by Northeast Natural Energy as part of its application(s) for well numbers MIP 3H and MIP 5H; and,

That the public notice for the subject wells be re-published with all appropriate corrections and that the time allowed for public comments be restarted to begin upon re-publication of said notice; and,

That the additional safeguards now or subsequently requested by MUB be included as enforceable requirements of the subject Permits; and,

That because the relevant circumstances, technology, and understanding thereof are dynamic and subject to change, that the Permits include a “re-opener” clause that will allow DEP to make additional changes to the Permits should the need arise.

We submit this correspondence to ensure that the safety of our raw water supply is protected, and that the permits adequately address this critically important need.

Thank you for your immediate attention to this urgent matter. We look forward to working with you to resolve our concerns.

Respectfully,

MORGANTOWN UTILITY BOARD



Timothy L. Ball
General Manager

cc: Randy Huffman – Secretary WV DEP
Scott Mandirola – Chief, Water and Waste Section, WV DEP
WV DEP Public Information Office
Barbara Taylor – Director, Envir. Health Services, WV Bureau of Public Health
Morgantown City Council
Morgantown Utility Board
Brett Loflin – Northeast Natural Energy