
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1847 Session of
2009

INTRODUCED BY HARHAI, SOLOBAY, DeWEESE, GEORGE, CARROLL, CAUSER,
CHRISTIANA, CLYMER, ELLIS, GEIST, GIBBONS, GRUCELA,
HENNESSEY, KORTZ, KULA, OBERLANDER, PYLE, REED, REICHLEY,
SIPTROTH, STERN, STEVENSON, WHITE, YOUNGBLOOD, DENLINGER AND
TURZAI, JULY 10, 2009

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 9, 2009

AN ACT

1 Amending the act of September 24, 1968 (P.L.1040, No.318),
2 entitled, as amended, "An act providing for the protection of
3 the safety, health and welfare of the people, property and
4 public roads and highways of the Commonwealth from conditions
5 on coal refuse disposal areas, or parts thereof, which fail
6 to comply with the established rules, regulations or quality
7 standards adopted to avoid air or water pollution or to
8 protect water supplies, and from the danger of slipping,
9 sliding or burning of coal refuse disposal areas, or parts
10 thereof, sometimes caused by the storage of coal refuse;
11 prescribing for and regulating the operation of coal refuse
12 disposal areas, and parts thereof; prescribing the powers of
13 the Department of Environmental Resources with respect
14 thereto; providing for the power to enjoin the operation of
15 coal refuse disposal areas, or parts thereof, which contain
16 certain conditions; providing for civil and criminal
17 penalties; authorizing the acquisition by condemnation of
18 certain land areas in certain cases; establishing a permit
19 system, authorizing the adoption of rules and regulations,
20 establishing minimum standards ; requiring bonds and for the
21 maintenance of primary jurisdiction over surface coal mining
22 in Pennsylvania; providing incentives for coal refuse
23 disposal activities on previously affected areas; and
24 providing for coal refuse disposal research," further
25 providing FOR FINDINGS AND DECLARATION OF POLICY, FOR
26 DEFINITIONS AND for site selection; AND ESTABLISHING THE COAL
27 BED METHANE REVIEW BOARD TO RESOLVE DISPUTES BETWEEN PROPERTY
28 OWNERS OVER THE LOCATION OF COAL BED METHANE WELLS AND ACCESS
29 ROADS.



1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 ~~Section 1. Section 4.1(a) of the act of September 24, 1968~~ ←
4 ~~(P.L.1040, No.318), known as the Coal Refuse Disposal Control~~
5 ~~Act, added December 7, 1994 (P.L.808, No.114), is amended to~~
6 ~~read:~~

7 SECTION 1. SECTION 1 OF THE ACT OF SEPTEMBER 24, 1968 ←
8 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL CONTROL
9 ACT, IS AMENDED BY ADDING A CLAUSE TO READ:

10 SECTION 1. FINDINGS AND DECLARATION OF POLICY.--IT IS HEREBY
11 DETERMINED BY THE GENERAL ASSEMBLY OF PENNSYLVANIA AND DECLARED
12 AS A MATTER OF LEGISLATIVE FINDING THAT:

13 * * *

14 (10) IT IS THE PURPOSE IN PART OF THIS ACT TO ESTABLISH AN
15 ALTERNATIVE PROCEDURE TO COURT ACTION FOR CONSIDERATION AND
16 RESOLUTION OF OBJECTIONS TO THE LOCATION OF CERTAIN COAL BED
17 METHANE WELLS OR ROADS ASSOCIATED WITH THOSE WELLS TO BE
18 CONSTRUCTED ON SURFACE LANDS AND TO MODIFY THE PROCEDURE FOR
19 REVIEW OF WELL PERMIT APPLICATIONS TO THE EXTENT NECESSARY TO
20 ALLOW FOR THE PROCEDURE FOR ALTERNATIVE DISPUTE RESOLUTION.

