Winter 2012

Buckhannon River Watershed Association

The Tributary

Legislative Update on Marcellus Shale Issue–

Contributed by WV Rivers Coalition and reprinted with permission.

As West Virginia enters its fifth year of Marcellus Shale development extraction companies are still operating without permanent legislative oversight. Although temporary "Emergency Rules" were enacted by the WV Department of Environmental Protection in August major regulatory holes still exist. While the DEP emergency rules are a good starting point for comprehensive legislation the rules only regulate horizontal drilling. This means deep vertical wells that may tap into the Marcellus shale are not regulated. Nor do they regulate all hydraulic fracturing; only fracturing that takes place in horizontal wells will fall under jurisdiction of the temporary rules. WV DEP rules, 35CSR8, will remain active for 15 months or until the legislature pass comprehensive rules. Failure to act by the legislature within the given time frame will result in Marcellus shale development without oversight…again.

How did we get here?

The West Virginia Legislature failed to pass rules addressing Marcellus shale development during the previous 2011 regular session. While it was a priority for both chambers communication breakdown between the House and Senate caused any hope of legislation being passed to fade. This failure was in part due to each chamber drafting its own version of legislation and the ensuing inability to agree on a final product.

Where are we going?

An appointed bi-partisan committee was formed in early summer to address the challenges of drafting comprehensive legislation. The "Select Committee" comprised of five house members appointed by Speaker of the House Rep. Rick Thompson and five senate members appointed by Senate President Jeff Kessler met throughout the summer. The Select Committee has adopted the Senate bill from the regular 2011 session as a starting point. As of November 1, 2011, Bill SB424 has had thirty-one amendments proposed by the Select Committee with twenty-seven passing. Four amendments remain up for debate covering inspector qualifications, karst formations, permitting consideration for the DEP, and surface owners agreements. While no special session of the legislature has been slated to be called on this issue, Governor Earl Ray Tomblin has not ruled out a special session if a bill he believes everyone will agree upon is presented to him. The next meeting of the select committee will be November 7 with the hope that a completed bill will be presented during the November Interims. Stay up-to-date on SB424 by visiting http://www.legis.state.wv.us/.

How do the WV DEP and Select Committee bills compare?

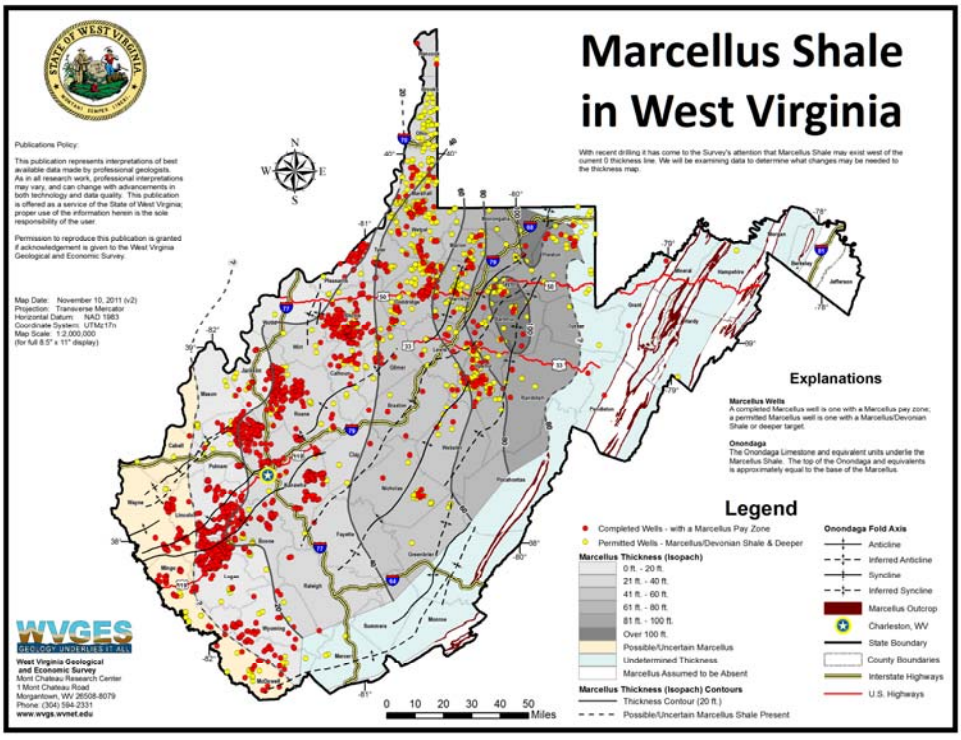
Marcellus Shale Legislation Still Uncertain We have compiled a few key categories. For more detailed information on these bills please visit the WV legislatures at http://ww.legis.state.wv.us/ and the WV DEP Office of Oil and Gas at http://www.dep.wv.gov/ oil-and-gas. Stay up-to-date on the progress of the Select Committee and Marcellus Shale legislation by signing up for WVRC Action Alerts.

