

SERVING SOUTHEASTERN OHIO & NORTHERN WEST VIRGINIA'S OIL & GAS INDUSTRY

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Summary of the cases in which SOOGA has filed an amicus brief

By: Dan Corcoran, SOOGA Legal Committee

Cyril Burkhardt v. Jeff Miley dba Miley Gas Co., 7th Dist. Monroe No. 15-MO-14, 2017-Ohio-9006

The Monroe County trial court held that an oil and gas lease had expired for lack of production in paying quantities. In reaching its conclusion, the trial court reviewed the producer's tax returns. Miley Gas appealed the decision to the Seventh District Court of Appeals.

On appeal to the Seventh District, OOGA and SOOGA filed an amicus brief in support of Miley Gas, claiming that its tax returns did not reflect whether the well was producing in paying quantities because of the plethora of generally accepted accounting procedures, such as depreciation and loss carryovers, and because the returns have no relevance or impact on whether a particular well is producing revenue in excess of the operating costs.

The Seventh District issued its Opinion on December 8, 2017. The Court agreed that the tax returns were "not specific to the Well." It found that the trial court had incorrectly put the burden on Miley Gas of proving that the Well was producing in paying quantities, instead of placing the burden on the landowners to prove that the Well was not producing in paying quantities. The fact that Miley Gas had not timely submitted prior production reports to ODNR did not help to determine whether the Well was producing. Since the landowners had failed to meet their burden, the Seventh District reversed the trial court's judgment in favor of the landowners and entered judgment in favor of Miley Gas.

(continued to page 20)

ODNR Update

By: Don Huck, SOOGA Vice President

SOOGA is constantly trying to stay abreast of regulatory changes on the horizon at ODNR and keeping the membership informed. We gave an update on various items at the Fall Trade Show and now include information on the following initiative.

One of the more significant changes coming in the next year or two is ODNR's transition from paper to electronic permitting and reporting. ODNR has informed us the online database (RBDMS) is no longer supported by Microsoft and would cost the state over one million dollars a year to maintain this database with custom support software. The cost would increase significantly each year going forward.

Consequently, ODNR has decided to change to electronic permitting and reporting and, once the new system is in place, ODNR will not accept paper forms. The new system will be set up in a form similar to TurboTax for people familiar with that program. ODNR estimates this process could take up to two years to complete and be fully operational and fully integrated inside ODNR (i.e. active mining permits, spacing from existing wells, unit spacing to avoid overlaps, etc.)

(continued to page 26)

THE CROW'S NEST

As 2017 comes to a close, we reflect on the accomplishments and challenges of this year. With the industry still depressed with low natural gas prices, and oil price stabilized around \$50/bbl, SOOGA remained vigilant of unnecessary expenses and remains financially stable. This was only possible by the generous donations from many sponsors and the hard work of our dedicated board members. As we look to 2018, there is hope for the future with signs of increased drilling activity and infrastructure projects. News of projects like cracker plants, ethane storage fields, pipelines and the return of manufacturing are positive indications that economic development is on the horizon.



With increased activity in our area, we want to remind everyone to stay vigilant on safety. With many oil field trucks, brine trucks, and support equipment haulers driving the roads, it is important everyone drives safely. There have already been reports of oilfield related trucks driving too fast in our area. We all own our own safety, and that of those around us, and we should continue to promote safety within our companies. It takes a very few reckless and unsafe behaviors on the road to negatively taint the entire industry. It only takes one accident to permanently affect those involved, their families, their company, and industry as a whole. Please let us know if there are any safety classes or topics you would like to see SOOGA address in the future.

2018 will mark SOOGA's 40th Anniversary and the SOOGA board is actively working on ways to celebrate this prestigious milestone! We are making plans for a special Spring Meeting with possibly a dinner and auction event. The idea is to provide a fun event with networking opportunities while sharing local oil field stories and legends. Throughout the year we will be featuring articles in the Insider about the 40 years of SOOGA from our past presidents and board members. If you have any stories, articles, or historical items to share please contact myself or Billie.

As many of you know, my father Carl Heinrich was a founding member of SOOGA. It is especially important to me to not only honor, but also celebrate, the past accomplishment of our forefathers. While researching past documents at the SOOGA office, Billie came across the original corporate books from 1978. This book contains the Articles of Incorporation, the first trustee minutes, and the first membership list. It is fascinating to see the list of companies that have been active members for 40 years. Also, as a fun trivia fact, the cost of dues for one year in 1978 was \$100/member. Our current rate is \$150/member. This is a true testament to this organization and our ability over the years to remain cost effective for our members. I am proud to be a 2nd generation producer and hope to do my part in continuing the success and legacy of SOOGA.

I wish everyone and yours a very Merry Christmas, Safe Holiday, and Happy New Year!

