



P.O. Box 482

Fayetteville, WV

**Board of Directors**

Mark Ehrnschwender	President
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Attn: James Martin

West Virginia Department of Environmental Protection

Office of Oil & Gas

601 57<sup>th</sup> Street

Charleston, WV 25304

Activity: Renewal of an Underground Injection Control Permit for the subsurface discharge of approved fluids.

Applicant: Danny E. Webb Construction, Inc.

UIC Permit: UIC2D0190460

Dear Mr. Martin:

The Plateau Action Network (PAN) appreciates the opportunity to comment on the Underground Injection Control Permit UIC2D0190460, submitted by Danny E. Webb Construction, Inc. to the West Virginia Department of Environmental Protection, Office of Oil and Gas.

PAN objects to the issuance of the above permit and requests that the West Virginia Department of Environmental Protection (DEP) hold a public hearing to hear community concerns and allow residents to ask questions about the issuance of a permit renewal.

**Specific Objections:** (Objections may be factual or legal.)

1. **Danny Webb's operation is a public health and environmental hazard and continues to be a nuisance to the local community.** Objectionable odors have been smelled periodically in the neighborhood surrounding the site since 2004. The odors have been originating from settling ponds located on the premises of the operation. The odor was determined to be caused by hydrogen sulfide, a flammable, toxic gas. The previous UIC permit was issued in 2007 with the condition that the settling ponds be removed within six months. Danny Webb was cited on May 12, 2008 for failing to comply with the previous permit requirement. The only reason these ponds are still present is because the DEP decided not to enforce the permit that it had written and allowed Danny Webb to enter into a consent decree, allowing the pits to remain. The consent decree conditioned the ponds' continued existence on Danny Webb not allowing any waste in the pits with objectionable odors sufficient to be smelled off- site. The local community has extensive complaints documenting obnoxious odors emanating from the site. The local Postmaster, the Access Health Fayette Clinic and nearby neighbors have all submitted letters complaining of objectionable odors. More recently, neighbors smelled obnoxious odors on February 24, 2013. Given that this problem has persisted for at least nine years, Danny Webb clearly is not willing to operate the settling ponds in compliance with the applicable rules and regulation. He has violated his permit and the consent decree, and therefore should not be issued another permit. The DEP should not

allow such toxic materials to be released into the environment, either from the settling ponds or the injection well.

2. **There is evidence that the settling ponds are leaking, polluting both the ground and adjacent stream, and violating the Clean Water Act.** It should be noted that Wolf Creek is an impaired stream listed on the state's listing of impaired waters under Section 303(d) of the Clean Water Act and the Water Quality Planning and Management Regulations, 40CFR130.7. The New River TMDL, which includes the Wolf Creek subwatershed, was completed by Tetra Tech in 2008, and shortly thereafter a Watershed Based Plan for Wolf Creek was approved by the EPA in 2009. The sole purpose of this program is to track waters that are NOT supporting their designated uses and to reduce the discharge of pollutants into impaired waters. Danny Webb's operation is located in the headwaters of the main stem of Wolf Creek and has been identified as a possible water quality threat. A marshy spot has developed on the north side of the operation near the settling pond embankment. The area is reddish in color and an oily sheen has been observed. The runoff from the leaking settling ponds is directly discharging into a tributary of Wolf Creek. A recent water sample taken by a concerned citizen from the adjacent downstream property showed a chloride level of 271 mg/L, in violation of the human health water quality standards and the chronic water quality standard for aquatic life. Tests of the fluid in the settling ponds have shown very high chloride levels. The direct correlation of water quality analysis and visual observation suggest that the settling ponds are failing to contain fluids and are polluting the stream. Additionally, it should be noted that Wolf Creek is the source of emergency drinking water for Fayetteville and toxic fluids from hydraulic fracturing waste should not be allowed to pollute its waters.
3. **Danny Webb has a history of ignoring legal obligations and regulations.** In 2007, a UST inspector found that Danny Webb was not managing his storage tanks properly. In an email to other DEP personnel, the inspector stated that Danny Webb, "is not to be trusted. He is a loose cannon, doing as he jolly well pleases, right or wrong, regulations be damned." This is not the sort of operator who should be granted permits. If the permit must be issued, removing the settling ponds must be a condition.
4. **The UIC permit for injection well 019-00460 expired on October 25, 2012.** Danny Webb has continued to receive waste at the site. Oil and gas wastes are exempted from the definition of solid waste under the regulations implementing the West Virginia Solid Waste Management Act only if they are disposed of in a permitted facility. W. Va. Code § 22-15-2.31. Because the facility is not permitted, the settling ponds are open dumps. W. Va. Code § 22-15-2.23. Open dumps are unlawful, as is their operation. W. Va. Code § 22-15-10. Danny Webb is unlawfully operating an open dump. Such flouting of state law should preclude Danny Webb of receiving a UIC permit for his currently unlawful operation.
5. **The traffic, dust, noise, small, and danger of tanker trucks traveling up the small road to the UIC site are a hazard to local residents.** The permitted injection well is the only reason tanker trucks have to enter the neighborhood. While the Office of Oil and Gas cannot regulate the trucks, it does have the power to determine that the operation, with all of its consequences, is not in the public interest and deny the permit on that basis.

**Please notify PAN Regarding any future actions regarding this permit.**

*Sincerely,* on behalf of the Plateau Action Network

*Levi Rose, Wolf Creek Watershed Coordinator*