Editor's note: The WV DEP number above was provided to us at a recent BRWA Stream Partners Meeting. If you have any questions or concerns about a specific incident, PLEASE contact the DEP at the number above. Managers need documented concerns from citizens to make suggestions to the DEP.

WV DEP Mining and Gas Complaint Phone Number:

304-926-1650

Ext. 1650



Map by the West Virginia Geological and Economic Survey

Jack Barker Canoe Race– Part of the WV Strawberry Festival

Photos by G. Paul Richter

The BRWA is a proud sponsor of the Jack Barker Memorial Canoe Race. This is an annual event at the WV Strawberry Festival in honor of the late Jack Barker who chaired the race for many years. Participants begin on the main stem of the Buckhannon River at Wood Street Park, travel to Tennerton Bridge, and then return to the park. This event is designed with youth in mind and awards are given to the those who place in first, second, or third place.

Buckhannon River Watershed Association

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Save the date!
BRWA Annual Meeting
- Open to the Public-
April 17 2012!

General Practices to Protect Waterways

Buffer strips- Grassy or open areas should not be mowed right to the edge of a stream. Instead there should be a band of groundcover plants along the edge This will slow down the rain running off the land and help to filter out contaminants. These buffer strips also add to the attractiveness of the landscape.

Paths and roadways- Human and vehicular traffic should not intersect with a river. Even foot traffic can erode banks and cause siltation. Use bridges or install a bridge if there is considerable traffic. Of special concern are all-terrain vehicles (ATVs) and other multipurpose vehicles. Even if they can be driven through streams they should not be, especially if their repeated use will damage the banks or the bed of the stream. Even one pass can do considerable damage.

Spills- Harmful liquids used around the home, the garage, and barns should not be washed into gutters, culverts, or streams. Contaminating household spills–including oil, gas, and antifreeze spills–should be soaked up by a specialized product such as "All Purpose Absorbent" or "Oil Dry". Both are available from hardware stores and home centers.

Construction- If considerable amounts of soil are to be moved during construction of any kind, be sure to install silt fences or other sedimentation barriers.

Septic systems and outhouses- All sanitary systems should be checked often and maintained so that they are in good working condition. Faulty septic systems are the largest contributors of contaminated wastewater in groundwater, rivers, and streams. In particular, the filtered water outlet and outhouses must be at least 100 feet from a stream.

Eight Tips to Manage the Floodplain and Reduce Flooding

- Do not place fill in the floodplain. It reduces the floodplain's natural capacity to hold and transport stormwater.
- Maintain a vegetation buffer between the stream and your yard; this helps keep pollutants from entering the stream and protects the bank from erosion.
- Keep trash and debris (log piles, old cars, construction equipment, etc.) off the floodplain. They can float downstream and block bridges and culverts, as well as possibly contaminating the water.
- Dispose of trash and yard waste properly. Even bulky items (couches, mattresses, washers) can be picked up if you have a trash service that offers the opportunity
- Take advantage of any free cleanup events and free dump days the county's Solid Waste Authority occasionally offers.
- Report illegal dumps to the Solid Waste Authority, its Litter Control Committee, the DNR Conservation offi-cer, the DEP Environmental Enforcement officer, or the County Sheriff.
- Protect wetlands. They act like sponges to store and filter water.
- Encourage your neighbors, friends, and local leaders to follow sound floodplain

