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# Public outcry continues over Hard Rock's dumping in Youngstown

By David Skolnick, Jamison Cocklin

Thursday, February 7, 2013

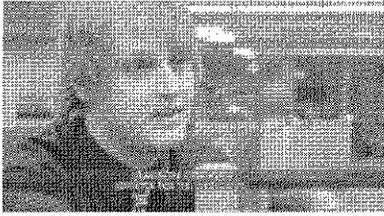


By William D. Lewis

Anti-fracking activist Lynn Anderson holds a stack of petitions that she and others delivered to Youngstown City Hall on Wednesday.

Brine Backlash: Bob Hagan

Videos



Louie b. Free is joined by Bob Hagan, Mark Sweetwood, and Jamison Cocklin to discuss the illegal dumping of fracking brine into the Mahoning River.



Lupo

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## YOUNGSTOWN

Backlash over Hard Rock Excavating's decision to dump thousands of gallons of fracking waste into a storm drain continued Wednesday with sharp criticism of both state law and the oil and gas industry.

Environmental groups, elected officials, the public and even the industry itself decried last Thursday's incident when inspectors with the Ohio Department of Natural Resources were dispatched to Hard Rock's headquarters at 2761 Salt Springs Road only to witness an employee cleaning out what is now described as a tanker truck filled with brine and oil.

Stoking the outrage were documents released late Tuesday by the Ohio Environmental Protection Agency that show Ben W. Lupo, a partner in

several companies headquartered at the site, and owner of both D&L Energy and Hard Rock, instructed an employee to dump the wastewater down the drain, which eventually emptied into the Mahoning River.

Youngstown Fire Chief John J. O'Neill Jr. said he spoke Wednesday with Kurt Kollar, the on-scene coordinator for OEPA's Division of Emergency and Remedial Response, who told him 40,000 to 50,000 gallons were dumped into a storm sewer that empties into the Mahoning River.

"They plan on filing state and federal charges against the appropriate parties," O'Neill said Kollar told him. "That's why they're being sketchy" with details.

About 90 percent of the cleanup was done by Wednesday, O'Neill said.

Initial reports estimated the amount of fracking waste to be about 20,000 gallons. But O'Neill said Kollar told him it was 40,000 to 50,000.

Chris Abbruzzese, deputy director for communications at the OEPA, said his organization is awaiting the test results from samples taken at the spill site over the weekend. Once regulators confirm what was leaked into the ground and the river, he said a decision would be made to retain the evidence for its criminal investigation, inform public officials or both.

Abbruzzese said the primary concern at the moment is continuing with cleanup efforts, as snowmelt could exacerbate the effects of the spill. More trucks were on site to help in those efforts while the agency "throws all the resources it has into the investigation."

He said periodic updates would be made available to the public as the investigation continues.

State Rep. Bob Hagan of Youngstown, D-58th, announced Wednesday that he's calling for a special prosecutor to investigate the incident independently of the criminal investigation being undertaken by the ODNR and OEPA.

"I want a prosecutor that's going to get results," Hagan said.

Hagan added that he has talked with Mahoning County Prosecutor Paul Gains to gauge his interest in pursuing a case against the suspect parties, which legislative aides told him was possible. He also will introduce legislation early next week that requires regulators and emergency responders to notify elected officials of spills immediately.

City council members expressed outrage and anger toward Lupo and his companies over the intentional dumping of fracking waste.

"It's pretty disturbing when someone willfully and knowingly breaks the law and instructs his employees to do so," said Councilman Mike Ray, D-4th, who lives about a mile from the brine dump site. "It's even more outrageous to do this when it affects people's health. Even more troubling is it's criminal activity done in plain sight."

Ray said he saw cleanup crews on the Salt Springs Road location Saturday, but thought it was construction activity related to V&M Star's expansion project.

With D&L having at least 120 violations at 32 injection and extraction wells in Ohio and Pennsylvania, according to a 2012 Vindicator investigation, Councilwoman Janet Tarpley, D-6th, said, "I'd like to know why they're still in business. It's time for them to be shut down. There's no need for further discussion."

Councilman Paul Drennen, D-5th, called Lupo's actions "despicable. They should prosecute him and make an example of him."

"It's a travesty that they attempted to get away with illegal dumping," added Councilman T.J. Rodgers, D-2nd. Lupo "should be banned from doing business in this area and the state. He's shown he's not capable of running his business in an appropriate manner."

Councilwoman Annie Gillam, D-1st, said state agencies "need to deal with [Lupo] in a very serious manner. We want drilling to be done safely in the city. What is wrong with this person to be so blatant and to put [wastewater] down the sewer?"

Councilman Nate Pinkard, D-3rd, said, "These are blatant violations. Someone should be charged criminally. Antics like this give the [gas and oil drilling] industry a black eye."

Councilman John R. Swierz, D-7th, said, "It's a shame that someone like that has so much disregard for the law."

Meanwhile, activists who oppose fracking said the dumping incident gives greater weight to their cause. Terry Esarco said the transgression "shows the treachery that occurs in the oil and gas industry, and gives even more reason to reveal the chemicals that are being used in the fracking process."

Environment Ohio, a statewide citizen's advocacy group, chastised the dumping and called state laws that allow oil and gas companies to withhold what chemicals are used in the process both inadequate and favorable to the industry rather than public well-being.

"Disclosure is just the tip of the iceberg," said Julian Boggs, the organization's state policy advocate. "It's a problem that state lawmakers have not put forth any sort of plan to handle the billions of barrels of fracking waste that will eventually enter the state as a byproduct of this boom. Dumping it down injection wells is the best of a bunch of bad options."

Thomas Stewart, executive vice president of the Ohio Oil and Gas Association, disagreed with Boggs, noting that Ohio's laws regulating the industry are among some of the strongest in the nation. He expressed dismay at Hard Rock's decision to dump the wastewater down a storm drain.

"If these allegations are proved to be true, we're deeply disappointed at the damages that this wreaks on our industry," Stewart said. "We hope the OEPA and ODNR, and whoever else gets involved, will prosecute to the fullest extent of the law and make it as painful as it can be."

He added that neither his organization, nor the industry as a whole, condones dumping waste "anywhere it doesn't belong. It's not that hard to comply

with the law, I can't imagine what [Hard Rock] was thinking and what they thought they could get away with."

Hagan also said state Rep. Mike Foley of Cleveland, D-14th, who sits on the state finance committee, plans to include an amendment in the governor's budget proposal calling for a severance tax to help pay for additional oil and gas inspectors.

U.S. Rep. Tim Ryan of Niles, D-13th, said he was pleased by the response of state regulators.

"I am furious that [thousands of] gallons of wastewater was dumped into a storm drain on Salt Springs Road," Ryan said. "The natural-gas industry could be a huge boon to our economy, but only if everyone is adhering to the Ohio rules and regulations. Anyone who purposely puts Ohio's environment in harm's way should be prosecuted to the full extent of the law."