

December 16, 2013

Larry Grimm, Supervisor
Bryan Smith, Supervisor
Dencil Backus, Supervisor
Larry Chome, Zoning Officer
Barry Johnson, Zoning Board member
Ron Stewart, Zoning Board member
Tom Menzies, Zoning Board member

Mount Pleasant Township
31 McCarrell Road
Hickory, PA 15340

Cc: Mary Ann Stevenson, Township Manager
Neva Stanger, Esq., Township Solicitor
Betsy McKnight, Zoning Board Solicitor
Charles M. Means, Esq., Oil & Gas Special Counsel

Dear Mr. Grimm, Smith, Backus, Chome, Johnson, Stewart, and Menzies:

The undersigned representatives of environmental and legal organizations write to you concerning Range Resources' recent application to the Township for a Conditional Use Permit for a wastewater "tank pad" on the Nancy Stewart property in Hickory. We understand that the Mt. Pleasant Board of Supervisors considered the application at a public hearing on November 22, but has not yet made a decision.

We strongly encourage you to deny the conditional use permit on the grounds of the terms of the Township's zoning ordinance; potential changes in Pennsylvania's oil and gas waste management permitting requirements; and the risk of exacerbating health and environmental problems. Following are our comments related to each of these concerns.

Zoning ordinance

Range Resources contends that the conditional-use application falls within the standards of the township's oil and gas ordinance and should be approved. We disagree with this view because the activity that Range Resources has proposed for this property is not a permitted use. Under Mount Pleasant Township's Zoning Ordinance, impoundments and fluid storage for gas wells are not permitted in the A-1 District, unless such facilities are accessory to a gas well on the same property. The proposed activity is an above-ground water storage facility that would service offsite gas wells.

The Zoning Ordinance repeatedly emphasizes that accessory uses or structures must be on the same property as the principal use served. It further clearly states that impoundments and fluid storage are accessory uses that cannot be located on a property unless they are servicing a principal use of an oil and gas well on the property.

Under the Zoning Ordinance, a "principal use" is defined as the primary or predominant use proposed for the property in question. In contrast, the Zoning Ordinance defines "accessory use or structure" as follows:

A use or structure located on the same lot with the principal use or structure that is subordinate and incidental to the principal structure or use of the property and which may occupy a separate structure and/or

area on or in the ground, including but not limited to storage sheds, garages, swimming pools, decks, fences, patios and similar structures. (Emphasis added.)

In the A-1 District, where the Nancy J. Stewart property is located, “oil and gas wells” are permitted as a *principal* use on a property. Indeed, Section 200-103.5.A. of the Mt. Pleasant Township Zoning Ordinance specifically states that a, “water impoundment and other fluid storage” must be “used for [gas well site construction, drilling, hydraulic fracturing, and/or site restoration] that is otherwise occurring on the property.”

Range Resources has proposed a stand-alone water storage facility as the principal use on the property, not as merely accessory to an onsite well. Again, the Zoning Ordinance does not permit impoundment and fluid storage facilities for gas wells as a principal use in the A-1 District; they are only permitted when they are accessory to an oil and gas well. Impoundments or fluid storage *must* be accessory to the principal use of an operating gas well on the property in the A-1 district, and that is not the case here. Because Range Resources has failed to demonstrate compliance with the Zoning Ordinance, the Board of Supervisors should deny the application.

Waste management requirements

As you may be aware, the Pennsylvania Department of Environmental Protection (DEP) is currently revising numerous aspects of regulations contained in Chapter 78 of the Oil & Gas Act. As indicated in draft documents, waste storage and use are among the many aspects under consideration. Draft revisions were issued on December 14, with a 60-day public comment period to follow; DEP will then finalize new regulations.

With this in mind, it would be premature to consider Range Resources’ proposal prior to finalization of these regulatory revisions. Mt. Pleasant Township should not make a decision about a type of facility if the requirements governing it—and in turn, the allowable scope of proposals such as the current one—are likely to change in the near future.

