



3337 Route 130
PO Box 137
Harrison City, PA 15636
(724) 392-7023
gillian@protectpt.org

November 9, 2018

Sent by Certified U.S. Mail

Secretary Patrick McDonnell
Office of the Secretary
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Dear Secretary McDonnell,

Thank you for meeting with members of our organization in July and listening to our concerns about oil and gas development in our community. We appreciate your efforts to understand the impacts of this development on our neighborhoods. We wanted to reiterate our concerns given that Apex Energy (PA), LLC, continues to receive new permits despite 22 months of ongoing violations at the Fatur Well Pad in Salem Township. We feel that at this time the Department is not taking our concerns seriously due to the issuance of 12 new permits for this operator since our first communication with the Department.

At our meeting, you voiced a desire to see these oil and gas operators come into compliance. However, allowing operators to continue to operate without correcting outstanding violations is not helping them to come into true compliance with the laws that were established to protect our community and environmental rights. Furthermore, when you spoke at the *Cabinet In Your Community* in Greensburg, you said that the first goal of the DEP is to bring these developers into compliance. We would argue that the first goal of the DEP should be to "*protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment*", and to protect our constitutional rights to "*clean air, pure water, and the preservation of the natural, scenic, historic and aesthetic values of the environment*". Continuing to work with operators who are out of compliance should be secondary to protecting the health and safety of citizens and the environment.

The Department's current methods of "working with" this operator are clearly not resulting in success since Apex submitted a new ESCGP-2 in April 2018, and they were just issued new violations as of October 10, 2018. The Department continues to approve new permits for this operator, ignoring the Department's authority and duty to uphold its mission.

Additionally, the engineers who work for the developers are tasked with the responsibility of understanding the geology, hydrology, and other characteristics of the sites where unconventional natural gas development will take place. The engineer at the Fatur well site failed to adequately account for the hydrology of the land before development, which resulted in the discharge of industrial fluids into the main source of drinking water for Westmoreland County. Apex Energy is responsible not only for failing to accurately report the hydrology of the land before developing it but also for continuing to operate after these discharges began to occur and were documented by the DEP.

It is ultimately the responsibility of the Department to evaluate developers' understanding of the land where they wish to develop. Until Apex Energy provides evidence of their corrections and a thorough understanding of their sites, the DEP must not approve permits for this operator. Additionally, we would like to point out that the engineer contracted, in this case, is from the same firm that was contracted to develop 8 well pads in Penn Township in addition to other municipalities in Westmoreland and Allegheny Counties with similar violations. This engineer is also responsible for drafting permits for several other operators in Pennsylvania.

The Department should shut down the faulty operations at the Fatur well site and stop approving permits to Apex Energy until they prove they have corrected these violations and provide a comprehensive plan for avoiding such violations moving forward. The Department should also re-evaluate all plans submitted by Civil Engineering Consultants, the engineering firm responsible for drafting the plans in this case. The Department should impose civil penalties on this operator to encourage a culture of compliance to protect the environment and ensure future pollution is mitigated instead of propagated.

If you would like additional information regarding our concerns or the violations data we have collected, please contact me at (724) 392-7023. On behalf of our members, we appreciate your attention to these important matters.

Sincerely,

Gillian Graber
Executive Director, Protect PT

cc: Dan Conahan, Environmental Program Manager, Oil & Gas Division
cc: Tom Donohue, Professional Geologist Manager, Oil & Gas Division
cc: Ron Swartz, Southwest Regional Director

cc: Jessica Shirley, Director of Policy
cc: Tim Schaeffer, Deputy Secretary Office of Water Programs
cc: Scott Perry, Esq., Deputy Secretary of Oil & Gas
cc: Ramez Ziadeh, P.E., Acting Executive Deputy of Programs