

# The City of Munroe Falls Shale, Fracking, Oil and Gas Well FAQ

Revised: 02/21/2012

- 1. Q. Does the City of Munroe Falls require property owners to obtain building and zoning permits for gas and oil wells?**

**A.** Yes. See Munroe Falls Codified Ordinance Ch.1329.01 – Ch.1329.99.
- 2. Q. Does a Munroe Falls property owner have the “right” to drill an oil and gas well on their property?**

**A.** Yes. After all Federal, State, and local permits have been obtained. However, if the permits are denied, the well drilling cannot proceed.
- 3. Q. Can signing a “mineral rights” lease affect the property transfer or deed when the property is sold?**

**A.** The transfer of property or deed may be affected depending upon the mineral rights lease language and agreement.
- 4. Q. What State organization is charged with permitting, regulating, and enforcing oil and gas well drilling?**

**A.** The Ohio Department of Natural Resources Division of Mineral Resources Management. Oil and Gas programs were incorporated into the ODNR in 1965 and modified in Substitute SB165, which became effective June 30, 2010. The major focus of HB 278/299 gives the Division sole authority in Ohio for permitting and siting of oil and gas wells and production facilities.
- 5. Q. How is drilling in the Marcellus and Utica Shales regulated in Ohio?**

**A.** ODNR's Division of Oil and Gas Resources Management (ODNR-DOGRM), has primary regulatory authority over oil and gas drilling activity in Ohio, including regulations for well construction, siting, design and operation. ODNR-DOGRM regulates disposal of brine (see note below) and drilling fluids from oil and gas drilling/production. ODNR regulates Class II underground injection wells used for disposal of waste fluids from oil and gas drilling/production operations and transporters hauling these fluids in Ohio. Ohio EPA's water quality certification requirements help reduce impacts to wetlands, streams, rivers or other waters of the state from the construction of a drill site. Ohio EPA also regulates sources of air emissions, and may require air permits for some of the equipment at the drill site. Finally, any solid waste sent off-site for disposal must be properly managed, either at a solid waste landfill, or beneficially reused, as authorized by Ohio EPA's Division of Materials and Waste Management (DMWM).

*Note: "Brine" includes all saline geological formation water resulting from, obtained from, or produced in connection with the exploration, drilling, or production of oil or gas, including saline water resulting from, obtained from, or produced in connection with well stimulation or plugging of a well. (R.C. 1509.01(U))*
- 6. Q. How many of these wells are currently operational?**

**A.** Approximately 64,000 (1/27/2011).
- 7. Q. How many well inspectors does the State of Ohio employ?**

**A.** “We currently have twenty-two today (1/27/2011), adding eight more and then hopefully adding six more after that” for a total of thirty-six.
- 8. Q. What is “mandatory pooling”?**

**A.** Mandatory pooling is requested when an operator is unable to acquire the leases to meet the necessary acreage and/or distance requirements when applying for a drilling permit. Mandatory pooling is created by section 1509.27 of the Ohio Revised Code and has been in effect since October 15, 1965. A mandatory pooling order can be applied for if a tract of a land is of insufficient size or shape to meet the requirements for drilling a well and the owner has been unable to form a drilling unit on a just and equitable basis. There must be no obvious alternate location and the operator must have assembled the majority (>90% is recommended but 65% can be acceptable) of his unit with lessors that want to have a well drilled.

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## 9. Q. What is the drilling and/or “mandatory pooling” appeal process?

A. When the Division of Mineral Resources Management (DMRM) receives an application for mandatory pooling:

- A geologist reviews the application for completeness. Special attention is given to make sure the operator has verbally contacted the pooled party either by telephone or in person in an effort to obtain a lease from them.
- The application is then scheduled to be presented by the operator before the Technical Advisory Council (TAC), which meets on a quarterly basis to hear mandatory pooling requests and other matters of a technical nature.
- The affected landowners are notified that an application has been filed and that they have the right to attend the TAC hearing.
- After hearing testimony from all concerned parties, the TAC makes a recommendation to the Chief of DMRM, either to approve or deny the application.
- The Chief issues an order either denying or approving the mandatory pooling application;
- Upon receipt of the Chief’s Order, any affected party has 30 days to appeal the order to the Oil and Gas Commission.

