

August 8, 2019

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 citizens group dedicated to ensuring that the safety, security, and quality of life of the members of Penn Township and surrounding communities are protected from unconventional gas development.

It is critical that your attention is directed to the activities of one of the oil and gas operators in your Southwest Region, Huntley & Huntley Energy Exploration, LLC (HHEX). To date, this operator has been cited for 254 violations on 5 sites in Westmoreland and Allegheny Counties. This clearly demonstrates a blatant disregard for public health and the environment. Scott Cleveland, Director - EHS & Regulatory of HHEX, has testified in a public hearing that the blame for the numerous violations HHEX has accrued for failure of their erosion and sediment controls and pollution of state waters lies with the Department of Environmental Protection, as they have set the thresholds for rainfall too low to account for recent increases in rainfall. He stated that the past two years have had record high rainfall numbers and this is why their plans are failing. When asked if HHEX had adjusted their site plans to account for the increased rainfall, Cleveland stated that no they had not changed the plans because the Department did not require it.

A recent article in the Pittsburgh Post Gazette titled: "Too much rain is messing with pipeline operators' infrastructure plans" highlights the recent increases in rainfall due to climate change and the impacts on gas development erosion and sediment controls. The findings of the 2014 National Climate Assessment state that, *"Since 1991, the amount of rain falling in very heavy precipitation events has been significantly above average. This increase has been greatest in the Northeast, Midwest, and upper Great Plains – more than 30% above the 1901-1960 average. There has also been an increase in flooding events in the Midwest and Northeast, where the largest increases in heavy rain amounts have occurred"*. This information indicates that both the Department and gas operators need to adjust their erosion and sediment control measures to account for higher rainfalls in order to ensure their plans do not fail.

Almost every violation HHEX has accrued has had an impact to state waters and potentially wildlife. They have also stated in public hearings that the number of violations is inflated as one incident can lead to multiple violations. This is an obvious effort to downplay and dismiss their violations as unimportant or trivial. We do not think impacts to state waters is trivial.

Zeus Well Pad

A Zeus well pad 02/21/2018 inspection resulted in 4 violations for General Requirements, E&S requirements, E&S stormwater management, and slope stabilization. This violation was not resolved until 08/14/2018 and had a fine of \$45,000. From the report: *"Inspection performed as a follow-up to Operator report of slope failure. At the time of inspection, slope failure of cut slope along access road ongoing. Department observed erosion rills along right side of access road. Freshly excavated areas have not been temporarily stabilized. Area where Operator reported a BMP (compost sock) failure has been repaired and fortified with additional compost sock. Department recommends Operator ensure all excavated areas are temporarily stabilized. Previously issued violations remain outstanding."*

A Zeus well pad 02/23/2018 follow up inspection resulted in an additional 24 violations: *"On-site FUI conducted in response to violations issued under inspection record #2698085 for a reported slope failure on the cut slope of the access road. Operator representative Laura Karosic and the operator's Geotechnical consultants are on-site during this inspection. The Department is requesting the operator submit an interim plan that identifies temporary measures to be implemented at the site to ensure there is no further migration of the slip until a permanent plan sealed by a Geotechnical Engineer is developed and submitted for review by the Department."*

Midas Well Pad

A Midas well pad inspection as of 02/27/2018 resulted in 14 violations and a fine of \$14,000. Violations were not corrected until 4/30/2018. These violations include failure to maintain E&S controls, discharge to WOC (Industrial waste discharged into Waters of the Commonwealth.), failure to comply with 102 (Person conducting earth disturbance activity failed to implement and maintain E & S BMPs to minimize the potential for accelerated erosion and sedimentation.), failure to temporarily stabilize, and failure to follow E & S plan.

