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November 3, 2011

**VIA U.S. FIRST CLASS MAIL AND E-MAIL**

Mr. Scott Perry  
Acting Deputy Secretary  
Office of Oil and Gas Management  
PA Dept. of Environmental Protection  
230 Chestnut Street  
Meadville, PA 16335

Re: *December 15, 2010 Consent Order and Settlement Agreement*  
Temporary Water Beyond November 30, 2011

Dear Mr. Perry:

We write today to inform you that the Pennsylvania Department of Environmental Protection (“PADEP”) is failing to live up to its duty “to conserve and develop the water supply and water resources of the Commonwealth for the use of the people thereof.” 71 P.S. §510-4(6). Under the Commonwealth of Pennsylvania’s Constitution, the people have a right to pure water. Penn. Const. Art. I, §27. By granting Cabot’s request to discontinue their obligation to provide temporary potable water supplies to the remaining property owners subject to the December 15, 2010 Consent Order and Settlement Agreement (the “Consent Order”), PADEP has jeopardized the health and lives of some of the Commonwealth’s citizens. Additionally, this is also an unconstitutional taking. Contrary to Cabot’s assertion that the temporary water supplies “are no longer needed,” the fact is that the water in the Dimock/Carter Road Area *remains unsafe for drinking*, even with Cabot’s proposed “whole house treatment system.” PADEP’s arbitrary decision will deprive these deserving people and future generations, of their constitutional right to pure, clean, potable water.

The private October 11, 2011 meeting between Cabot Oil and Gas Corporation (“Cabot”) and PADEP further evidences collusion between PADEP and Cabot, resulting in Cabot’s improper removal of our clients’ temporary water source. Thus, by this letter, we hereby request

that PADEP immediately order Cabot to continue (or resume) deliveries of safe drinking water to our clients beyond November 30, 2011 and until such time as our clients' water has been restored in quality and quantity.<sup>1</sup> Due to the urgency of preventing such an injustice we request that you respond by November 10, 2011.

#### **A. Cabot Has Not Complied With The Consent Order**

##### **1. Cabot is incorrect in concluding that temporary water supplies “are no longer needed.” Temporary water supplies are still needed because the water in the Dimock/Carter Road Area is still contaminated.**

In its October 17, 2011 letter to PADEP, Cabot writes: “the primary reason to discontinue these temporary water supplies now is, simply, that they are no longer needed (and have not been necessary for quite some time).” Cabot bases this conclusion on the notion that recent testing and sampling “confirm that the water supplies are safe to drink and are safe to use for residential purposes.” With all due respect to Cabot and PADEP, the water in the Dimock/Carter Road Area *is not safe to drink* and our clients are not convinced that it is safe to drink. PADEP's decision also isolates our clients from the other 30 or so families, which are currently being provided water in Susquehanna County.

Cabot triumphantly declares that our clients' “permanent water supplies have been repeatedly tested...and the results confirm that the water supplies are safe to drink and are safe to use for residential purposes.” This statement is false and PADEP should review all available data. In fact, sampling data of our some of our clients' raw water shows that elevated levels of chemicals are still being detected in that raw water. *See* the Abridged Dimock Water Sampling Data Results, enclosed as Attachment 1. These elevated chemical detections include:

- Aluminum (maximum detection at 4.70 mg/L; SMCL is 0.2 mg/L);
- Iron (maximum detection at 15.5 mg/L, SMCL is 0.3 mg/L);
- Manganese (maximum detection at 1.74 mg/L, SMCL is 0.05 mg/L); and
- Toluene (max 4.1 mg/L, MCL is 1 mg/L).

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<sup>1</sup> Clients currently receiving temporary water supplies from Cabot are: Norma J. Fiorentino, Craig and Julie Sautner, Michael and Andrea Ely, Ray and Victoria Hubert, Ronald, Sr. and Jean Carter, Eric B.J. and Susan Roos, William T. and Sheila A. Ely, Jimmy Lee and Victoria Switzer, Nolan “Scott” and Monica Laura-Marta-Ely, Richard and Wendy Seymour and Raymond Kemble.

