

August 12, 2020

Sent by Certified First-Class U.S. Mail

District Attorney John Peck
Westmoreland County District Attorney
2 N. Main St., Suite 206
Greensburg, PA 15601

Dear Mr. Peck:

We are writing on behalf of the members of our organization, Protect PT (Penn-Trafford). Protect PT is a nonprofit citizens group dedicated to ensuring that the safety, security, and quality of life of community members are protected from the effects of unconventional natural gas development. We are disturbed by your failure to respond to our concerns of ongoing environmental and health impacts from oil and gas development and its associated waste in Westmoreland County. On at least three separate occasions, after our initial March 2019 letter, we have contacted your office and were ignored. Over a year later, we have yet to hear from you, and the violations continue to mount against this industry.

In our March 2019 letter, we requested you bring an enforcement suit against Apex Energy, LLC. for failure to comply with the Clean Streams Law since the PA DEP has failed to take proper action against this negligent operator and protect our waters. We also asked that you fulfill your duty to serve and protect citizens by stopping these negligent operations or referring this case to the Attorney General's office. We followed up on several occasions by phone and our request was blatantly ignored.

Apex Energy is one of several negligent operators in Westmoreland County. CNX, another gas operator, remains a threat to public health, yet the PA DEP has been unable to demonstrate to us that they have thoroughly investigated CNX. An incident in January 2019 at the Shaw well pad operated by CNX was widely reported by local news sources, in which a casing failure at approximately 5,200 feet deep resulted in

rapid migration of methane and fracking fluid into the substrate. Nine shallow conventional wells (approximately 3,800 feet deep and scattered approximately one mile Southwest and Northeast) needed to be flared in order to prevent an explosion. This particular incident demonstrates a pattern of negligence from CNX and the damaging consequences for their well pads to contaminate the Beaver Run Reservoir, the public drinking water source for 130,000 households. Yet, CNX has faced no repercussions and their Notice of Intent to cap the well has not been investigated or acted upon by the PA DEP.

The Beaver Run Reservoir incident is one of many other incidents that clearly demonstrate the failure of the oil and gas industry to take responsibility to protect public and environmental health from the harmful effects of fracking. The PA DEP has repeatedly failed to hold oil and gas companies accountable for their gross negligence. Currently, no serious action has been taken by the PA DEP to prevent further incidents and hold companies truly accountable for their actions.

The PA DEP has also failed to make investigations public so residents can truly understand what happened, what the damage was to the area around their homes and natural resources, and the implications that these events have on their health and future. The lack of transparency with the public gives the oil and gas companies a shield to hide behind because their actions that put the public at risk are hidden so those incidents cannot truly be held against them.

Most recently, the Westmoreland Sanitary Landfill (WSL) submitted a plan for approval to evaporate 45,000 gallons of leachate per day. The landfill is currently under a Consent Order Agreement with the PA DEP dated February 13, 2020. The Consent Order instructs the landfill to correctly manage its toxic and radioactive leachate from their site after it was discovered they were violating their Waste Permit by trucking their leachate to the Altoona Water Authority-Westerly Wastewater Treatment Facility, Eastern Ohio Regional Wastewater Authority, City of Alliance Municipal Sanitary Authority, and Seneca Landfill, Inc.

Permitting the evaporation of leachate containing shale gas drilling waste would set a dangerous precedent for other landfills in Westmoreland County and throughout the state. Belle Vernon Municipal Authority stopped accepting the landfill's leachate waste in 2019 because it was found to be toxic and radioactive. If this facility is built the toxicity and amount of radioactivity of the reduced volume produced daily, will be

thousands fold higher (potentially tens of millions of pCi of radioactivity). The current permit only requires the landfill to monitor the emissions, not toxicity or radioactivity. Evaporating toxic leachate is concerning for a myriad of reasons. Several of the toxins found in leachate from shale gas drilling waste include Arsenic, Selenium, and Benzene. These compounds are known carcinogens and cause a range of other health impacts, including heart and respiratory impacts and other severe conditions. Pumping these toxins into the air puts residents at risk, particularly vulnerable populations like pregnant women, children, the elderly, and people with existing medical conditions.

Air pollution is not our only concern. Evaporating leachate leaves residue behind. This residue would contain concentrated amounts of Strontium and other toxic compounds that are not released into the air. Due to the landfill site accepting fracking waste, some of these compounds are radioactive like radium-226. This could significantly impact sanitary workers who are exposed to these concentrated amounts of toxic and radioactive waste. Storage is an additional issue. Leftover residue from evaporation must be stored in proper containers, otherwise it will continue to damage residents' health.

The landfill leachate permit is yet another example of the Department's systemic failure as an institution organized to protect the environment and the health and property rights of residents. The PA DEP is complicit in the damage done by this operator because they organized the Consent Order Agreement instead of immediately citing the landfill and putting a stop to the trucking of this toxic leachate.

We are asking you to investigate the PA DEP for failure to action and the operators listed above who have violated state and federal laws. PA Attorney General Josh Shapiro recently announced a grand jury report on the harms of fracking, which highlights these failures that we would like Westmoreland County officials to recognize as ongoing and systemic.

We ask that you respond to our letter within 15 days to pledge your commitment to either investigate these operators and PA DEP or contact the Attorney General's office immediately referring our complaints. You are duty bound to respond to our complaint in a timely fashion.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gillian Graber".

Gillian Graber

Executive Director, Protect PT

CC: PA Governor Tom Wolf

CC: PA Attorney General Josh Shapiro

CC: PA Inspector General Bruce Beemer

CC: Westmoreland County Commissioners

info@protectpt.org / 3344 Route 130, PO Box 137, Harrison City, PA 15636 / www.protectpt.org