

Gashler, Kristina

From: Walter Hang [walter@toxicstargeting.com]
Sent: Monday, January 11, 2010 3:54 PM
To: Gashler, Kristina
Subject: Fwd: Division of Mineral Resource MOU and natural gas and oil spill data

Toxics Targeting stands by its conclusion that DEC's own spill data document widespread environmental and public health hazards associated with oil and natural gas activities across New York, including fires, explosions, accidental spills, contaminated private water supply wells, evacuated homes and polluted wetlands and waterways. Many of these problems have never been cleaned up.

Toxics Targeting also stands by its statement that: "Contrary to repeated government assurances, state regulation of natural gas wells has been woefully insufficient for decades." That is also documented by DEC's own data.

DEC Commissioner Grannis is in error when he states: "Walter Hang culled the referenced records from DEC's own on-line Spill Incident Report database..." That on-line database withholds critical information from public review, including "Caller Remarks," "DEC Investigator Remarks" and the "Meets Clean up Standards" datafield. Toxics Targeting downloads the entire database in digital format and integrates that information into a database we have been compiling since approximately the 1980s.

The Commissioner does not dispute the oil and gas spill facts I released to the public. He simply tries to downplay the hazards by noting that they did not involve hydrofracking or involved abandoned wells or gas facilities or broken valves or fires or quibbles about explosions he says are not really explosions. He also indicates that relatively few problems have been encountered given the approximately 15,000 oil and gas wells in New York State.

First, the problems I reported are all serious concerns that should have warranted immediate investigation and comprehensive clean up. The Commissioner should explain why so many widespread problems have not been investigated or cleaned up for decades.

Second, DEC's regulatory system for identifying, assessing and cleaning up oil and gas hazards is so woefully inadequate that the agency evidently cannot document how many problems it has encountered.

After I released DEC's oil and gas spill data, I received an anonymous email reportedly from a DEC staffperson. Based on that disclosure, I submitted the FOIL request below.

Note my specific request for detailed information regarding all oil and gas spills referred to the Division of Mineral Resources or otherwise identified, investigated or managed by that Division. I have highlighted that request.

DEC reponded: [Please note your request for all "all oil and natural gas spills identified, investigated or managed by the Division of Minerals" is too broad of a request. Information regarding minor "spills" at sites inspected by Minerals staff are not entered in a searchable database and therefore cannot be located without more specific facility information. Note that "spills" not considered to be minor by the Division of Mineral Resources are referred to the Spills Unit.](#)

DEC's response is simply shocking because it shows the Division of Minerals cannot document how

many oil and natural gas spills have been identified, investigated and cleaned up.

DEC's search of its entire spills database identified "15 records."

Only ten of those spills were included in the 270 oil and gas spills I identified.

DEC missed 260 of the spills I identified. The fact that DEC could not even identify these reported problems is clear evidence of the agency's inadequate regulation of oil and gas mining activities.

DEC also did not know about the family in Geneva, NY that reportedly was compensated by Chesapeake Appalachia for "damages" involving fracking gas well next door. The question is how many other water quality impacts associated with natural gas drilling have escaped DEC's regulatory scrutiny.

That is why Toxics Targeting concluded: "The Department of Environmental Conservation's (DEC) failure to prevent and clean up natural gas hazards is so egregious that no further oil and gas wells should be permitted until all regulatory shortcomings have been fixed."

More than 9,000 concerned citizens, elected officials, the City of New York as well as local, state and national environmental groups agree with that position. That is why they have written Governor Paterson to withdraw the draft SGEIS.

Finally, I point out that DEC's overall enforcement record is as inadequate as its meager oil and gas drilling efforts.

Statewide, DEC has failed to require the clean up of a total of:

483 Waterbodies listed on the national 303(d) Impaired Waterbody Registry, including Southern Cayuga Lake, which has exceeded clean up standards for more than 40 years;

22,556 Leaking gasoline tanks and spills that threaten drinking water and water quality all over New York and has polluted more than 600 public drinking water supply wells statewide; and

593 Inactive Hazardous Waste Disposal Sites that are known to be "Significant threat to the public health or environment - action required." These sites include Emerson Power Transmission as well as the West Court Street Manufactured Gas Plant in Ithaca.