Additionally, there are a number of detections in the water samples that are of serious concerns to our clients. These chemical detections include:

- Barium (maximum detection at 738  $\mu\text{g/L}$ );
- Beryllium (maximum detection at 2.0  $\mu\text{g/L}$ );
- Tributyl Phosphate, which is a suspected kidney intoxicant and neurotoxicant (maximum detection at 8.95  $\text{mg/L}$ );
- Bis (2-Ethylhexyl) adipate (maximum detection at 0.19  $\mu\text{g/L}$ ); and
- Bis (2-Ethylhexyl) phthalate, which is a probable carcinogen to humans (maximum detection at 2.61  $\mu\text{g/L}$ ).

Bis (2-Ethylhexyl) adipate and Bis (2-Ethylhexyl) phthalate are synthetic organic chemicals that are *not* naturally occurring and that *are* associated with natural gas drilling. Bis (2-Ethylhexyl) adipate is commonly used as hydraulic fluid, while Bis (2-Ethylhexyl) phthalate is used as a plasticizer in the proppant sands for fracking. Clearly, the water is *not safe to drink*; Cabot should not make such wholesale assertions and PADEP should not be so quick to agree with the oil and gas company; indeed, PADEP granted authority to stop water deliveries within 24-hours of receiving Cabot's October 17, 2011 letter.

Cabot also writes that there are "various miscellaneous elements, metals or minerals present in the water supplies" and that these substances "found in the Dimock water supply are typical of what is found in these other undrilled areas." Cabot's reliance on this "typically occurring" argument is somewhat misleading. Although *some* of these chemicals showing up in our clients' raw water *are* naturally occurring, they are naturally occurring some 6,000-to-8,000 feet below surface – not in the portion of the aquifer from which drinking water supplies are usually drawn. It is only because of Cabot's deep hydraulic fracturing of the strata, and the "flow back" water resulting therefrom that these chemicals have been making their way into the shallow aquifer at such high concentrations. Contrary to Cabot's assertion, the presence of these chemicals in our clients' raw water *is* related to natural gas exploration.

Cabot also fails to disclose that on May 12, 2011, it detected ethylene glycol (14.2  $\text{mg/L}$ ) from Michael and Suzanne Johnson's *post-treatment water*. Ethylene glycol, as you are probably aware, is commonly used as antifreeze. Ethylene glycol is *not* a naturally occurring chemical, *is* related to natural gas exploration and *is* considered toxic to humans. The fact that ethylene glycol was detected *after treatment* is evidence that these treatment systems are not entirely operational, *infra*. Any claim of "lab error" is suspect at best.

In fact, a cursory review of Cabot's October 11, 2011 presentation before PADEP shows that it has actually failed to disclose a lot more than just the Johnsons' ethylene glycol hit. For example, Cabot has:

- Failed to disclose detections of Lead (0.0072 mg/L and 0.0119 mg/L) at the water supplies of the Carter and Fiorentino homes, both above the Primary MCL of 0.005 mg/L for lead (high concentrations of lead have been detected in Cabot's wastewater pits);
- Regarding the Carters, Cabot reported to PADEP that there have been no exceedances for Primary MCLs, although sampling data clearly shows that there were detections of Lead and Toluene above their respective MCLs;
- Regarding the Carters, Cabot reported to PADEP that Aluminum and pH were the only Secondary MCL exceedances, although data clearly shows that the Carters' water suffered from extremely high concentrations of iron and manganese;
- Regarding the Fiorentinos, Cabot reported to PADEP that there were no results showing exceedances of Primary MLCs, although sampling data clearly shows that there were detections of lead above the MCL;
- Regarding the Sautners, Cabot reported to PADEP that there have been no exceedances for Primary or Secondary MCLs, although sampling data clearly shows that there were detections of aluminum, iron and manganese all above their respective MCLs.

