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Sent by Certified First Class 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,

We are writing to you on behalf of the members of our organization, Protect PT (Penn-Trafford). Protect PT is a nonprofit citizen's group working to ensure that our community's safety, security, and quality of life are protected from the harmful effects of unconventional gas development.

To date, one of the oil and gas developers operating in our community, Apex Energy (PA), LLC, has been cited for 52 violations in Westmoreland and Armstrong Counties. Of these 52 violations, 25 are recorded as environmental health and safety violations. Many of these violations are ongoing threats to the health, safety, and natural resources of residents and the environment.

This operator shows a consistent lack of compliance with no consequence. For example, the Fatur Well Site has had outstanding violations for 16 months stemming from a complaint inspection conducted in January 2017 for the discharge of polluted waters into the waters of the Commonwealth. Citations for violation of the Pennsylvania code from this inspection include the following: **25 Pa. Code § 102** Erosion and sediment control; **§ 78a.55** Control and disposal planning; emergency response for unconventional wells; **§ 91.33** Incidents causing or threatening pollution, contrary to rules and regulations of the Department; **CSL 401** Prohibition against other pollutions - Discharged substance of any kind or character resulting in pollution of Waters of the Commonwealth; and **CSL301** Unauthorized, unpermitted discharge of industrial wastes to waters of the Commonwealth. Inspectors at this site found that the discharged water tested for elevated levels of iron, manganese, and total suspended solids (TSS) and the operator was cited for failure to notify DEP and downstream users of a potential pollution event *capable of endangering downstream users*.

Based on information obtained through the informal file review and Right to Know process, we know that Apex has met with the DEP in order to try to resolve these ongoing issues. However, these repeated acts indicate a willful violation of state laws put in place to safeguard the environment that the DEP is charged with protecting. DEP staff has spent numerous hours working with Apex to come

into compliance without favorable results. In spite of this, Apex has not received any fines or other civil penalties.

Additionally, Apex failed to submit annual and semiannual production and air emissions inventory reports designed to quantify the amount of methane and other pollutants emitted from oil and gas operations. In fact, because of our inquiry, DEP realized that 20 other operators had also failed to submit 2015 air inventory reports. These measures, put in place to protect the environment and human populations, are nothing without enforcement actions. Not only did the Department fail to administer violation penalties, but they also failed to ensure operators were following state law. This is just one example of the lack of oversight by the Department. Repeated violations with no enforcement indicate a systemic failure of the Department to serve the people of Pennsylvania.

We, as Pennsylvanians, expect more from the enforcement agency tasked with upholding state law. Under § 102.32(a) Compliance and enforcement provisions, it is within your purview to suspend, revoke, withhold or deny permits or approvals, order injunctions, and impose civil penalties to those operators in violation of this chapter. We are requesting that the Department impose civil penalties and revoke the privileges of Apex to operate in Pennsylvania until they correct their outstanding violations and provide a solid comprehensive plan going forward to ensure these types of egregious offenses don't happen in the future.

Currently, Apex is seeking two (2) new Drill and Operate Well Permits in our township at the Drakulic Well Pad (Permit number 129-28876). Apex also has plans to develop several other well pad locations in our community. We request the DEP not issue these permits based on their track record of non-compliance and because doing so would allow a habitual offender to continue to violate our constitutional rights.

We request a response to these allegations within 15 days, so our community knows the Department is committed to performing their duty to *protect the safety and property rights of persons residing in areas where such exploration, development, storage or production occurs*. If you would like additional information regarding our concerns or the violations data that 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

cc: Deputy Secretary of Oil & Gas, Scott Perry, Esq.
cc: Acting Executive Deputy of Programs, Ramez Ziadeh, P.E.
cc: Deputy Secretary of Waste, Air, Radiation & Remediation, George Hartenstein

cc: Director of Policy, Jessica Shirley
cc: Southwest Regional Office Permit Manager, Tom Donohue