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Investors lease land for cracking plant

Proposed site to be built near Montgomery

By [Paul J. Nyden](#)

CHARLESTON, W.Va. -- A local lawyer, whose company has leased almost 1,500 acres of land near Montgomery, said he plans to raise \$1 billion to develop a cracking plant to process natural gas from the Marcellus Shale reserves.

Richard Neely, a Charleston lawyer and former West Virginia Supreme Court Justice, said Friday that is managing a new company called Invictus LLC. He said the plant will produce a variety of products, including diesel fuel, gasoline, naphtha and ethylene -- a major product used by the plastics industry.

Marcellus Shale gas to be used by the plant also contains methane, propane and ethane.

Invictus has already acquired the rights to 1,456 acres of land to build a cracking plant and related facilities near Coalburg, between Montgomery and Cabin Creek.

Most of the facilities will be built on land that was previously a mountaintop removal coal mine.

Neely said he is already discussing getting Marcellus Shale gases pipelined to the proposed Invictus plant from Dominion Resources, a Virginia-based company already working on extracting natural gas from Marcellus Shale reserves.

"They would send us three million cubic feet of gas a day. They also said they can afford to build a new pipeline."

Secretary of State Natalie Tenant officially approved the formation of the new company on October 11.

The proposed cracking plant, Neely said, will create good "union wage jobs. We will hire local workers. I am still a card-carrying member of the International Brotherhood of Electrical Workers."

Before he began serving on the Supreme Court in 1973, Neely represented unions, including the IBEW and the Building Trades Council.

"To build the plant, we will employ about 2,000 workers for two-and-a-half years. When the plant starts operating 24 hours a day, we will employ about 120 people.

"The plant will indirectly create many other jobs for railroad workers, truckers, river barge workers and workers at ancillary plants we will build on the site.

"We will give preference to veterans of Iraq and Afghanistan, as long as they pass drug tests," Neely said.

He also said the new plant could help revitalize West Virginia Tech.

"Students would have substantial opportunities for internships and work-study projects," he said.

Invictus recently filed its first permit application with the West Virginia Department of Environmental Protection.

DEP Secretary Randy Huffman said on Friday that his agency has not yet issued any permits for cracking plants anywhere in the state.

With approval for other permits also required, the process is likely to take at least two years.

Neely estimates it will cost \$2 million to get the permits needed, including \$1 million to gain DEP approval of an air-quality permit application.

"DEP has agreed to let us apply for a permit based on a model plant. It will take us six months to develop that model. And DEP may take 18 months to review our permit application."

Invictus must obtain approval for several permits, including permits for storm waters and wastewaters generated in the plant.

Huffman, who has not yet seen the permit application from Invictus, said application approval "will take quite a while. What the actual emissions will be could be hard to narrow down."

The proposed cracking plant will be 850 feet above the banks of the Kanawha River. The plant's smokestack will be another 200 feet high.

"The plant is located far from any major population center," Neely said, "although there are some houses within a quarter of a mile."

The plant is high enough, Neely added, that emissions released will be dispelled before reaching nearby population centers.

"All refining plants produce waste gases, which in old plants are simply flared into the air," Neely said. "This plant will include an electric power generating facility that will use 'waste' gas to produce steam plus all the power for the plant itself."

Any additional electric power generated will be sold to existing power grids through three substations near the mouth of Cabin Creek.

The plant's proposed location will allow easy access to a barge loading facility that accommodates two large river barges.

Space is also available to develop a railroad siding for 126 tanker cars along the CSX Railroad tracks.

CSX Railroad, Neely pointed out, can transport products directly to Newport News, Va., a major export port, and to Chicago, a major railroad hub to ship products anywhere inside the country.

West Virginia state laws and regulations governing the extraction of Marcellus Shale are still being debated.

On Friday, Gov. Earl Ray Tomblin asked state legislators to come to a special session at the Capitol, beginning this evening, to discuss proposed new regulations.

Earlier this year, a special Senate-House Joint Committee worked on drafting legislation regulating Marcellus Shale drilling.

Tomblin's office recently suggested several modifications to the legislation related to topics including: permitting fees, required "buffer zones" near gas-drilling sites and property rights of

surface owners.

Raamie Barker, Tomblin's spokesperson, said the governor's office is not yet familiar with the Invictus project.

Neely's partners in the new venture include:

- Michael O. Callaghan, a former head of DEP who is now Neely's law partner.
- John C. Bullock and Ted Streit of Gaddy Engineering, a Charleston-based professional land management company.
- Ryan E.M. Cunningham, president of Cunningham Energy, a major oil and gas exploration and production company based in Charleston.

"Cunningham and I are the financiers of the project," Neely said.

Invictus recently hired Process Engineering Associates in Oak Ridge, Tenn., to begin designing and engineering work for the new cracking facility. Neely called Process Engineering the country's "best chemical engineering consulting firm."

The Philadelphia law firm of Ballard & Spahr, which works extensively with Wall Street private equity markets and hedge funds, is handling legal and financial work for the new company.

To invest in the new company, Neely said, a person must be a "qualified investor according to SEC [U.S. Securities And Exchange Commission]. You have to have \$1 million in assets and regularly make \$250,000 a year. Financing will also come from hedge funds."

CORRECTION: Because of an editing error, an earlier version of this story said that Neely planned to raise \$1 billion for the project by Friday.

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