

THE ALLEGATIONS:

1 – That the entire DEC regulatory process regarding the gas storage facility is a sham, because the DEC does not actually know what is in the wells and, therefore, cannot possibly be regulating them.

2 – That, as far as the gas storage complex is concerned, the DEC is not in any way shape or form protecting our community.

3 – That insofar as the owners of the facility are, essentially, assured that no one will ever check on the contents of the caverns, they have been given, in effect, secret permission to use the caverns as repositories for toxic waste.

THE EVIDENCE:

EXHIBIT A – The First Smoking Gun

In this Freedom-of-Information-Law (FOIL) request of the DEC, I asked for “copies of all assays or lab analyses of samples collected on the gas storage site from 2000 to the present. This refers to samples and substances found inside or outside of wells (e.g. spills).” The DEC answered that it had “no responsive records.” meaning that the DEC has not analyzed a single substance found on the site since at least the year 2000.

This proves:

1 – The DEC cannot possibly know what is in the caverns, because to know what's in them, one would have to run tests to identify whatever substances you might find.

2 – Because the DEC knows nothing about what substances are in the wells or spilled around them, the DEC cannot possibly be protecting us from environmental hazards that might arise from the gas storage site.

3 – The DEC cannot actually be regulating the Reading facility, because you cannot regulate something when you do not know what it is.

EXHIBITS B1 & B2 – The Second Smoking Gun.

When I made the FOIL request in Exhibit B1, I asked for a bunch of information pertaining to just the wells “that already have gas stored in them.” These items included, “inspection records,” “permits or permit applications,” “reports” and “spill reports.” The DEC sent me back 72 documents.

These documents cannot be accessed by clicking on the links, because that would require a password. But they have all been downloaded and are archived in Exhibit B2. Not one of these documents references anything to do with authenticating the actual content of the wells.

This proves that the entire debate over what gas to permit in the caverns has been a sham, because, given the DEC's total lack of knowledge about what's actually in the caverns, permits are just meaningless pieces of paper. With few limits, the owners of the caverns can do anything they want, permits or no permits.

EXHIBITS C1 & C2 – The Third Smoking Gun

This is, arguably, the strongest evidence of all. As you can see, I put in a FOIL request explicitly for “ANY and ALL responsive records to show that the DEC actually knows what substances are being injected into the salt caverns on Seneca Lake...” The DEC denied my request, saying that “any records in the agency's possession responsive to this request will be provided to you in response to your previous request, numbered WOO5663-033116.” That's the same FOIL request referenced in Exhibit B above.

There are a couple of really important things to understand about this. First, my FOIL request WOO5663-033116 only applied to the wells already known to have gas in them. I am given to understand that the complex has 100 wells of which 60 are listed as plugged and abandoned and dozens are listed as containing brine. So by saying they have no documents beyond those responsive to a request about only a few wells, they are right away the DEC is admitting to having no documents whatsoever pertaining to more than 100 other wells. Second, as already pointed out, the documents in Exhibit B don't reveal anything about the actual contents of those particular wells either. Thus, the DEC is admitting to having no documents at all that establish the contents of any of the various wells in the Reading complex.

Nonetheless, I was not satisfied with that. I appealed this decision, asking if there might not be other documents pertaining to other wells. I got back the response in Exhibit C2, which says, essentially, nope, that's all we've got. So when the DEC is asked point blank for documents showing they know what's in the wells, they cannot produce a single piece of paper.

EXHIBIT D – The Fourth Smoking Gun

Even if the DEC were not going to test any substance found on site, there would still be one other way the DEC could learn something about what might be stored there. That would be to do an air quality test. Such a test would be far from foolproof, because toxic substances might remain sequestered for many years before releasing their toxins into the atmosphere. But even so, if something were leaking into the air, detecting it might help to identify bigger problems looming underground.

Exhibit D is the DEC's response to my FOIL request for air monitoring records. The DEC replies that it “does not maintain” air quality records for any of the wells in the complex (neither, by the way, does the EPA).

This proves that the DEC is not protecting us. This is because, if the DEC isn't testing solids and it isn't testing vapors, it isn't testing anything. And if it isn't testing anything at all, what protection could it possibly be offering us from the potential dangers of the gas-storage complex?

EXHIBITS E1, E2 and E3 – Is the DEC looking the other way?

NOTE: This evidence, while suggestive, isn't nearly as conclusive as the evidence above. I present it by way of raising questions, not making allegations.

Exhibit E1 is a “Post-Site Inspection” report on Well 28. In response to question 18 (“Does well appear to be plugged?”) the inspector answers in his notes, “Unknown; considerable equipment inside fencing.”

This could mean anything. Theoretically, the equipment could have been used to dump illegal substances down the well, the actual status of which the inspector cannot determine.

Question 38 on the inspection report form reads, "Are there any issues that require DMN [Division of Mineral Resources] follow-up?" The inspector answers "No."

From this we may know that a concealed wellhead with a lot of unexplained equipment around it does not arouse the interest, much less the suspicion, of the DEC. Is this the way an inspector would act if the DEC were actually policing the wells?

Exhibit E2 concerns another well inspection. In this one, the DEC inspector does note the need for follow-up and takes action toward that end. He found a liquid seeping out of a well that had recently been opened. It appeared to be nothing more sinister than brine, but it was noteworthy in that it was very bitter to the taste and had a conductivity that was "off scale." So he took a sample and recorded in his notes that he had done so. That sample represented the only physical evidence that could prove whether the spill was of a legal or illegal substance.

Exhibit E3 is the DEC's response to my FOIL request for a copy of the assay of that sample. No lab analysis had been performed. Why wasn't that sample tested? Why was it taken in the first place, if the DEC, as per Exhibit A, never tests samples? The issue here isn't that this particular sample was evidence of a crime. We cannot know that, and the sample may have been completely innocuous. The issue is that the DEC didn't make any attempt to check. If they are not even testing spills, what deterrence to illegal dumping could they possibly be providing?