"Follow up inspection related to wetland impact reported on 2/23/18 and 2/24/18. At the time of inspection, the Operator was actively conducting earth disturbance activity associated with the construction of well pad channel 6. The Department gave verbal permission on 2/27/2018 to deviate from the construction sequence and continue with the construction of PCSM wet pond 1. At the time of inspection wet pond 1 was partially constructed. The outlet structure and emergency spillway associated with wet pond 1. At the time of inspection wet pond 1 was

holding water, however the slopes were not temporary stabilized. The Operator indicated that additional work was planned for the wet pond and would be temporary stabilized. The Operator indicated a previously unidentified seep located upgradient and outside of the LOD is contributing additional water to wet pond 1. The Department recommended the Operator identify wet weather springs upgradient from wet pond 1. Additionally, the Department recommends the Operator monitor all additional flow and submit a permit modification outlines changes made to the construction sequence and identifies the location of all toe drains to be constructed on site. The Department and Operator agreed to reschedule an onsite meeting to discuss the remediation of the wetland. The Department recommends the Operator monitor the vegetative growth in the wetland. The Department recommends that the Operator add additional temporary mulch to the disturbed area and continue to perform routine maintenance to the temporary BMPs."

A Midas well pad inspection as of 3/1/2018 resulted in 20 violations that were not resolved till 8/14/2018. This includes failure for establishing temporary stabilization and stormwater violations.

Apollo Well Pad

Per an Apollo well pad inspection as of 3/22/19, 7 violations were noted: "Per a conversation during a meeting between the Department and HHEX on March 13, 2019 the slippage along the access road was to be monitored until repairs were made in the spring of 2019. However, the slippage has not only significantly accelerated, excluding the slip nearest the entrance (Photo#1), but also appears to have migrated to adjacent portions of the access road slope (Photos #2-6). Soil from multiple slips was observed in the access road channel. Additionally, the significantly accelerated slippage does not have adequate coverage for temporary stabilization. The Department recommends a reevaluation of the slippage repair schedule and/or repair the multiple slips ahead of the previously provided schedule of May 1st - June 1st.

The plunge pool spillway liner depicted on the E&S plans remains uninstalled (Photo #7). The last entry in the on-site inspection log was dated 3/10/2019. Per permit conditions, inspections shall be performed weekly and after precipitation events."

Additional violations of the Apollo well pad were noted as of 4/10/2019: "At the time of the inspection, both Infiltration Basin 1 and Infiltration Berm 1 were holding water. According to the onsite Inspection Log, the last inspection triggered by a significant precipitation event was March 10, 2019.

Mosquito exuva were identified in Infiltration Basin 1 (Photo #1), which would suggest the water has been standing for some time as the cycle from egg to adult typically takes about two weeks. The basin is directly upslope from a spring-fed stream. The standing water in the basin may be the result of groundwater interaction. The Department recommends evaluation of the BMP.

Tadpoles and algae were observed in Infiltration Berm 1, which would also suggest a severe lack of infiltration. A layer of silt, clay, and organic matter coats the bottom of the berm (Photo #5), possibly resulting in loss of function. The Department recommends evaluation of the BMP.

The plunge pool liner remains uninstalled. Several areas along the access road lacked adequate coverage for temporary stabilization.” As previously stated, even when HHEX installs the designed BMPs, they are not ensuring that they work with the site characteristics or maintaining them to be functional. This inspection resulted in 6 violations.

The Apollo site had a spill violation as of 4/17/2019 *“78a54 - GENERAL REQUIREMENTS - Operator failed to control and dispose of fluids, residual waste and drill cuttings, including tophole water, brines, drilling fluids, drilling muds, stimulation fluids, well servicing fluids, oil, and production fluids in a manner that prevents pollution of the waters of the Commonwealth and in accordance with 25 Pa. Code §§ 78a.55 – 78a.58 and 78a.60 – 78a.63.”*

Again, on the Apollo well pad site, an unreported spill resulted in a violation on 4/22/2019. *“Per the Department's conversation with Mr. Cleveland: A release of no more than 5 bbl of water, soap, and drill cuttings occurred when a pipe separated, subsequently spraying the sound wall. As a result, the released fluids remained on the pad. Some fluids landed on the western portion of the pad's berm when the spray misted and was carried by the wind. The containment and sound wall has been cleaned. The matting on the berm was removed and replaced yesterday 4/14. The release occurred while drilling with air on the 3M well; drilling was at an approximate depth of 400 feet. The quantity released off of containment is unknown, but it was more than 1 bbl Violations are being issued for the operator's failure to report a release of more than 5 gallons of a regulated substance in accordance with 78a.66(b)2. ”*

