

Pennsylvania Well Plugging Legal Update

April 25, 2019
Jean M. Mosites

▶ Regulatory History of Well Plugging

- **1859** – First commercial well drilled, “Drake well”, Titusville, PA
- **1878** – Wells first required to be plugged with wood and sediment
- **1881** – Plugging requirements updated: Fill well with sand or rock sediment and wooden plugs above third producing sand
- **1921** – Plugging requirements updated
 - Fill with sand or rock sediment and each producing strata plugged with wood plug
 - Requires venting of wells through coal layers
 - Allows for casing to be pulled with tubing and packer in place
- **1952** – API standards for cement and well plugging published
- **1956** – Well permitting begins; modern plugging requirements
- **1984** – Modern environmental plugging requirements
- **1989** – First well plugged in DEP plugging program

Plugging Oil and Gas Wells in Pennsylvania

Act 13 – Chapter 78 – Forms

Abandoned Wells

Act 13 – Section 3203

- **"Abandoned well."** Any of the following:
 - (1) A well:
 - (i) that has not been used to produce, extract or inject any gas, petroleum or other liquid within the preceding 12 months;
 - (ii) for which equipment necessary for production, extraction or injection has been removed; **or**
 - (iii) considered dry and not equipped for production within 60 days after drilling, redrilling or deepening.
 - (2) The term does not include wells granted inactive status.

Inactive Well Status

- Act 13 Section 3214
- Chapter 78 Sections 102-105
- Five years
- Can be revoked
- Annual integrity monitoring
- Application for one year renewal
 - Certify use – disposal, storage, production
- Checking an ‘inactive’ box in production reporting does not = regulatory inactive well status

Well Plugging – Act 13, Section 3220

- (a) General rule - owner or operator must plug a well upon abandoning it unless the well:
 - Has inactive status;
 - Is included in an approved plugging schedule; or
 - Is an approved orphan well.
- *Prior owner/operator* is responsible for plugging if he/she received economic benefit (other than as a landowner or royalty interest) after April 18, 1979

Well Plugging – Act 13, Section 3220

Notice Requirements

Well owner operator must notify DEP and coal owner/operator/lessee in an area underlain by a workable coal seam of plugging date, which must be at least 3 days but not more than 30 days after the notice.


Except

- an uncompleted bore hole plugged immediately on suspension of drilling in an area not underlain by a workable coal seam
- Well is abandoned immediately upon completion of drilling (24 hours telephone notice is required)

Well Plugging Forms and Notice

- Notice of Intent to Plug a Well (8000-FM-OOGM0005)
 - Include the Well Location Plat form (8000-PM-OOGM0002)

8000-FM-OOGM0005 Rev. 3/2017

Form  **pennsylvania**
DEPARTMENT OF ENVIRONMENTAL PROTECTION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF OIL AND GAS MANAGEMENT

DEP USE ONLY	
Auth. No.	U.S. Well

**NOTICE OF INTENTION BY
WELL OPERATOR TO PLUG A WELL**

<input type="checkbox"/> Well Operator <input type="checkbox"/> Coal Operator		OGO No.	U.S. Well No. (Permit / Reg)	Date Drilled (If known)
Name		Well Farm Name		
Address		Telephone No.	Well No.	Well Serial No.
City	State	Zip Code	County	
<input type="checkbox"/> Agent (contractor) acting on behalf of the operator named above.		Municipality		
Address		Telephone No.	Latitude (DD)	Longitude (DD)
City	State	Zip Code	Attach well record if not previously submitted.	

Complete this section if applicable. Prior to abandoning any well in an area underlain by a workable coal seam, the well operator or owner shall notify the coal operator, lessee, or owner of the intention to plug and abandon the well, and shall submit a plat showing the location and affix the date and time at which the work of plugging will commence.