The regulation and permitting of waste and water storage facilities were discussed extensively at meetings of DEP’s Oil & Gas Technical Advisory Board (TAB) on Chapter 78 revisions held throughout 2013. Specifically, at the April 23 TAB meeting, Scott Perry, Deputy Secretary of the DEP’s Office of Oil and Gas Management, indicated that the storage of brine or flowback water in centralized tanks would be considered. Mr. Perry also stated that DEP is considering amending these rules with regard to storage requirements and permitting for tank farms.

Currently, operators must obtain a Waste Management Permit (WMGR123) from DEP to store and transfer wastewater at a centralized tank facility. However, Range does not mention needing this permit in the conditional use permit application to the Township, although the company cites other required permits. One of the operating conditions for a WMGR123 is that activities “shall not harm or present a threat of harm to the health, safety, or welfare of the people or environment of this Commonwealth.” It would be in the best interest of Mt. Pleasant’s residents for officials to wait for DEP to adopt tank storage guidelines, which could be used to determine whether the proposed facility would cause harms associated with the transport and storage of gas field wastewater, and potentially help to prevent them from occurring.

Environmental and health risks

An underlying question with Range Resources’ proposal for a tank farm is the additive impact of such a facility on air and water quality in an area that already has extensive gas operations. According to the oil and gas “permitted well inventory” and DEP air facility data, there are more than 60 unconventional gas

wells already drilled or permitted and three compressor stations within two miles of the Nancy J. Stewart site, including four active wells and a compressor station on the site itself.

Existing development in an area zoned for agricultural-single family use has already caused problems reported by residents, such as odors, excessive noise, eye and throat irritation, breathing difficulties, and headaches. Air quality tests conducted by both DEP and independent organizations have detected varying levels of several chemicals, such as benzene, toluene, chloromethane, methylene chloride, and CFC 11. In addition, problems at the Nancy J. Stewart site have raised concerns about health and safety, including an uncontrolled gas release in 2009 and a tank fire in 2011. Emission events, spills, and other problems have also occurred at well sites and facilities in the surrounding vicinity.

Given these experiences, residents are justifiably concerned about the facility being proposed by Range Resources, particularly given its large size (approximately 255,000 square feet) and capacity (10 million gallons). The tank pad would inevitably spur significant increases in traffic and construction (for roads and a network of underground pipelines), in turn exacerbating air pollution, land disturbance, and the potential for accidents, spills, and leaks.

While closed containment systems such as tanks can be preferable to impoundments for air and water quality, they are far from risk-free and require strong regulation and oversight. Any facility that holds flowback water, brine, and other gas wastes, and from which substances are transported, can pose threats to the environment and health. For tanks to be beneficial, their location and size must be appropriate for the site in question. They also must be enclosed to prevent air pollution, have sufficient containment to prevent leaks and subsequent water and soil contamination, and be consistently and properly maintained. For tanks that are vented, filtering of pollutants is essential to protect people from harmful air emissions.

Pollution events and problems at Range Resource's Carter and other nearby impoundments serve as a cautionary tale for the residents of Hickory. They clearly also do for the Township, which correctly rejected Range Resource's attempted "quid pro quo" swap of one large-scale waste facility in an agricultural and residential area for another.

Thank you for your time and consideration. Please feel free to direct any questions about the information in this letter to Nadia Steinzor of Earthworks, at 845-684-4878 or nsteinzor@earthworksaction.org.

Sincerely,

Joseph Otis Minott, Esq., Executive Director, Clean Air Council
Steve Hvozdoch, Marcellus Shale Coordinator, Clean Water Action
Maya van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network
Nadia Steinzor, Eastern Program Coordinator, Earthworks
Joe Osborne, Legal Director, Group Against Smog & Pollution
Beverly Braverman, Executive Director, Mountain Watershed Association
Kate Sinding, Senior Attorney, Natural Resources Defense Council
Erika Staaf, Clean Water Advocate, PennEnvironment
George Jugovic, Jr., Chief Counsel, PennFuture
Peter Wray, Chair, Conservation Committee, Allegheny Group, Sierra Club