Plutus Well Pad

Per a 3/22/2019 inspection of the Plutus Pad, even when the E&S plan has been followed, the design was insufficient to accommodate the topography, and the nearby stream was impacted with sediment. *“Culvert 1 and Apron 1 appear to be constructed to detail. However, the design features will likely not function as designed due to on-site topography; the majority of the apron is further up-gradient than the culvert elevation (Photo #18). The Department recommends reevaluation of the BMP.*

Multiple violation were issued for the site sign lacking well permit numbers, multiple issues with CFS implementation, not following the construction sequence with respect to Channels 2A and 2B as well as the absent level spreader and berm liner, not constructing BMPs as designed, BMP failure, and failure to identify surface waters on the site plans."

Five violations were issued for this inspection, with no fines and currently no resolution.

"During the site inspection on March 22, 2019, the failing condition of the RCE was brought to the attention of HHEX. As of April 1st, 2019, no addition maintenance on the RCE appears to have occurred. Tracks of sediment from the well pad access road are visible on Fallen Timber Road (Photo#1).

Bales of straw were added downslope of the stilling basin as additional measures. However, the bales were not installed per E&S Manual detail. Direction on where to find the information to correctly install the additional BMPs was provided to the site EI during the inspection. Since the previous inspection on March 22, 2019, rock filters have been installed along the access road channel, albeit not to detail. The on-site EI was informed of the absent compost and specific heights and widths. The Department recommends the straw bales and rock filters be installed to specifications in the manual and/or site plans."

Apollo B to Dominion Pipeline

Apollo B to Dominion Pipeline, 6/25/2019, 5 violations: *"The Department received a complaint regarding a water-bottle truck, on Nichols Hill Road, with a hose discharging an unknown liquid over the western guardrail. The Department arrived on site at 2:40PM June 14, 2019.*

When the Department arrived at the site, a truck was parked on Nichols Hill Road performing a pump-around due to an IR during HDD operations for a waterline. Both upstream and downstream of the Tributary 37522 culvert was dammed to contain the IR within the culvert (Photos #2 and 6) per the PPC plan, which was on location. The culvert carries the flow of Tributary 37522 under Nichols Hill Road (Photo #4). The discharge was pumped out of the culvert through a grate (Photo #3).

Though the dams were still in place, a piece of heavy machinery near the bore pit on the west side of Nichols Hill Road was excavating the next bore pit for a gas line at the same crossing, per HHEX representative Justin Creighan (Photo #1). The Department recommends ceasing all drilling operations during an IR, which is also clearly stated in the HHEX PPC plan.

Per Mr. Creighan, remediation became necessary when the string was being pulled back, post reaming; the IR was significant enough to proceed with pump-around remediation at 12:30PM

June 14, 2019, and the IR had stopped discharging at 1:45PM June 14, 2019. When asked why the IR and remediation was not reported, Mr. Creighan stated the discharge was previously reported. A discharge was reported to WQS Cindy Witham on June 13, 2019 as documented in Inspection #2896304. However, HHEX had been previously informed that spills and releases are to be reported directly to SWRO.

Per 78a68a(i), an emergency permit is required for emergency response or remedial activities. An emergency permit was not obtained prior to remedial activities. Per HHEX representative Laura Karosic, HHEX was given 105 guidance by the Department regarding IRs and emergency permits. However, both 78a68a and 105 work in concert to regulate an HDD IR, and 78a68a requires an operator to request an emergency permit (PPOP).

As stated in Inspection #2895425, the pilot hole was stopped approximately 20' short. The remaining 20' was then trenched to meet the pilot hole (Photo #7). Due to the potential change in impacts, and trenching on a floodway, the Department Tech Services should have been contacted before the trenching began (PPOP) even though the activity may be waived.

