

HILCORP ENERGY COMPANY

SETBACK WAIVER

PUBLIC HEARING

\* \* \* \* \*

BEFORE: MELANIE WILLIAMS, Mediator  
CRAIG LOBINS, Northwest District Manager  
BRIAN BABB, Permanent Chief  
JOHN GUTH, Regional Manager

HEARING: Wednesday, September 16, 2015  
6:00 p.m.

LOCATION: Department of Environmental Protection  
230 Chestnut Street  
Meadville, PA 16335

WITNESSES: Carrie Hahn, Ivan Dubrasky, Kathleen  
Dubrasky, Suzanne Matteo, David Craigdean,  
Michael Genz, Christian Fulkman, Becky  
Hackert, David Weinkauff, Susie  
Beiersdorfer, Hunter Coates

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Reporter: Shannon C. Fortsch

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KATHERINE M. KNICKELBEIN, ESQUIRE

Assistant Counsel

Commonwealth of Pennsylvania

Department of Environmental Protection

230 Chestnut Street

Meadville, PA 16335-3407

ALSO PRESENT:

STACI GUSTFSON

ERIN WELLS

MICHAEL BRAYMER, ESQUIRE

DOUG WELSH

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## P R O C E E D I N G S

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MS. WILLIAMS:

It's six o'clock, so we're going to begin. Good evening. On behalf of the Pennsylvania Department of Environmental Protection let me welcome you to this public hearing tonight. My name is Melanie Williams. I am the Human Relations contact for DEP in the northwest region of Pennsylvania. And I will be monitoring over tonight's meeting --- tonight's hearing, pardon me.

Just a couple of housekeeping notes. In case of emergency there are two exits; one in the back of the room to my right. If you go down the steps and there's a door straight ahead that's indicated an exit, that will take you right out onto street. And the two doors on this side of the room (indicating), if you exit them and turn to the left, you could go right out to the main lobby out the front doors into the street. And also restrooms are located across the hallway from this conference room if you should need them.

And with that, I'm going to turn this over to Craig Lobins, Northwest District Manager of Oil and Gas for staff introductions and importance and

1 purpose of the hearing.

2 MR. LOBINS:

3 Thank you. I'd like to introduce a few  
4 staff that's here from DEP. First, we have John Guth,  
5 he's a regional director. Brian Babb, he's the  
6 permanent chief for oil and gas, Melanie Williams, our  
7 CRC, Kathryn Knickelbein, she's attorney for the  
8 Department, Michael Braymer, Doug Welsh in the back  
9 oil and gas inspector supervisor, and then we have  
10 Stacy Gustafson out at the front desk. No, almost  
11 missed Erin up front here, Wells.

12 I just have a few opening remarks before  
13 we start the hearing. Or I guess at the start of the  
14 hearing. The General Assembly enacted the Oil and Gas  
15 Conservation Law in 1961. The fundamental purposes of  
16 the Oil and Gas Conversation Law were to prevent waste  
17 or loss in the ultimate recovery of oil and gas from  
18 formations within and below the Onondaga Formation,  
19 and to protect relative rights and the rights of  
20 royalty owners and producers.

21 Relative right is the opportunity of  
22 each mill owner making up part of a common source of  
23 supply of oil and gas to produce an equitable share of  
24 such products. The Oil and Gas Conservation Law  
25 applies to a well that penetrates Onondaga Horizon and

1 the well exceeds a depth of 3,800 feet beneath the  
2 surface. Wells meeting these criteria are known as  
3 conservation wells. The conservation well is required  
4 to be at least 330 feet from the nearest outside  
5 boundary line of the lease of which it is located for  
6 the unit line that's included in a voluntary unit.

7           These setbacks are to be measured from  
8 the entire length of the well bore from the pool  
9 location to the bottom pool location. An applicant  
10 for a well permit must demonstrate that the request of  
11 well location complies with the setback requirements  
12 in the Oil and Gas Conservation Law and Regulations,  
13 unless the applicants met the request to waive the 330  
14 foot setback in this application for a well permit.

