



FOR IMMEDIATE RELEASE:

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Update on Legal Challenges

PENN TOWNSHIP, PA - July 18 2017

Substantive Validity Challenge

On April 26, 2017 Protect PT filed a Substantive Validity Challenge to the Penn Township zoning ordinance before the Zoning Hearing Board. We are challenging the validity of the Mineral Extraction Overlay. The ZHB did not take action to schedule a hearing on the matter and therefore the challenge was automatically deemed denied, pursuant to the Municipalities Planning Code (MPC). On July 13, Protect PT filed an appeal of the deemed denial with the Westmoreland County Court of Common Pleas. Protect PT anticipates a full hearing before the Court to be scheduled.

Appeals To Well Pads

In March and early April we filed four appeals to the Numis, Backus, Deutsch, and Drakulic well pads. We were further delayed due to the records not being provided by the township to the court in a timely manner. A briefing schedule and argument date has finally been set for the land use appeals, but we will not be in court for oral arguments until late October. We continue to ask our members and supporters to stay vigilant with updating us on what is happening in your neighborhood. If you see construction occurring or vehicles at a site, please tell us.

In each appeal case, Protect PT asserts the Zoning Hearing Board “*committed legal error and acted arbitrarily and capriciously*” in granting the Special Exceptions. The applicant failed to demonstrate compliance with objective criteria of Penn Township’s zoning ordinance and ignored Protect PT’s demonstration that the proposed use is “*in fact, detrimental to the health, safety and general welfare of the community and the public interest.*”

Since December 2016, Apex has received three notices of violation for local operations. The first was issued on Dec. 2, 2016 in Penn Township, for spilling the hazardous material methyl mercaptan, which wasn’t indicated on their Preparedness, Prevention and Contingency Plan. Additional violations were issued in Salem Township on Jan. 23 and March 24, 2017, for failed Erosion and Sediment controls, which continue to allow discharge from the site to go into the public water supply, Beaver Run Reservoir.

“*We remain vigilant in our commitm* ,” Protect PT Executive Director Gillian Graber said. “.....”