There has been a dramatic increase in the number of mandatory pooling applications received by DMRM that correlates with the passage of House Bills 278 and 299 in September 2004. These bills, also known as the **urbanized drilling** laws, gave the DMRM sole and exclusive authority for the regulation of permitting, drilling and production in Ohio. As a result, permit applications in designated urbanized areas have accounted for 25% of all drilling permits. Many of these permits are comprised of small tracts of land and mandatory pooling is requested when an operator is unable to acquire the leases to meet the necessary acreage and/or distance requirements.

## 10. Q. Who has the “final say” on a “mandatory pooling” decision?

A. The Deputy Chief – Oil & Gas Program – ODNR Division of Oil & Gas Resources Management

## 11. Q. As a “Charter” city, Munroe Falls is allowed to exercise “local control” over all issues not covered by or specifically prohibited by our State Constitution. Why is Munroe Falls having so many problems regulating oil and gas wells within our City?

A. Ohio Senate Bill **Substitute SB 165** and Ohio House Bill **HB 278** removed all “local control” of oil and gas well drilling but did not address local control of drilling site zoning and planning ordinances. Consequently, disputes regarding regulation of drilling sites have been litigated. The court has ruled that the City of Munroe Falls does have control of the drilling site zoning and planning, however that decision may be appealed.

## 12. Q. Who voted to remove “local control” of oil and gas well drilling?

### A. **Substitute SB 165**

Introduced 09-01-09 Sponsored by: (Niehaus R14, Coughlin R27, et.al.)

Passed Senate (23-9) 12-15-09 (Coughlin R27 yea)

Passed House (95-3) 03-24-10 (Moran D42 yea)

Senate concurred in House amendments (26-6) 03-24-10

### A. **HB 278 Oil & Gas Wells – Permitting / Location / Spacing**

Introduced 09-16-03 Niehaus R88 (Widowfield R42, et.al.) / Mumper R26 (et.al.)

Passed House (59-35) 01-21-2004 (Dem yea 7, nay 26; Rep yea 52, nay 9) (Widowfield R42 yea)

Passed Senate (26-5) 04-27-2004 (Dem yea 6, nay 3; Rep yea 20, nay 2) (Coughlin R27 yea)

## 13. Q. Has the Ohio Supreme Court ruled on the constitutionality of this State Law?

A. No

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## **14. Q. What Federal Agency is charged with permitting, regulating, and enforcing oil and gas well drilling and laws?**

**A.** Water produced in association with oil and natural gas production comprises 80 percent of the oil and gas industry's residual waste requiring management and disposal. Management of "produced water" from the oil and gas industry is regulated under rules enacted federally by the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA). In 2000, 15 billion barrels of water were produced during oil & gas operations, nearly 8 barrels of water for every barrel of oil produced.

Although the United States Environmental Protection Agency (EPA) acts at the federal level to set national standards, states and tribal governments can acquire primacy for the SDWA's Underground Injection Control (UIC) program and the CWA's National Pollutant Discharge Elimination System (NPDES) program by meeting the EPA's primacy requirements. States that have primacy programs must have requirements as stringent as the federal requirements, but are allowed to set more stringent state-specific requirements for these programs. Since individual states can acquire primacy over their respective programs, it is not uncommon to have varying requirements for these programs from state to state.

## **15. Q. What happened to the Federal Clean Water Act, which was enacted to protect our water supplies?**

**A.** The so-called "Halliburton Exemption" exempted oil and gas well drilling from many of the EPA water protection regulations. The Federal regulations continue to control materials released into the surface water. See addendum "Exploration and Production Wastes" ("Exempt" and "Non-exempt").

## **16. Q. Is our water supply in danger of being contaminated by oil and gas well drilling and by the "fracking" process?**

**A.** The ODNR DMRM tells us that there is nothing to worry about. However, the State of New York has passed legislation to stop any oil and gas well drilling within 4,000 feet of any municipal drinking water source. The State of Pennsylvania has stopped disposal of all drilling waste fluids in their state. Those fluids are now being shipped to Ohio for disposal by underground injection methods.