21 * * *

22 SECTION 2. CLAUSES (1.3) AND (1.4) OF SECTION 3 OF THE ACT,
23 ADDED DECEMBER 7, 1994 (P.L.808, NO.114), ARE AMENDED AND THE
24 SECTION IS AMENDED BY ADDING CLAUSES TO READ:

25 SECTION 3. DEFINITIONS.--THE FOLLOWING WORDS AND TERMS SHALL
26 HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES
27 OTHERWISE:

28 * * *

29 (1.3) "ALTERNATIVE DISPUTE RESOLUTION" SHALL MEAN THE
30 PROCEDURE FOR DISPUTE RESOLUTION PROVIDED IN SECTION 6.5.

1 [(1.3)] (1.4) "BASELINE POLLUTION LOAD" SHALL MEAN, FOR THE
2 PURPOSES OF SECTION 6.2 OF THIS ACT, THE CHARACTERIZATION OF THE
3 POLLUTIONAL MATERIAL BEING DISCHARGED FROM OR ON THE POLLUTION
4 ABATEMENT AREA, DESCRIBED IN TERMS OF MASS DISCHARGE FOR EACH
5 PARAMETER DEEMED RELEVANT BY THE DEPARTMENT, INCLUDING SEASONAL
6 VARIATIONS AND VARIATIONS IN RESPONSE TO PRECIPITATION EVENTS.

7 [(1.4)] (1.5) "BEST TECHNOLOGY" MEANS, FOR THE PURPOSES OF
8 SECTION 6.2 OF THIS ACT, MEASURES AND PRACTICES WHICH WILL ABATE
9 OR AMELIORATE, TO THE MAXIMUM EXTENT POSSIBLE, DISCHARGES FROM
10 OR ON THE POLLUTION ABATEMENT AREA.

11 (1.6) "BOARD" SHALL MEAN THE COAL BED METHANE REVIEW BOARD
12 ESTABLISHED IN SECTION 6.4 OF THIS ACT.

13 (1.7) "COAL BED METHANE" SHALL MEAN GAS WHICH CAN BE
14 PRODUCED FROM A COAL SEAM, A MINED-OUT AREA OR A GOB WELL.

15 (1.8) "COAL BED METHANE WELL" SHALL MEAN A HOLE OR WELL
16 WHICH IS SUNK, DRILLED, BORED OR DUG INTO THE EARTH FOR THE
17 PRODUCTION OF COAL BED METHANE FROM A COAL SEAM, A MINED-OUT
18 AREA OR A GOB WELL FOR CONSUMPTION OR SALE. THE TERM INCLUDES A
19 HORIZONTAL BOREHOLE. THE TERM DOES NOT INCLUDE ANY OF THE
20 FOLLOWING:

21 (I) A SHAFT, HOLE OR WELL WHICH IS SUNK, DRILLED, BORED OR
22 DUG INTO THE EARTH FOR CORE DRILLING OR PRODUCTION OF COAL OR
23 WATER.

24 (II) A BOREHOLE DRILLED OR BEING DRILLED FOR THE PURPOSE OF
25 OR TO BE USED FOR DEGASIFYING COAL SEAMS IF A CONDITION IN ONE
26 OF THE FOLLOWING SUBCLAUSES IS MET:

27 (A) THE BOREHOLE IS:

28 (I) USED TO VENT METHANE TO THE OUTSIDE ATMOSPHERE FROM AN
29 OPERATING COAL MINE.

30 (II) REGULATED AS PART OF THE MINING PERMIT UNDER THE ACT OF

1 JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS "THE CLEAN STREAMS
2 LAW," AND THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS
3 THE "SURFACE MINING CONSERVATION AND RECLAMATION ACT."

4 (III) DRILLED BY THE OPERATOR OF THE OPERATING COAL MINE FOR
5 THE PURPOSE OF INCREASED SAFETY.

6 (B) THE BOREHOLE IS USED TO VENT METHANE TO THE OUTSIDE
7 ATMOSPHERE UNDER A FEDERALLY FUNDED OR COMMONWEALTH-FUNDED
8 ABANDONED MINE RECLAMATION PROJECT.

