



## CITY OF DuBOIS, PENNSYLVANIA

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Planning Commission

ENVIR. APPEALS BOARD

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### Cover Letter

Clerk of Board  
U.S. Environmental Protection Agency  
1201 Constitution Avenue , NW  
WJC East Room 3334  
Washington D.C. 20004  
phone # 202-233-0122

From Nancy Moore,  
Chairperson, Planning Commission  
City of DuBois  
Phone Number (Home) 814-371-9711

Subject: Petition to review Permit for Windfall Gas and Oil, Inc.  
Permit Number: PAS2ED020BL  
Permit Facility: Class II Injection Well Zelman #1

### Contents:

Petition for review: 3 pages

Attachments: 2 newspaper reports on the Water Protection Plan for the City of DuBois  
The Five Municipalities Joint Comprehensive Plan adopted 2009.

References: The State Supreme Court Decision of December 14, 2014 on Robinson  
v. Commonwealth  
The EPA response to comments for issuance of an underground injection  
control (UIC) well.



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2014 MAR 12 PM 1:00  
ENVIR. APPEALS BOARD

Nancy Moore  
300 Green Ridge Drive  
DuBois, Pa. 15801  
Phone Number home: 814-371-9711  
nanmoore13@verizon.net

March 6, 2014

Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
WJC East, Room3334  
Washington,DC 20004  
Phone Number-202-233-0122

RE: Petition to Review (appeal) permit for Windfall Oil and Gas, Inc.  
PERMIT NUMBER PAS2DO2OBLE  
Permitted Facility: Class II-D injection well Zelman #1

This letter of support asks that the deep injection well permit for Windfall Oil&Gas in Brady Township be denied based on the errors in the permit the incompatible land use of a n industrial development in a residential area. I appeared at the EPA hearing in Dec. 2013, and gave testimony.

We ask that the permit be review with consideration of the State Supreme Court Decision in Robinson Township, Washington County v. Commonwealth. Issues to which the citizens strongly object are covered in this decision. The various portions of Act 13 amendment to the Oil and Gas Act declared unconstitutional deal with the very issues we have objected to such as: Property Values, The right to Clean Water and Air, Quality of life, The right of Municipalities to Govern Land Use Issues. The decision on Robinson v. Commonwealth rests on Article 1 Section 27, of the Environmental Rights Amendment of the Pennsylvania Constitution. Also noted was the violation of the Substantive Due Process protections of Article 1, section 1 of Pennsylvania Constitution. The U.S. Constitution imposes additional limitations on the exercise of the General Assembly's police powers. (No.34 in Robinson Decision)

1.

Since the permit for Windfall Injection Well was issued on February 14, 2014, before the Robinson Supreme Court decision was issued on December 19, 2014, we feel that it is imperative that the permit be reviewed based on the Supreme Court decision

The Joint Municipalities Comprehensive Plan, adopted by 5 municipalities in 2009, including Brady Township. No. 2 in EPA response to Comments EPA states that EPA requirements do not supersede local, county or state law or regulations. If state or local law required Windfall's injection operations to comply with the Comprehensive Plan the UIC permit would not abrogate those requirements. I served on that committee, which was a two year task with professional consultants. We were under the impression that when adopted it had the force of regulations and or law. It was the intent of the participants to follow this plan.

We request that the State Supreme Court Decision as well as the 5 municipalities Comprehensive Plan be accepted into our petition for review.

EPA form 7520-D Attachment B states a topographical map extending one mile beyond the property boundaries. The EPA Response Summary P. 3#6 states the one mile map is available at the Library They are not in the permit binder.

The applicant picked the least area possible under EPA regulations, ¼ mile regulation 40 C.F.R. (a) states all new class 11 wells shall be sited in such a fashion that they inject into a formation which is separate from any USDW by a confining zone that is free of known open faults or fractures within the review area.

EPA Response summary P.10 states 5 Oriskany wells were further away locating them at least ½ mile to one mile from the proposed disposal injection well. Again an inaccuracy because they are immediately outside the ¼ mile area of review, just feet from the 1/4 mile line.

The statement in the summary on page 11# 12 states incorrectly that there are no drinking water wells located in the one quarter mile area of review. Residents identify 17 water sources in the ¼ mile radius of review and the permit applicant included a map with the EPA permit showing 14 private drinking wells in the area of ¼ mile. (see Marshall Binder)

The City letter of Sept. 2013 voices their concerns with the faults in the area. EPA regulations state that the confining Zone is free of KNOWN open faults or fractures. Evidence provided by the citizens states this is simply wrong.