Coal: <input type="checkbox"/> Operator <input type="checkbox"/> Owner <input type="checkbox"/> Lessee	Coal: <input type="checkbox"/> Operator <input type="checkbox"/> Owner <input type="checkbox"/> Lessee	Coal: <input type="checkbox"/> Operator <input type="checkbox"/> Owner <input type="checkbox"/> Lessee
Name	Name	Name
Address	Address	Address
City, State, Zip Code	City, State, Zip Code	City, State, Zip Code
Telephone No. Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No	Telephone No. Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No	Telephone No. Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No
This Party hereby waives the rights to be notified of the date and time before plugging work will begin and to be present at the plugging of this well. Signature:	This Party hereby waives the rights to be notified of the date and time before plugging work will begin and to be present at the plugging of this well. Signature:	This Party hereby waives the rights to be notified of the date and time before plugging work will begin and to be present at the plugging of this well. Signature:

Scheduled Date and Time of Plugging	Plugging is scheduled to begin on (date) _____ at (time) _____
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Well Plugging Technical Requirements

The plugging standards depend on the location and type of casing:

- Coal areas
 - surface or coal protective casing is cemented (25 Pa. Code § 78.92)
 - the surface or coal protective casing is anchored with a packer or cement (§ 78.93).
- Noncoal areas
 - surface casing is not cemented or not present (§ 78.94)
 - surface casing is cemented (§ 78.95).

A permanent marker must be placed designating the location of any plugged well (§ 78.96).

Well Plugging Forms and Notice

- Alternate Method of Plugging (8000-PM-OOGM0024)
 - Coal operators have a 15 day objection period to the alternative method.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF OIL AND GAS MANAGEMENT

DEP USE ONLY
Application Tracking #

Proposed Alternate Method or Material for Casing, Plugging, Venting or Equipping a Well

Well Operator		DEP ID#		Well Permit or Registration Number	
Address			Well Farm Name		
City	State	Zip Code	Well #	Serial #	
Phone	Fax	County		Municipality	
<p><i>A proposed alternate method is subject to provisions in §3221 of the 2012 Oil and Gas Act, 58 Pa. C.S. §3221 Section 13 of the Coal and Gas Resource Coordination Act, 58 P.S. §513 and 25 PA Code §§78.75-78.75a (relating to Alternate Methods.) Attach proof of notification of coal operator(s).</i></p> <p>Describe in reasonable detail using a written description and / or diagram:</p> <ol style="list-style-type: none">1. the proposed alternate method or materials, and2. the manner in which the alternative will satisfy the goals of the laws and regulations.					

- Certificate of Well Plugging (8000-FM-OOGM00006)
 - Submitted to the Department within 30 days after the well has been plugged (25 Pa. Code § 78.124).

Babst Calland
Attorneys at Law

Well Transfer

- Act 13, Section 3223:

Notification and effect of well transfer. The owner or operator of a well shall notify the department in writing within 30 days, in a form directed by regulation, of sale, assignment, transfer, conveyance or exchange by or to the owner of the well. A transfer shall not relieve the well owner or operator of an obligation accrued under this chapter, nor shall it relieve the owner or operator of an obligation to plug the well **until** the requirements of section 3225 (relating to bonding) have been met, at which time the transferring owner or operator shall be relieved from all obligations under this chapter, including the obligation to plug the well.

Bonding

- Amount - \$2,500/well; \$25,000 blanket bond (§ 78.303)

“ . . . Conditioned upon compliance with the drilling, water supply replacement, restoration and plugging requirements . . . ”
- Term of liability – until the well has been properly plugged and for one year after filing the certificate of completion (Act 13, § 3225(a)(3))
- Bond release – when plugged or transfer obligations met (§ 3225(b))
- Forfeiture – upon failure or refusal to plug; disqualification of a surety who fails to pay forfeited bond; submit replacement blanket bond if forfeited at a well or well site

Well Transfer

- A well permit or registration may not be transferred without prior written approval from the Department (§ 78.13(a)).
- Within 30 days after the effective date of a transfer of well ownership, a new owner must notify the Department in writing of the transfer of ownership (25 Pa. Code § 78.14).
 - If there is a change in the well operator as a result of the transfer of ownership, submit an Application for Transfer of a Well Permit or Registration (5500-PM-OG0010).