15           The Department may waive the setback  
16 requirement upon request after notice and a public  
17 hearing. To request a waiver, an applicant must  
18 include the following in its application. Number one,  
19 a request for a hearing before the Department; two, an  
20 explanation of reasons why a waiver should be granted.  
21 This explanation should include information about how  
22 the well will protect relative rights. Three, a list  
23 of all property owners including any operators or  
24 royalty owners within 330 feet of the entire length of  
25 the well bore.

1                   On August 10th, 2015, Hilcorp Energy  
2 Company submitted to the Department of Environmental  
3 Protection a permit application to drill and operate  
4 an unconventional well for the Pulaski Chrastina 8H.  
5 The Pulaski Chrastina 8H will penetrate the Onodaga  
6 Formation; therefore, the well bore is subject to the  
7 Oil and Gas Conversation Law and the regulations at  
8 Title 25 Chapter 79 of the Pennsylvania Code. The  
9 Pulaski Chrastina 8H well bore is proposed to be  
10 within 330 feet from an unleased tract.

11                   Hilcorp Energy Company submitted a  
12 request to waive the 330 foot setback in their  
13 application for the Pulaski Chrastina 8H.

14                   Based on some questions we have  
15 received, there is some confusion that this waiver  
16 request is for a spacing order, also known as forced  
17 pulling. This waiver request is not forced pulling.  
18 Pulling is a technique used by oil and gas development  
19 companies to organize oil and gas fields.

20                   Forced pulling is the act of being  
21 forced by state law into participation in the oil and  
22 gas --- in oil and/or gas producing unit. The Pulaski  
23 Chrastina 8H well is proposed to be drilled in a  
24 voluntary unit.

25                   This public hearing affords the public

1 the opportunity to provide oral testimony on the  
2 waiver request on review by the Department. The  
3 Department will share all public comments prior to  
4 making its determination on the waiver request.

5 An official record of the public hearing  
6 will be prepared by an independent court reporter.  
7 Transcripts will be available for review at Northwest  
8 Oil and Gas district office and on the Department's  
9 website. The Department will consider the relevant  
10 information presented in the waiver request and the  
11 public comments and either grant or deny waiver  
12 request as part of the application review process.  
13 The Department will prepare a written determination  
14 and a record of decision.

15 MS. WILLIAMS:

16 Okay. The public hearing that we are  
17 hosting tonight has the goal of focusing on meeting  
18 the public. Before we begin receiving testimony, I'd  
19 like to review the guidelines for tonight's meeting.  
20 Individuals will be called to testify in the order  
21 that they registered to speak. Each person will be  
22 given five minutes to testify. Copies of testimony  
23 are appreciated but not required. If you would like  
24 to speak or make a comment and did not register to  
25 speak, please see Staci Gustafson at the lobby --- at

1 the lobby to register to speak.

2           You will be given a chance to testify  
3 provided there is sufficient time available after  
4 receiving testimony from registered spokespersons. We  
5 ask if you are speaking on behalf of a group you will  
6 limit your comments to one spokesperson. If you do  
7 not want to testify you may write your comments in the  
8 new comment section of the DEP website or mail them  
9 directly to this office. The public comment period  
10 ends on 9/18/15 at 4:00 p.m.

11           We ask that you are respectful of those  
12 that are providing testimony and that you refrain from  
13 any comments while others are speaking. We welcome  
14 your testimony. However, your testimony should be  
15 focused on the issues concerning the setback waiver  
16 request by Hilcorp Energy Company for the Pulaski  
17 Chrastina 8H well bore that would have an impact on  
18 our decision-making only if they are relevant to the  
19 technical issues that are before us. We have to make  
20 our decisions based on technical merit. DEP's actions  
21 are prescribed by statute and regulation.  
22 Applications either rise or fall based on their merit.

23           Given those guidelines, we will begin  
24 hearing testimony. When you are called, please  
25 approach the podium, state and spell your first and

1 last name and provide your home address. And that's  
2 so we can get the information to our stenographer.  
3 Also, if you have copies of your testimony if you  
4 would hand that to Erin in the front row when you come  
5 up that would be great.

6 So the first person we're going to call  
7 is Stephanie Carter. Okay. We'll move on to Carrie  
8 Hahn. State your name.

