

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

CNX Gas Company LLC	:	2012 Oil & Gas Act
1000 Horizon Vue Drive	:	The Solid Waste Management Act
Canonsburg, PA 15317	:	The Clean Streams Law

CIVIL PENALTY ASSESSMENT

NOW, this 3rd day of November 2022, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce Chapter 32 of Title 58 of the Pennsylvania Consolidated Statutes, 58 Pa. C.S. §§ 3201–3274 (“2012 Oil and Gas Act”); the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S. §§ 6018.101–6018.1003 (“Solid Waste Management Act”); The Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”), Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §§510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder.

B. CNX, a Virginia limited liability company, is engaged in various oil and gas exploration, production, and midstream activities in Pennsylvania. CNX’s business address is 1000 Horizon Vue Drive, Canonsburg, PA 15317.

C. CNX is the “owner” and “operator”, as those terms are defined in Section 3203 of the Oil and Gas Act, 58 Pa. C.S. § 3203, of the RHL 4 Well Pad Site (“Well Site”), Permit No. ESX08-059-26487, located in Richhill Township, Greene County.

D. On December 2, 2019, CNX discharged approximately 30 gallons of production fluid onto the ground due to a breach in the secondary containment during hydraulic fracturing operations. The production fluid then flowed into a rock channel and a sediment basin at the Well Site.

E. As of December 6, 2019, CNX continued to discharge production fluid from the secondary containment onto the ground, and into the rock channel and sediment basin. In addition, inspection and maintenance records for secondary containment were not located at the Well Site.

F. CNX postponed removal of contaminated soil until hydraulic fracturing was completed. As of January 17, 2020, CNX removed the contaminated soil (1,973 tons) that was impacted

G. CNX summarized the findings and conclusions of the remediation of the spill in a Final Report, which was prepared and submitted to the Department in accordance with the Land Recycling and Environmental Remediation Standards Act, Act of May 19, 1995, P.L.4, No. 1995-2, 35 P.S. §§ 6026.101-6026.909 (“Act2”) addressing the release described in Paragraphs D and E.

H. Production fluid is an “industrial waste” and rock channels and sediment basins are “waters of the Commonwealth” as those terms are defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

I. Production fluid that is spilled on the ground is a “residual waste” as that term is defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103.

J. On the dates and at the locations set forth in Paragraphs D and E, above, CNX:

1. Failed to control and dispose of production fluid in a manner that prevents pollution of the waters of the Commonwealth and discharged such fluids to

the ground in a manner not authorized by the rules and regulations of the Department, in violation of 25 Pa. Code §§ 78.54 and 78.57.

2. Discharged production fluid, an industrial waste, into waters of the Commonwealth in a manner not authorized by the rules and regulations of the Department, in violation of Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307
3. Disposed of residual waste by depositing it onto the ground in a manner not authorized by the rules and regulations of the Department, in violation of Sections 301, 610(1) and 610(4) of the Solid Waste Management Act, 35 P.S. §§ 6018.301, 6018.610(1), 6018.610(4)

K. On the dates and at the locations set forth in Paragraph E, above, CNX failed to have inspection reports and/or maintenance records for secondary containment available at the well site for review by the Department in violation of 25 Pa. Code §78a.64a(h).

L. CNX summarized the findings and conclusions of the remediation of the spill in a Final Report, which was prepared and submitted to the Department in accordance with the Land Recycling and Environmental Remediation Standards Act, Act of May 19, 1995, P.L.4, No. 1995-2, 35 P.S. §§ 6026.101-6026.909 (“Act2”) addressing the release described in Paragraphs D and E.

M. The violations described in Paragraphs J and K, above, constitute unlawful conduct pursuant to Section 3259 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3259, Section 611 of The Clean Streams Law, 35 P.S. § 691.611, and Section 610 of the Solid Waste Management Act, 35 P.S. § 6018.610 and subject CNX to a claim for civil penalties pursuant to Section 3256

of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3256, Section 605 of the Clean Streams Law, 35 P.S. § 691.605, and Section 605 of Solid Waste Management Act, 35 P.S. § 6018.605.5.

Assessment

NOW, THEREFORE, pursuant to the Department’s authority under Section 3256 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3256, Section 605 of the Clean Streams Law, 35 P.S. § 691.605, and Section 605 of the Solid Waste Management Act, 35 P.S. § 6018.605, the Department hereby assesses a civil penalty of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00) against CNX for the violations identified above. Payment of this Civil Penalty shall be made by certified check or the like, payable to the “Commonwealth of Pennsylvania” and sent to the Department of Environmental Protection, Bureau of Oil and Gas Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A. The Board’s address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Daniel F. Counahan
District Manager
Southwest District Oil and Gas Operations