July 18, 2021:

Ohio Department of Natural Resources

Division of Oil and Gas Resources Management

2045 Morse Road, Building F-3

Attn: Mark Bruce, Columbus, Ohio 43229-6693.

Dear Mr. Bruce,

 The purpose of this letter is to provide comments on Interested Party Review-Oil and Gas Waste Facilities on behalf of the Green Sanctuary Committee of the First Unitarian Universalist Society of Marietta. Our organization is located in Washington County, one of the 22 Ohio counites in the federally designated region of Appalachia. Washington County is one of two counties in the state with the largest number of Class II injection wells (for disposal of waste from hydraulic fracturing) as well as the location of many production wells. We are intimately familiar with the risks posed by these injection wells including spills, leaks, and accidents—one occurring as recently as January 2021, a spill which has still left us with unanswered questions posed to ODNR. Data from the Ohio Department of Health also indicate that residents of Washington County experience disproportionate health inequities such as heart disease, lung issues, and other chronic conditions that put them at particular vulnerability to harmful substances associated with oil and gas extraction. Accidents like the one cited above and the whole permitting process have given us serious concern that the state has not acted prior to this date to protect human health and safety and the environment from the dangerous threats posed by toxic, radioactive oil and gas waste, and the processing of this waste in our community.

We are pleased that ODNR is proceeding with formal rule making to establish much-needed regulation for oil and gas waste facilities throughout the state and especially in southeast Ohio. It is our position that the draft rules are better than no rules, but that they are insufficient to protect public health and the environment and to ensure accountability and compliance by oil and gas waste facility operators.

A recent article in the New York Times (July 13, 2021) has pointed out that toxic chemicals from hydraulic fracturing can transform into PFAS, a substance that has been linked to cancer and birth defects in people. PFAS is long lasting and harmful to humans, wild mammals, and birds. ODNR rules should address the risks associated with this dangerous substance and monitor and regulate how much of it is used in hydraulic fracturing. The risk of PFAS with hydraulic fracturing is in addition to the risk of radioactivity with this process.

Radioactivity levels in oil and gas waste is not monitored and regulated in a way that will protect public health, worker health, and the environment. This distinction between NORM and TENORM is totally irrelevant to human exposure to radioactivity and violates the well understood principle that radioactivity exposure should be as low as reasonably possible. Despite it being well understood that oil and gas waste contains high levels of radioactivity, draft rules do not require that all oil and gas facilities have a radiation protection plan.

Regarding regular inspections of oil and gas waste facilities by ODNR staff, inspections are left up to the oil and gas waste facility operator. This self-inspection provides no external, disinterested accountability and is irresponsible. The draft rules only require annual reporting to ODNR, and even then, some information (such as where waste originates) is only required to be reported if ODNR specifically asks for it. Reporting should take place at least quarterly and should include information such as where waste originates and be publicly available. Pennsylvania already tracks origin and final destination of oil and gas waste and makes this information publicly accessible via a regularly updated website. There is no reason Ohio cannot adopt an equivalent system, doing so is necessary for the impacted public to be able to track compliance and take action to protect themselves when necessary.

There is an important exemption in the draft rules that involves a risky exception from Ohio’s Public Records Law which would allow an oil and gas waste facility to simply label its documents as an infrastructure record and prevent public disclosure. This is another example of oil & gas companies not being accountable and transparent. Communities have the right to know about potential threats to their health and safety. Such an exemption will prevent impacted communities from accessing information that is critical to understanding a facility’s impact on public health, drinking water sources, air quality, and the environment.

The 1000-foot setback from an occupied structure does not sufficiently protect drinking water supplies, wetlands, lakes, rivers, and streams. Furthermore, oil and gas waste facilities can be located a mere 100 feet from wetlands, surface waters, developed springs, and water wells. This fails to protect important water sources, including drinking-water wells. This distance is inappropriate for adequate protection. The rules should require that groundwater monitoring wells should be installed when contamination is suspected and provide clear criteria for when contamination is a risk. Acting to prevent further contamination of groundwater should not be discretionary. The rules give ODNR the authority to require the installation of groundwater monitoring wells when contamination of groundwater is suspected. The rules do not require, however, that these monitoring wells actually be installed when there is suspected contamination of ground water nor do they provide clear criteria for when such contamination would be suspected.

Regarding the operation of temporary oil and gas waste facilities for up to one year, we think that this is too long to be considered temporary. A facility operating for this length of time should be required to go through the same permitting as a permanent oil and gas waste facility

We believe that the draft rules are unacceptably liberal in giving ODNR the discretion to make exceptions, exemptions, and waivers such as what application materials will be submitted and what testing procedures and environmental protection plans must be provided and followed. The final rules should establish clear criteria for issuing permits for all oil and gas waste facilities that cannot simply be waived by ODNR. The draft rules do not require financial assurances and bonding requirements to ensure the resources for clean-up of an oil and gas facility once it is no longer operating. These must be put in place and made sufficient to ensure that tax payers are not left with the burden of cleaning up these sites. Further, they do not require the oil and gas waste facility to submit closure, reclamation, decommissioning, and site restoration plans to ODNR with its application; but only to wait and submit that information when a facility is about to (or has already) closed. This information must be provided from the beginning to ensure sites are cleaned up and the taxpayer is not left holding the bag.

. On the matter of suspension of a permitted facility, ODNR should be required to suspend a facility if the oil and gas waste facility (1) causes or could reasonably be anticipated to cause damage to the environment , (2) does not or is not likely to perform in a manner that supports safe production operations; or (3) fails or could reasonably be anticipated to fail to protect public health and safety.

Submitted by,

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On behalf of: Green Sanctuary Committee of the First Unitarian Universalist Society of Marietta

Located in southeast Ohio (Appalachian Ohio)