The truth is that Cabot's self-serving, mischaracterized reporting is nothing new. In fact, on August 18, 2011 the Johnsons, who have accepted the escrow payment and Cabot's whole house treatment system, received sampling data from Cabot. Regarding those sampling results, Mrs. Johnson notes "[received] this by mail, misstating TONS of data." (Emphasis in original). On August 15, 2011, Mrs. Johnson even wrote to PADEP that "[t]he system [Cabot] installed even includes purification filters and ozone machine, *yet it is not consistently restoring the water as the test results conclude*" (emphasis added). Further, on August 9, 2011, Mrs. Johnson advised PADEP as follows:

I think you will be very interested to know the following...The last two times they have done a drinking water test on our well water, *they have only provided us with the results they wanted to provide...*We (all residents who Cabot has water tested) no longer receive the lab's letterhead results, for sure Dimock residents at a minimum. Cabot has Quantum send them the results and then Cabot types it out on a blank spreadsheet. Their homemade spreadsheet is what the residents receive. *They excluded one*

*parameter* the first time I found out, the second time I have proof of it and it is the same parameter they left out the time before. I suspect they left out many parameters when they tested our Burdick Creek on a bubbly day...

(Emphasis added). The reporting discrepancies/mischaracterizations are not only from Cabot, but also from their lab, Quantum Analytical & Environmental Laboratories, Inc. In a June 1, 2011 e-mail to Cabot, Mrs. Johnson highlighted several concerns she had over Cabot's laboratory contractor, one of which included concerns over their testing of manganese:

I spoke with Quantum (Virgil) on May 11<sup>th</sup> regarding all our Mn [Manganese] testing reporting as non-detect (since 2009). I told him that many DEP testings showed Mn above the MCL and their lab results never seem to identify Mn at any level at all, but always Non-Detect. I suggested there could be some sort of problem with their Mn testing or Mn blank...[After this] Quantum's May 12<sup>th</sup> Mn sampling date then provided later results that reported Mn as a contaminant on all samples taken that day and nearly 10 times the MCL on one of the three samples taken. This is a huge difference from all their prior Mn tests since 2009, all being Non-Detect.

These are obviously just a few examples of Cabot and its contractors' misreporting, and there are certainly more.<sup>2</sup>

PADEP has also determined that Cabot's negligent operations have caused hundreds of gallons of drilling mud and other contaminants to be discharged directly into the soil of the Dimock/Carter Road Area. Indeed, our clients have testified that Cabot and Cabot's contractors' negligence has led to a number of spills of chemicals and contaminants, such as diesel fuel and antifreeze:

Raymond Kemble Deposition (August 23, 2011)

- Q.** What's wrong with the Costello one well?
- A.** Well, let's see. You never drained out the frack tank. You just covered it over with the dozer and left all the crap in it. The boys standing up there dumping antifreeze in the frack tanks so that water wouldn't freeze. The one guy came down, how come you have so much diesel up there? Oh, we're using it to frack with. Well, there's plenty of problems on Costellone one.

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<sup>2</sup> For example, in a June 26, 2011 e-mail to you Mrs. Johnson indicated concerns over how Cabot's water samplers were collecting samples. Specifically, Mrs. Johnson suggests that until June 2011, the water collected from their well was not "the same water" that was actually tested because of how Cabot's samplers purged the water prior to collecting.

Raymond Kemble Deposition (August 23, 2011)

- Q. And what do you remember them telling you about spills of diesel fuel?
- A. I asked them how come I could smell diesel so bad. He said oh, one of the lines broke up there. They didn't realize it.
- Q. Do you remember when that was?
- A. Back when they started drilling. I think one of the dump trucks backed into one of the diesel tanks and knocked it over.

Nolen Scott Ely Deposition (August 23, 2011)

- Q. Okay. And what happened on the Teel 8 location?
- A. We had several things happen there. We had a massive hydraulic oil spill.
- Q. Do you recall how that hydraulic spill occurred?
- A. A hose blew...or there was a malfunction with the tank. Not the tank itself, it was the hose.
- Q. Okay. Were you present for that release?
- A. When the released happened, as they were addressing the spill, is when I arrived on location.

Nolen Scott Ely Deposition (August 23, 2011)

- Q. ...when you say there was an acid and jell spill, were you present for that?
- A. I wasn't on the location. It was happening. But the extent of it wasn't until they started moving all the equipment off that we say that a humongous area was nothing but spills all in the sand from fracking. And it was like, it looked like snot all across this area...
- Q. And how big of an area would you say that was?
- A. 30 by 30.