Christy Chavez
President of SOOGA

2017 NEW MEMBERS
SOOGA would like to welcome the following new members:

JUSTIN KELLEY

Producer
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 740-336-7831

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 740-373-5302

**Southeastern Ohio Oil and Gas Association
Gas Committee Report
December, 2017**

PRICING**Prices December 11, 2017**

NYMEX Settle – Dec. -2017	\$3.074
One Year NYMEX strip (Jan., 2017 – Dec., 2018)	\$2.80
Summer NYMEX strip for 2018 (April-October)	\$2.76
\$Winter NYMEX strip – 2017 (Jan., 2017 – Mar. 2018)	\$2.80
TCO Index Posting – December, 2017	\$2.91
DTI Index Posting – December, 2017	\$2.50

GAS STORAGE AS OF THE December 7, 2017 Report**Working gas in underground storage, Lower 48 states**

Region	Stocks billion cubic feet (Bcf)				Historical Comparisons			
	12/01/17	11/24/17	net change	implied flow	Year ago (10/27/16)		5-year average (2012-16)	
					Bcf	% change	Bcf	% change
East	868	876	-8	-8	901	-3.7	881	-1.5
Midwest	1,058	1,068	10	10	1,115	-5.1	1,045	1.2
Mountain	221	221	0	0	256	-13.7	214	3.3
Pacific	313	314	-1	-1	324	-3.4	353	11.3
South Central	1,235	1,214	21	21	1,364	-9.5	1,238	-0.2
Salt	360	348	12	12	403	-10.7	344	-2.0
Nonsalt	875	866	9	9	961	-8.9	893	-2.0
Total	3,695	3,693	2	2	3,959	-6.7	3,731	-1.0

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SOOGA would like to welcome the following new members:

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ADAM SCHWENDEMAN

Associate-Professional
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LORI SHULTZ

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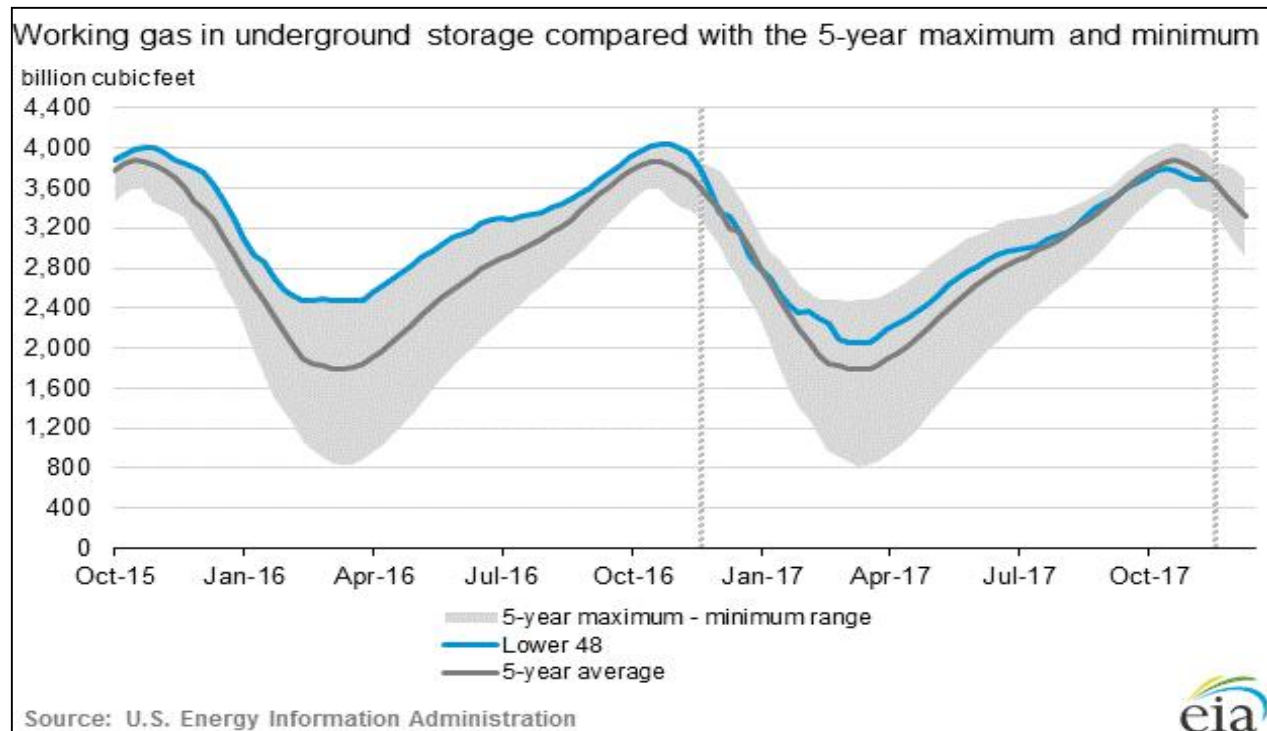
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 Matt Yost 330.345.3536

Orrville, OH
 Mitch Pertee 800.860.1060

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(Continued from page 4)



Summary

Working gas in storage was 3,695 Bcf as of Friday, December 1, 2017, according to EIA estimates. This represents a net increase of 2 Bcf from the previous week. Stocks were 264 Bcf less than last year at this time and 36 Bcf below the five-year average of 3,731 Bcf. At 3,695 Bcf, total working gas is within the five-year historical range.

