

**BEFORE THE OIL AND GAS COMMISSION  
STATE OF OHIO**

**RECEIVED**

ATHENS COUNTY FRACKING  
ACTION NETWORK  
33 Cable Lane  
Athens, Ohio 45701

Appellant,

vs.

RICHARD J. SIMMERS, Chief, Division  
Of Oil and Gas Resources Management  
Ohio Department of Natural Resources  
2045 Morse Road, Building F-2  
Columbus, Ohio 43229-6693

and

K & H PARTNERS, LLC  
2130 Harris Highway  
Washington, West Virginia 26181

Appellees.

Case No. 855

OIL & GAS COMMISSION

JAN - 7 2014

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**NOTICE OF APPEAL**

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Notice is hereby given that the Athens County Fracking Action Network (“ACFAN”), an unincorporated association under Ohio law that includes members who reside in close proximity to the injection disposal well described below owned by Appellee K & H Partners, LLC (“K&H” or “corporation”) that forms the subject matter of this appeal, on behalf of its members who will be aggrieved and adversely affected, hereby appeal to the Oil and Gas Commission of the State of Ohio (“Commission”) from the issuance of a final well permit by Appellee Richard J. Simmers, Chief of the Division of Oil and Gas Resources Management of the Ohio Department

of Natural Resources (“Chief”) authorizing K&H to drill and operate an injection well for the disposal of oil and gas drilling wastes in Troy Township, Athens County, Ohio, on December 9, 2013.

The well permit identifies the injection disposal well as API Well Number 34-009-2-3823-00-00 and further describes it as a “salt water injection well, new well.” A copy of the permit appealed hereby is attached hereto along with a two page recitation of additional permit terms issued simultaneously with the permit. According to the permit application, the injection disposal well will dispose of up to 4,000 barrels of brine and flow-back wastes per day. The permit was issued pursuant to O.R.C. Chapter 1509 and O.R.C. §1509.22 and the regulations implementing that section.

This appeal is brought pursuant to O.R.C. §1509.36 and Ohio Adm. Code §§1509-1-09 and 1509-1-11.

In addition to having members who reside close to, and utilize ground water originating in close proximity to, the location of the injection well, over one hundred (100) members of ACFAN filed comments with the Chief regarding the injection disposal well prior to his approval thereof through the issuance of the permit appealed by this Notice.

#### **GROUND FOR APPEAL**

The Chief’s issuance of the well permit for Well Number 34-009-2-3823-00-00 was unreasonable and unlawful for a number of reasons, including, but not limited to, the following grounds for appeal. Appellant reserves the right to amend or supplement these grounds for appeal as further information becomes available to them.

1. The Chief unlawfully and unreasonably approved the permit in light of information known to him from the K&H injection disposal well located on the same tract of land as Well Number 34-009-2-3823-00-00 that the well could not sustain substantial pressure and/or operated at a vacuum, thereby failing to demonstrate that a well in that vicinity would not result in an adverse effect on human health and/or contamination to ground water protected by R.C. Chapter 1509 and the federal Safe Drinking Water Act.
2. The Chief unlawfully and unreasonably approved the permit when he should have known that the geologic zone where the wastes would be injected for disposal did not adequately confine the wastes, thereby failing to demonstrate that the well would not result in an adverse effect on human health and/or contamination to ground water protected by R.C. Chapter 1509 and the federal Safe Drinking Water Act.
3. The Chief unlawfully and unreasonably approved the permit by requiring that the protective casing extend only to an inadequate depth of 1,900 feet in the approximately 4,000 foot deep borehole, thereby insufficiently confining the waste, which fails to demonstrate that the well would not result in an adverse effect on human health and/or contamination to ground water protected by R.C. Chapter 1509 and the federal Safe Drinking Water Act.
4. The Chief unlawfully and unreasonably approved the permit based upon the requirements of guidance documents and “standard operating procedures” which constitute “rules” under ORC Chapter 119 but which are unlawful due to the Chief’s failure to adopt them in compliance with the legally required safeguards for rulemaking under Ohio law.
5. The Chief unlawfully and unreasonably approved the permit based on arbitrary values for calculating the operating pressures within the well which thereby fails to demonstrate that

the well would not result in an adverse effect on human health and/or contamination to ground water protected by R.C. Chapter 1509 and the federal Safe Drinking Water Act.

