



NATURAL RESOURCES DEFENSE COUNCIL

January 8, 2014

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

Re: Wells State Underground Injection Control Permits UIC2D0190460 & UIC2D0190508 Operated by Danny E Webb Construction, Inc.

Dear Mr. Martin:

We write to notify you that the above-referenced Class II underground injection wells are being operated without a valid permit in violation of state and federal law and to request that the Office of Oil and Gas: (1) order that the wells cease operation; and (2) deny applications for the renewal of the permits. Well "North Hills #1" was being operated under Permit UIC2D0190460, which expired on October 25, 2012. Well "North Hills #1A" was being operated under permit UIC2D0190508, which expired on November 7, 2013 according to DEP records. Neither permit has been reissued.

There is evidence that Danny E Webb Construction, Inc. ("DEWCI") has continued to operate both these wells despite the expiration of the permits. Records submitted by DEWCI show that injection occurred at North Hills #1 in April 2013, seven months after the expiration of its UIC permit.¹ Despite expiration of its permit on November 7, 2013, injection continued at the North Hills #1A throughout the month of November, the most recent month for which records are available.² Continued operation of these wells violates state and federal law.³

¹ WR-40 for April 2013, Well No: North Hills #1, API Permit No. 47-019-00460, Operator: Danny Webb Construction, May 1, 2013.

² WR-40 for November 2013, Well No: North Hills #1A, API Permit No. 47-019-00508, Operator: Danny Webb Construction, December 2, 2013.

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A state-issued UIC permit continues in effect after expiration only if (1) the permittee has submitted a complete and timely application for a new permit, (2) through no fault of the permittee the new permit is not issued with an effective date on or before the previous permit's expiration, and (3) state law specifically allows for a UIC permit to continue in effect until the effective date of a new permit.⁴ Because West Virginia law does not allow continuation of the permits, the wells are being operated without a valid permit and continued operation is unlawful.

Moreover, the wells do not meet the other requirements for continuation. The renewal application for UIC2D0190460 was not submitted until January 3, 2013, more than two months after the permit expired on October 25, 2012.⁵ The renewal application for permit UIC2D0190508 is incomplete, as noted in a DEP email on December 18, 2013.⁶ Neither permit was submitted complete and timely. Therefore the permits do not meet the requirements for continuation.

Moreover, as we have outlined before, these permits should not be reissued. In addition to the information concerning the DEWCI's history of noncompliance that we submitted as part of our comments on the renewal of permit UIC2D0190460,⁷ further concerns with DEWCI management of the wells in question were raised at the June 4, 2013 public hearing on that permit renewal. Mr. Peter Halverson testified that he worked on the original construction of the pits at the Danny Webb site and as a truck driver. Mr. Halverson testified that, at Mr. Webb's direction, a new liner was installed over an old one when the sludge was seeping too close to the creek. He also testified that he was not given any protective gear and became "drenched from head to toe" in waste from the site that also got into his eyes. He reported that he has been diagnosed with inflammatory debilitating polyneuropathy that he believes is related to chemical exposures at the site.⁸

³ WV Code R. § 47-13-13.12.b; 40 CFR § 144.37.

⁴ 40 CFR § 144.37.

⁵ See attachment 1. Oil & Gas Database Search Results, WV Department of Environmental Protection.

⁶ Email of James A. Peterson to Matthew McFeeley, December 18, 2013, 1:21PM EST.

⁷ Comments on Application for Renewal of State Underground Injection Control Permit UIC2D0190460, North Hills #1-A Well submitted by Natural Resources Defense Council and West Virginia Surface Owners' Rights Organization, March 13, 2013.

⁸ Transcript of Public Hearing, June 4, 2013, pages 35-38.

At the same hearing, John David, a Commissioner of the Page-Kincaid Public Service District, which provides water in the area, testified that the aquifer in the area is not mapped and that the District does not have the resources to test for all contaminants in the water. Mr. David stated that he was very concerned about the threats to water quality in the area and the impacts to the local population.⁹ Additionally, several local residents reported strong foul odors emanating from the site.¹⁰ This additional evidence further calls into question the ability of DEWCI to safely manage the site and prevent endangerment of sources of drinking water.

DEWCI has operated both the North Hills #1 and #1A well without a permit in violation of state and federal laws. These actions, especially when combined with the existing pattern of violations, mandate immediate enforcement action by the state.

DEP should immediately: (1) order DEWCI to cease operation of injection wells North Hills #1 and North Hills #1A; (2) deny any applications for the renewal of permits UIC2D0190460 and UIC2D0190508; and (3) inform the public of the actions it has taken to assure compliance with all state and federal laws.

Sincerely,



Matthew McFeeley
Project Attorney
Natural Resources Defense Council

Beth Little
West Virginia Chapter
Sierra Club

cc: James A. Peterson, West Virginia DEP, UIC Program;
Jon M. Capacasa, Director, EPA Region 3 Water Protection Division;
Samantha Beers, Director, EPA Region 3 Office of Enforcement, Compliance and
Environmental Justice

⁹ Transcript of Public Hearing, June 4, 2013, pages 10-13.

¹⁰ Transcript of Public Hearing, June 4, 2013, pages 51 and 52.