9 (III) A WELL OR BOREHOLE DRILLED IN A COAL SEAM FROM WITHIN
10 AN UNDERGROUND COAL MINE FOR THE PRODUCTION OF COAL BED METHANE.
11 THIS CLAUSE INCLUDES A WELL OR BOREHOLE CONNECTED TO A WELL OR
12 BOREHOLE WHICH IS SUNK, DRILLED OR DUG FROM THE SURFACE.

13 * * *

14 (13) "SURFACE OWNER" SHALL MEAN A PERSON WHO OWNS ANY OF THE
15 FOLLOWING INTERESTS IN THE SURFACE UPON WHICH A COAL BED METHANE
16 WELL OR ASSOCIATED ACCESS ROAD MAY BE CONSTRUCTED:

17 (I) A FEE INTEREST.

18 (II) AN INTEREST FOR LIFE.

19 (III) A REMAINDER INTEREST.

20 THE TERM DOES NOT INCLUDE:

21 (I) THE FEDERAL OR STATE GOVERNMENT OR ANY AGENCY OR
22 POLITICAL SUBDIVISION THEREOF.

23 (II) A PERSON WHO IS ENTITLED TO ROYALTIES FOR REMOVAL OR
24 RECOVERY OF COAL BED METHANE.

25 (III) A PERSON WHO OWNS A LEASE, EASEMENT, RIGHT-OF-WAY,
26 LICENSE, PRIVILEGE OR OTHER SIMILAR INTEREST IN THE SURFACE.

27 (14) "WELL OPERATOR" SHALL MEAN A PERSON WHO HAS FILED OR
28 WHO IS REQUIRED TO FILE FOR A WELL PERMIT UNDER THE ACT OF
29 DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE "OIL AND GAS
30 ACT."

1 (15) "WELL PERMIT" SHALL MEAN A WELL PERMIT ISSUED PURSUANT
2 TO THE ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE
3 "OIL AND GAS ACT."

4 SECTION 3. SECTION 4.1(A) OF THE ACT, ADDED DECEMBER 7, 1994
5 (P.L.808, NO.114), IS AMENDED TO READ:

6 Section 4.1. Site Selection.--(a) Preferred sites shall be
7 used for coal refuse disposal unless the applicant demonstrates
8 to the department another site is more suitable based upon
9 engineering, geology, economics, transportation systems and
10 social factors and is not adverse to the public interest. A
11 preferred site is one of the following:

12 (1) A watershed polluted by acid mine drainage.

13 (2) A watershed containing an unreclaimed surface mine but
14 which has no mining discharge.

15 (3) A watershed containing an unreclaimed surface mine with
16 discharges that could be improved by the proposed coal refuse
17 disposal operation.

18 (4) Unreclaimed coal refuse disposal piles that could be
19 improved by the proposed coal refuse disposal operation.

20 (5) Other unreclaimed areas previously affected by mining
21 activities.

22 (6) An area adjacent to or an expansion of an existing coal
23 refuse disposal site.

24 Where, however, the adverse environmental impacts of the
25 preferred site clearly outweigh the public benefits, the site
26 shall not be considered a preferred site.

27 * * *

28 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ: 

29 SECTION 6.4. COAL BED METHANE REVIEW BOARD.--(A) THERE IS
30 ESTABLISHED THE COAL BED METHANE REVIEW BOARD.

1 (B) THE FOLLOWING SHALL APPLY:

2 (1) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

3 (I) ONE MEMBER APPOINTED BY THE GOVERNOR FROM A LIST OF
4 THREE INDIVIDUALS SUBMITTED BY THE PENNSYLVANIA FARM BUREAU.

5 (II) ONE MEMBER APPOINTED BY THE GOVERNOR FROM A LIST OF
6 THREE INDIVIDUALS PREPARED JOINTLY BY THE PENNSYLVANIA OIL AND
7 GAS ASSOCIATION, THE INDEPENDENT OIL AND GAS ASSOCIATION OF
8 PENNSYLVANIA AND THE PENNSYLVANIA COAL ASSOCIATION.

