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The Honorable Michael Krancer
Secretary
Pennsylvania Department of Environmental Protection
400 Market Street
Harrisburg, PA 17101

Re: Decision to Allow Cabot Oil and Gas Corporation to End Delivery of Fresh Water to Residents of Dimock

November 28, 2011

Dear Secretary Krancer:

As you are well aware, many residents living in Dimock, PA lost their fresh drinking water when their drinking water wells were contaminated by methane and other substances through Cabot's gas drilling practices in and around Dimock. On October 18, 2011, the Pennsylvania Department of Environmental Protection notified the Cabot Oil and Gas Corporation that it may terminate provision of temporary fresh water supplies to the residents of Dimock by the end of November. The Department's decision is irresponsible given that Dimock residents have relied on the trucking of temporary fresh water for drinking, bathing, and other household uses. The alternative treatment systems being offered have been reported to be inadequate. Section 601.208 of the Oil and Gas Act provides that the Department may issue orders requiring the temporary replacement of a water supply.

The Department has issued multiple notices of violation and entered into a series of consent orders (most recently amended in December 2010) with Cabot over its improper drilling practices and the resulting contamination of nineteen private water wells in Dimock. Indeed, in an October 19, 2010 letter, former Secretary John Hanger cited the "overwhelming evidence" showing that "Cabot is responsible for the gas migration that has caused families to be without a permanent water supply for nearly 2 years."

The Department's regulations set forth the benchmarks a water supply must meet to be considered restored or replaced, including that it "be as reliable as the previous water supply;" "be as permanent as the previous water supply," "provide the water user with as much control and accessibility as exercised over the previous water supply," and meet "the standards established under the Pennsylvania Safe Drinking Water Act." 25 Pa. Code 78.51.

Recognizing Cabot's responsibility for the Dimock well contamination, the Department's November 4, 2009 consent order demanded that Cabot "shall assure that the users of the Affected Water Supplies will receive water in amounts sufficient to continually satisfy water usage needs until the Department notifies Cabot, in writing, that the Department has determined that the Affected Water Supply has been restored." Paragraph 6 of the amended order does not mention that Cabot ensure the water be clean or safe to drink in accordance with the Oil and Gas Act and its implementing regulations. It provides only that Cabot establish nineteen escrow funds, each with twice the value of the property owned by the households still affected by contaminated water, and offer the funds to those households along with a promise to install a whole house methane treatment system. The order further provides that once the Department has certified that Cabot has done these two things, Cabot will no longer be responsible for providing daily fresh water to the affected Dimock residents. This modification of the order was challenged by Dimock residents in the Pennsylvania Environmental Hearing Board on January 11, 2011.

The residents' water supplies have not been restored, either in quantity or quality. Despite these promises, and despite Cabot's obligation to restore the drinking water under the original consent order, the Department modified the order several times. By the time the order was last modified on December 15, 2010, it no longer held that Cabot was required to restore the contaminated drinking water as required by Pennsylvania law, but rather simply "that any obligation of Cabot to pay for or restore and/or replace the Water Supplies, or to provide for ongoing operating or maintenance expense" would be satisfied by compliance with Paragraph 6 of that order.

On October 17, 2011 Cabot sent a letter to the Department claiming that it had complied with the terms of Paragraph 6. The next day, without any notice to the affected residents, and without checking the accuracy of the statements, the Department sent a letter back to Cabot- stating "the Department has determined that Cabot has satisfied the terms and conditions of Paragraph 6 of the [modified consent order] and therefore grants Cabot's request to discontinue providing temporary potable water to the remaining property owners" beginning November 30, 2011. Having been denied any official notice from the Department, the residents learned of the Department's action through media reports. Notably absent from the letter is any finding by the Department that the water is safe to use or that the whole house mitigation system is effective at providing clean water.

Testing results, some of them conducted by the Department's own Bureau of Laboratories, demonstrate that the drinking water of Dimock residents contains elevated levels of aluminum, barium, beryllium, iron, manganese, toluene, tributyl phosphate, and non-naturally occurring chemicals associated with fracking such as bis (2-Ethylhexyl) adipate and bis (2-Ethylhexyl)

phthalate - all in excess of primary and secondary drinking water standards under both the federal and state Safe Drinking Water Acts. Residents have also indicated that the whole house treatment systems have been almost completely ineffective at removing other contaminants such as strontium, manganese, aluminum, barium, calcium, iron, potassium and sodium, as well as turbidity. We invite you to meet with the Dimock residents and test the water yourself.

The contaminated water in drinking water wells of Dimock residents does not meet the standards of the Oil and Gas Act or of the Department's own stringent regulatory standard implementing this provision. The Department cannot, through private negotiations with a regulated party, ignore relevant Pennsylvania law. Nor can it determine that a driller has restored or replaced a contaminated water supply without saying how and why that supply is now meets the very specific and demanding standard of the OGA and its implementing regulations. When a driller's obligations have not been satisfied, the Department is under its own obligation to issue orders to ensure that they come into compliance (58 P.S. § 601 .208(b)). As such, the Department's actions, both modifying the original consent order and absolving Cabot of its statutory responsibilities without reference to the appropriate regulatory standard, are in derogation of its statutory responsibilities.

If this is how the Department intends to administer the law and regulations regarding the replacement of polluted drinking water supplies, we can expect more instances of contamination and more dissatisfied residents of Pennsylvania.

Sincerely,

Jeff Schmidt
Director
Sierra Club Pennsylvania Chapter