Ohio | Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

May 16, 2011

Director David Mustine
Ohio Department of Natural Resources
2045 Morse Road, Building D
Columbus, OH 43229-6693

Re: Brine Disposal Pursuant to ORC Section 1509.22

Dear Director Mustine:

I am writing to memorialize our recent discussions regarding brine disposal from oil and gas operations so that our respective agencies and the regulated community will have clear direction moving forward concerning this issue. As we have discussed, ODNR has the regulatory authority over the disposal of brine generated from oil/gas operations pursuant to Ohio Revised Code (ORC) Section 1509.22(C). There are no qualifiers as to the relative level of salinity in this definition or rules adopted by ODNR under this authority.

Ohio Revised Code Section1509.22(C)(1) strictly limits the options for disposing of brine resulting from the production of oil or gas to the following:

- injection into an underground formation;
- road surface application (excluding flow back, drilling and treatment fluids);
- use in association with a method of enhanced recovery; or
- by other methods approved by the ODNR, Chief of Mineral Resources Management for testing or implementing a new technology or method of disposal.

Disposing directly into a surface water body, either directly or via a Publicly Owned Treatment Works (POTW), is not listed as one of these options. Moving forward, ODNR does not envision using its authority to allow for discharges to surface waters either directly or via a POTW.

As you know, the City of Warren is currently accepting low salinity brine from oil/gas operations (under 50,000 mg/l). Other POTWs have expressed a similar interest but those have not been approved. In order to implement this direction, it is my intention, as Director of Ohio EPA, to not reauthorize the City of Warren to take brine from oil/gas operations when their permit expires. Further, we will also proceed to deny any other permit applications from POTWs that have expressed an interest in receiving this material.

Sincerely,

Scott J. Nally
Director

cc: Tom Angelo, City of Warren
Chuck Murphy, City of Steubenville
Robert Disch, City of East Liverpool
Robert Wright, City of East Liverpool
Andrew Blocksom, Patriot Energy Partners