9 (III) ONE MEMBER APPOINTED BY THE GOVERNOR WHO IS AN
10 INDIVIDUAL WITH EXPERTISE IN PETROLEUM GEOLOGY OR PETROLEUM
11 ENGINEERING WITH AT LEAST THREE YEARS OF EXPERIENCE IN PRACTICE
12 IN PENNSYLVANIA WHO IS APPOINTED FROM A LIST OF THREE
13 INDIVIDUALS PREPARED JOINTLY BY THE DEANS OF THE COLLEGE OF
14 AGRICULTURAL SCIENCES AND THE COLLEGE OF EARTH AND MINERAL
15 SCIENCES OF THE PENNSYLVANIA STATE UNIVERSITY.

16 (2) THE LISTS REQUIRED BY CLAUSE (1) SHALL BE SUBMITTED TO
17 THE GOVERNOR WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS
18 SECTION, AND THE GOVERNOR'S APPOINTMENTS SHALL BE MADE WITHIN
19 NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

20 (3) UPON OCCURRENCE OF A VACANCY, THE APPROPRIATE ENTITY
21 SHALL SUBMIT A NEW LIST WITHIN THIRTY DAYS OF THE VACANCY, AND
22 THE GOVERNOR SHALL MAKE AN APPOINTMENT WITHIN THIRTY DAYS OF
23 RECEIPT OF THE LIST.

24 (C) THE TERM OF APPOINTMENT OF A BOARD MEMBER SHALL BE THREE
25 YEARS OR UNTIL A SUCCESSOR IS DULY APPOINTED. A BOARD MEMBER MAY
26 BE APPOINTED FOR SUCCESSIVE TERMS.

27 (D) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL PROVIDE
28 ADMINISTRATIVE AND CLERICAL SUPPORT TO THE BOARD AS REQUESTED.

29 (E) THE PURPOSE OF THE BOARD SHALL BE TO CONSIDER OBJECTIONS
30 AND ATTEMPT TO REACH AGREEMENT ON OR DETERMINE A LOCATION FOR

1 THE COAL BED METHANE WELL OR ACCESS ROAD.

2 (F) MEMBERS OF THE BOARD SHALL BE COMPENSATED AT THE
3 APPROPRIATE PER DIEM RATE BASED ON THE PREVAILING FORMULA
4 ADMINISTERED BY THE COMMONWEALTH, BUT NOT LESS THAN ONE HUNDRED
5 FIFTY DOLLARS (\$150) PER DAY, PLUS ALL REASONABLE EXPENSES
6 INCURRED WHILE PERFORMING THEIR OFFICIAL DUTIES. COMPENSATION
7 SHALL BE ADJUSTED ANNUALLY BY THE SECRETARY OF ENVIRONMENTAL
8 PROTECTION TO ACCOUNT FOR INFLATION BASED ON THE RATE OF
9 INFLATION IDENTIFIED BY THE CONSUMER PRICE INDEX PUBLISHED BY
10 THE UNITED STATES DEPARTMENT OF LABOR. THE INDIVIDUAL MEMBER MAY
11 WAIVE HIS RIGHT TO ALL OR PART OF THE COMPENSATION SET FORTH IN
12 THIS SUBSECTION.

13 SECTION 6.5. PROCEDURES.--(A) A WELL OPERATOR WHO INTENDS
14 TO DRILL A COAL BED METHANE WELL OR CONSTRUCT AN ACCESS ROAD
15 ASSOCIATED WITH A COAL BED METHANE WELL SHALL PROVIDE WRITTEN
16 NOTIFICATION TO THE SURFACE OWNER IN THE MANNER PRESCRIBED IN
17 SECTION 201(B) OF THE ACT OF DECEMBER 19, 1984 (P.L.1140,
18 NO.223), KNOWN AS THE "OIL AND GAS ACT." THE NOTIFICATION SHALL
19 ALSO INCLUDE THE FOLLOWING STATEMENT ON A FORM PROVIDED BY THE
20 DEPARTMENT OF ENVIRONMENTAL PROTECTION IN AT LEAST TWELVE-POINT
21 PRINT:

22 RIGHT TO PARTICIPATE IN

23 ALTERNATIVE DISPUTE RESOLUTION

24 YOU HAVE THE RIGHT TO HAVE YOUR OBJECTIONS TO THE WELL
25 OPERATOR'S PROPOSED LOCATION OF THE WELL OR OF THE ACCESS
26 ROAD ASSOCIATED WITH THE WELL HEARD AND DECIDED BY THE THREE-
27 MEMBER COAL BED METHANE REVIEW BOARD, CREATED UNDER THE ACT
28 OF _____, 2009 (P.L. _____, NO. _____), KNOWN AS THE "COAL BED
29 METHANE WELL DISPUTE RESOLUTION ACT." YOU MAY PARTICIPATE
30 WITH OR WITHOUT A LAWYER IN ANY CONFERENCE SESSION THE BOARD

1 MAY HOLD TO HEAR YOUR OBJECTIONS.
2 IMPORTANT: TO EXERCISE THIS RIGHT, YOU MUST FILE YOUR
3 OBJECTIONS IN WRITING WITH THE COAL BED METHANE REVIEW BOARD
4 THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AT:
5 (ADDRESS)
6 (CITY, STATE, ZIP)
7 WITHIN FIFTEEN DAYS OF THE DATE YOU RECEIVED THIS
8 NOTIFICATION. OTHERWISE, YOU WILL BE CONSIDERED TO HAVE
9 WAIVED THIS RIGHT TO RESOLVE YOUR OBJECTIONS THROUGH THE COAL
10 BED METHANE REVIEW BOARD. YOUR OBJECTION MAY BE FILED IN
11 PERSON OR BY CERTIFIED MAIL.

12 (B) A SURFACE OWNER WHO INTENDS TO INVOKE ALTERNATIVE
13 DISPUTE RESOLUTION SHALL FILE WRITTEN OBJECTIONS TO THE WELL
14 OPERATOR'S PROPOSED LOCATION FOR COAL BED METHANE WELL OR ACCESS
15 ROAD WITH THE BOARD WITHIN FIFTEEN DAYS OF THE DATE OF RECEIPT
16 OF THE WRITTEN NOTIFICATION AND PLAT DESCRIBED IN SUBSECTION
17 (A). THE WRITTEN OBJECTIONS MAY INDICATE AN ALTERNATIVE LOCATION
18 AT WHICH THE PROPOSED COAL BED METHANE WELL COULD BE DRILLED OR
19 THE ACCESS ROAD COULD BE LOCATED TO OVERCOME THE OBJECTIONS. IF
20 NO OBJECTIONS ARE FILED IN THE TIME PRESCRIBED IN THIS
21 SUBSECTION, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL
22 ACCEPT AN APPLICATION FROM THE OPERATOR AND PROCEED TO ISSUE OR
23 DENY THE WELL PERMIT, PROVIDED THE DEPARTMENT SHALL NOT ACCEPT A
24 WELL PERMIT APPLICATION UNLESS THE APPLICANT DEMONSTRATES THAT
25 THE NOTIFICATION REQUIREMENTS OF SUBSECTION (A) HAVE BEEN
26 SATISFIED.

27 (C) IF OBJECTIONS ARE FILED BY A SURFACE OWNER PURSUANT TO
28 SUBSECTION (B), AN EMPLOYEE OF THE DEPARTMENT OF ENVIRONMENTAL
29 PROTECTION RESPONSIBLE FOR RECEIVING SUCH OBJECTIONS ON BEHALF
30 OF THE BOARD SHALL, WITHIN TWO DAYS, NOTIFY THE OPERATOR AND THE