EIA FORECAST OCTOBER 11, 2017:

Natural Gas

U.S. dry natural gas production is forecast to average 73.6 billion cubic feet per day (Bcf/d) in 2017, a 0.8 Bcf/d increase from the 2016 level. Natural gas production in 2018 is forecast to be 4.9 Bcf/d higher than the 2017 level.

In September, the average Henry Hub natural gas spot price was \$2.98 per million British thermal units (MMBtu), up 8 cents/MMBtu from the August level. Expected growth in natural gas exports and domestic natural gas consumption in 2018 contribute to the forecast Henry Hub natural gas spot price rising from an annual average of \$3.03/MMBtu in 2017 to \$3.19/MMBtu in 2018. NYMEX contract values for January 2018 delivery that traded during the five-day period ending October 5 suggest that a range of \$2.28/MMBtu to \$4.63/MMBtu encompasses the market expectation for January Henry Hub natural gas prices at the 95% confidence level.

U.S. liquefied natural gas (LNG) exports.

U.S. LNG exports increase. Four vessels (combined LNG-carrying capacity of 14.7 Bcf) departed Sabine Pass last week (Thursday to Wednesday).

Dominion Energy Cove Point LNG facility, which is currently under construction, received a [letter](#) of authorization from the Federal Energy Regulatory Commission to begin commissioning activities at the terminal, including introduction of feed gas to the pre-treatment and liquefaction areas. LNG exports from Cove Point are expected to begin by the end of this year, according to the terminal's operator, Dominion Energy

2018 SOOGA
Calendar of Events

TENTATIVE

2018 Spring Membership Meeting
April 19th, 2018
Shrine Building

2018 Spring Golf Outing
May 18th, 2018
Lakeside Golf Course

2018 Spring Clay Shoot
June 15th, 2018
Hilltop Sports

2018 Fall Golf Outing
August 17th, 2018
Oxbow Golf Course

2018 Fall Trade Show
September 20th, 2018
Washington County Fairgrounds

2018 Fall Clay Shoot
October 19th, 2018
Hilltop Sports

Fall Gun Giveaway
November, 2018

SOOGA Board of Trustees 2018 Elections

2018 candidates for the Board of Trustees shall be elected by secret ballot to be conducted at the annual meeting to be held on April 19, 2018 at the Marietta Shrine Club, located at 249 Pennsylvania Avenue, Marietta, OH. The election ballots shall be sent by email or fax and will be printed in the January/February 2018 Insider Newsletter.

The candidates bios and further election information will be printed in the Jan/Feb 2018 Insider Newsletter. If you would like to be on the Board of Trustees or have any nominations please contact the SOOGA office at 740-374-3204 or mail@sooga.org



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(Continued from page 6)

UTICA WELL PRODUCTION

During the second quarter of 2017, Ohio’s horizontal shale wells produced 4,044,072 barrels of oil and 388,560,451 Mcf (388 billion cubic feet) of natural gas, according to the figures released by the Ohio Department of Natural Resources (ODNR).

Horizontal shale well operators are required to submit production data by the 45th day following the close of each calendar quarter. Operators submit the amount of oil, natural gas and brine that each well produces, as well as the number of days that the well was in production.

Second Quarter – 2017 – Utica Production Volumes:

	<u>2017 QUARTER 1</u>	<u>2017 QUARTER 2</u>	PERCENTAGE CHANGE
Barrels of Oil	3,904,732	4,044,072	1.035%
MCF Nat. Gas	371,921,659	388,560,451	1.04%

The ODNR quarterly report lists 1,691 horizontal shale wells, 1,659 of which reported oil and natural gas production during the quarter. Of the 1,659 reporting oil and natural gas results:

- The average amount of oil produced was 2,438 barrels.
- The average amount of gas produced was 234,214 Mcf.
- The average number of first quarter days in production was 85

As of December 4, 2017, there have been 2,694 Utica shale permits issues in Ohio, and 2,184 of them have been developed.

There are currently 1,659 Utica shale wells in production, with 21 rigs running.

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The 2018 Membership Invoices were mailed/ emailed out in December. Please let me know if you have not received one or have any changes. If you would like to pay by credit card please call the office at 740-374-3203 or email me at mail@sooga.org

Thanks so much,
Billie



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Shale Energy Alliance touts ways to build the oil and gas industry

Marietta Times Dec 14, 2017

PARKERSBURG — Area oil and gas company representatives gathered Wednesday at the Blennerhassett Hotel to learn how the Shale Energy Alliance can make a difference and make the industry grow.