The well location has the potential for impacting the DuBois City Water Supply. The city was recently presented with a Water Protection Plan which was years in the making. The report outlines problem areas in the watershed and identifies on maps the time table for migration should there be an incident. I am including news releases from local papers who covered the meeting.

Does the EPA accept the technical information provided by the applicant as accurate and factual without verification? It would appear that they do.

The EPA says there are 14400 wells in existence in the U.S. but it fails to state that the vast majority of these wells are enhanced recovery wells not injection wells. Wells that are listed as plugged are in fact not plugged.

Number 17 in EPA response to comments. Under the UIC regulations Owners and Operators of injection wells are required to demonstrate financial responsibility. Windfall submitted an estimate for plugging the well of \$30,000 supported by a letter of credit and standby trust agreement said to be from Community First Bank. Apparently Windfall must continue to assure EPA that these instruments exist. It is beyond belief that there is no other verification of the companies financial capabilities besides the above. This area is a residential development serviced by well water and on site septic. In the event of an accident or other damaging incident do the residents go to their own finances or to the taxpayers for cleanup. We have been there done that with the mining in the past.

Many citizens are responding with other technical material which I am aware of and agree with. The people in Brady Township are knowledgeable about the Gas and Oil Industry and have worked in gas and oil and extraction industry. Historically people in our area have made their living off the land They are quite familiar with the coal extraction, timbering, water table, fault lines and other features of the land. They have no problem with the economic impact of the industry. The main problems are with the inappropriate location of industries in residential areas.

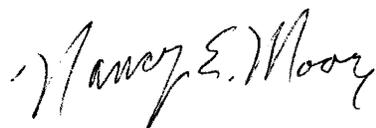
EPA instructions cautions the residents to be factual and specific in their petitions for review. Yet I find language in the EPA response summery such as: It Would Appear, May instead of Shall, no Evidence of, Apparently, Not Relevant, Generally Follows, Do not typically.

I have attempted to document all references in this letter. I am not attaching the 64 pages of the Robinson v. Commonwealth Supreme Court Decision. The Documents relative to the Supreme Court decision and analyses there of are available on line. The Joint Comprehensive Plan was supplied in previous responses and I have referenced them where pertinent.

I am attaching the news articles on the City of DuBois Water Protection Plan. Note the City of DuBois owns and operates their only water system all located outside the city limits. This is the largest water supplier in the area.

I am appreciative of the opportunity to respond

Respectfully



Nancy E. Moore,  
Chairperson  
City of DuBois Planning Commission

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## DuBois gets water protection plan

Friday, January 10, 2014

By Josh Woods Staff Writer

DUBOIS - The City of DuBois was provided with a plan to mitigate potential risks at its watershed and wellhead area at city council's work session yesterday. Mark Stephens, state Department of Environmental Protection Department of Source Water Protection presented DuBois City Council with a source water protection plan. The city requested source water protection technical assistance from DEP in 2010. Spotts, Stevens and McCoy, Inc. of Reading prepared the hydrology report. The source water protection plan was provided free of charge to the city. The document may be referenced when looking at zoning, encroachment or pollution issues, Stephens said.

"This is intended to be a go to document, so years from now when we're all gone someone knows how water gets to DuBois and how to protect it for the future," said Stephens. Stephens lauded council for installing water monitoring equipment on the Sandy Lick Creek and Montgomery Run watersheds. The source water protection plan indicates how source water and ground water flows from place to place, identifies geologic formations and lists potential risks.

"Water authorities are in the business of serving water forever," said Stephens. "DuBois is in the business of selling water. So, supplying good water forever is its interest, and this is a plan to do that."

Spotts, Stevens and McCoy's catchall document lists 213 potential risks located within the watershed's designated zones, Stephens said. All of the risks were given a susceptibility ranking. The city's watershed committee can partner with various SWP and conservation groups to verify, understand and manage such risks, Stephens said.

Councilman Ed Walsh inquired about maps that are provided in the source water protection plan. The maps graph the length of time it takes for various contaminants to reach the DuBois Watershed. Walsh asked if contamination occurs and the map says it would take 10 years for it to reach the watershed what could be done to stop it.

"You would identify the source of contamination," said Stephens. "Maybe it's a well that could be decommissioned. Maybe the contaminants are coming from a farm. Maybe it's a quarry." City Manager John "Herm" Suplizio asked if Interstate 80 was identified as a potential risk. Enterprise Transport's eastbound accident at mile marker 106 land recycling cleanup was documented, he said.

If a potential risk is located on private land, Stephens suggested writing a letter to the property owner suggesting best management practices. The city could opt to provide a private landowner with the resources needed to mitigate a potential risk, he said.

