

Comment from Karen Feridun

Citizens Advisory Committee

May 14, 2024

Good afternoon. Thank you for allowing me this opportunity to speak about DEP's handling of conventional drilling waste.

My name is Karen Feridun. I am one of the co-founders of the Better Path Coalition. I have been investigating issues related to road spreading of conventional drilling waste since 2021. Last week, members of our coalition delivered a letter from 66 organizations and more than 100 individuals calling for a ban on all road spreading of drilling waste. In addition, we are calling on the Governor and legislature to intervene to address the outrageous level of noncompliance with even the most basic reporting requirements by conventional drillers. I have included a copy of the letter with my comments.

Since the DEP declared a moratorium on road spreading of conventional drilling waste in 2018, drillers have reported spreading more than 3.5 million gallons of it on unpaved roads. We have no idea what the actual total is because more than half of the drillers in Pennsylvania have failed to file production and waste reports for the past several years. A 2022 report ordered by Governor Wolf showed that the percentage was trending upward between 2017 when it was 53.7% to 2021 when it hit 61.8%. According to Kurt Klappowski, 86% of drillers failed to file 2023 reports by the February 15 deadline.

Those who have continued to report road spreading since the moratorium have done so because they purport to have positively determined that their waste can be used in place of a commercial product. The Bureau of Waste Management's Coproduct program allows waste owners to make their own determinations, following Section 287.8 of the PA Code, and, if the waste passes muster, start using the waste as a coproduct without having to so much as notify the DEP. If the agency requests a copy of the determination report, the waste owner must provide it.

In 2019, the Oil & Gas Division added a nonexistent product type to the waste reporting system called brine coproduct. It was clearly added to legitimize entries made by drillers who were acting in defiance of a moratorium their own division had declared a year earlier. It wasn't until 2021 that the Bureau of Waste Management began requesting determination reports.

I filed a Right-to-Know request when I learned that they'd requested the reports, so I saw what drillers submitted. It's safe to say that no driller made a positive determination and that they didn't really try. Among the documents submitted was a letter Pennfield Energy sent to prospective clients that said that their waste had achieved coproduct status and that it meant that they didn't have to report anything and could spread all year round.

The person who wrote that letter is the same person who requested the fake product type. Interestingly, Pennfield Energy filed production reports, but no waste reports between 2018 and 2020, even though DEP granted their request.

In its 2022 report, the DEP referred to a culture of noncompliance within the conventional drilling industry. The agency's enabling treatment of drillers and lack of action against drillers who ignore reporting requirements for years are just added to other problems, like the fact that the waste reporting system doesn't require drillers to say when they disposed of waste or where exactly, in the case of road spreading. Quantities are reported, but often appear to be fudged because very specific numbers like 11.11 barrels are repeated in every entry some drillers make. All of this points to a culture problem at the DEP, one that sets a low bar and tolerates even those drillers who don't clear it.

All of this is happening against a backdrop of mounting scientific evidence of the dangers to our environment, health, and safety conventional drilling waste itself and spreading it on our roads pose. The evidence has been mounting since 1997 when Moody's did a study for the industry and our state government that concluded that road spreading was not a viable disposal method. I have also included a copy of that report with my comment.

In that context, what is happening is a crisis of noncompliance. It's time for an intervention.

Thank you.

Referenced documents:

Letter signed by 66 organizations and more than 100 individuals – bit.ly/RoadSpreadingLetter

Moody's 1997 report - <https://drive.google.com/file/d/1BJX7f3PtZu29PUbkxX-FGM8AWuCZDLQk/view>

Citations to more recent studies are included in the letter.