

**EXHIBIT
PL EX A**

**NOTICE OF CIVIL ACTION PURSUANT TO
40 U.S.C. §300j-8**

October 9, 2024

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

Re: Notice of Intent to Sue for Failure to Ensure the Ohio Department of Natural Resources, Division of Oil and Gas Resources Management, has Maintained Enforcement Compliance with the Safe Drinking Water Act Relative to Class II Saltwater Injection Well Standards

Dear Administrator Regan:

On behalf of Omni Energy Group, LLC (“Omni”), I write to provide formal notice pursuant to 40 USC § 300j-8 and 40 C.F.R. Part 135 of Omni’s intent to sue the U.S. Environmental Protection Agency (EPA), as well as various state actors, in the U.S. District Court, Southern District of Ohio. As to the EPA, the suit will allege the Agency’s failure to ensure the State of Ohio, through a primacy agreement with the Ohio Department of Natural Resources (“ODNR”), Division of Oil and Gas Resources Management (“Division”), has conducted its Class II Saltwater Injection Well permitting and enforcement program in accord with the standards of the Safe Drinking Water Act (SDWA), generally, and 40 C.F.R. §§ 146.23, specifically.

The Director of the ODNR is Mary Mertz, while the Chief of the Division is Eric Vendel. Both are the responsible state actors, though other state actors may also be complicit.

Omni is the holder of two (2) valid Class II Saltwater Injection Well permits to inject. The Division issued Omni’s permits via Chief’s Orders 2021-180 (GMR#2) and 2021-179, 2022-124, and 2022-125 (GMR#1). No “Underground Source of Drinking Water” (“USDW”), as that term is defined in 40 C.F.R. § 146.3, is located nearer than twelve (12) miles from Omni’s facility in Belmont County, Ohio. Nonetheless, the Division has refused to grant Omni a Maximum Injection Pressure sufficient to overcome the hydrostatic resting pressure of its Ohio Shale Injection Zone. As a result, Omni is unable to operate either of its two (2) Class II wells despite no violation of the SDWA whatsoever and a more than \$8 million investment.

The Division’s action is in spite of Omni’s on-site step rate testing data, the Division’s own petroleum engineer’s recommendation (relative to GMR#2 only), and the aforementioned lack of any identifiable USDW. An ODNR “Ground-Water Resources”

map of Belmont County, Ohio is attached for your convenience, as it establishes that the only USDWs are located along the Ohio River, approximately twelve (12) miles from Omni's Class II facility.

In a gross misapplication of 40 C.F.R. § 146.23, the Division issued a finding in permit 2022-125 stating that, "The Chief finds that to minimize potential impacts to the surface, underground sources of drinking water, and other horizons, maximum allowable injection pressure must be set below fracture closure pressure in the injection zone." "Surface" and "other horizons" are not valid standards under the SDWA, and again, there is no USDW anywhere near the Omni's "Area of review," as defined in 40 C.F.R. § 146.3.

Moreover, 40 C.F.R. § 146.23 only prohibits a maximum injection pressure capable of fracturing the "confining zone," not the "injection zone," but only where the "confining zone" is adjacent to a USDW. The restriction is designed to prevent "the movement of injection or formation fluids into an USDW," which is impossible in Omni's case as no USDW is present.

Importantly, Ohio has not adopted more stringent Class II standards, as 40 C.F.R. 145.1(g) otherwise permits. In fact, Ohio Revised Code § 1509.22(D)(5) states, "This division and rules, orders, and terms and conditions of permits adopted or issued under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act unless essential to ensure that underground sources of drinking water will not be endangered." As is clear from the absurd and bad faith "finding" above, the Division's determination is far more stringent than the SDWA requires and not remotely "essential to ensure that underground sources of drinking water will not be endangered." Thus, the Division is in egregious violation of both the SDWA and Ohio law.

Finally, upon information and belief, Omni is not the only Ohio Class II facility to which the Division is applying this illegal standard. Therefore, the EPA has failed in its duty under the SDWA to properly monitor and ensure Ohio is following the science, following the law, and/or being transparent with its permittees. Additionally, the EPA has failed to provide proper oversight of the Division to ensure the just and equitable implementation of the SDWA standards relative to Class II well operation in Ohio.

Identification of Counsel:

Christopher J. Gaglin, Esq.
66560 Ault Drive
St. Clairsville, Ohio 43950
(740) 381-3869
Email: chris.gaglin@gmail.com

Sincerely,



Christopher J. Gaglin, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the forgoing Notice of Intent to Sue was served upon the following persons, pursuant to 40 C.F.R. § 135.11, via Certified U.S. Mail, return receipt requested, on this 9th day of October 2024.

The Honorable Debra Shore
Regional Administrator
U.S. EPA – Region 5
77 W. Jackson Blvd.
Chicago IL 60604


The Honorable Merrick B. Garland
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Ave
Washington, D.C. 20530-0001

The Honorable Mary Mertz
Director
Ohio Department of Natural Resources
2045 Morse Road
Columbus, Ohio 43229-6693

The Honorable Eric Vendel
Chief
Ohio Department of Natural Resources
Division of Oil and Gas Resources Management
2045 Morse Road
Columbus, Ohio 43229-6693

The Honorable Dave Yost
Ohio Attorney General
30 E. Board Street
Columbus, Ohio 43215
Attn: Environmental Enforcement


Christopher J. Gaglin, Esq.

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| <p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p><i>The Honorable Michael Reagan Administrator - U.S. EPA William Jefferson Clinton Bldg. 1200 Pennsylvania Ave NW Mail Code 1101A Washington, D.C. 20460</i></p>  <p>9590 9402 8549 3186 3725 87</p> <p>9 0710 5270 1602 9393 68</p> | | <p>A. Signature X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>NOV 1 2024</i></p> | |
| <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> | | <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> | |
| PS Form 3811, July 2020 PSN 7530-02-000-9053 | | Domestic Return Receipt | |

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| <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> | | <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> | |
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| <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> | | <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> | |
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1. Article Addressed to:

HON. MARY MELTZ
DIRECTOR - ODNR
2045 MORSE RD.
COLUMBUS, OH 43229-6693



9590 9402 8746 3310 3832 37

2. Article Number (Transfer from service label)

9589 0710 5270 1602 9389 58

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A. Signature

X Kij A. Berridge

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Kimberly A. Berridge

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Registered Mail Restricted Delivery (\$500)

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1. Article Addressed to:

ERIC VENDEL, CHIEF
ODNR - DOGRM
2045 MORSE RD.
COLUMBUS, OH 43229-6693



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A. Signature

X Sandra K. Evans

☒ Agent

☐ Addressee

B. Received by (Printed Name)

Sandra K. Evans

C. Date of Delivery

10/16/24

D. Is delivery address different from item 1? ☐ Yes
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- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
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1. Article Addressed to:

HON. DAVE YOST
OHIO ATTORNEY GENERAL
30 E. BROAD ST.
COLUMBUS, OH 43215



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A. Signature

X John Dickson

☐ Agent

☐ Addressee

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C. Date of Delivery

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If YES, enter delivery address below: ☐ No

OCT 16 2024

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☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
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