9 MS. HAHN:

10 Carrie Hahn, C-A-R-R-I-E, H-A-H-N. My  
11 address is 994 Indian Run Road, Volant, V-O-L-A-N-T,  
12 16156.

13 MS. WILLIAMS:

14 Did you have written testimony or ---?

15 MS. HAHN:

16 I can give her a copy.

17 MS. WILLIAMS:

18 Perfect. All right. Thank you.

19 MS. HAHN:

20 The 25 feet setback down from 330 feet  
21 is an 87 percent difference and it's really  
22 significant. 305 foot difference. That's huge.  
23 They're not asking for just five or ten feet. It's  
24 really a significant setback waiver. Current DEP  
25 setbacks do not address how close homes are in

1 relation to the property line as they should.

2           The Dubrasky home is just ten feet from  
3 the property line where Hilcorp Chrastina Number 8  
4 lateral will pass. This is just the 35 foot  
5 difference. What if there's a slight inaccuracy in  
6 the drilling? They could end up drilling underneath  
7 the Dubrasky home.

8           And the Dubrasky water well has already  
9 been affected by the current well, wells at that  
10 location, and it's still under investigation by the  
11 DEP. Water wells in Pulaski just across the river  
12 less than a mile from the Dubrasky home, which are  
13 farther from both the adjacent vertical and the well  
14 bores at the Hilcorp Whiting well pad have received  
15 determination letters from the DEP. At least one of  
16 these landowners is currently in negotiation with  
17 Hilcorp to determine settlement.

18           The Dubrasky water well will be less  
19 than a hundred feet from the proposed well bore route.  
20 If they're already experiencing issues with their  
21 water under the standard setbacks, how are we not to  
22 assume that they will have problems with a well that  
23 will be even closer to their home and to their water  
24 well? There are so many other potential routes that  
25 Hilcorp can take using leased property.

1           Why do they have to come so close to the  
2 one property at home of one landowner in the area who  
3 did not want to lease his oil and gas rights?  
4 Everybody else around is leased but them, and they  
5 have that right. The Dubrasky home is closer to the  
6 Chrastina well pad than any of the leased owners in  
7 that unit, yet they have suffered the greatest impact  
8 and nuisance from bright lights, noise, truck traffic  
9 and visual disturbance than now having to look at an  
10 industrial operation directly in front of their home.

11           Respectfully, I request that the DEP not  
12 allow this waiver. The waiver is too significant and  
13 the Dubraskys have already endured enough of the  
14 direct impact of the Chrastina well pad operations.  
15 Waivers this significant should only be permitted by  
16 leaseholders. Drilling this close to an unleased  
17 landowner may as well be force pulling. Thank you.

18           MS. WILLIAMS:

19           Thank you. Next I would like to call  
20 Ivan Dubrasky.

21           MR. DUBRASKY:

22           Ivan, I-V-A-N, Dubrasky,  
23 D-U-B-R-A-S-K-Y, 5349 Old Pulaski Road, New  
24 Wilmington, 16142. I am the landowner and I have  
25 endured noise, dust, flaring, lights, and the well's

1 560 feet from my front door. The entrance road is 147  
2 feet from my front door, and I eat dust every day. I  
3 can't even get Hilcorp to come out and water the  
4 driveway unless I call them every day. I call them,  
5 they come out, they do it once and they leave, just  
6 like the dust is going to go away.

7 Now, that borders on ridiculous. I  
8 can't tell you how many times my wife has had to wash  
9 windows and our house is filthy because of it. And  
10 they won't do anything about it.

11 So even the township cops I've had them  
12 out, showed them the lights. There's a light  
13 ordinance in our township. They won't do anything  
14 about it because they're all on Hilcorp's side. So  
15 what am I supposed to do? Let them drill under my  
16 house now? I feel it's very unjust for what they want  
17 to do. And I would feel really violated if you would  
18 consider this waiver in their favor.

19 I guess that's about all I have to say.  
20 Like I said, it borders on ridiculous and I can't even  
21 --- wouldn't think this would be considered. But all  
22 I wanted to do was live in peace and quiet and be left  
23 alone. Then they had to put this right across the  
24 road from me, practically in my front yard. That's  
25 how ridiculous they are. Thank you.