Well Transfer

- Application for Transfer of Well Permit/Registration (5500-PM-OG0010)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OIL AND GAS MANAGEMENT PROGRAM

Application for Transfer of Well Permit or Registration

<i>To identify wells to be transferred, fill out this form, naming the former operator and the new operator. Please read instructions before starting. Use continued pages to list additional wells.</i>		DEP USE ONLY	
		Client ID	Auth #
C.S.		INV.	
APR #		Bond Agreement #	
C.S.		EXA.	
TRANSFER FROM:		TRANSFER TO:	
Name OGO#		Name OGO#	
Address		Address	
City State Zip		City State Zip	
Telephone Fax		Telephone Fax	
Bond Number:		Bond Number:	
SIGNATURES and CERTIFICATION			
Subject to the penalties of Title 18-PA C.S. §4904 relating to unsworn falsification to authorities, I certify that I have the authority to submit this request for transfer of permit or registration for the oil / gas wells listed herein. Further, I certify that the information provided on this form and attachments is true and correct to the best of my knowledge and information.			
SIGNATURE of Transferor, or Transferor's authorized agent acting on behalf of the Transferor.		SIGNATURE of Transferee, or Transferee's authorized agent acting on behalf of the Transferee.	
_____ Signature Date		_____ Signature Date	
(Type or print name and title)		(Type or print name and title)	
WELLS TO BE TRANSFERRED			
DEP USE	Permit/Reg # (Well API#)	County	Municipality
			Farm Name
			Well No. Proj / Ser #

Babst Calland
Attorneys at Law

PADEP Enforcement

- NOV's related to abandoned wells
 - 2018 - 958 inspections with alleged violations
- Consent Order with plugging schedules
- Unilateral Orders – may be appealed to EHB
- Petitions to Enforce in Commonwealth Court

EHB Appeal of Orders / Closed

- 2017 Aiello Brothers McKean 10 wells
- 2016
 - JH Ball & Son Butler 6 wells
 - Spartan Resources Jefferson 2 wells
 - Thomas Pellegrino Warren 18 wells
 - Eagle Resources Jefferson 13/41 wells
- 2015
 - US Energy Exploration Clarion 2 wells

EHB Appeal of Orders / Closed

- 2014 EOR Petroleum Venango 176 wells
- 2013 Mitch-Well Energy Inc. and William Mitchell,
Crawford Erie and Warren 21 wells
- 2012
 - Oz Gas Ltd Warren 29 wells
 - P.E.M. Enterprize, Inc. Warren 12 wells
- 2011 Straub Industries Venango 25 wells
- DEP Orders ranged from 3 months to 4.5 years

B&R Resources, LLC / Campola

- PADEP NOVs re abandoned wells
- PADEP Order to plug 47 wells
- EHB appeal June 2015 / November 2016 hearing
- EHB decision – personal liability of LLC member
“Participation Theory”
- Commonwealth Court – must show causation –
how many wells could B&R have plugged?
- Remand to EHB for evidentiary hearing
– August 2019

Orphan Wells – Act 13 provisions

Orphan well – A well abandoned prior to April 18, 1985, that has not been affected or operated by the present owner or operator and from which the present owner, operator or lessee has received no economic benefit other than as a landowner or recipient of a royalty interest from the well.

Section 3213 a.1 – Identify abandoned wells within 60 days of discovery

Sections 3220(e)

- ... the department may enter upon the well site and plug the well and sell equipment, casing and pipe at the site which may have been used in production of the well in order to recover the costs of plugging. The department shall make an effort to determine ownership of a well which is in operation but has not been registered and provide written notice to the owner of pending action under this subsection. If the department cannot determine ownership within 30 days, it may proceed under this subsection. Costs of plugging shall have priority over all liens on equipment, casing and pipe, and the sale shall be free and clear of those liens to the extent that the cost of plugging exceeds the sale price. If the amount obtained for casing and pipe salvaged at the site is inadequate to pay for plugging, the owner or operator of the abandoned or unregistered well shall be liable for the additional costs.

