WEST VIRGINIA CODE: §22-6-15

§22-6-15. Objections to proposed drilling of deep wells and oil wells; objections to fracturing; notices and hearings; agreed locations or conditions; indication of changes on plats, etc.; issuance of permits.

(a) When a proposed deep well drilling site or oil well drilling site or any site is above a seam or seams of coal, then the coal operator operating said coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams, may within fifteen days from the receipt by the director of the plat and notice required by section twelve of this article, or within fifteen days from the receipt by the director of notice required by section thirteen of this article, file objections in writing (forms for which will be furnished by the director on request) to such proposed drilling or fracturing with the director, setting out therein as definitely as is reasonably possible the ground or grounds on which such objections are based.

If any objection is filed, or if any objection is made by the director, the director shall notify the well operator of the character of the objections and by whom made and fix a time and place, not less than fifteen days from the end of said fifteen-day period, at which such objections will be considered of which time and place the well operator and all objecting coal operators, owners or lessees, if any, shall be given at least ten days' written notice by the director, by registered or certified mail, and summoned to appear. At the time and place so fixed the well operator and the objecting coal operators, owners or lessees, if any, or such of them as are present or represented, shall proceed to consider the objections. In the case of proposed drilling, such parties present or represented may agree upon either the location as made or so moved as to satisfy all objections and meet the approval of the director, and any change in the original location so agreed upon and approved by the director shall be indicated on said plat on file with the director, and the distance and direction of the new location from the original location shall be shown, and as so altered, the plat shall be filed and become a permanent record, and in the case of proposed fracturing, such parties present or represented may agree upon conditions under which the well is to be fractured which will protect life and property and which will satisfy all objections and meet the approval of the director, at which time the plat and notice required by section twelve or the notice required by section thirteen, as the case may be, shall be filed and become a permanent record. Whereupon the director shall forthwith issue to the well operator a drilling or fracturing permit, as the case may be, reciting the filing of the plat and notice required by said section twelve, or the notice required by said section thirteen, as the case may be, that at a hearing duly held a location as shown on the plat or the conditions under which the fracturing is to take place for the protection of life and property were agreed upon and approved, and that the well operator is authorized to drill at such location or to fracture at the site shown on such plat, or to fracture the well identified in the notice required by section thirteen, as the case may be.

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(b) In the event the well operator and the objecting coal operators, owners or lessees, if any, or such as are present or represented at such hearing are unable to agree upon a drilling location, or upon a drilling location that meets the approval of the director, then the director shall proceed to hear the evidence and testimony in accordance with sections one and two, article five, chapter twenty-nine-a of this code, except where such provisions are inconsistent with the article. The director shall take into consideration in arriving at his decision:

(1) Whether the drilling location is above or in close proximity to any mine opening or shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof in any operated or abandoned or operating coal mine or coal mines already surveyed and platted, but not yet being operated;

(2) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;

(3) Whether a well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal; and

(4) The extent to which the proposed drilling location unreasonably interferes with the safe recovery of coal, oil and gas.

At the close of the hearing or within ten days thereafter the director shall issue an order:

(1) Refusing to issue a permit;

(2) Issuing a permit for the proposed drilling location; or

(3) Issuing a permit for a drilling location different from that requested by the well operator.

The order shall state with particularity the reasons for the director's order and shall be mailed by registered or certified mail to the parties present or represented at such hearing. If the director has ruled that a permit will be issued, the director shall issue a permit effective ten days after such order is mailed, except that for good cause shown, the director may stay the issuance of a permit for a period not to exceed thirty days.

If a permit is issued, the director shall indicate the new drilling location on the plat on file and shall number and keep an index of and docket each plat and notice received by mail as provided in section twelve of this article, and each notice mailed as provided in section thirteen of this article, entering in such docket the name of the well operator, and the names and addresses of all persons notified, the dates of hearings and all actions taken by the director. The director shall also prepare a record of the proceedings, which record shall include all applications, plats and other documents filed with the director, all notices given and proof of service thereof, all orders issued, all permits issued and a transcript of the hearing. The record prepared by the director shall be open to inspection by the public.

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(c) In the event the well operator and the objecting coal operators, owners or lessees, if any, or such as are present or represented at such hearing, are unable to agree upon the conditions under which the well is to be fractured as to protect life and property, or upon conditions of fracturing that meet with the approval of the director, then the director shall proceed to hear the evidence and testimony in accordance with sections one and two, article five, chapter twenty-nine-a of this code, except where such provisions are inconsistent with this article.

The director shall take into consideration whether the well can be fractured safely, taking into consideration the dangers from creeps, squeezes or other disturbances.

At the close of the hearing, or within ten days thereafter, the director shall issue an order stating the conditions under which the well is to be fractured, provided the well can be fractured safely, taking into consideration the dangers from creeps, squeezes or other disturbances. If such fracturing cannot be done safely, the director shall issue an order stating with particularity the reasons for refusing to issue a permit.

The order shall state with particularity the reasons for the director's order and shall be mailed by registered or certified mail to the parties present or represented at such hearing. If the director has ruled that a permit will be issued, the director shall issue a permit effective ten days after such order is mailed, except that for good cause shown, the director may stay the issuance of a permit for a period not to exceed thirty days.

If a permit is issued, the director shall indicate the well to be fractured on the plat on file and shall number and keep an index of and docket each plat and notice received by mail as provided in section twelve of this article, and each notice received by mail as provided in section thirteen of this article, entering in such docket the name of the well operator, the names and addresses of all persons notified, the dates of hearings and all actions taken by the director. The director shall also prepare a record of the proceedings, which record shall include all applications, plats and other documents filed with the director, all notices given and proof of service thereof, all orders issued, all permits issued and a transcript of the hearing. The record prepared by the director shall be open to inspection by the public.

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