



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAY 12 2011

OVERNIGHT AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Freddie Kotek
Chief Executive Officer
Atlas Resources, L.L.C.
1550 Coraopolis Heights Road
Suite 300
Moon Township, Pennsylvania 15108

Request for Information on Marcellus Shale Flowback Water

Dear Mr. Kotek:

The U.S. Environmental Protection Agency (EPA) is seeking information concerning your disposal and recycling activities and intentions with respect to the wastewater generated by your Marcellus Shale energy exploration, extraction, and production activities including, but not limited to, disposal, treatment and recycling.

On April 19, 2011, the Pennsylvania Department of Environmental Protection ("PADEP") requested that, by May 19, 2011, natural gas well drilling operators cease delivering wastewater to fifteen facilities in the Commonwealth of Pennsylvania that had accepted such wastewater. As a result, EPA is interested in gathering information related to changes in industry practices that may be related to this development. EPA is requiring that you provide information regarding your wastewater disposal/recycling practices at this time and in the future for the wastewater and any other waste generated through the development of natural gas wells you own and/or operate in EPA Region III (Wells).

EPA is requesting this information as set forth in the Enclosures appended to this letter pursuant to the authority granted to it under Section 308 of the Clean Water Act (CWA) 33 U.S.C. § 1318, Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), and Section 3007(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(a). Pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318, you are required to furnish the information and documents requested that are in your possession, custody or control, or in the possession, custody or control of any of your employees or agents, that concern, refer or relate to the actual and/or threatened "discharge" of a "pollutant" as defined in Section 502(6) of the CWA, 33

U.S.C. § 1362(6). In addition, under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), EPA is expressly permitted to gather information related to both the development of new effluent limits or pretreatment standards and to determine whether parties are in violation of existing effluent limits or pretreatment standards. Under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA has authority to request information regarding actual and/or threatened “releases” of hazardous substances, pollutants or contaminants as defined in Sections 101(14) and 101(33) of the CERCLA, 42 U.S.C. §§ 9601(14) and 9601(33). Section 3007(a) of RCRA provides in relevant part that “any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, . . . furnish information relating to such wastes” For such purposes, hazardous waste is defined by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5).

EPA hereby requires that you furnish the information requested below, including all documents responsive to such request, to EPA **no later than close of business May 25, 2011.**

Your response to this request should be mailed and provided electronically in native format (as set forth in Instruction 5 below) to:

Ms. Jacqueline Morrison (3LC00)
Land and Chemicals Division
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103
morrison.jacqueline@epa.gov

The provisions of Section 309 of the CWA, 33 U.S.C. § 1319, Section 104(e) of CERCLA, 42 U.S.C. § 9604(e) and Section 3008 of RCRA, 42 U.S.C. § 6928, authorize EPA to pursue penalties and/or injunctive relief for failure to comply with or respond adequately to an information request under Section 308 of the CWA, Section 104(e) of CERCLA, and Section 3007(a) of RCRA. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

EPA may use any information submitted in response to this request in an administrative, civil, or criminal action. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it does not meet the definition of a collection of information as defined in 5 C.F.R. § 1320.3(c).

If you have any technical questions on this matter, please call Ms. Jacqueline Morrison of the Land and Chemicals Division at (215) 814-5664, or your counsel may contact Ms. Humane Zia, Senior Assistant Regional Counsel, at (215) 814-3454 with any questions of a legal nature.

Sincerely,



Shawn M. Garvin
Regional Administrator

Enclosures