



CENTER FOR COALFIELD JUSTICE

P.O. Box 4023 • 31 East Chestnut Street • Washington, PA 15301 • 724.229.3550

• www.centerforcoalfieldjustice.org • info@centerforcoalfieldjustice.org

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Department of Environmental Protection
Office of Oil and Gas Management
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Sent via email

Secretary Shirley

John Herman Esq., Regional Chief Counsel

Kurt Klapkowski, Deputy Secretary, Oil and Gas Management

Kris Shiffer, Director, Oil and Gas Planning and Management

Fernando Trevino, Special Deputy Secretary for OEJ

RE: Concerns Over Lack of Special Permit Conditions Within Shalennial Well Pad Permit Approval

Thank you for the opportunity to provide input on the permit approval for the Shalennial Well Pad under permit #059-28474. The Center for Coalfield Justice (“CCJ”) respectfully submits the following letter of concern.

CCJ is a Pennsylvania-incorporated not-for-profit organization with federal Internal Revenue Service § 501(c)(3)-status recognition located in Washington, PA. Our mission is to “improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield citizens; and to protect public and environmental health.” CCJ has over three thousand members and supporters and is governed by a volunteer Board of Directors.

1. DEP should consider the seismic event at the Lumber Well Pad and its ongoing impacts while developing the permitting structure for the Shalennial Well Pad.

To better contextualize CCJ’s concerns about the permit approval for the Shalennial Well Pad, CCJ believes it is important to examine the major seismic event that took place at the Lumber Well Pad, a location four miles from the Shalennial Well Pad. In the summer of 2022, the people of New Freeport, PA (“NF”) lost access to clean drinking water. In a matter of hours, days, and weeks, dozens of residents had their well water infiltrated with particulate and chemical matter that made their water both undrinkable and wholly unsafe to use. CCJ agrees with the Department of Environmental Protection’s (“DEP”) initial determination that EQT’s operation at the Lumber Well Pad communicated with the nearby abandoned conventional well called Fox Hill 1.¹ This led to DEP citing EQT for failure to

¹ *Inspection Report Stimulation Report #3384307 Notice of Violation*, Department of Environmental Protection Office of Oil and Gas California Office. 6/23/22

timely notify them about the communication event, and lead to a temporary shut down of the Lumber Well Pad and nearby Spleen Splitter Well Pad.² While impacts to NF residents' water supply continued in the following months, DEP and EQT formed a Joint Stipulation of Settlement ("Settlement") agreement to resume operation at the Lumber and Spleen Splitter Well Pad on November 11, 2023.³ CCJ continues to contend that the complete absence of discussion of community water impacts within the Settlement is unacceptable. These terms in the Shalennial Well Pad agreement, specifically the absence of monitoring provisions, have prompted this letter of concern.

This letter is not an attempt to use the permit approval for the 2H Well at EQT's Shalennial Well Pad as a vehicle to reexamine the communication event at EQT's Lumber Well Pad. Nor is it an attempt to readdress our concerns about the adequacy of the settlement between DEP and EQT to resume operations at the Lumber and Spleen Splitter Well Pads. The purpose of this letter is to aid the DEP in considering that the deeply uncertain geologic and seismic status of the region in which the Shalennial Well Pad is located is particularly dangerous. At this point, the only undisputed fact of what happened is that a seismic event, which led to substantial impacts to NF residents, occurred at the Lumber/Fox Hill wells. Three years later, the citizens of NF still don't have clean drinking water. CCJ and many of the residents of NF contend that the substantial uncertainty about how this communication event happened was due to the conduct of EQT at the Lumber Well Pad. EQT, as we will examine below, used incomplete and insufficient data and analysis to show that they could not have caused this communication event. From this data, EQT officially claims that they do not know how the communication event happened.⁴ Even accepting EQT's position, which CCJ strongly opposes, implies a fundamental lack of certainty in the region's current geologic and hydrologic status. DEP was rightfully concerned about this and imposed specific monitoring requirements upon the Lumber and Spleen Splitter Well Pads.⁵ In the face of this uncertainty, CCJ is requesting that DEP consistently impose those exact requirements to the Shalennial Well Pad.

2. DEP must apply the same special permit conditions imposed on the Lumber/Spleen Splitter Well Pad to the Shalennial Well Pad.

