

## **Pa. accused of rubber-stamping gas permits**

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(AP) -- Pennsylvania environmental regulators say they spend as little as 35 minutes reviewing each of the thousands of applications for natural gas well permits they get each year from drillers intent on tapping the state's lucrative and vast Marcellus Shale reserves.

And the regulators say they do not give any additional scrutiny to requests to drill near high-quality streams and rivers even though the waterways are protected by state and federal law.

Staffers in the state Department of Environmental Protection testified behind closed doors last month as part of a lawsuit filed by residents and environmental groups over a permit that DEP issued for an exploratory gas well in northeastern Pennsylvania, less than a half-mile from the Delaware River and about 300 feet from a pristine stream.

Their statements, obtained by The Associated Press, call into question whether regulators are overburdened and merely rubber-stamping permit applications during the unprecedented drilling boom that has turned Pennsylvania into a major player in the natural gas market, while also raising fears about polluted aquifers and air.

The agency has denied few requests to drill in the Marcellus Shale formation, the world's second-largest gas field. Of the 7,019 applications that DEP has processed since 2005, only 31 have been rejected - less than one-half of one percent.

"Even those of us who are skeptics of the DEP, I think we all want to

assume that they're doing the basics. And they're really just not," said Jordan Yeager, a plaintiffs' attorney who is challenging the drilling permit awarded to Newfield Appalachia PA LLC, a unit of Houston-based Newfield Exploration Co.

The agency declined to comment about any aspect of its permit review process, even to answer general questions.

But the depositions of four DEP staffers responsible for processing permits - taken in late March and filed with a regional water agency this week - reveal that:

- The agency doesn't consider potential impacts on legally protected high-quality watersheds, beyond checking that wells meet minimum setbacks required of all gas wells in the state.
- Staffers don't consider whether proposed gas wells comply with municipal or regional zoning and planning laws.
- They don't consider the cumulative impact of wide-scale development of wells in a concentrated area.
- They appear to have a fuzzy understanding of laws that are supposed to govern their work. A supervisor was unable to define the requirements of a key anti-degradation regulation that says pristine waterways "shall be maintained and protected," while a geologist said he didn't know that streams and rivers legally designated as "high quality" or "exceptional value" are entitled to an extra layer of protection.

Asked by Yeager whether he had "any understanding of what it means to be an HQ watershed," DEP geologist Joseph Lichtinger replied: "Only that it means high quality."

"Any understanding what high quality means?" Yeager persisted.

"No."

"Do you know what that means in terms of the level of protection that they have under the law?"

Lichtinger, who performed the substantive technical analysis of drilling permit applications, shook his head, then answered no.

Lichtinger and his supervisors also acknowledged they did not take into account that Newfield's test well would be drilled within the federally protected wild and scenic Delaware River corridor.

The geologist testified that he spent as little as a half-hour, and up to a full day, scrutinizing each individual application. His direct supervisor, Brian Babb, testified that he took an average of two minutes per application to review Lichtinger's work. Finally, Craig Lobins, a regional manager with the oil and gas program, told plaintiffs' attorneys he typically spent another two minutes on each application before signing off on the permit.

"What these depositions reveal is that the state is doing next to nothing in approving permits, even in the Delaware River basin, even in high quality watersheds, even in the wild and scenic river corridor," Yeager told The Associated Press. "All together, they are spending less than 35 minutes in approving these \$5 million industrial sites that have the ability to pollute the water that's relied upon by (millions of) people. It is unconscionable."

But Yeager said he didn't fault the DEP rank-and-file.

"They've got limited time to do a massive job. What we have allowed

DEP to do is to terribly understaff this permitting process," he said. "If we're getting it wrong in this case, we're getting it wrong for every well site that's being developed."

State law generally requires DEP to process applications within 45 days. It's DEP policy to give drilling companies their money back if they fail to consider permits in a timely fashion. Permit fees for Marcellus Shale wells - raised recently to pay for additional enforcement staff - cost between \$900 and \$3,000, depending on the depth of the well bore.

Citing the lawsuit, former DEP Secretary John Hanger declined comment on the specifics of the depositions, or on the sufficiency of the permit review process. But he pointed out that overall staffing in the oil and gas division increased from 88 in 2008 to 202 in 2010, and that some of those positions were in permit review.

"The staffing issues are ones the department needs to review constantly as this industry evolves and changes," said Hanger, who left office in January when Republican Gov. Tom Corbett took office.

Hanger also repeated his call for modernization of Pennsylvania's 25-year-old oil and gas law, though he said a new regulation that mandates 150-foot buffers from pristine waterways will help protect more than 25,000 miles of high-quality streams and rivers.

DEP awarded a drilling permit to Newfield last May. It was among a handful of exploratory wells grandfathered by the Delaware River Basin Commission, a federal-interstate agency that monitors water supplies for 15 million people, including half the population of New York City. DRBC has declared a moratorium on almost all Marcellus Shale drilling in the watershed while it drafts regulations.

The Newfield well was sunk about 300 feet from Hollister Creek, whose

legal designation as high quality means it supports an abundance of fish and other wildlife. In November, DEP site inspectors found deficiencies in Newfield's erosion and sedimentation control plan and required the company to make fixes.

The plaintiffs, which include the Delaware Riverkeeper Network, the Damascus Citizens for Sustainability and three nearby property owners, have appealed Newfield's DEP permit to the state Environmental Hearing Board. They want the well decommissioned and the site restored to its original state. A hearing on the appeal is scheduled for late May.

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