In other business, Code Enforcement Officer Zac Lawhead reported the city issued 83 uniform construction code permits in 2013. Total construction totaled "just short of \$5 million," he said, with a large chunk attributed to DuBois Regional Medical Center. The \$5 million figure is in line with last year, Lawhead said.

A motion was approved to North Central Pennsylvania Regional Planning and Development Commission requesting grant funds for a traffic study. If the city receives the grant, the study would identify problems with state Route 255, Division Street, First Street, DuBois Avenue and other roadways, Suplizio said.

Council also approved:

- authorizing staff to bid out concrete for two years and bituminous patching for one year.
- reappointing Angelo Gregorio and Anthony Zaffuto to the zoning hearing board with terms ending Jan. 1, 2017.
- Sandy Township's request for a sewage tap for the Hirsh Katzen subdivision on Shaffer Road (800 gallons per day).
- American Red Cross Heartland Chapter's request for the use of City Park from May 27-31 for a summer carnival.

DuBois City Council's next meeting is Monday at 7 p.m. at the city building.

## Thomas A. Carnevale, MD OBSTETRICS/GYNECOLOGY

Deborah DeMuro, M.S.N.,  
W.H.N.P.-BC, C.R.N.P.

Dr. Carnevale and  
Deborah DeMuro  
are committed to  
providing complete  
and compassionate  
care to women  
from adolescent  
to adult



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## Three arrested in garage meth lab

**BROOKVILLE** — Three people were arrested Thursday in connection with running a methamphetamine lab in the garage of a residence in Brookville, according to DuBois-based state police.

The Troop C Vice Unit and members from the Jefferson County Drug Task Force began an investigation into the distribution of methamphetamine in the Brookville area Aug.

21. The investigation revealed that April Ann Novak, 43, and Michael Andrew Novak, 22, both of 9747 Richardsville Road, Brookville, and Dean William Patgo, 52, 32 Robinson St., Blacklick were allegedly manufacturing methamphetamine and distributing it throughout the

county.

Numerous purchases of methamphetamine were allegedly made from Patgo and Michael Novak over the past four months.

On Thursday, a search warrant was served at 9747 Richardsville Road, where an active methamphetamine lab was located inside the garage at the Brookville residence in Warsaw Township.

April Novak and Patgo were also found in the garage.

All three suspects were taken into custody based on arrest warrants and transported to District Judge Gregory Bazylak and arraigned.

All three were placed in the Jefferson County Jail in lieu of \$50,000 straight cash bail.

Investigation continues.

**EXPRESS TV**  
 In today's edition.

**Deep freeze costs billions**  
 Hunkering down at home rather than going to work, canceling thousands of flights and repairing burst pipes from the Midwest to the Southeast has its price. By one estimate, about \$5 billion. A3

**Positive thinking**  
 Talk about mind over matter: A quirky new study suggests patients' expectations can make a big difference in how they feel after treatment for a migraine. A5

**Weather wimps**  
 We've become weather wimps. As the world warms, the United States is getting fewer bitter cold spells like the one that gripped much of the nation this week. So when a deep freeze strikes, scientists say, it seems more unprecedented than it really is. A7

**Hall of Fame**  
 The Hall of fame says it's up to baseball writers to propose any changes in the selection process. B3

**Obituaries**  
 A7

**Tomorrow's Forecast**

  
 Rain. Not as cool with high in the upper 40s. Chance of rain 90 percent. Full report, A2

**Index**  
 24 pages

- Classified ..... B5
- Comics ..... B4
- Lifestyles ..... A4
- Lottery ..... A7
- Opinion ..... A6
- Public Notices ..... B3
- Sports ..... B1



Mary Ann Nicometo of DuBois took this photo of a Bald Eagle on New Year's Day along the Beaver Meadow Walkway. She said she has been watching this beautiful bird for the last three weeks and this was the first time she was able to get a good photo of it. (Photo submitted)

## Draft plan to protect water supply unveiled

By Nick Hoffman  
 nhoffman@thecourierexpress.com

**DuBOIS** — A draft plan to protect the City of DuBois' water supply was unveiled Thursday following a brief city council work session.

City Manager John "Herm" Suplizio introduced Mark Stevens, a groundwater geologist with the state Department of Environmental Protection.

Stevens said the voluminous plan, three years in the making, is designed to be a "go to" document for current and future generations to identify and address known and potential risks to the groundwater and surface water that feed the city's reservoir.

Stevens called it a "snapshot and planning guide" to reference if zoning questions or encroachment issues or contamination concerns arise.

The plan, which came at no cost to the city, lists 213 potential sources of contamination based on known and documented events. Whether those present risks is yet to be determined.