Dave Caliguiri, with the Shale Energy Alliance, said the alliance is dedicated to the development of the oil and gas industry in the region.

“We are a group of committed stakeholders, this includes producers, landowners, lease holders and others,” he said. “The Shale Energy Alliance is dedicated to preserving the safe, responsible and rational development of our nation’s natural energy resources. We are committed to fostering and promoting the positive benefits of shale development and hopefully, one day, getting us closer to energy independence.”

Caliguiri said the group wants to help the industry grow across the region.

“You, our members, work tirelessly every single day to make sure your neighbors have the energy they need to turn on the lights, cook a meal and heat a house — and we’re doing it locally.”

Caliguiri said the members of the alliance work together.

“One of those folks is energy transportation,” he said. “They do business with many of you in this room, they haul water and other services to this industry and they also buy vehicles from local businesses. We are a family united together to help one another and our neighbors.”
“The Shale Energy Alliance makes sure our community leaders, our decision makers, our regulators and the media have the most up-to-date information and understanding of the positive effects of the natural gas industry. That’s who we are and what we can do,” Caliguiri.

Lynette Stevens, a director with the Shale Energy Alliance, said the group is looking forward to working with the 2018 Legislature.

Stevens said the next session is their opportunity to put natural gas legislation on the books.

“Rig counts and production are down in West Virginia,” she said. “Our best example is in Pennsylvania, where natural gas increased by 2,000 percent in the last 10 years.”

Stevens said for the people that means thousands employed, lower gas bills, some lowered by 43 percent.

“We are dedicated to staying in touch and understanding what is discussed at the Capitol during the session,” she said. “We want to connect you and keep you up-to-date on that information.”

Delegate John Kelly, R-Wood, said he sees the Legislature working to build up the industry.

“House Bill No. 1 will take care of between 80 and 90 percent of problems the oil and gas companies and developers in the state have,” Kelly said. “Every time you drill a well you’re going to see more money.”

After you get drilling rigs started and every time you drill a well that hits, you will see an increase in the royalties paid, and increasing property taxes. It’s just the way it is.”

Kelly said the region is at the start of an oil and gas boom cycle.

“We are at the beginning of an oil and gas boom,” he said. “I will tell you the problems county governments, state governments and city governments have in West Virginia all comes back to one thing and that’s money.”

“The answer that every one of the problems I foresee for cities, counties and the state is just one and half miles from where we stand today,” Kelly said.

Kelly said that is straight down where the Marcellus and Utica shale formations are found.

“That answers all the problems and all of the financial issues we have in West Virginia,” he said.

Kelly said the West Virginia Department of Environmental Protection has all the regulations for fracking in place.

(continued to page 13)

Fire Resistant Clothing: What You Need To Know

Provided by Curtis Speck, President
Safety Resources Company of Ohio, Inc.

When your work features significant fire hazards, you may need to wear fire resistant, or FR Clothing. However, not all FR gear is the same. FR Clothing is rated for its ability to resist catching fire when exposed to open flames, high temperatures, or electrical arc flashes. FR Clothing will also feature labeling that indicates the types of hazards it is designed to protect you from. Only garments that meet the NFPA 2112 standards for Fire Resistance or the NFPA 70E standards for Arc Flash Resistance may be used for these purposes. Occasionally, you may also encounter garments that are rated as “Self-Extinguishing”. While these clothes may be marginally safer than unrated garments, it’s important to understand that they do not meet the NFPA standards for fire resistance, and may not be used for FR purposes.

FR clothing needs to be properly handled to maintain its fire resistance. FR clothing should only be washed according to the directions indicated on its labeling.- Washing FR clothing incorrectly, such as using fabric softener, can actually reduce or negate its ability to resist fire or dissipate electric arcs. Always clean FR clothing according to the manufacturer’s instructions. It’s also important to recognize when a garment needs replaced. If an FR garment becomes soaked in oil, for example, then it must be replaced. FR gear should also be checked for signs of damage, such as cuts, holes, or heavy wear. Like with being soaked in oil, cuts and holes compromise a garment’s ability to protect its wearer, and must be replaced.

FR gear also needs to be worn correctly to protect workers. FR gear must be worn as the outermost layer of apparel, even in bad weather. All buttons and zippers on FR gear must be fastened and closed fully, with shirt tails fully tucked in to eliminate the possibility of flames traveling underneath FR gear and burning skin. Similarly, FR sleeves may not be rolled up, as doing so will expose your arms to fire hazards. Lastly, FR Gear may not be layered on top of synthetic, non FR under layers, such as polyester or nylon clothing.