On June 23, 2022, DEP cited EQT for failure to properly report the communication event that occurred days prior, as well as being cited for failing to cease stimulation of the Lumber Well Pad after visual indication that a communication event had taken place.⁶ This led to the temporary shutdown of both the Lumber Well Pad and the nearby Spleen Splitter Well Pad. In the following months, dozens of NF residents would discover the damage or total loss of safe usable water within their water wells, all with sparse to completely absent information or response from EQT or DEP on exactly what happened and what substances are now in their water. Multiple inspectors from both DEP and EQT went to some, but not all, impacted residents' homes to perform water testing. Many residents to this day have not received sufficient or complete testing results from the DEP about the status of their water. And while all of this was occurring, DEP coordinated with EQT on establishing the parameters to allow for the resumption of fracking operations. On July 10, 2023, EQT submitted to DEP an expanded Area of Review ("AOR") for the communication event.⁷ This led to the formation of the Settlement, which allowed EQT to resume well stimulation activities at the Lumber and Spleen Splitter

² *Id.*

³ *Joint Stipulation of Settlement*, Commonwealth of Pennsylvania Department of Environmental Protection Southwest Office of Oil and Gas Management. Signed 11/15/23 by Daniel Couahan.

⁴ *Site Specific Area of Review (AOR) Report Revision No. 2 Lumber Pad 13H Well and Fox Hill 1 Springhill Township, Green County, Pennsylvania*, EQT Production Company. July 10, 2023

⁵ *Joint Stipulation of Settlement*, Commonwealth of Pennsylvania Department of Environmental Protection Southwest Office of Oil and Gas Management. Signed 11/15/23 by Daniel Couahan.

⁶ *Inspection Report Stimulation Report #3384307 Notice of Violation*, Department of Environmental Protection Office of Oil and Gas California Office. 6/23/22

⁷ *Site Specific Area of Review (AOR) Report Revision No. 2 Lumber Pad 13H Well and Fox Hill 1 Springhill Township, Green County, Pennsylvania*, EQT Production Company. July 10, 2023

Well Pads. This Settlement imposed specific monitoring procedures that EQT had to follow at *both* the Lumber and Spleen Splitter well pads. CCJ requests the same be done at the Shalennial Well Pad.

- a. *The proximity and similarity of the Lumber and Spleen Splitter Well Pads to the Shalennial Well Pad site necessitate that the wells have uniform monitoring provisions.*

The similarities between the three well pads at issue are substantial: same operator in EQT, same well numbering system, similar well layout, similar target formations, but most importantly, they all reside just a few miles from each other. And with so much uncertainty in the region regarding the state of its geology, a regulator's best tool is uniformity. Put simply, DEP implement regulatory measures to treat similar well pads, similarly. DEP has already demonstrated a desire to ascertain the technical cause of the June 2022 communication event through the Settlement provisions. The explicit purpose of the agreement is to at least in part understand the specific geological and seismic state of the region. DEP did this by instituting specific monitoring procedures not just at the Lumber and Fox Hill wells, but also at the nearby Spleen Splitter.⁸ In the settlement, DEP and EQT agreed to these provisions for Lumber, Spleen Splitter, and Fox Hill:⁹

"EQT shall implement the monitoring and microseismic programs consistent with the description in the Site Specific Area of Review (AOR) Report - Revision No.2, Lumber Pad 13H Well and Fox Hill ... EQT will prompt cease stimulation activities and provide notice to the Department if its real time monitoring results show series of microseismic events outside of an ellipse defined by a P90 (90th percentile vertical distance of more than 2,000 feet above the Marculles from the wellbore or a horizontal distance of more than 4,000 from the wellbore)."

"EQT shall implement the monitoring and microseismic programs consistent with the description in the Spleen Splitter Well Pad - AOR Deficiency Letter, Permit Conditions for Spleen Splitter 2H, 4H, 8H, 10H, 12H (Revisions 1), Expanded Area of Review... EQT will prompt cease stimulation activities and provide notice to the Department if its real time monitoring results show series of microseismic events outside of an ellipse defined by a P90 (90th percentile vertical distance of more than 2,000 feet above the Marculles from the wellbore or a horizontal distance of more than 4,000 from the wellbore)."

The Settlement goes on to require EQT to draft a causation report for the Lumber/Fox Hill communication event, further highlighting the near-complete absence of a definitive understanding of how this happened. But more importantly, the Settlement shows an absence of assurances that a similar catastrophic seismic event will not happen again. If DEP were simply concerned with how this unprecedented seismic event caused the Lumber and Fox Hill Wells to communicate, it would have only required EQT to file a causation report. But instead, DEP was clearly somewhat concerned that this type of event could happen again. That is why it imposed specific monitoring and reporting requirements to identify and prevent future incidents. Furthermore, it imposed those requirements not just on the wells that were part of the communication event, but also on all of the wells at the nearby Spleen Splitter Well Pad. DEP is clearly concerned about and uncertain of the geologic stability of the area. CCJ is requesting that this zone of concern extend just a few miles westward to Shalennial.

'Unprecedented' is the term that appears to be at the core of the Lumber/Fox Hill event. As will be examined below, EQT's position in their expanded AOR is that standard well operation procedures should not have been able to cross the distance necessary for Lumber 13H to communicate with Fox Hill, but it did. Unfortunately, this event's dramatic,

⁸ *Joint Stipulation of Settlement*, Commonwealth of Pennsylvania Department of Environmental Protection Southwest Office of Oil and Gas Management. Signed 11/15/23 by Daniel Couahan.

⁹ *Id.*

unusual, and unprecedented nature is being used as a shield to categorize it as simply a fluke, ignoring the impact on NF residents, and allowing for the previous status quo for unconventional well operation and permitting in the area to continue. The status quo has shifted. The Lumber/Fox Hill seismic event has shown that a new type of catastrophe is possible. DEP does not just govern this region merely to regulate and provide logistical assistance to EQT; it is also responsible for the protection of its people and its natural resources. 58 Pa.C.S. § 3215(c) requires, when permitting an unconventional gas well, that DEP do the following: “*the department shall consider the impact of the proposed well on public resources, including... Sources used for public drinking supplies*”.¹⁰ The PA Supreme Court further held in *Robinson Twp. v. Commonwealth* that this statutory language extends to protect the private water wells of properties near unconventional gas wells.¹¹ This means that DEP is not just responsible for identifying and aiding those harmed by the Lumber/Fox Hill event; DEP is also responsible for protecting those who live near the approved Shalennial Well Pad site who could be impacted by future uncontrolled events. It is established that, at the very least, unconventional well operations can cause significant uncontrolled events that result in unprecedented communications with faraway wells in this specific locality. Shouldn’t DEP uniformly apply the monitoring and reporting restrictions specifically meant to understand and prevent another such communication event from happening to a new well permit in that same locality? CCJ is deeply concerned that another Lumber/Fox Hill type event might occur. The bare minimum that DEP can do to prevent this is to impose the same monitoring and operation restrictions it has already imposed at Lumber and Spleen Splitter on Shalennial. Shalennial’s permit approval has no reference to special monitoring procedures, no reference to the Lumber/Fox Hill event, and appears to be indistinguishable from the other permit approvals EQT has received to operate in the region prior to the communication.¹² With the lack of definitive and publicly available information surrounding the communication event, and the substantial and continuous harm to dozens of NF residents, a regional change to the permitting structure of these wells is not just necessary, but statutorily mandated.

3. The lack of unredacted localized geologic/seismic data within the Lumber and Shalennial AORs insufficiently appeases public concern of future seismic events occurring in the region.

When a major industrial incident occurs that results in substantial and continuous harm to the surrounding community, it is the duty and responsibility of the operator and regulator of the facility to inform the public, remediate their harms, and reearn their trust. In these ways, both EQT and DEP have failed the community that surrounds these well pads. CCJ has been in contact and coordinated with over 50 NF residents who have had substantial and continuous water impacts from the communication event. Since the communication event, EQT initially provided water to some impacted residents through water buffalos, then conditioned temporary continued access to those water systems in exchange for total indemnity and non-disclosure, and then finally effectively ceased all communication with community members when a class action was filed against EQT. With that, members of the communities surrounding the Lumber, Spleen Splitter, and the approved Shalennial Well Pads rely on CCJ and DEP to keep them informed and protected from potential future uncontrolled events. Subsequently, CCJ has had to rely on RTKL submissions to DEP to keep up to date on the geologic status of the area and permitting requirements for the Shalennial Well Pad. The information received about the Shalennial well pad has painted a wholly incomplete picture, leaving the public with great concern that a similar event could also occur in their home. Specifically, the expanded AOR for Lumber/Spleen Splitter and the AOR found within the Memorandum of Understanding (“MOU”) between DEP, the West Virginia Department of Environmental Protection, and EQT does not do nearly enough to show that DEP is protecting the public’s interest in the region.

¹⁰ 58 Pa.C.S. § 3215(c)(6) [emphasis added]

¹¹ *Robinson Twp. v. Commonwealth*, 623 Pa. 564, 83 A.3d 901 (2013) at 726

¹² *Unconventional New Permit: Shalennial Well Pad*, Permit Number 059-28474, 6/26/2025

Article 1 Section 27 of the PA Constitution states, “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. *As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.*”¹³ This positions DEP as a steward of the state's natural resources and its citizens' concerns about those resources. Because of this, the DEP must adequately address the concerns CCJ and nearby community members have about the current geologic state of the area surrounding these three wells, and by extension, the analysis DEP accepts from EQT to demonstrate that appropriate measures are in place to prevent another catastrophic event from occurring. At this time, the available data to the public simply does not ameliorate those fears.

CCJ's core contention with the acceptance of both the expanded AOR for Lumber/Spleen Splitter, and the AOR found within the MOU for Shalennial by DEP is their reliance on non-localized and redacted seismic data. In the expanded AOR EQT submitted to DEP for Lumber/Spleen Splitter on July 10, 2023, EQT concludes that its operation of the Lumber Well pad could/should not have resulted in a communication due to the distance between formations that the Lumber and Fox Hill wells were targeting.¹⁴ EQT comes to this conclusion using a combination of strata projections, average regional depth mapping for relative formation placement, and heavily redacted non-localized seismic data of the assumed geologic position of the area.¹⁵ EQT openly admits they do not know what the geologic status under the Lumber pad was at the time of the report: “***Seismic data is lacking in the immediate area, but available 2D-seismic data just 3.5 miles to the north represents regional trends and does not reveal large scale faulting or fractures or obvious migration pathways (Figure 6).***”¹⁶ Figure 6, which is keystone data that EQT used to show lack of evidence of their fault in the seismic event, is not only an incomplete analysis using old faultlines and strata migration trends not at Lumber, the entire figure is redacted.¹⁷ CCJ acknowledges that DEP has access to the unredacted seismic data when evaluating the adequacy of an AOR, but even in that circumstance, is it sufficient? If it is the position of both EQT and DEP that the cause and conditions of the unprecedented seismic event at Lumber and Fox Hill are unknown, shouldn't there be a more extensive examination into the specific and exact geologic state of the area? How can EQT speak exactly to the fault positing at Lumber using projections from a location that is just about as far away as the Shalennial site is to Lumber? And again, this letter is not an attempt to use the Shalennial permit approval to evaluate the adequacy of the expanded AOR for Lumber/Spleen Splitter; it is to demonstrate to DEP that the current status of the geology of the region is largely unknown. Both DEP and EQT have provided insufficient information about the cause of the seismic event and assurances that future events will not occur. CCJ has attempted to access EQT's final causation report through multiple final and pending RTKLs. As of July 10, 2024, requests have been unsuccessful, CCJ being uncertain if the report has even been completed. It is this state of information limbo that is at the heart of the cause of concern for CCJ and many community members. This is what makes the complete absence in discussion of the Lumber/Fox Hill event within the Shalennial AOR so troubling.

Currently, the AOR within the MOU for Shalennial contains all publicly available information used to support its permit approval. Within the MOU, there is no localized seismic/geologic data, merely projections and targets based on regional average formation depth. Still, more importantly, there is no reference or discussion to the communication event at Lumber/Fox Hill. An unknown, unprecedented, and aquifer-destroying event happened at an EQT well just a few miles from the Shalennial site, and not only is there no discussion of any additional safeguards or practices to avoid a possible

¹³ Art. 1 Sec. 27 PA Con. [emphasis added]

¹⁴ *Site Specific Area of Review (AOR) Report Revision No. 2 Lumber Pad 13H Well and Fox Hill 1 Springhill Township, Green County, Pennsylvania*, EQT Production Company. July 10, 2023 (pg-9-15)