HHEX representative Brent Sullivan stated the fluid in the trench would be drained that day, and the trench would be backfilled possibly as soon as June 15, 2019."

Poseidon to DTI Pipeline

Poseidon to DTI Pipeline ESCGP ESX18-129-0002 2/4/2019 inspection resulted in 9 violations: "Operator representative Justin Miller was on-site during this inspection. Mr. Miller is aware of the discharge to the UNT and the RCE and wet pond maintenance needs. The Department recommended that immediate measures are taken to cease and/or prevent the discharge to the UNT."

A 2/22/2019 inspection of this same site resulted in 11 violations for failure to temporarily stabilize the site.

Again on 5/27/2019 E&S violations were noted "A continuous sediment discharge to the Waters of the Commonwealth was observed during the inspection (Photo #5). Sediment-laden water was continuously discharging from the wetpond outlet structure to Apron 2. Apron 2 was full of sediment-laden water (Photo #2). The apron is not draining and/or infiltrating properly as evidenced by tadpoles with hind legs observed in the apron (Photo #1). As a result, water is flowing directly from the wetpond outlet, through Apron 2, and through CFS toward the banks of UNT-1 to Tributary 37295 (Photo #3). The flow then appears to split.

Some of the flow is treated by the CFS paralleling the stream, then flowing into erosion gullies on the stream banks created by past discharges as seen in Photo 17 of Inspection #2845878 (Photo #4). The remainder of the the flow bypasses the CFS paralleling the stream, instead

flowing under the timber mat stream crossing and discharging sediment into the stream (Photo #5).

Accelerated erosion and temporary stabilization remain consistent, ongoing issues (Photos #6, 7, 8, 9, and 10)."

This resulted in 10 violations, and no fines.

We know that this operator has been in contact with the PA DEP regarding these violations. To date, this operator has received only minimal fines and has faced no permitting repercussions for these repeated violations. Giving notice of violation does not solve the problem. The operator needs to fix the underlying problems that are leading to these violations. We are asking that the DEP review and address these issues in a thorough manner. Require Huntley & Huntley to provide evidence that they have fixed these violations and to provide plans for how they will avoid such situations in the future before allowing them to develop more gas wells.

Currently Huntley & Huntley Energy Exploration, LLC, has 57 permits in this region. These permits allow for development in our community near homes, schools and playgrounds. Children in these areas will be disproportionately affected as they are continuously exposed to emissions from these sites at home and at school, as well as having a higher body burden with their smaller mass and still-developing bodies. If this operator is permitted to violate our community the way they have violated other communities with their irresponsible development, these children will especially be at risk.

This developer has been spending a great deal of money, time, and energy to plan and develop new well pads throughout in southwest Pennsylvania. However, they have yet to show any progress in fixing the violations they have already acquired. In fact, they have said that it is the Department's requirements that cause their erosion and sediment controls to fail. If this operator wishes to develop in our communities, they must show that they are willing to spend the money, time, and energy needed to fix their mistakes. Moving into new communities and incurring more violations while failing to correct past mistakes is not a responsible way of expanding development. These actions indicate that this developer cares more about lining their pockets than they do about operating responsibly. This attitude towards development should not be tolerated, much less rewarded with new well permits.

We are requesting that the Department impose civil penalties and revoke the privileges of HHEX 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.

According to 35 Pa. Stat. Ann. § 691.609(1) (2019): *" The department shall not issue any permit required by this act or renew or amend any permit if it finds, after investigation and an opportunity for informal hearing that: (1) the applicant has failed and continues to fail to comply with any provisions of law which are in any way connected with or related to the regulation of mining or of any relevant rule, regulation, permit or order of the department, or of any of the acts repealed or amended hereby; (2) the applicant has shown a lack of ability or intention to comply with such laws as indicated by past or continuing violations."*

Please respond to our allegations within 30 days so that our members will know that your department is diligently performing its 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 about 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,

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

Gillian Graber
Executive Director
Protect PT

Cc: Daniel Counahan

Cc: Scott Perry