1 BOARD OF THE OBJECTIONS, AND THE BOARD SHALL FIX A TIME AND
2 PLACE FOR HOLDING THE DISPUTE RESOLUTION CONFERENCE AND SHALL
3 NOTIFY THE SURFACE OWNER AND WELL OPERATOR OF THE TIME AND PLACE
4 WHERE THE CONFERENCE WILL BE HELD. THE CONFERENCE SHALL BE
5 SCHEDULED TO COMMENCE NOT MORE THAN TEN BUSINESS DAYS FROM THE
6 DATE OF SERVICE OF THE OBJECTIONS ON THE WELL OPERATOR,
7 PROVIDED, HOWEVER, THAT, IF THE BOARD CANNOT BE FULLY CONVENED
8 FOR A CONFERENCE WITHIN THIS TIME, THE CONFERENCE SHALL BE
9 SCHEDULED TO COMMENCE ON THE EARLIEST REASONABLE DATE IN WHICH
10 THE BOARD CAN BE FULLY CONVENED, BUT NO LATER THAN FIFTEEN
11 BUSINESS DAYS FROM THE DATE OF THE SERVICE OF THE OBJECTIONS ON
12 THE WELL OPERATOR. FOR PURPOSES OF THIS SECTION, THE TERM "FULLY
13 CONVENED" SHALL MEAN THE PARTICIPATION OF ALL THREE MEMBERS OF
14 THE BOARD. THE CONFERENCE SHALL BE HELD AT THE APPLICABLE
15 REGIONAL OR DISTRICT OFFICE OF THE DEPARTMENT OF ENVIRONMENTAL
16 PROTECTION CLOSEST TO THE TRACT WHICH IS THE SUBJECT OF THE
17 OBJECTION. THE BOARD MAY USE, AND THE DEPARTMENT OF
18 ENVIRONMENTAL PROTECTION SHALL PROVIDE, CLERICAL ASSISTANCE AND
19 THE USE OF REGIONAL OR DISTRICT OFFICES FOR THE BOARD IN
20 CONDUCTING CONFERENCE SESSIONS.

21 (D) AT THE CONFERENCE THE WELL OPERATOR AND SURFACE OWNER OR
22 OWNERS AS ARE PRESENT OR REPRESENTED SHALL CONSIDER THE
23 OBJECTIONS AND ATTEMPT TO AGREE UPON A LOCATION FOR THE COAL BED
24 METHANE WELL OR ACCESS ROAD. THE BOARD MAY HOLD MORE THAN ONE
25 CONFERENCE SESSION. THE CONFERENCE SHALL BE COMPLETED WITHIN TEN
26 BUSINESS DAYS OF THE DATE THAT THE CONFERENCE IS ORIGINALLY
27 COMMENCED. HOWEVER, THE BOARD, IN ITS SOLE DISCRETION, MAY
28 EXTEND THE TIME FOR COMPLETION OF THE CONFERENCE BY AN
29 ADDITIONAL FIVE BUSINESS DAYS, AND THE PARTIES TO THE CONFERENCE
30 MAY EXTEND THE TIME FOR COMPLETION OF THE CONFERENCE TO A DATE