1                   MS. WILLIAMS:

2                   Thank you. Next is Kathleen Dubrasky.

3                   MRS. DUBRASKY:

4                   Kathleen, Dubrasky, K-A-T-H-L-E-E-N,  
5 D-U-B-R-A-S-K-Y, 5349 Old Pulaski Road, New  
6 Wilmington, PA, 16142. First off, I want to know how  
7 many of you have a well pad or a compressor station  
8 that goes to any of your homes? I'm betting none of  
9 you. And most of our neighbors who have large farms  
10 which are the 17 people that you listed in your  
11 statement that you sent to us who are neighboring who  
12 will lose out on the royalties that they will be  
13 getting from them not putting this beside our home.

14                   I can care less about their royalties.  
15 They have upfront money for signing. We decided we  
16 want to go leave it go at that. You do not know the  
17 fear I go through every single day because they may  
18 tell me this is safe; I don't believe it for a second.  
19 So every time I walk out my door I worry about the air  
20 that I breathe, the water that I drink, the  
21 surrounding area and what has contaminated our soil  
22 and our plants around us.

23                   These are fears I live with every single  
24 day. When I go take a shower the water that I love  
25 running on my face I worry, is this going to cause me

1 some problem down the road? My goal is always to live  
2 to be a hundred years old. You know, now every day I  
3 question it more and more and more. And now they want  
4 to violate my rights, my right to have 330 feet from  
5 my property. They want to violate that and say, oh,  
6 no, you refused the waiver. That's not good enough.  
7 Let's take it to the DEP.

8                   The DEP hasn't paid my taxes. Many of  
9 you have worked at my property. None of you have  
10 taken care of my property. Youns do it for everybody,  
11 I understand it, but you don't --- youns have not put  
12 the blood, sweat and tears that my family and our four  
13 generations have on our property. But yet they want  
14 to make decisions for me. Youns are going to tell me  
15 how my life is going to end? If you have that  
16 foresight, please let me know, because right now I am  
17 scared to death of what may become --- might be  
18 coming.

19                   And you'll say, oh, I know, you're not  
20 going to sap anything from our property. It doesn't  
21 matter. Why do you put 330 feet if you're not going  
22 to follow the rules? I don't understand that. You  
23 may as well just make up the rules as you go because  
24 that's what it seems like is happening.

25                   I really do, like I said, I talk from my

1 heart only because I love the area. There are three  
2 enormous farms, probably in our area and everybody  
3 signed a lease. It got put on a hundred acre farm  
4 directly across the street.

5 Ten acres out of the hundred acres right  
6 across from our house. Would the other 990 acres like  
7 there was no other better place to put it? And now  
8 they're going to tell me shouldn't the Hilcorp look  
9 into that to say, oh, well, but this has to come right  
10 past there and they didn't sign. You know, let's move  
11 it because this is not --- this is going to violate  
12 somebody's rights. Didn't care about this because  
13 they are violating my rights. And if they would have  
14 --- they'd have never gone there. Why didn't they go  
15 down the street in front of the three people who  
16 wanted it? No, right in front of my house because we  
17 withheld.

18 I don't know, I guess I talk from my  
19 heart, and I just hope that you do not approve of this  
20 waiver because like I said, it's me, it's  
21 life-threatening. The stress levels are terrible, and  
22 you don't know it because you don't live it. Thank  
23 you.

24 MS. WILLIAMS:

25 Thank you. I'd like to call Angela

1 Pappa (phonetic). Pappa (changes pronunciation). I  
2 might have pronounced that wrong.

3 UNIDENTIFIED SPEAKER:

4 Not here.

5 MS. WILLIAMS:

6 Okay. And next I'd like to call Susan  
7 Matteo.

8 MS. MATTEO:

9 It is Suzanne Matteo, S-U-Z-A-N-N-E,  
10 M-A-T-T-E-O. Nice to put faces to you guys. My  
11 address is 1230 New Bedford Sharon Road, West  
12 Middlesex, