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Sent via E-mail

Pennsylvania Department Of Environmental Protection
Southwest Region
Regional Solid Waste Manager
400 Waterfront Drive
Pittsburgh, PA 15222-4745
RA-EP-EXTUPLNERO@pa.gov

Re: Comments on Permit Nos. WMGR123SW010, WMGR123SW015,
WMGR123SW019, WMGR123SW020, WMGR123SW024, WMGR123SW026,
WMGR123SW027, WMGR123SW028, WMGR123SW031, WMGR123SW032,
WMGR123SW036, WMGR123SW037, WMGR123SW038, WMGR123SW039,
WMGR123SW040, WMGR123SW041, WMGR123SW044

Dear Regional Solid Waste Manager,

On behalf of Center for Coalfield Justice (“CCJ”) and its more than 3,000 members and supporters, please accept these comments on the following permits for processing and beneficial use of oil and gas liquid waste:

Permit No.	Operator	Facility Name	Facility Location
WMGR123SW010	Greene County Water Treatment, LLC	Greene County Water Treatment, LLC Facility	Franklin Township, Greene County
WMGR123SW015	Range Resources Appalachia, LLC	Bare Tank Pad Facility	Smith Township, Washington County
WMGR123SW019	Hydro Recovery, LP	Hydro Recovery Facility	Hanover Township, Washington County
WMGR123SW020	Range Resources Appalachia, LLC	Carns Tank Pad Facility	Smith Township, Washington County
WMGR123SW024	Mon River Dock Company	Karen Dock Facility	East Bethlehem Township, Washington County

WMGR123SW026	Range Resources Appalachia, LLC	Hopewell 20 Tank Pad	Hopewell Township, Washington County
WMGR123SW027	Range Resources Appalachia, LLC	Hopewell 18 Tank Pad	Hopewell Township, Washington County
WMGR123SW028	CNX Gas Company, LLC	MORW1 AST Pad	East Finley Township, Washington County
WMGR123SW031	RES Water – Greene, LLC	RES Water – Greene	Morgan Township, Greene County
WMGR123SW032	EQT Production Company	Haywood Tank Pad Facility	Carroll Township, Washington County
WMGR123SW036	Range Resources Appalachia, LLC	Imperial Land North Facility	Robinson Township, Washington County
WMGR123SW037	Range Resources Appalachia, LLC	Wagers Tank Pad Facility	Amwell Township, Washington County
WMGR123SW038	EQT Production Company	Christen Aboveground Storage Tank Facility	Morgan Township, Greene County
WMGR123SW039	EQM Gathering OPCO, LLC	EQM Perch Storage Facility	Aleppo Township, Greene County
WMGR123SW040	EQT Production Company	Magnum Aboveground Storage Tank Facility	Center Township, Greene County
WMGR123SW041	Range Resources Appalachia, LLC	DMC East Tank Pad Reuse Water Storage Facility	East Finley Township, Washington County
WMGR123SW044	EQT Production Company	Fowler AST Pad	North Bethlehem Township, Washington County

CCJ is a 501(c)(3) non-profit organization founded in 1994. The organization’s mission is to improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield residents; and to protect public and environmental health. As such, and on behalf of our members, we are very interested in matters that have the potential to impact the health of waters of the Commonwealth, particularly those located in southwestern Pennsylvania, and the health of those who live, work, and recreate in the communities we serve.

I. Background

These permits were 17 of 49 permits issued under General Permit WMGR123 and noticed in Issues 3 and 4 of the Pennsylvania Bulletin¹ for the processing and beneficial use of oil and gas liquid waste. Following a settlement agreement with several non-profit environmental organizations, including CCJ, all 49 WMGR123 authorizations have been re-noticed for public comment. The notice of public comment was published in the *Pennsylvania Bulletin* on March 20, 2021.² These comments are therefore timely.

CCJ appreciates the Department's commitment to including the surrounding communities in the decision making process for all WMGR123 applications moving forward, including new applications, renewal applications, and applications for modification. CCJ also appreciates the Department's commitment to investigate any complaints it receives from concerned residents and communicate the results of such investigation to the complainant.

II. Compliance with WMGR123 Terms and Conditions

In accordance with Section 287.642(e), the permit applicant must demonstrate that its proposed activity "is consistent with the terms and conditions of [WMGR123], and does not have the potential to harm or present a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth." 25 Pa. Code § 287.642(e). Oil and gas liquid waste, defined in WMGR123 as "liquid wastes from the drilling, development and operation of oil and gas wells and pipeline facilities..." contains various toxic chemicals. Proper management of oil and gas liquid waste is crucial to protecting the health, safety and welfare of people and the environment.

a. Compliance with WMGR Operating Condition No. 1

Condition C.1 of WMGR123 sets forth two ways that oil and gas liquid waste can be de-wasted. Condition C.1.a allows oil and gas liquid waste to be de-wasted when used to develop or hydraulically fracture an oil and gas well. Until it is used for that purpose, the processed or stored oil and gas liquid waste must be managed as a residual waste. Condition C.1.b. allows processed oil and gas liquid waste to be de-wasted once it meets the concentration limits in Appendix A of WMGR123.

It is at best unclear how the Department determined compliance with Condition C.1.a based on the information submitted as part of the renewal applications. Unless the application materials (and the ongoing operations) meet the requirements of Condition C.1, the activities are not consistent with WMGR123 and further may have the potential to harm the health, safety or welfare of the people or environment of the

¹ 51 Pa. B. 337 (January 16, 2021); 51 Pa. B. 451 (January 23, 2021)

² 51 Pa. B. 1535 (March 20, 2021).