Nolen Scott Ely Deposition (August 23, 2011)

- A. Right. We say that there was carelessness of disconnecting and reconnecting of hoses.

- Q. Did you actually see anyone disconnecting or reconnecting hoses?
- A. You do all the time. You constantly see it. Even when they pop apart a fitting. Let's say there's a failure in fracking, they just hit the switches. That's what they call them and whatever's in that pipe just runs out on the ground.
- Q. ...Okay. Is this in the emergency shutdown stage?
- A. This is in any of the stages. For the first two years, we took no precautions on allowing anything to touch the ground.

Nolen Scott Ely Deposition (August 23, 2011)

- Q. ...if there is something else that you're aware of or you could think of, I really would like to know...
- A. Uh-huh. Down at Ely 4-6, did I mention to you about the 55 gallons of methanol that went right down next to the well? It would be the Ely 6-H.
- Q. ...Okay. How did that happen?
- A. They purposely did it. We had to freeze the well head. The valve failed. We had dry ice. We used the methanol.
- Q. Okay. Yes. We discussed that with the DEP...

Nolen Scott Ely Deposition (August 23, 2011)

- A. ...we go up there, there is a hole in the pit liner and I told Paul that the pit liner was bleeding. And you can see it. It was actually pumping the other direction and it looked like a water fountain coming into the pit...

Antifreeze, hydraulic fluid, methanol and diesel fuel *are not naturally occurring* chemicals. Antifreeze (ethylene glycol) has already been detected in the water. Although the other chemicals have yet to be detected in raw water samples, it does not mean that they have not made their way into the shallow aquifer. Some days are probably better than others, but there is no doubt that Cabot's careless drilling and containment operations have contaminated the water in the Dimock/Carter Road Area. Once those chemicals get into the soil they have to go *somewhere*. Take the Heitsman's property, for example, when approximately 8,000 gallons of drilling mud and "frac fluid" were released, the following were detected in the surface water and soil:

Aluminum, arsenic, barium, boron, calcium, copper, iron,  
magnesium, manganese, potassium, sodium, zinc, chloride, sulfate,

nitrate, acetone, cumene, 1,2,4-trimethylbenzene, 1,2,5-trimethylbenzene, ethylbenzene, methyl ethyl ketone (MEK), sec-butylbenzene, n-butylbenzene, naphthalene, p-isopropyltoluene, toluene, total xylenes, beryllium, cadmium, chromium, cobalt, lead, nickel, selenium, vanadium, and zinc.

Additionally, as recent as August 2011, one of our clients had their tap water evaluated by a water services company. The company's observations disclosed, among other things: high iron, a slight dirty/musty, very discolored, and total dissolved solids at 194 ppm, of which 119ppm is from the hardness and iron; the other 75 ppm will require further testing to identify. One would not be surprised to find that the other 75 ppm consisted of diesel fuel, hydraulic fluid, methanol and any of the other assorted chemicals used by Cabot for its drilling operations.

## 2. Cabot's wells continue to leak methane into the aquifer.

Sampling results still show substantially elevated levels of methane being detected from water samples of several of our clients. Although dissolved methane in drinking water is currently unregulated in the Commonwealth, PADEP recognizes a "level of concern" above 28 mg/L, a/k/a the "saturation level." The U.S. EPA recommends methane monitoring at levels between 10 and 28 mg/L. Sampling results detected levels of dissolved methane that were between 10 and 28 mg/L, as well as some substantially higher than 28 mg/L. For example<sup>3</sup>:

- Methane – **370.0 mg/L** – Bill Ely (10/14/2010);
- Methane – **170.0 mg/L** – Scott Ely (10/22/2010);
- Methane – **36.5 mg/L** – Michael Ely (12/9/2010);
- Methane – **31.9 mg/L** – Scott Ely (8/11/2011);
- Methane – **26.1 mg/L** – Roos (8/11/2011);
- Methane – **20.8 mg/L** – Carters (9/17/2010);
- Methane – **18.4 mg/L** – Hubert (8/9/2011);