## **17. Who is protecting our water supply?**

**A.** The Federal EPA and State EPA are empowered to protect our drinking water through the previously mentioned CWA and SDWA. However, the "Halliburton Exemption", the Ohio Substitute SB165, and HB278 have taken away any "local control" of oil and gas well drilling. Consequently, your Munroe Falls City government cannot regulate drilling within our city; therefore, we are totally dependent upon the FEPA, OEPA, and the ODNR to protect our water supply.

## **18. What can residents do to protect our water supply?**

**A.** Residents can direct their concerns to our Governor and State Legislators and demand the return to "local control" of oil and gas drilling by our cities, as implied in our State Constitution.

Governor John Kasich Riffe Center, 30th Floor 77 South High Street Columbus, OH 43215 Phone: (614) 466-3555 www.governor.ohio.gov	Senator Frank LaRose R27 Senate Building 1 Capitol Square, 2nd Floor Columbus, OH 43215 Phone: (614) 466-4823 Email:SD27@senate.state.oh.us	Representative Kristina Roegner R42 Ohio House of Representatives 77 S. High Street, 11th Floor Columbus, OH 43215-6111 Phone: (614) 466-1177 Email: district42@ohr.state.oh.us
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## Exempt Exploration & Production (E&P) Wastes

- Produced water
- Drilling fluids
- Drill cuttings
- Rigwash
- Drilling fluids and cuttings from offshore operations disposed of onshore
- Geothermal production fluids
- Hydrogen sulfide abatement wastes from geothermal energy production
- Well completion, treatment and stimulation fluids
- Basic sediment, water, and other tank bottoms from storage facilities that hold product and exempt waste
- Accumulated materials such as hydrocarbons, solids, sands, and emulsion from production separators, fluid treating vessels, and production impoundments.
- Pit sludges and contaminated bottoms from storage or disposal of exempt wastes
- Gas plant dehydration wastes, including glycol-based compounds, glycol filters, and filter media, backwash, and molecular sieves.
- Workover wastes
- Cooling tower blowdown
- Gas plant sweetening wastes for sulfur removal, including amines, amine filters, amine filter media, backwash, precipitated amine sludge, iron sponge, and hydrogen sulfide scrubber liquid and sludge.
- Spent filters, filter media, and backwash (assuming the filter itself is not hazardous and the residue in it is from an exempt waste stream).
- Pipe scale, hydrocarbon solids, hydrates, and other deposits removed from piping and equipment prior to transportation.
- Produced sand
- Packing fluids
- Hydrocarbon-bearing soil
- Pigging wastes from gathering lines
- Wastes from subsurface gas storage and retrieval, except for the non-exempt wastes listed on page 11.
- Constituents removed from produced water before it is injected or otherwise disposed of.
- Liquid hydrocarbons removed from the production stream but not from oil refining
- Gases from the production stream, such as hydrogen sulfide and carbon dioxide, and volatilized hydrocarbons.
- Materials ejected from a producing well during blowdown
- Waste crude oil from primary field operations
- Light organics volatilized from exempt wastes in reserve pits, impoundments, or production equipment.

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## Non-Exempt Wastes

- Unused fracturing fluids or acids
- Gas plant cooling tower cleaning wastes
- Painting wastes
- Waste solvents
- Oil and gas service company wastes such as empty drums, drum rinsate, sandblast media, painting wastes, spent solvents, spilled chemicals, and waste acids
- Vacuum truck and drum rinsate from trucks and drums transporting or containing non-exempt waste.
- Refinery wastes
- Liquid and solid wastes generated by crude oil and tank bottom reclaimers <sup>1</sup>
- Used equipment lubricating oils.
- Waste compressor oil, filters, and blowdown
- Used hydraulic fluids
- Waste in transportation pipeline related pits
- Caustic or acid cleaners
- Boiler cleaning wastes
- Boiler refractory bricks
- Boiler scrubber fluids, sludges, and ash
- Incinerator ash
- Laboratory wastes
- Sanitary wastes
- Pesticide wastes
- Radioactive tracer wastes
- Drums, insulation, and miscellaneous solids

<sup>1</sup> Although non-E&P wastes generated from crude oil and tank bottom reclamation operations (e.g., waste equipment cleaning solvent) are non-exempt, residuals derived from exempt wastes.

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17. See FAQ 4, 5, 14, and 15 references.