Properly worn and maintained, FR and Arc Rated gear can protect your from serious injury by helping to dissipate extreme heat and electrical arc energy.

SOOGA Legacy Fund

The oil and gas industry has been a big part of our community for more than 120 years. Our history with the community led us to partner with the Marietta Community Foundation to establish the SOOGA Legacy Fund in 2013. This fund was established to give back to our communities across Ohio and West Virginia and to honor the memory of members who have dedicated their life's work to this industry. To give a tax deductible gift make checks payable to:

Marietta Community Foundation
SOOGA Legacy Fund
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The SOOGA Board serves as the advisor to the fund.

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joeshriver@chancellorins.com

(continued from page 11)

“If you drill a well it’s going to be fracked,” he said. “People will sit back and say they are opposed to fracking but what they don’t realize is we’ve been fracking wells since 1948 in West Virginia.”

Kelly said the materials and equipment for fracking have changed since then.

“Environmentally it has changed, it has gotten better,” he said “There are better processes, better chemicals, there is better everything in fracking than there was 10 years ago.”

Kelly said when it comes to the future of the industry and what it means for the state, *“hang on, it’s coming.”*

“When we get the infrastructure in the ground, get it all in place along with a storage hub, hang on for the ride.”

Kelly said that may be good news for a proposed cracker plant in Washington, W.Va.

“That cracker plant in Washington Bottom is not dead,” he said. “They have not pulled the plug on it. They are waiting on one thing everybody else is waiting for, infrastructure.”

Kelly said a local storage facility that can store large amounts of gas and deliver it without having to move it many miles and then bring it back will be more cost-effective.

He added the area will not be shut down by tropical weather like the facilities along the Gulf Coast.

“This is a great deal for West Virginia, it’s a great deal for the area, from the Mid-Ohio Valley along with Ohio, Kentucky and Pennsylvania,” Kelly said.

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 NYMEX 3-day Average: \$2.8537

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 Inside FERC/TCO: \$2.910 (Basis: -\$0.164)
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 October Ohio Tier 3: \$45.5797
 October West Virginia Tier 1: \$50.5797
 October West Virginia Tier 2: \$47.5797
 October West Virginia Tier 3: \$45.5797
 October Marcellus/Utica Condensate: \$37.5797
 October Marcellus/Utica Medium: \$50.5797
 October Marcellus/Utica Light: \$45.5797

November Ohio Tier 1: \$55.7900
 November Ohio Tier 2: \$52.7900
 November Ohio Tier 3: \$50.7900

November West Virginia Tier 1: \$55.7900
 November West Virginia Tier 2: \$52.7900
 November West Virginia Tier 3: \$50.7900
 November Marcellus/Utica Condensate: \$42.7900
 November Marcellus/Utica Medium: \$55.7900
 November Marcellus/Utica Light: \$50.7900

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 Group 3 OH: \$45.48
 10/21 to 10/31 Group 1 OH: \$51.94
 Group 2 OH: \$48.94
 Group 3 OH: \$46.94
 11/1 to 11/10 Group 1 OH: \$55.10
 Group 2 OH: \$52.10
 Group 3 OH: \$50.10
 11/11 to 11/20 Group 1 OH: \$55.22
 Group 2 OH: \$52.22
 Group 3 OH: \$50.22
 11/21 to 11/30 Group 1 OH: \$57.05
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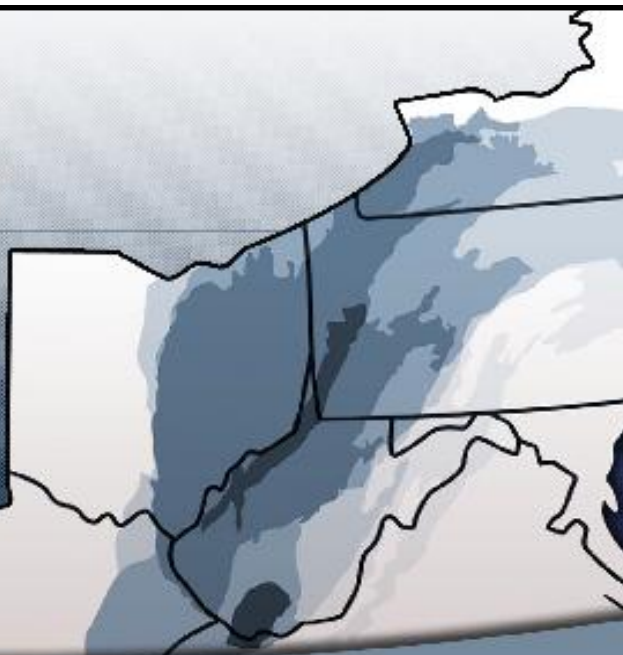
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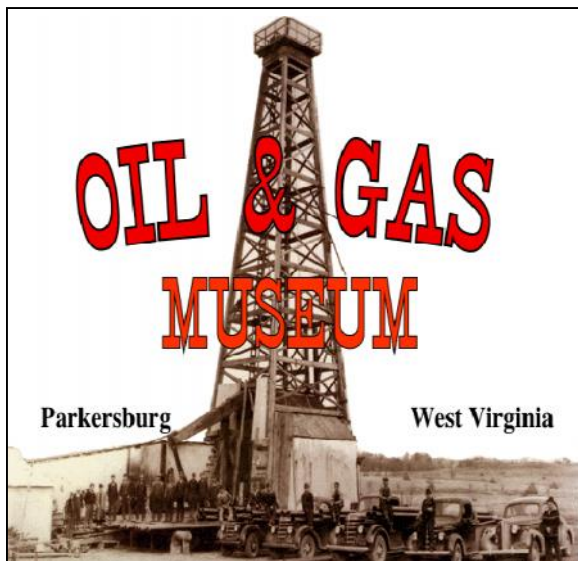
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LOCAL COMPANY STORES MATERIAL FOR GAS PIPELINE