Commonwealth, in violation of 25 Pa. Code § 287.642(e). CCJ respectfully requests that the Department identify the materials in the applications or otherwise that it relied upon to determine that the above referenced facilities comply with Condition C.1.a of WMGR123.

b. Compliance with WMGR123 Operating Condition No. 2

Condition C.1.b. allows processed oil and gas liquid waste to be de-wasted once it meets the concentration limits in Appendix A of WMGR123. Prior to the initial storage and de-wasting of processed oil and gas liquid waste in accordance with Condition C.1.b, the permittee must “demonstrate that the processed oil and gas liquid waste meets the limits in Appendix A by submitting analytical data to the DEP Regional Office serving the county in which the facility is located for approval.” WMGR123 C.2.

CCJ has reviewed the permit application files for the 17 facilities listed above. The analytical data required by Condition C.2 was either missing or insufficient. If the application contained any sampling data at all, the data included was often from a single sampling event and for a limited number of pollutants. A single sampling event violates WMGR123’s requirement for the initial storage of de-wasted oil and gas liquids, which requires the permittee to collect daily and weekly sampling of many Appendix A pollutants and submit analytical data to the Department. *See* WMGR123 C.2.a-c. Obviously, one sampling event is also not sufficient to show current concentrations or continued compliance with Appendix A limits. *See* WMGR123 C.3.

CCJ requests that the Department identify any materials in the applications or otherwise that it relied upon to determine whether these facilities meet Conditions C.1.b and C.2. To the extent that any of the above referenced facilities rely on Condition C.1.b. to de-waste the oil and gas liquid waste and have not complied with WMGR123 Condition C.2, CCJ respectfully requests that the Department suspend or revoke the permit until the operator demonstrates compliance with the limits contained in Appendix A.

c. WMGR123 Operating Condition No. 3

Condition C.3 of WMGR123 requires permittees to demonstrate that the de-wasted material continues to meet the limits in Appendix A in order to continue storing the de-wasted material under Condition C.1.b. Permittees must collect daily and weekly samples and analyze them for the constituents listed in Appendix A. *See* Conditions C.3.a-c. Condition C.3.d. requires the permittee to immediately notify the Department if the results of such sampling fail to meet the concentration limits in Appendix A. The permittee must demonstrate to the Department’s satisfaction that the limits in Appendix A are met before the processed oil and gas liquid waste is de-wasted under Condition C.1.b. *See* Condition C.3.d. Condition C.3 requires a permittee to demonstrate that the de-wasted material continues to meet the limits in Appendix A but does not expressly

require permittees to submit the results of sampling conducted under Conditions C.3.a-c. However, WMGR123 Condition D.3 requires that all records required by the general permit be maintained for a minimum of five years. The records must “be available at the facility (either in hard copy or in an electronic format) and shall be made available to DEP upon request.”³

CCJ understands that the Department must rely on permittees to report violations in all of its permitting programs to a degree. The Department cannot be everywhere all of the time. So, the Department often relies on permittees and the public to report violations or other issues on site. This reliance is not unreasonable by itself. However, CCJ believes that exclusively relying on permittees to report violations of the Appendix A limits is both unreasonable and unnecessary.

To the extent that any of the above referenced facilities rely on Condition C.1.b. to de-waste the oil and gas liquid waste, CCJ urges the Department to amend those permits to include a requirement that the permittees submit the analytical data collected pursuant to Condition C.3 on at least a quarterly basis. The data collected under Condition C.3 is necessary for the Department to properly evaluate and ensure continued compliance, and take timely and appropriate enforcement action when necessary. Prior to the initial storage and de-wasting of processed oil and gas liquid waste in accordance with Condition C.1.b, the Department must determine that the processed liquid waste meets the limits in Appendix A. The Department’s obligation to implement and enforce the waste regulations and the general permit do not end when the Department makes its initial determination in accordance with Conditions C.1.b and C.2. The Department cannot exclusively rely on permittees to determine continued compliance with Appendix A. In addition, without this requirement, nearby residents with concerns about the characteristics of the liquid waste that is being stored and transported in their community will not have reliable access to the analytical data. Dependable access to information is critical to the ability of community members to know what environmental risks they may face or are currently facing in their communities.

d. Compliance History

It is unclear how the Department evaluated or considered the permittees’ compliance with the applicable statutes and regulations during its review of above referenced renewal permit applications. The compliance history submitted as part of the applications indicate that the permittees’ operation of these these facilities could harm the health, safety, or welfare of the people of environment of this Commonwealth.⁴ By way of example, Range Resources Appalachia, LLC’s compliance history shows over 200 self reported spills at various facilities or sites that it operates. CCJ respectfully suggests

³ WMGR123 Condition D.3.

⁴ See 25 Pa. Code § 287.642(e)

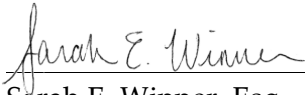
that this history of ongoing and repeated violations by the permittee demands that the Department do more than take a check-the-box approach.

III. Conclusion

CCJ appreciates the Department's review of these comments and any other comments that it receives regarding these facilities. CCJ respectfully requests that the Department identify the materials in the applications or otherwise that it relied upon to determine whether these facilities meet the requirements of Conditions C.1.a or C.1.b. To the extent that any of the above referenced facilities rely on Condition C.1.b. to de-waste the processed oil and gas liquid waste and have not complied with WMGR123 Condition C.2, CCJ respectfully requests that the Department suspend or revoke the permit until the operator demonstrates compliance with the limits contained in Appendix A. With respect to ongoing monitoring and compliance with the limits set forth in Appendix A, CCJ urges the Department to require permittees to submit sampling results on a quarterly basis.

Thank you for your consideration. If you have any questions, please contact us anytime.

Sincerely,



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