Some of our clients had their water tested for methane as recently as August 2011 and the results disclosed that *there were still elevated levels of methane* at **18.4 mg/L**, **26.1 mg/L** and **31.9 mg/L**. Cabot's claim that "there are no known health effects associated with the ingestion of water containing methane" extremely insensitive and remarkable. *No one* should be subjected to drinking water with such impurities. The Constitution of the Commonwealth of Pennsylvania provides that its citizens have a right to "pure water," not water with explosive levels of dissolved methane and other potentially hazardous impurities. Further, under the Consent Order, the dissolved methane levels must be below 7 mg/L for each of the affected Water Supplies.<sup>4</sup> This has not been achieved.

<sup>3</sup> See the Abridged Dimock Water Sampling Data Results annexed hereto as **Attachment 1**.

<sup>4</sup> See the Consent Order, ¶5.b.iv., p.8.

**3. Cabot has not complied with the Consent Order because its whole house “treatment” systems are an inadequate “permanent solution” and contrary to the law of the Commonwealth.**

Cabot’s so-called “whole house treatment system” is an inadequate “permanent solution” to the statutory mandate that it “restore or replace the affected water supplies.” 58. P.S. §601.208(a); 25 Pa. Code §78.51(a). Cabot has installed these whole house treatment systems in the water supplies at several residences, including residences of non-plaintiffs Timothy and Deborah Maye and Michael and Suzanne Johnson. These systems have been ineffective at restoring the water, not only to its previous condition but also even to a drinkable condition. Pre-treatment and post-treatment sampling of the Mayes’ water shows almost identical amounts of contaminants such as strontium, manganese, aluminum, barium, calcium, iron, potassium and sodium. The Johnsons’ sampling results show much of the same, including the inability of the treatment system to remove ethylene glycol (antifreeze). The Johnsons also report that their treatment system is not operational and cannot process the turbid water to remove primary and secondary contaminants to a level that complies with the Commonwealth’s drinking water standards.

In a recent e-mail to the former Secretary of PADEP, Mrs. Johnson highlighted all of the problems associated with Cabot’s water treatment station at her property. In her e-mail, Ms. Johnson stated the following:

- “The treatment system is not in operational condition as it cannot clean and/or process the turbid water...we are still on daily water delivery.”
- “Cabot is in the process of providing us a letter to say that any further restoration of the water and/or water well is our responsibility...”
- “Our well has not been in use for approximately 1-1/2 years and it is increasingly diminishing or becoming more unstable.”
- “...the concern is greatly focusing on Primary and Secondary Drinking Water standards which are not being attained.”
- “The system [Cabot] installed even includes purification system and ozone machine [sic], yet it is not consistently restoring the water as the test results conclude.”
- “[I]f Cabot had complied with any of the previous Consent Orders...then it is possible that our water would not have diminished to the degree it is today, yet no restoration has occurred. And if they ‘could’ restore it, then why have

they not restored it and are in the process of formally notifying that we are now responsible to redevelop our water well.”

- “I firmly believe they are UNABLE to restore our water.”

Cabot has responded to Mrs. Johnson’s complaints by (mis)representing that their drilling has not caused the present condition of their water. Instead, Cabot has suggested that the best solution would be for the homeowners to independently “re-develop” their water well.<sup>5</sup>

#### **4. The whole house treatment systems are a violation of Pennsylvania and of the terms of the Oil and Gas Lease with the plaintiffs.**

If the fact that these treatment systems are ineffective is not enough, there is also the fact that Cabot’s treatment system, which is ozone based, will produce several byproducts directly into the water supply. These include bromine (which combines with methane to create bromomethane, which has been linked to prostate cancer), and bromate (whose MCL is just 0.010 mg/L and has been linked to an increase risk of cancer). Given the wide-array of chemicals found in the Dimock/Carter Road Area water supply, and the unknown chemical reactions that the water will have with the treatment system byproducts, it is difficult to anticipate the long-term health effects of drinking “treated water.”