Parkersburg News and Sentinel, November 19, 2017

By Evan Bevins

Editor's Note:

By: Carl Heinrich

Vast stockpiles of pipeline pipe are seen in our area. These are part of the development of pipelines to transport oil/gas and other products out of our area as part of the Shale Crescent development project. For those of our readers who did not see the enclosed article in November 19 Parkersburg News and Sentinel, it is being presented below. The work of the Little Kanawha River Railroad (LK) can be seen as you travel on Route 50 along the Little Kanawha River on the south side of Parkersburg's downtown across the river from the highway. These are all part of the coming activity being developed in the Mid-Ohio Valley through the efforts of Shale Crescent. These pipes are large and it takes a combination of railroad and trucking to deliver them to the various staging areas.

Parkersburg— large segments of pipe stacked along the Little Kanawha River near the East street Bridge are bound for a pipeline Columbia Gas is building in the state.

The pipe is stored on the property of Little Kanawha River Rail Inc., whose offices are at 400 Buckeye St. in Parkersburg. The company operates a short line railroad as a feeder for CSX and serves a business park that includes warehouse space and highway and river access.

Little Kanawha River Rail bought the property from Marietta Industrial Enterprises in 2009, President Trent Elliott said.

“We took over some business from MIE, but the reason we purchased the property was we had a new business venture that focused on environmental control for coal-burning power plants,” he said.

The company installed a processing plant to mill and refine trona, a substance used to remediate or remove sulfur trioxide from flue gas at coal-burning utilities.

A more recent addition to the company's portfolio is handling transportation for materials for Columbia's new natural gas pipeline, Elliott said. Little Kanawha River Rail receives the pipe from CSX and transports them to the Parkersburg stockyard for storage.

“Those pipes are going to go out by truck and then be put into service for the pipeline,” Elliott said.

The unloading and transport from the stockyard are done by T.G. Mercer, a company that handles pipe unloading and logistics for the oil and gas industry. Five members of Laborers Local 1085 have been employed by that company for a couple of months said Jessie King, business agent for the union hall.

King expects additional jobs for members as the pipeline is built.

“We do a lot of the installation of the pipe into the ground,” he said.

Little Kanawha River rail has been moving pipe for the last 45 to 60 days, Elliott said. Unloading is expected to go on for about six months, but pipe could remain at the stockyard for up to two years, he said.

Some of the pipe is being transported to a site in Coolville off Brandenberry Road, Elliott said.



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New Ohio law would allow the sale of drilling brine for use on roads

The Post Athens, November 29, 2017

A new Ohio House bill would allow the sale of commercialized brine produced during fracking and oil drilling for use on roadways — something Athens' city officials plan to oppose.

[Ohio House Bill 393](#), introduced by Ohio State Representatives Anthony Devitis, R, and Michael J. O'Brien, D, would allow the "sale of brine as a commodity for surface applications."

That would mean that brine, a byproduct of oil and gas drilling, could be sold and sprayed on roads as a form of ice control. Athens City Council members expressed concerns about the potential toxicity of the brine.

"This means that ODOT, or the county or the city, could use brine and injection fluid from oil and gas fracking on the streets," Athens City Councilwoman Chris Fahl, D-4th Ward, said at a council meeting Nov. 13. "This would open up a whole other area and would be so poisonous."

Fahl said she plans to introduce an ordinance that would ban the city from spraying brine on its roadways.

Brine is leftover waste from the drilling process in both fracking and conventional drilling, according to [a report](#) by the Connecticut General Assembly. According to the report, the process of fracking involves injecting fluids and chemicals into the earth to fracture shale formations and collecting the fuel.