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

future event, there is effectively nothing within the Shalennial AOR on the topic. The only cursory reference is in the reporting requirements when EQT states in its monitoring plan, “*EQT will provide information relating to the hydraulic fracturing schedule, communication with other operators, and ongoing monitoring of the work upon request of OOG or immediately **in the event of any noted abnormalities.***”¹⁸ No special monitoring procedures to identify such abnormalities, no provisions detailing what an abnormality is, just a vague promise that EQT will report to DEP and WV DEP if such an event happens. Which, of course, is the exact citation DEP issued to EQT for failing to do exactly that with the Lumber/Fox Hill event. This glaring absence in specific reference to the event is mirrored in Shalennial’s permit approval, which has no special monitoring requirements, no special reporting requirements, no reference to regional geologic instability, and no reference to the water resources that were destroyed just a few miles east.¹⁹ The permit approval and monitoring plans for Shalennial appear boilerplate, as if the Lumber/Fox Hill seismic event had had no impact on the regional status quo.

DEP has very specific statutory duties when permitting unconventional wells. 25 PA Code § 78a.52a outlines the specific requirements EQT must follow in developing its AOR prior to drilling.²⁰ Specifically subsection (c)(3) which states, “*A monitoring plan for wells required to be monitored under § 78a.73(c) (relating to general provision for well construction and operation), including the methods the operator will employ to monitor these wells.*”²¹ This provision specifically empowers DEP to fully dictate the monitoring procedures at a well site, allowing it to modify the existing permit approval to include the seismic monitoring and wells stability requirements within the Lumber/Spleen Splitter settlement to that of Shalennial. Additionally, under subsection (e), “*The Department may require other information necessary to review the report submitted under subsection (c). The Department may make a determination that additional measures are needed, on a case-by-case basis, to ensure protection of waters of the Commonwealth.*”²² This is, in effect, a statutory mandate that DEP must impose special permit requirements on a case-by-case basis if a special circumstance arises that would threaten the waters of the Commonwealth. The seismic event at Lumber/Fox Hill is a perfect example of something that necessitates such additional measures. CCJ and the community members it supports feel DEP must reevaluate its permitting standards and AOR requirements for all unconventional wells in the region, but specifically for Shalennial. The absence of its reference within any publicly available information concerning the Shalennial Well Pad shows that DEP is either failing it its duty to protect the public and its water resources by not imposing uniform monitoring procedures and relying on insufficient data provided by EQT, or it is relying on information not publicly available to determine that what happened at Lumber could not happen at Shalennial. Both of these are unacceptable to CCJ and necessitate immediate action.

4. Next steps DEP must take to adhere to its statutory obligations and quell public concerns about the geologic safety/status of the region.

The status quo permitting structures for unconventional wells in the region were insufficient to protect the waters of the Commonwealth and the people of NF. DEP made that determination when it applied special monitoring and stimulation procedures to the Lumber/Spleen Splitter Well Pads after the communication event. DEP has chosen not to apply those same standards to the newly approved Shalennial Well Pad just a few miles away from the site of an event that caused the total and continuous destruction of the water supply for dozens of people for over three years. CCJ finds this unacceptable and requests that DEP immediately take two courses of action:

¹⁸ *EQT Production Hydraulic Fracturing Monitoring Plan Pad ID: Shalennial County: Greene (PA), Marshall (WV), 5/30/2025* [emphasis added]

¹⁹ *Unconventional New Permit: Shalennial Well Pad*, Permit Number 059-28474, 6/26/2025

²⁰ 25 PA Code § 78a.52a

²¹ 25 PA Code § 78a.52a(c)(3)

²² 25 PA Code § 78a.52a(e)

- **Impose all special monitoring and stimulation procedures established in the Settlement between DEP and EQT for the resumption of operation at the Lumber/Spleen Splitter Well Pad to the newly approved Shalennial Well Pad.**
- **Make available all unredacted localized seismic data surrounding all three well pads available to the public to quell concerns that another catastrophic seismic event could occur at Shalennial.**

If DEP moves forward with these two calls to action, it will substantially aid itself in adhering to its statutory obligation to protect the waters of the Commonwealth and take the next necessary step in earning back the trust of a community who has been made to feel abandoned by the DEP since June of 2022.

Thank you for your consideration. If you have any questions, please contact me anytime.

Respectfully,

Seth Sherman, Esq.

Legal Fellow

Center for Coalfield Justice

seth@centerforcoalfieldjustice.org