#### **5. Dimock/Carter Road Area residents do not trust the raw water from their wells.**

How can Cabot seriously claim that the water in Dimock is safe to drink when untreated water is still showing elevated levels of potentially hazardous chemicals? Cabot’s assertion that the water in the Dimock/Carter Road Area is safe to drink is potentially dangerous to the area residents. Cabot’s utter disregard for the health and safety of these individuals is both alarming and consistent with how Cabot has conducted business since arriving at Dimock.

Cabot trivializes the magnitude of what it has caused by claiming that the temporary water supplies are “simply” no longer needed. The truth is that since Cabot’s arrival at Dimock, most of our clients do not trust their water and, in some cases, refuse to even consider drinking their water:

#### William Ely Deposition (May 9, 2011)

- Q.** Do you believe you suffer from emotional distress?

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<sup>5</sup> A Cabot representative recently wrote to Mrs. Johnson: “.. you will need to contact a qualified residential water well driller to [re-develop your well]. The driller will pull and clean your well pump. In addition, the driller will surge-block and clean-out you well. Once complete, your pump will be reinstalled. Cabot will then perform the necessary sampling and analysis...”

- A. ...My feeling right now is I don't think I'll ever see decent water in my house before I'm dead; unless I do something myself.

William Ely Deposition (May 9, 2011)

- Q. Have you explored the possibility of drilling a new well?
- A. ...I don't think my wife would ever drink out of it anyway, so what's the sense in drilling it?...as far as drilling, I don't think my wife would ever bathe in it or drink it.

William Ely Deposition (May 9, 2011)

- Q. Do you know – let me ask it this way: Have you or your wife talked about whether she would drink the spring water?
- A. We will probably never drink water off that property never again. We'll probably buy our water forever...

Raymond Kemble (May 9, 2011)

- Q. To the best of your ability, tell me what it was Mr. [Scott] Perry told you during that discussion?
- A. Don't drink the water. It's contaminated. You got contaminated fluids in your water.

Karen N. Noble (June 27, 2011)

- Q. Are you concerned that there's something in your water?
- A. I get nervous about what could be. I guess you just try not to think about it, and you put it in the back of your mind.

Victoria Switzer (July 8, 2011)

- A. So, I don't know what's in my water from day to day. I will never trust my water faucet because – because I saw it turn foamy and smelly. And I have no, you know – so, I don't trust my water...if I had a water supply that I could trust, I could have a life again.

Victoria Switzer (July 8, 2011)

- A. I will never drink the water in Dimock again. I will never feel safe about the water coming out of my faucet. And

that's why I got upset before. Because that's a very sobering reality.

Victoria Switzer (July 8, 2011)

- Q.** Have you always preferred that [your daughter] stay at your mother's house [when she visits for the holidays]?
- A.** No.
- Q.** When did that preference start?
- A.** When I became afraid for her to shower at my house. She hasn't had children yet.

**6. Until Cabot restores or replaces the affected water supply, it should continue providing temporary potable water to the affected properties.**

Cabot's "whole house treatment system" is unreliable and (with good reason) our clients simply refuse to leave their health in the hands of Cabot. Given the fact that water from the affected aquifer is still contaminated and the universal skepticism our clients have regarding Cabot's "whole house treatment system," it is not unreasonable for them to have worries regarding their local water supply. Of course, to Cabot, the "appropriate conclusion" is "that the water systems are, in fact, safe to drink and use." This conclusion is inappropriate and misleading because the water supplies in the Dimock/Carter Road Area are not safe to drink, cook with or bathe in. Until a new source of water is provided to the affected Dimock/Carter Road Area residents (e.g., a newly created water district), Cabot should be forced to continue providing temporary potable water beyond November 30, 2011.

The most surprising aspect of PADEP's approval is the fact that Cabot has not complied with the law regarding a well operator's duty to protect water supplies. Specifically, Section 208 of the Oil and Gas Act provides, "[a]ny well operator who affects a public or private supply by pollution or diminution *shall restore or replace* the affected supply with an alternate source of water adequate in quantity or quality for the purposes served by the supply" (emphasis added). 58 P.S. §601.208(a); 25 Pa. Code §78.51(a). PADEP has already concluded that Cabot has affected the Dimock/Carter Road Area water supplies. So why is PADEP allowing Cabot to evade its duties of restoring or replacing the affected water supply for the Dimock/Carter Road Area residents? This sets an extremely dangerous precedent to residents of the Commonwealth.