1 MUTUALLY AGREED UPON. ANY AGREEMENT REACHED AT THE CONFERENCE
2 SHALL BE CONSISTENT WITH THE REQUIREMENTS OF THE "OIL AND GAS
3 ACT" AND SHALL BE REDUCED TO WRITING BY THE BOARD AND SUBMITTED
4 TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION WITHIN TEN
5 BUSINESS DAYS OF THE DATE THAT THE CONFERENCE IS COMPLETED. UPON
6 RECEIPT OF NOTICE THAT THE BOARD'S CONFERENCE RESULTED IN A
7 MUTUAL AGREEMENT BETWEEN THE OPERATOR AND THE SURFACE OWNER, THE
8 DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL ACCEPT AN
9 APPLICATION WITH A PLAT SHOWING THE AGREED-UPON LOCATION OF THE
10 COAL BED METHANE WELL AND ACCESS ROAD FROM THE OPERATOR AND
11 SHALL PROCEED TO ISSUE OR DENY THE WELL PERMIT. IF THE PARTIES
12 TO THE CONFERENCE BEFORE THE BOARD FAIL TO AGREE UPON A LOCATION
13 OF THE COAL BED METHANE WELL OR ACCESS ROAD OR IF ONLY THE PARTY
14 REQUESTING REVIEW PARTICIPATES IN THE CONFERENCE, THE BOARD
15 SHALL MAKE A DETERMINATION IN WRITING ESTABLISHING A LOCATION OF
16 THE COAL BED METHANE WELL OR ACCESS ROAD THAT, IN THE JUDGMENT
17 OF THE MAJORITY OF THE BOARD, WILL CAUSE ONLY THOSE SURFACE
18 IMPAIRMENTS THAT ARE REASONABLY NECESSARY FOR PURPOSES OF
19 EXTRACTING THE UNDERLYING COAL BED METHANE. ISSUANCE OF THE
20 WRITTEN DETERMINATION SHALL BE MADE WITHIN TEN BUSINESS DAYS OF
21 THE DATE OF COMPLETION OF THE CONFERENCE AND SHALL BE SERVED ON
22 THE DATE OF ISSUANCE BY CERTIFIED MAIL UPON THE SURFACE OWNER,
23 THE WELL OPERATOR AND THE DEPARTMENT OF ENVIRONMENTAL
24 PROTECTION. WITHIN FIFTEEN BUSINESS DAYS OF THE DATE OF
25 COMPLETION OF THE CONFERENCE, THE BOARD SHALL ISSUE A WRITTEN
26 STATEMENT SETTING FORTH FINDINGS OF FACT AND REASONS IN SUPPORT
27 OF ITS DETERMINATION AND SHALL SERVE COPIES OF THE WRITTEN
28 STATEMENT BY CERTIFIED MAIL UPON THE SURFACE OWNER, THE WELL
29 OPERATOR AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. FAILURE
30 BY THE BOARD TO ISSUE THE WRITTEN STATEMENT OF FINDINGS OF FACT

1 AND REASONS IN SUPPORT OF ITS DETERMINATION WITHIN THE
2 PRESCRIBED PERIOD OF FIFTEEN BUSINESS DAYS SHALL NOT PRECLUDE AN
3 AGGRIEVED PERSON FROM EXERCISING THE RIGHT OF APPEAL TO A COURT
4 OF COMMON PLEAS AS PROVIDED UNDER SUBSECTION (F). IF NO APPEAL
5 OF THE BOARD'S DETERMINATION IS FILED UNDER SUBSECTION (F), THE
6 DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL ACCEPT AN
7 APPLICATION WITH A PLAT SHOWING THE LOCATION OF THE COAL BED
8 METHANE WELL AND ACCESS ROAD AS DETERMINED BY THE BOARD FROM THE
9 OPERATOR AND SHALL PROCEED TO ISSUE OR DENY THE WELL PERMIT.

10 (E) ANY DETERMINATION BY THE BOARD, MADE UNDER SUBSECTION
11 (D), SHALL BE BINDING ON THE DEPARTMENT OF ENVIRONMENTAL
12 PROTECTION. THE BOARD'S DETERMINATION SHALL NOT LIMIT OR
13 OTHERWISE AFFECT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S
14 REGULATORY AUTHORITY UNDER THE "OIL AND GAS ACT," THE ACT OF
15 JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS "THE CLEAN STREAMS
16 LAW," OR ANY OTHER APPLICABLE LAW ADMINISTERED BY THE
17 DEPARTMENT.

