

## NOTIFICATION OF SURFACE LANDOWNER/WATER PURVEYOR OF WELL DRILLING OPERATION OR ALTERATION WATER SUPPLY PROTECTION

Section 3218 of 58 Pa.C.S. §§ 3201-3274 (relating to Development) (“2012 Oil and Gas Act”) provides certain protections to public or private water supplies. This notice is to provide you with a summary of your rights under Section 3218.

1. The Act states that an oil or gas well operator who pollutes or diminishes a public or private water supply shall restore or replace the water supply with an alternate source of water adequate in quantity or quality for the purposes served by the supply.

DEP has a statewide toll-free phone number for reporting cases of water contamination which may be associated with development of oil and gas resources. Call **1-866-255-5158**.

2. Any landowner or water purveyor whose water supply is polluted or diminished as a result of the drilling, alteration or operation of an oil or gas well may submit notice and request that the Department of Environmental Protection conduct an investigation. Within 45 days of the request, the Department will make a determination. If the Department finds that pollution or diminution was caused by the drilling, alteration or operation activities or if it presumes the well operator responsible for pollution, then it will issue such orders as are necessary to assure restoration or replacement of the water supply.

The following information is to be provided when filing notice and requesting an investigation:

- a) The name, address, and telephone number of the surface landowner or water purveyor requesting the investigation;
  - b) The type, location and use of the water supply;
  - c) Any available background quality and quantity data regarding the water supply;
  - d) Well depth, pump setting and water level, if known; and
  - e) Description of the pollution or diminution.
3. The Act establishes a legal presumption that a well operator is responsible for the pollution of a water supply if:
    - a – Conventional well
      - i. the water supply is within 1,000 feet of an oil or gas well; and
      - ii. the pollution occurred within six months after completion of drilling or alteration of the oil or gas well;
    - b. – Unconventional well:
      - i. the water supply is within 2,500 feet of the unconventional vertical well bore; and
      - ii. the pollution occurred within 12 months of the later of completion, drilling, stimulation or alteration of the unconventional well.

If the affected water supply is within the rebuttable presumption area and the rebuttable presumption applies, the operator shall provide a temporary water supply if the water user is without a readily available alternative source of water. The temporary water supply provided under this subsection shall be adequate in quantity and quality for the purposes served by the supply.

4. The well operator may rebut or disprove this presumption by proving one of the following five defenses:
  - a – Conventional well
    - i. The pollution existed prior to the drilling or alteration activity as determined by a pre-drilling or pre-alteration survey.
    - ii. The landowner or water purveyor refused to allow the operator access to conduct a pre-drilling or pre-alteration survey.
    - iii. The water supply is not within 1,000 feet of the well.
    - iv. The pollution occurred more than 6 months after completion of drilling or alteration activities.
    - v. The pollution occurred as a result of some cause other than the drilling or alteration activity.
  - b. – Unconventional well:
    - i. the pollution existed prior to the drilling, stimulation or alteration activity as determined by a predrilling or prealteration survey;
    - ii. the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;
    - iii. the water supply is not within 2,500 feet of the unconventional vertical well bore;
    - iv. the pollution occurred more than 12 months after completion of drilling or alteration activities; or
    - v. the pollution occurred as the result of a cause other than the drilling or alteration activity.

**NOTICE: To landowner or water purveyor.**

**The presumption may be void if the landowner or water purveyor refused to allow the operator of an unconventional well access by the operator (or their agent) to conduct a predrilling or prealteration survey.**

Well operators electing to preserve their defenses under 4 a or b,(i) or (ii) above must retain the services of an independent certified laboratory to conduct the pre-drilling or pre-alteration survey of water supplies. The results of the survey must be provided within 10 business days of receipt of the results by providing a copy to the Department and the landowner or water purveyor. Test results not received by the Department within 10 business days may not be used to preserve the operators defense under 3218(d). If the applicant for a well permit does not conduct a pre-drilling or pre-alteration survey, you may wish to have such a survey done in order to support any future claims you may have that your water supply has been diminished or polluted.

**OBJECTION TO WELL PERMIT APPLICATION**

When a well is located on a tract whose surface is owned by a person other than the well operator, the surface landowner has the right to file objections with the Department pursuant to Section 3212 on the following basis:

- a) The information on the application is untrue in any material respect,
- b) The well is within 200 feet or, in the case of an unconventional gas well, 500 feet measured horizontally from the vertical well bore from any existing building or existing water well existing when the copy of the plat is mailed and the owner thereof has not given his written consent and the operator has not been granted a variance. Unconventional gas wells may not be drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor and the owner thereof has not given his written consent and the operator has not been granted a variance.
- c) The well site is within 100 feet or, in the case of an unconventional well, 300 feet from the vertical well bore or 100 feet from the edge of the well site, whichever is greater, measured horizontally from any solid blue lined stream, spring or body of water as identified on the most current 7½ minute topographic quadrangle map and the operator does not have a waiver. The edge of the disturbed area associated with any unconventional well site must maintain a 100-foot setback. No unconventional well may be drilled within 300 feet of any wetlands greater than one acre in size, and the edge of the disturbed area of any well site must maintain a 100-foot setback from the boundary of the wetlands, and the operator does not have a waiver, or
- d) No well site may be prepared or well drilled within any floodplain if the well site will have:
  - (i) a pit or impoundment containing drilling cuttings, flowback water, produced water or hazardous materials, chemicals or wastes within the floodplain; or
  - (ii) a tank containing hazardous materials, chemicals, condensate, wastes, flowback or produced water within the floodway. and the operator does not have a waiver. or
- e) The well location violates Section 3215 of the Act.

Any objections and request for a conference must be filed within 15 days of receipt of the plat by the surface landowner and contain the following information:

- a) The name, address and telephone number of the person submitting the objection;
- b) The name of the well operator, and the farm name and number of the proposed well; and
- c) A statement of the basis for the objection and a request for a conference if a conference is being requested.

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*DEP Regional Offices  
to contact:*

*Dept. of Environmental Protection  
NW Regional Office – Oil & Gas Mgmt  
230 Chestnut Street  
Meadville, PA 16335-3481  
Phone: 814-332-6860 Fax: 814-332-6121*

*Dept. of Environmental Protection  
SW Regional Office – Oil & Gas Mgmt  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
Phone: 412-442-4024 Fax: 412-442-4328*

