



September 2013

## **Change is in the Air (and Water)**

There's no way around it. Environmental compliance and permitting look to be issues facing Kentucky's oil and gas industry.

Talk about "regulations" with Kentucky's operators and I'm guessing most minds jump to drilling permits, well construction standards, spacing and accidental spill clean-up. Would air emissions come to mind? Silt discharge into ephemeral streams? Endangered species habitats? I don't know. But, I think the time will come when Kentucky's operators are as familiar with the Division of Water as they are with the Division of Oil and Gas.

If you check out previous newsletters, you'll find that each has included at least one article on emerging environmental issues and compliance options. This month's newsletter is no different. Is it because I brought a particular interest in these policy areas to the job and, therefore, solicit articles on these topics? Or is it because these are the emerging issues that are facing the industry? Of course, the answer is a combination of both.

All that being said, this is what KOGA is here to do. We're supposed to keep our finger on the pulse of what's going on out there and share what we're hearing. Giving our operators a heads-up gives them the chance to dig into things and begin thinking about how new rules and regulations will affect their businesses. Knowing what's out there and learning how to approach compliance could save you a bundle in time, energy and resources on the back end. That, ultimately, is a good thing.

Here are a few things in these areas we're keeping an eye on:

- **Clean Air & Storage Vessels:** This isn't a new one. We've had several articles in the newsletter (including this month's) about the requirement to control VOC emissions from storage tanks. Our technical program at the west Kentucky meeting covered this topic. While we've dedicated quite a bit of time to getting the word out on these new clean air regulations, we're going to keep at it. The regulations are complicated and the guidance provided by

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the EPA is sparse and vague. We'll keep providing as many opportunities as we can to educate our members and do our best to distill the thing down to its simplest terms.

- **Green Completetions:** Another Clean Air item. The Environmental Protection Agency is moving to regulate fugitive methane emissions from the oil and gas industry. One of their first forays into this is requiring producers to capture methane during the flowback phase of a well treatment. What is often the case, the EPA has a “one size fits all” approach on this. This approach imposes too much of a burden on Kentucky’s nitrogen fracs. How do you separate and capture a relatively small amount of methane from a huge quantity of nitrogen? Well, the EPA doesn’t have an answer for that. To their credit, they are reconsidering the rule and KOGA is engaged through IPAA to ensure the Agency understands Kentucky’s industry-specific concerns.
- **Endangered Species:** In Kentucky alone, I’ve been told there are forty-plus species in the pipeline for possible listing as an endangered species. How many of those species have habitats in our state’s oil and gas producing regions? I’m not sure but I’m guessing quite a few. The Endangered Species Act (ESA) is an incredibly stringent tool. Compliance takes time – in the form of getting the U.S. Fish and Wildlife Service to sign off on projects – and money – in the form of what mitigation efforts are required to live within the boundaries of the ESA. This is another long-term issue which will be in front of the industry for years to come. KOGA’s committed to doing everything we can to make sure the ESA isn’t unnecessarily hampering the industry while at the same time sharing with you what we learn so you can incorporate the knowledge into your business planning.
- **Clean Water and the Army Corps of Engineers:** Talk to someone from the Army Corps and it won’t be long before they let you know their agency has jurisdiction of the “waters of the U.S.” OK. No big deal. We deal with the Corps if we are working around a Corps dammed lake or need to cross a navigable waterway. Right? However, that term, “waters of the U.S.” to the Corps means more than *navigable waters*. Know the term “ephemeral stream?” They’re the “streams” that crop up after a decent rainfall. In the Corp’s mind – they’re “waters of the U.S” and therefore subject to Corps permitting and regulation. This issue is a new one for me and I want you to know we’re working to get our arms around it. I don’t want to speculate what this means for the industry going forward. But I do want to go ahead and put the issue out there as yet another one you’ll be hearing more about from us.

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Change is definitely in the Air (and Water). Environmental regulators are increasingly turning their attention to the oil and gas industry. In this realm (like all others) knowledge is power. We'll be here continuing to learn what exactly our members need to know.

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