- Application to Identify Abandoned Wells (8000-PM-OOGM0050)



Voluntary Plugging

- Good Samaritan Act
- Funds – Act 13 Section 2315 Marcellus Legacy Fund; Section 3271, permit surcharge
- Possible legislation with incentives - COGA

Good Samaritan Act

Eligible projects: Reclamation (well plugging) and water pollution abatement projects

Applicants: Any person who provides equipment, materials, or services at no charge or at cost for a reclamation or abatement project

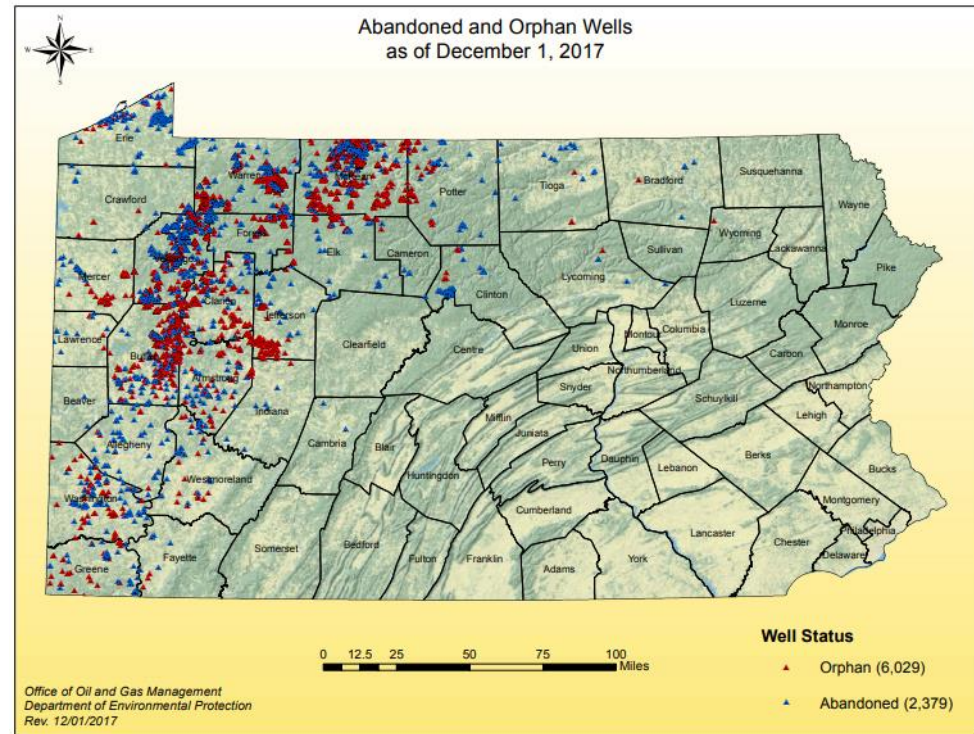
Liability relief: State law liability protection is available for applicant and landowner, liability relief may be used by covered individuals in cases where civil suits are filed

Updates: DEP recently updated form and instructions to improve compatibility with plugging projects and streamline the process

Application: Applications should be sent to DEP's Oil and Gas Program in Harrisburg

Marcellus Legacy Fund

- Act 13 established the Marcellus Legacy Fund and allocates funds to the Commonwealth Financing Authority (CFA)
- CFA awards grants to plug orphan or abandoned wells for which no responsible party exists and that have the potential to cause health, safety, or environmental concerns



Marcellus Legacy Fund

- Review and oversight of the grants process provided by the Orphan or Abandoned Well Plugging Program (OAWP)
 - \$250,000 cap per project
 - Eligible applicants: municipalities, councils of governments, for-profit businesses, institutions of higher education, watershed organizations, and other authorized organizations
 - Up to 3 year grant period
- Application period from February 1st to May 31st
- Applicants may also submit a Good Samaritan Law application to DEP for liability relief



Questions?

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Pittsburgh, PA 412.394.5400 | Canton, OH 234.352.1650 | Charleston, WV 681.205.8888
Sewell, NJ 856.256.2495 | State College, PA 814.867.8055 | Washington, DC 202.853.3455

babstcalland.com