**REQUESTED REMEDY**

Based upon the foregoing, Appellant Athens County Fracking Action Network respectfully requests that the Commission find that the action of the Chief in issuing the well permit to Well Number 34-009-2-3823-00-00 was unlawful and unreasonable and that the permit should therefore be vacated and this matter remanded to the Chief for further action as required by law and for such other relief as appropriate and just.

Date: January 7, 2014

Respectfully Submitted,



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Attorney for Appellant ACFAN

**SERVICE OF NOTICE**

I hereby certify that a copy of this Notice of Appeal was served upon the Appellee Chief and Appellee Corporation at the addresses stated in the caption above by certified United States Mail and upon the Office of the Ohio Attorney General, Environmental Section, by regular U.S. mail, on this 7<sup>th</sup> day of January, 2014.

  
Richard C. Sahli

STATE OF OHIO  
DEPARTMENT OF NATURAL  
RESOURCES

Division of Oil and Gas  
Resources Management  
WELL PERMIT

API WELL NUMBER  
34-009-2-3823-00-00

OWNER NAME, ADDRESS K & H PARTNERS LLC 2130 HARRIS HIGHWAY WASHINGTON WV 26181	DATE ISSUED 12/9/2013	PERMIT EXPIRES 12/9/2015
	TELEPHONE NUMBER	(304) 863-8867

IS HEREBY GRANTED PERMISSION TO: Salt Water Injection Well New Well AND ABANDON WELL IF UNPRODUCTIVE  
PURPOSE OF WELL: Water Injection - Disposal  
COMPLETION DATE IF PERMIT TO PLUG:

DESIGNATION AND LOCATION:	SURFACE NAD27	TARGET NAD27
LEASE NAME K & H PARTNERS LLC (SWIW #10)	X: 2210409	
WELL NUMBER 2	Y: 450595	
COUNTY ATHENS	LAT: 39.2348151708694	
CIVIL TOWNSHIP TROY	LONG: -81.7571665787049	
TRACT OR ALLOTMENT		
SURFACE FOOTAGE LOCATION 358'SL & 1957'WL OF SEC 10		
TARGET FOOTAGE LOCATION		

**CORRECTION**

TYPE OF TOOLS: Air Rotary	GEOLOGICAL FORMATION(S):
PROPOSED TOTAL DEPTH 4100 FEET	OHIO SHALE
GROUND LEVEL ELEVATION 808 FEET	

SPECIAL PERMIT CONDITIONS: Salt Water Injection Well (Class II) Construction and Operating Conditions

**CASING PROGRAM (CASING MUST BE CENTRALIZED AND IS SUBJECT TO APPROVAL OF THE OIL AND GAS INSPECTOR):**

- 13-3/8" APPROX. 65' WITH CEMENT CIRCULATED TO SURFACE
- 9-5/8" APPROX. 349' WITH CEMENT CIRCULATED TO SURFACE
- 7" CASING 2000' CEMENTED TO A MINIMUM OF 300' ABOVE INJECTION ZONE
- 2-3/8" TUBING @ 1975' SET ON A PACKER @ 25' ABOVE INJECTION ZONE

This permit is NOT TRANSFERABLE. This permit, or an exact copy thereof, must be displayed in a conspicuous and easily accessible place at the well site before permitted activity commences and remain until the well is completed. Ample notification to inspector is necessary.