Walter Hang

From: "R9Foil" <R9Foil@gw.dec.state.ny.us>
To: <Walter Hang <walter@toxicstargeting.com>
Subject: FOIL 09-2608 Spill Records
X-Antivirus: avast! (VPS 100106-1, 01/06/2010), Inbound message
X-Antivirus-Status: Clean

In response to your December 10, 2009 email request relative to any oil and gas spills referred to the Division of Minerals, attached are "Spill Reports" identified from the New York State Department of Environmental Conservation Spills Incidents Database.

A search of the Spills database identified 15 records.

1/11/2010

If you are interested in reviewing the "paper" files (if any exist) for these Spill incidents, please contact the Region 9 Spills Engineer, Dan King at (716) 851-7220 to schedule a time (records are maintained at the NYSDEC Region 9 Office, 270 Michigan Avenue, Buffalo, NY 14203).

Additional records maintained by the Division of Mineral Resources (in Region 9's Allegany Sub-Office located just west of Saint Bonaventure University) are expected to be available for your review by January 15, 2010. The Department will notify you when the Division of Mineral Resources records (related to the 15 Spill incidents) are available for your review.

Please note your request for all "all oil and natural gas spills identified, investigated or managed by the Division of Minerals" is too broad of a request. Information regarding minor "spills" at sites inspected by Minerals staff are not entered in a searchable database and therefore cannot be located without more specific facility information. Note that "spills" not considered to be minor by the Division of Mineral Resources are referred to the Spills Unit. If you are interested in locating records regarding minor spills please revise your request and identify specific wells so that staff can search individual well files located at the Region 9's Allegany Sub-Office.

Please contact me if you have any questions.

Peter Grasso
Region 9 Enforcement Coordinator
NYSDEC
270 Michigan Avenue
Buffalo, NY 14203
(716) 851-7190

To: foil@gw.dec.state.ny.us
From: Walter Hang <walter@toxicstargeting.com>
Subject: Division of Mineral Resource MOU and natural gas and oil spill data

Records Access Officer
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1016

Greetings:

I write pursuant to the New York Freedom of Information Law (Article 6, Public Officers Law) to request access to certain information available from your agency.

It is my understanding that a Memorandum of Understanding (MOU) exists between the Department of Environmental Conservation's Division of Mineral Resources and the Division of Hazardous Material Spills. It is also my understanding that oil and natural gas spills reported to the Spills Division are required to be referred to the Division of Mineral Resources pursuant to that MOU.

I would like to receive a copy of the current MOU, as well as any earlier versions that may exist. I also would like to receive copies of any correspondence, studies, reports or other

documents associated with the development, adoption and performance of the above-referenced MOU.

I also would like to receive a complete digital copy of all oil and natural gas spills referred to the Division of Mineral Resources or otherwise identified, investigated or managed by that Division. I also would like to receive all other information compiled by that Division regarding regulatory sanctions, fines, legal stipulations and all other regulatory data.

If the information I requested is managed in digital format, I would like the information to be provided in that format on a CD or emailed to me: whang212@yahoo.com. If the information is only available in hard-copy, I would like to receive copies of that information or be allowed to review the information in person at the earliest possible opportunity.

If I will be charged less than \$50.00 for searching and copying the materials that I have requested, please fulfill this request without delay and bill me.

If I will be charged more than \$50.00 for searching or copying the materials I have requested, please inform me of that fact before filling this request.

As I am sure you know, Section 89(3) of the Freedom of Information law requires that you make the information I have requested available or furnish a written denial within five business days. If you do choose to deny access, I would like to know specifically what is being denied and the legal basis, under section 87(2), for such a denial.

Thank you for your attention. I await your prompt reply.

Yours truly,

Walter Hang
607-273-3388
215 North Cayuga Street
Ithaca, NY 14850