"The process produces high volumes of wastewater that must be treated, recycled or safely disposed," the report reads. "The wastewater is generally classified in two categories: flowback fluid, which is the fracturing fluid (the mix of water, sand and chemicals) that returns to the surface when production starts, and production brine (also called produced water, formation water or simply 'brine') ... Waste from fracking operations is exempt from federal hazardous waste regulations, according to the Environmental Protection Agency (EPA)."

While the brine is naturally occurring and isn't considered hazardous waste, some experts say brine from deep within the earth can contain toxic elements. According to [a report](#) by *Scientific American*, the brine can even be radioactive.

"A 2014 U.S. Geological Survey [study](#) analyzed roadside sediment where produced brine from conventional wells had been spread as a de-icer and found elevated levels of radium, strontium, calcium and sodium," according to the report. "Radium is radioactive and can thus be carcinogenic. At high concentrations, sodium can be unhealthy for humans and animals."

The Ohio Department of Transportation does not use brine from oil or gas drilling processes on Ohio's highways, but it is [legal in Ohio](#), according to the report. A [report by Newsweek](#) states using brine is legal in several other states, including Pennsylvania.

The brine can be up to 10 times saltier than regular road salt and comes much cheaper, according to the *Newsweek* report. The report notes that most brine used on roads comes from conventional drilling rather than fracking, but brine from conventional drilling is almost identical to fracking brine.

Ohio's laws are currently vague on fracking, according to the *Scientific American* report.

"Ohio ... does not require gas and oil well tests for every application before the raw brine is used as a de-icer," according to the report. "State law does limit where, when and how much produced brine can be spread on roads but leaves it up to local authorities to approve individual applications."

Athens City Councilwoman Michele Papai, D-3rd Ward, said she didn't understand why state legislators introduced the new legislation in the first place.

"Surrounding states have had some of this in the past, and many of those states have stopped using brine on their roads," Papai said. "I'm a little bit confused as to what our state representatives are up to with this. Other than for profit, I can't think of any other reason. Obviously not the health and welfare of the people of Ohio."

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Editor's note: This report has been updated to reflect a previous version of the article and clarify which type of brine ODOT does not use. A correction that included inaccurate information about ODOT's use of brine from oil or gas drilling processes has been removed from the article.

Continued from page 1.

Patricia Schultheiss v. Heinrich Enterprises, Inc., 150 Ohio St. 3d 181, 2017-Ohio-2895, 80 N.E.3d 455.

The Fourth District Court of Appeals reversed the Washington County trial court's judgment in favor of Heinrich Enterprises and held that an oil and gas lease terminated automatically when there were no commercial sales between 1977 and 1981. Heinrich Enterprises appealed to the Ohio Supreme Court, asserting that the landowners' claim should be time barred by the statute of limitation and that she should be estopped, or barred, from terminating the lease based on her acceptance of benefits for more than 30 years since 1981.

The Ohio Supreme Court accepted Heinrich Enterprises' appeal on the issue of estoppel but not on the issue of statute of limitations. OOGA and SOOGA filed an amicus brief arguing that it was inequitable to allow the landowner to cancel a lease when she had, for more than three decades after the lease had supposedly expired, accepted lease benefits in the form of free gas and allowed Heinrich Enterprises to continue to produce and sell gas from the well. After briefing and argument, the Supreme Court dismissed the appeal as having been improvidently accepted. By not issuing a decision on the merits, the Supreme Court allowed the Fourth District's decision against Heinrich Enterprises to stand.

Keith J. Kerns v. Richard J. Simmers, Case No. 2016-1011

A group of landowners filed a petition for mandamus in the Ohio Supreme Court claiming that an ODNR unitization order that included their property in a drilling unit for a Chesapeake well violated the takings clause in the Ohio and United States Constitution.

OOGA and SOOGA filed an amicus brief in support of ODNR, arguing that the landowners do not have an absolute property right in the oil and gas underlying their land. Instead, their rights are correlative, meaning that all landowners have the right to access and develop the shared pool of natural resources. The unitization statute is a constitutional expression of these correlative rights, protecting not only those landowners who refuse to voluntarily participate in the development of their land, but also the supermajority of neighboring landowners (in excess of 65%) that desire to have a well drilled under their property.

Arguments in this case were heard in Marietta Ohio on October 18, 2017. The parties are now awaiting a decision on the merits from the Court.

Linda Griffith Alford v. Collins-McGregor Operating Co., Case No. 2016-1281

The trial court dismissed and the Fourth District Court of Appeals affirmed the dismissal of a landowner's claim that Collin-McGregor breached the implied covenant of further drilling or exploration under a lease by failing to drill a deep shale well. The landowners sought the partial release of all depths and formations below the wells that had already been drilled and were producing under the lease.

The landowners filed an appeal to the Ohio Supreme Court. OOGA and SOOGA filed an amicus brief in support of Collins-McGregor, arguing that an implied covenant of additional deep well drilling had never before been recognized under Ohio law, that the Supreme Court should not recognize such an implied obligation in this case for the first time, and that the dismissal of the landowners' claims should be affirmed.