**OIL AND GAS WELL INSPECTOR:**

JON SCOTT (740) 624-4963  
DAN GOINS - Supervisor (614) 264-6724  
DISTRICT #: (740) 286-6411

**INSPECTOR NOTIFICATION**

The oil and gas inspector must be notified at least 24 hours prior to:

1. Commencement of site construction
2. Pit excavation and closure
3. Commencement of drilling, reopening, converting or plugback operations
4. Installation and cementing of all casing strings
5. BOP testing
6. Well stimulation
7. Plugging operations
8. Well pad construction

The oil and gas inspector must be notified immediately upon:

1. Discovery of defective well construction
2. Detection of any natural gas or H2S gas during drilling in urban areas
3. Discovery of defective well construction during well stimulation
4. Determination that a well is a lost hole
5. Determination that a well is a dry hole

**FIRE AND EMERGENCY NUMBERS**

FIRE: ( ) - 911  
MEDICAL SERVICE ( ) - 911

CHANGE IN PROPOSED TOTAL DEPTH (12/10/2013)

**Richard J. Simmers**

CHIEF, Division of Oil and Gas Resources  
Management

STATE OF OHIO  
DEPARTMENT OF NATURAL  
RESOURCES

Division of Oil and Gas  
Resources Management  
WELL PERMIT

API WELL NUMBER  
34-009-2-3823-00-00

ATTN JEFF HARPER  
PO BOX 1366  
PARKERSBURG, WV 26102

**PERMIT CONDITIONS – CLASS II SALTWATER INJECTION  
WELL – DRILL NEW WELL**

**RE: Permit #3823 , SWIW #10, K & H Partners No. 2, Troy  
Township, Athens County, Ohio**

**Constructional conditions:**

1. The 7" casing must be enclosed with **Class A cement** from the total depth to approximately 1700 feet (minimum of 300 feet above the top of the injection zone).
2. **Bow-string or rigid centralizers must be used to provide sufficient casing stand off and foster effective circulation of cement to isolate critical zones including aquifers, flow zones, voids, lost circulation zones, and hydrocarbon-bearing zones.**
3. **K & H Partners, LLC shall run at minimum, a gamma ray, compensated density-neutron, and resistivity geophysical log. A copy of this geophysical log must be submitted to the UIC Section within 48 hours after the geophysical logging has been accomplished.**
4. Injection tubing must be set on a packer at approximately 1975 feet. A ¼", female, threaded fitting with a stop valve must be installed on the tubing and accessible at the surface.
5. **The annular space between the injection tubing and the 7" production casing must be filled with a fluid (e.g., freshwater with a corrosion inhibitor additive), pressure tested to at least 460 psi, and monitored for at least 15 minutes with no more than a five percent decline in pressure. Additionally, the injection line must also be tested to 460 psi for 15 minutes with no more than a five percent decline.**
6. The UIC Section and the Mineral Resources Inspector must be notified at a minimum of 48 hours in advance of the time of cementing, placing and removing of casing, installation of the tubing and packer, testing of the casing, construction of the surface facilities, pressure testing of the injection line, and initial injection so that a representative of the Division can be present to witness the operations. The Division must also be notified in advance of any subsequent removal of the injection tubing or resetting the packer. A pressure test will also be required.
7. Surface facilities as proposed in the application are satisfactory and must be constructed under the supervision of a representative of the Division. A concrete pad with drain must be constructed so as to contain any spillage of saltwater during unloading from the trucks. Any proposed changes in the

surface facilities must be submitted in writing and must have prior approval of the UIC Section.

- 8. If an unloading pad is to be constructed, the underground concrete vault associated with the catch basin on the unloading pad shall be of one-piece construction and if the concrete vault has a detached lid, the lid must be exposed above the ground level. Additionally, the inside walls of the concrete vault shall be sealed with a salt-corrosion type material such as an asphalt-based coating to prevent deterioration of the vault from the brine water.**
- 9. A Well Construction Record (Form 8) must be submitted within 30 days after completion describing how the well was completed for injection operations. This report should include the amount and grade of tubing, type and depth of packer, treatment of the injection formation, testing of the system integrity, method used to monitor pressure in the annulus and injection tubing, and method used to monitor volumes of injected fluid.**
- 10. A Murphy Switch or other cut-off switch device must be in-line with the injection pump and set at the maximum allowable surface injection pressure of 460 psi, so that the pump will automatically shut-down upon exceeding the maximum allowable surface injection pressure.**
- 11. K & H Partners, LLC shall notify the Division in writing prior to the initiation of injection operations and injection operations shall not commence until the Division provides K & H Partners, LLC with written approval that authorizes injection. Operational conditions to the permit shall be issued with the written approval.**