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Response to DEP Report on Sierra Club et al. Conventional Well Bonding Petition

To whom it may concern:

Please accept this response from the Sierra Club, Clean Air Council, Earthworks, Citizens for Pennsylvania’s Future (“PennFuture”), and Protect Penn-Trafford (collectively, “Petitioners”) to the report by the Department of Environmental Protection (“DEP”) recommending that the Environmental Quality Board (“EQB”) deny the petition to increase bond amounts for conventional wells. Petitioners agree with DEP’s statement in its report that “the enactment of Act 96 on July 19, 2022, explicitly suspended the EQB’s authority to make any changes to individual or blanket bond amounts for conventional wells for 10 years.” Pa. Dep’t of Env’tl. Prot., *Evaluation Report on the Sierra Club Et Al. Petition for Rulemaking to Raise Bond Amounts for Conventional Oil and Gas Wells*, at 9 (2023). Given EQB’s current apparent lack of authority to act, Petitioners see no reason to leave this petition under consideration at this time.

Petitioners would like to highlight for the record that DEP’s recommendation to deny the

petition is based solely on EQB's current lack of statutory authority to act on the petition. DEP has not contested the veracity of any of the factual assertions in the Petition, nor has it taken the position that the actual policy changes the petition asked for are unreasonable. In fact, DEP explicitly states that "the Department agrees the current bonding requirements for conventional oil and gas wells are insufficient." *Id.* To the extent DEP engages with the substance of the petition, therefore, it is to indicate support for the overall goal of the petition.

Petitioners filed the petition because the Commonwealth's low bond amounts for conventional wells has resulted in a fast-spreading wave of abandoned wells across Pennsylvania, causing harms to public health, contributing to climate change, harming property values and marring communities, and forcing taxpayers to shoulder the burden of plugging these wells. The petition attempted to reduce these harms and enforce the Commonwealth's obligation under the Environmental Rights Amendment, Article 1, Section 27 of the Constitution ("Section 27" or "ERA") to act as a trustee of the Commonwealth's natural resources and to vindicate the peoples' rights under Section 27 to "clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment." Pa. Const. art. I, § 27. The Commonwealth assumes a trustee obligation to ensure remediation when it issues drilling permits that necessarily authorize degradation of the state's natural resources. That trustee obligation requires Pennsylvania to ensure that every well will be promptly remediated, whether the plugging and clean-up is performed by the operator or by the Commonwealth. Pennsylvania's low bond amounts for conventional wells do not allow it to meet this obligation currently. Similarly, Pennsylvania is required to ensure the remediation of land harmed by drilling operations in order to protect the peoples' right to a clean environment; the Commonwealth's low bond amounts for conventional wells also do not allow it to fulfill this

obligation. The passage of Act 96 does not change these obligations. Petitioners will continue to act to ensure the Commonwealth upholds its Section 27 obligations and will continue to fight for Pennsylvanians who are suffering the consequences every day of uncontrolled pollution from abandoned wells.

Sincerely,



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