Arguments in this case were heard on September 26, 2017. The parties are now awaiting a decision on the merits from the Court.

Barclay Petroleum, Inc. v. Matthew Bailey, Trustee of the Bailey Family Trust, Case No. 2017-1387

The Fourth District Court of Appeals held that an oil and gas lease had terminated in the secondary term for lack of production in paying quantities, despite the fact that the prior landowners had agreed that Barclay Petroleum could continue the lease so long as it maintained the well and continued to supply free domestic gas to their dwelling.

Barclay Petroleum asked the Ohio Supreme Court to accept its appeal. OOGA and SOOGA filed an amicus brief urging the Supreme Court to accept the appeal and asking the Supreme Court to recognize that a landowner may be estopped, or barred, from terminating an oil and gas lease based on the acceptance of benefits, including free domestic gas.

The parties are awaiting a decision from the Court as to whether or not it will accept the appeal.

(continued to page 24)



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(continued from page 20)

Gerald W. Burke v. Excalibur Exploration, Inc., Case No. 2017-0600

The Eleventh District Court of Appeals held that a well that had been drilled pursuant to a unitization provision of an oil and gas lease continued the lease into the secondary term, but only with respect to the portion of the lease that was actually included in the unit for the well.

Excalibur Exploration asked the Ohio Supreme Court to accept its appeal. OOGA and SOOGA filed an amicus brief urging the Court to accept the appeal and to recognize that, unless the lease expressly provides otherwise (as it would, for example, in a pugh clause), production from any portion of the leasehold continues the entire lease into the secondary term.

On September 13, 2017, the Ohio Supreme Court vacated the decision from the Eleventh District and remanded the case to the trial court to determine whether other necessary parties should have been joined in the action. A motion to reconsider that decision was filed on September 25, 2017 and the parties are awaiting a decision from the Court.

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Have you tuned into WMOA radio lately? If not, you're missing SOOGA's excellent "Energy Insights" program, which airs every Saturday morning at 9 am on WMOA AM 1490. This program has served as an excellent means of educating and informing our community about the oil and gas industry. The show has covered an array of topics from the history of the industry, benefits to the local economy, education on technical aspects of the business, and much more.

Sponsor a show! The Energy Insights program has not only been an excellent means of public outreach and education, but it can also serve as a great advertising opportunity for our SOOGA members. For \$100 per episode, or \$300 for 4 episodes, your business can help inform the community about our industry while also benefiting from advertising on the radio. If interested, please contact Billie at SOOGA via email or phone atmail@sooga.org or 740-374-3203.

If you'd like to hear past episodes, visit WMOA Radio's website at <http://wmoa1490.com/podcasts>. SOOGA has been very pleased with the affordability and opportunity for public outreach provided by this radio show.

Speaking of affordable advertising opportunities! A new year is upon us and SOOGA once again has several great advertising packages for our membership. These packages provide advertising across multiple locations including the SOOGA Insider Bulletin, SOOGA website, and numerous events. Event sponsorships and the aforementioned Energy Insights program are also available for great marketing opportunities. For more information about the SOOGA ad packages and sponsorships, please contact Billie via email or phone.

Matt Lupardus

Past President & Chair, Communications Committee

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The key element to this system functioning effectively is the accuracy of the data in the RBDMS database. We all know there are a number of inaccuracies in the database; mis-spotted wells, incorrect ownership, incorrect well status, etc. ODNR would like to correct as many of these inaccuracies as possible before the system is made operational. In an effort to do this, ODNR is planning to send a letter to each oil & gas operator in Ohio asking them to review their well data for correctness. They will supply each operator with a link to go online and re-view their specific well lists. The operator can view the list of wells currently shown to be under their bond and ODNR will be asking each operator to edit the well information to correct any errors.

SOOGA has discussed with ODNR the protocol for oil & gas operators who may not have access to a computer. ODNR understands this situation may exist and is considering ways to address it.

Artex Oil Company was one of the companies selected to do a test run of the link to re-view its well list. The process flow was logical and the editing page was not difficult to navigate. Fortunately, there were not many corrections made. Artex thought its well data was accurate and up to date with the ODNR database. Surprisingly, Artex found that while some of the errors were on ODNR's end, some of the errors were oversights it had made.

We anticipate each operator will likely find similar discrepancies when they review their well list. It is in all our interests to establish an accurate database going forward and ODNR would appreciate as much cooperation as possible. SOOGA has told them of the need to work closely with the industry to make sure we have continued input in the process to allow oil & gas operators to have as much assistance as possible transitioning to this new system.

SOOGA will stay engaged with ODNR to try to make this system as user friendly to the industry as possible and continue to give the membership periodic updates. Let us know if there are any issues navigating the program.



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For additional advertising options visit: www.sooga.org

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