Initially, PADEP took a strong stance against Cabot's reckless behavior. However, as the months have passed since the initial Consent Order of November 14, 2009 (the "Initial Consent Order"), Cabot seems to have worn down PADEP. Cabot was unable to comply with the Initial Consent Order, so PADEP modified it twice (once on April 15, 2010 and again on July 19, 2010), to give Cabot a chance at compliance.

In the April 15, 2010 Modification, Cabot was required to install whole-house treatment systems for all of the Affected Water Supplies. If Cabot accomplished this, or if it demonstrated that an owner of an Affected Water Supply refused the whole-house treatment system, Cabot was deemed to have complied with the law pertaining to the restoration of affected water supplies.

In the July 19, 2010 Modification, PADEP recognized that many Dimock/Carter Road Area residents were completely against using Cabot's whole-house treatment system as the "permanent solution" to their affected water supplies. As a result, PADEP eliminated the "whole-house treatment system" requirement and demanded that Cabot "restore and/or replace all of the Affected Water Supplies." The July 19, 2010 Modification was supposed to be the "final" Consent Order.

On December 15, 2010, however, PADEP once again sided with Cabot. To comply with the Oil and Gas Act's mandate that Cabot restore and/or replace all of the Affected Water Supplies, Cabot is simply required to: (i) create an Escrow Fund for each affected Property Owners; (ii) provide each of them with notice as to how to obtain payment from their Escrow Fund; and (iii) provide them with written notice that Cabot will install a whole house treatment system. If Cabot complied with the above, it would be allowed to stop providing temporary potable water to the Affected Properties. Apparently, PADEP has concluded that the installation of these "treatment" systems and the establishment of Escrow Funds is a sufficient "permanent solution" to the Dimock/Carter Road Area contaminated water supplies. This arbitrary decision is contrary to law.

Cabot and PADEP and should be reminded that the water in the Dimock/Carter Road Area was perfectly fine prior to Cabot's natural gas drilling frenzy. The local residents have always enjoyed fresh, pure local water. Cabot and its representatives behave as if they are doing these undeserving people a favor with offers of a whole-house treatment system and nominal monetary payments. Cabot has not provided a "permanent solution" to the problem *they created* and the only losers here are the residents of the Dimock/Carter Road Area and the community, which has been tort apart. Because of PADEP's arbitrary decision, these unfortunate people will now be forced to choose between drinking "treated" water or paying \$100-per-day-per-household for delivery of potable water.

By coddling the oil and gas company, PADEP has made clear where its priorities lie. Its decision granting Cabot's request to stop providing temporary potable water to the affected Property Owners is not based on a balanced review of the facts and evidence before it. Instead, PADEP has arbitrarily put on its blinders and based its decision on the half-baked contents of an October 11, 2011 closed-door meeting with Cabot. For PADEP to make such a critical decision after just one week of this meeting is nothing short of arbitrary and capricious, suggesting that this decision was actually made months ago. To be sure, PADEP has taken a stance: profits of a private corporation from Texas are more important than the constitutional right to pure water of the Commonwealth's residents.

Cabot should not be allowed to discontinue providing temporary potable water to the affected Property Owners. Data shows that the local water supply is still contaminated and that

the water in the Dimock/Carter Road Area is not safe to drink. Further, Cabot's whole house treatment system is unreliable, at best. We hope PADEP seriously considers the grave impacts of its decision to allow Cabot to discontinue providing temporary potable water to the affected Dimock/Carter Road Area residents. The health and lives of some of the Commonwealth's citizens depends on it.

We again respectfully request that the PADEP order Cabot to continue the delivery of potable water until such time that they comply with their legal, statutory and moral duties to our clients. We look forward to your response and thank you for your consideration in this matter.

Very truly yours,

NAPOLI BERN RIPKA SHKOLNIK & ASSOCIATES, LLP

  
Tate J. Kunkle, Esq.

Enclosure

cc: Shawn M. Garvin (via e-mail and First-Class mail)  
U.S. Environmental Protection Agency  
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