It defines areas in and around the reservoir and the source wells that also feed it ranks individual events such as known wells - by potential risk.

Each of those can be explored to determine if they do present a risk that needs to be addressed.

The work outlines how and where and how fast water flows along with what risks are identifiable, how serious they are and how they should be addressed, if at all.

Some of the risks may be on land that the city neither owns nor controls and those situations will also have to be dealt with.

The city administration, council and watershed committee will review the plan, which will be considered for adoption later this year.

One potential risk that several audience members expressed concern over is Interstate 80 and its proximity to the city's water source in the event traffic accidents result in spills of materials or chemicals that could threaten the water supply.

During the work session, the council approved a request from the Heartland Chapter of the American Red Cross to hold its annual summer carnival in Memorial Park May 27-31, authorized the administration to solicit bids for concrete and bituminous patching material and reappointed Angelo Gregorio and Anthony Zaffuto to the Zoning Hearing Board for terms ending Jan. 1, 2017.

The council approved a request from San Sec Water, Page A7

## Clearfield man charged in series of burglaries

**CLEARFIELD** — A Clearfield man charged with the burglary of a local business has now been charged with several other burglaries.

Jason Andrew Hand, 35, 702 Weaver St., Clearfield, is charged with burglary, criminal trespass and criminal mischief. In a new case filed Monday, he is charged with five counts of burglary, criminal attempt/burglary, six counts of criminal trespass, four counts of theft by unlawful taking, two counts of criminal attempt/theft, four counts of receiving stolen property, and criminal mischief.

He remains in the Clearfield County Jail in lieu of \$50,000 bail in each case.

Hand was first charged with the burglary of the Florian Banquet Center in Lawrence Township Dec. 19. He was arraigned on the new charges and he waived his right to preliminary hearings

on both cases Wednesday during centralized court. The new charges include break-ins at the Luna Medical Building, the West Side United Methodist Church, Dr. Elizabeth Jones Dentist office, the Church of Christ, a building owned by Clearfield Hospital, all in Clearfield in October and the Clearfield County Fair Board Office in July.

According to the affidavit of probable cause in the first case, on Dec. 19 police were dispatched to the Florian Banquet Center on Mill Road in Lawrence Township for an active burglary. An alarm went off at 10:20 p.m. and Elliot Neespe of the Lawrence Township Fire Department which owns the building responded. After a surveillance video was checked, it appeared that a white male entered the building but was frightened by the alarm. The man was wearing a plaid jacket,

a hooded sweatshirt, black tasel cap, glasses and black/gray backpack. Officers were able to observe footprints in the snow where the suspect tried open a side door. The footprints led to Hand's residence at 702 Weaver St.

When officers spoke with Hand, he admitted going to the building and gaining entry by using a crow bar. Once the alarm went off, he went home. The crow bar, plaid jacket and backpack were taken from Hand as evidence.

According to the affidavit in the other burglary cases, police investigated a burglary at the Luna Medical Building at 531 Hannah St. in Clearfield Oct. 8. Someone had attempted to enter the building in several different locations before entering an unlocked window into a break room.

See Clearfield, Page A7

## St. Marys School Board discusses artificial turf

By JoAnn Soltzer  
 newsroom@thecourierexpress.com

**ST. MARYS** — Placing artificial turf on the field at Dutch County Stadium in St. Marys is being considered by the St. Marys Area School Board, but it could cost the district over \$700,000.

During Thursday's St. Marys Area School Board meeting, Athletic Director Terry Straub presented the

board with the capital improvements needed at the stadium and provided them with options and recommendations.

**Straub said ELA Sports estimated the cost of the turf would be \$768,710.**

"Not too many people will argue we need to do some thing with our field," Straub said. He provided the board with a picture of Elk County

Catholic High School's football players and an opposing team playing at the stadium covered in mud due to the rainy conditions.

Straub recommended that if the board decides to put in artificial turf it get "all the bells and whistles," which would include things

such as the school's logo on the field, "pro style" side lines, with 5-yard marks, shadowed yard numbers, end zone lettering. Straub said ELA Sports estimated the cost of the turf would be \$768,710. This includes \$100,000 for sediment and erosion control and a 12-year warranty.

If the board is reluctant to purchase artificial turf, another option is to use natural grass. Hoopes Turf

Farm did this for Smithport and estimated the cost would be about \$150,000 for Dutch County Stadium, Straub said.

If the board chooses the less expensive option, it must also consider the cost of maintaining the natural surface, Straub said.

It costs the district close to \$20,000 a year for maintenance on the field, painting the lines on it and water.

See Turf, Page A7

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