Contact Information for Help with Floodplain and Litter Issues

Upshur County Sheriff Dept. – 304-472-1100

Upshur County Solid Waste Authority – 304-472-7916

U. S. Army Corps of Engineers – 866-502-2570

WV DEP Division of Water and Waste Management – 800-472-8286

WV DEP Law Enforcement, District Office, Fairmont – 304-368-3960

WV DNR Law Enforcement, District office, Elkins – 304-637-0245

WV DNR Law Enforcement, French Creek office – 924-6211

WV DNR District Office – 304-924-6211

WV Environmental Advocate – 800-654-5227

WV Office of Emergency Services – 304-558-5380

Explaining conductivity by Dan Radmacher , edited by G. Paul Richter

Evidence that conductivity causes harm in Appalachian streams has only been discovered recently, thanks to a growing body of research demonstrating that conductivity levels are highly correlated with degradation of a stream's ability to support aquatic life.

Conductivity, or specifc conductance, is a measure of the ability of water to pass an electrical current. Conductivity, calculated in microsiemens per centimeter (mS/cm), is directly proportional to the concentrations and types of positively and negatively charged ions present. For example, the greater the concentration of ions present, the more electricity can be conducted by the water. Conductivity is affected by the presence of inorganic dissolved solids like calcium and magnesium ions. Organic inputs, such as oil and alcohol, provide very low electrical currents, therefore very low conductivity. Ionic sources are both naturally occurring and anthropogenic in origin, including soil, bedrock, human and animal waste, fertilizers, pesticides, herbicides and road salt. The conductivity of rivers in the United States generally ranges from 50 to 1500 mS/cm (USEPA 2008).

Dr. Margaret Palmer, director of the National Socio-Environmental Synthesis Center and a professor at University of Maryland's Department of Entomology, has done much of the research on this issue. She said the measure of a stream's specific conductivity – how well it conducts electricity – turns out to be a better way of measuring the impact of a wide array of pollutants common in streams below mine sites. When coal is mined, rock and other material is exposed to air and water for the first time in hundreds of thousands, perhaps even millions, of years. That material is broken up and reacts with oxygen and water. Many naturally occurring elements, meaning the compounds present, dissolve and run off into the water. This creates a toxic mixture. Alone, many of these compounds aren't at high enough concentrations to cause problems. "But the net effect of those together is what becomes dangerous," Palmer said. Conductivity is the best way to determine when those net effects can impact life in an Appalachian stream impacted by mining. "It's a measure of the combined effect of all those constituents," Palmer said.

The alternative would be to run hundreds or thousands of experiments trying to determine which exact combinations of individual elements and in what quantity cause problems. But there are so many different possible combinations, that's simply not practical, or necessary. "Measuring conductivity is an excellent way to measure the level of impacts in this setting," she said.

That's why the U.S. Environmental Protection Agency determined that conductivity above a certain level hurts aquatic life in Appalachian streams. Its water quality guidance document (http://water.epa.gov/lawsregs/guidance/wetlands/upload/Final_Appalachian_Mining_Guidance_072111.pdf) is designed to help coal companies and state and federal regulators minimize the harmful effects of mountaintop removal mining.

Posted on November 10, 2011 by Dan Radmacher at http://www.appalmad.org/2011/11/10/explaining-conductivity/.

BRWA
112 Fayette Street
Buckhannon WV 26201

Time to renew?

A PINK dot indicates that your membership expires with this issue.

A GREEN dot indicates your membership has expired.

Don't forget our annual meeting in April, 17 2012!

www.buckhannonriver.org

The Buckhannon River Watershed Association

Telephone: (304) 472-3317

Become a BRWA Member Today!

(or give a gift membership)

Individual memberships $5.00 / year Business memberships $25.00/ / year

Mail to: BRWA, 112 Fayette Street, Buckhannon, WV 26201

Clip this out and mail to join the BRWA

NAME

ADDRESS

Email address:

BRWA is a tax-exempt, 501(c)3 organization based in Buckhannon, WV. It is dedicated to preserving, conserving, and monitoring the health of the Buckhannon River Watershed and promoting our West Virginia river heritage through public awareness.

BRWA has received federal and state grant funding to cap a coal refuse pile, to reduce metal-contaiining acidic drainage into Mud Lick Run, and to capture and neutralize acid mine drainage on Smooth Rock Lick Run.

BRWA is a Community Engagement Partner of West Virginia Wesleyan College.

For information about the watershed or BRWA, contact G. Paul Richter at 304-472-3317 or at brwainc612@gmail.com