18 (F) ANY PERSON AGGRIEVED BY A DETERMINATION OF THE BOARD
19 ISSUED UNDER SUBSECTION (D) SHALL HAVE THE RIGHT, WITHIN FIFTEEN
20 DAYS OF RECEIPT OF THE WRITTEN OR FINAL DETERMINATION, TO APPEAL
21 THE DETERMINATION TO THE COURT OF COMMON PLEAS IN THE JUDICIAL
22 DISTRICT IN WHICH THE AFFECTED PROPERTY IS LOCATED. A COPY OF
23 THE APPEAL SHALL BE SERVED UPON ALL THE PARTIES TO THE
24 CONFERENCE. THE BOARD OR THE DEPARTMENT OF ENVIRONMENTAL
25 PROTECTION SHALL NOT BE A PARTY TO THE APPEAL. THE COURT SHALL
26 HOLD A HEARING ON THE APPEAL WITHIN THIRTY DAYS OF FILING OF THE
27 APPEAL AND SHALL RENDER ITS DECISION IN THE APPEAL WITHIN SIXTY
28 DAYS OF FILING OF THE APPEAL. IN ANY APPEAL, THE ONLY ISSUE TO
29 BE DETERMINED BY THE COURT IS WHETHER THE LOCATION OF THE
30 DISPUTED COAL BED METHANE WELL OR ACCESS ROAD, AS THE CASE MAY

1 BE, DETERMINED BY THE BOARD, WILL CAUSE ONLY THOSE SURFACE
2 IMPAIRMENTS THAT ARE REASONABLY NECESSARY FOR PURPOSES OF
3 EXTRACTING THE UNDERLYING COAL BED METHANE. IF THE COURT AGREES
4 THAT THE BOARD'S DETERMINATION MEETS THIS STANDARD, IT SHALL
5 AFFIRM THE BOARD'S DETERMINATION. IF THE COURT DETERMINES THAT
6 THE BOARD'S DETERMINATION DOES NOT MEET THIS STANDARD, IT SHALL
7 ISSUE AN ORDER INDICATING THE LOCATION OF THE DISPUTED COAL BED
8 METHANE WELL OR ACCESS ROAD, AS THE CASE MAY BE, THAT, IN THE
9 OPINION OF THE COURT, WILL CAUSE ONLY THOSE SURFACE IMPAIRMENTS
10 THAT ARE REASONABLY NECESSARY FOR PURPOSES OF EXTRACTING THE
11 UNDERLYING COAL BED METHANE. UPON ISSUANCE OF AN ORDER BY THE
12 COURT, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL ACCEPT
13 AN APPLICATION FROM THE OPERATOR AND SHALL PROCEED TO ISSUE OR
14 DENY THE WELL PERMIT.

15 (G) THIS SECTION SUPERSEDES THE ORDINANCES AND RESOLUTIONS
16 OF POLITICAL SUBDIVISIONS DEALING WITH MATERIAL REGULATED BY
17 THIS SECTION.

18 (H) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO
19 AFFECT, LIMIT OR IMPAIR ANY ENFORCEMENT ACTION TAKEN BY THE
20 DEPARTMENT OF ENVIRONMENTAL PROTECTION UNDER THE ACT OF DECEMBER
21 19, 1984 (P.L.1140, NO.223), KNOWN AS THE "OIL AND GAS ACT."

22 (I) NOTHING IN THIS SECTION PRECLUDES A PERSON FROM SEEKING
23 OTHER REMEDIES ALLOWED BY STATUTE, COMMON LAW, DEED OR CONTRACT,
24 NOR DOES THIS SECTION DIMINISH OR ALTER RIGHTS PREVIOUSLY
25 ESTABLISHED OR GRANTED BY STATUTE, COMMON LAW, DEED OR CONTRACT.

26 SECTION 5. NOTIFICATION.

27 THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL PUBLISH A
28 NOTICE IN THE PENNSYLVANIA BULLETIN WHEN ALL INITIAL MEMBERS OF
29 THE BOARD ESTABLISHED IN SECTION 6.4 OF THE ACT HAVE BEEN
30 APPOINTED.

1 Section 2 6. This act shall take effect ~~in 60 days~~. AS



2 FOLLOWS:

3 (1) THE ADDITION OF SECTION 6.5 OF THE ACT SHALL TAKE
4 EFFECT UPON PUBLICATION OF THE NOTICE UNDER SECTION 5 OF THIS
5 ACT.

6 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
7 IMMEDIATELY.