

ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



Babst | Calland
Attorneys at Law

babstcalland.com

Pittsburgh, PA

Two Gateway Center
603 Stanwix Street
Sixth Floor
Pittsburgh PA 15222
412-394-5400
FAX 412-394-6576

State College, PA

Suite 302
330 Innovation Blvd.
State College, PA 16803
814-867-8055
FAX 814-867-8051

Charleston, WV

Suite 590
United Center
500 Virginia Street East
Charleston, WV 25301
681-205-8888
FAX 681-205-8814

Akron, OH

Suite 1010
One Cascade Plaza
Akron, OH 44308
234-352-1650
FAX 234-352-1640

Sewell, NJ

380-A Tylers Mill Road
Sewell, NJ 08080
856-256-2495
FAX 412-586-1082

Ohio Supreme Court: Issuance of a Drilling Permit is Not an “Order” Which Can Be Appealed to the Oil and Gas Commission

On January 30, 2013, the Ohio Supreme Court ruled that the issuance of a permit to drill a new well, deepen a well, reopen, convert or plug a well is not considered to be an “order of the chief” of the Ohio Department of Natural Resources’ Division of Oil and Gas Resources Management (DOGRM), *Chesapeake Exploration, LLC, v. Oil & Gas Comm., 2013-Ohio-224* (January 30, 2013). As such, the Court held that the Ohio Oil and Gas Commission has no jurisdiction to hear an appeal of such permit under Ohio’s oil and gas law.

The case was brought before the Court by a drilling company seeking a writ of prohibition to prevent the Oil and Gas Commission from exercising jurisdiction in a landowner’s appeal of a permit to drill issued by DOGRM. In determining the Commission’s jurisdiction, the Court was asked to reconcile one provision of Ohio’s oil and gas law authorizing the Commission to hear appeals of any “order of the chief” of DOGRM (R.C. § 1509.36) with another, recently amended, provision of the statute stating that the issuance of a permit to drill “shall not be considered an order of the chief” (R.C. § 1509.06(F)). The Court concluded that R.C. 1509.06(F) manifestly divests the commission of appellate jurisdiction over the chief’s decisions to issue permits for oil and gas wells. An issue not addressed by the Court is whether a permit to drill may be appealed to state court under Ohio’s administrative procedure law.

If you would like to discuss this decision or other issues related to natural gas exploration and production in Ohio, please contact David E. Northrop at 412-394-6590 or dnorthrop@babstcalland.com, Robert W. Thomson at 412-394-5656 or rthomson@babstcalland.com, Michael H. Winek at 412-394-6538 or mwinek@babstcalland.com, or Ryan D. Elliott at 412-394-5432 or relliott@babstcalland.com.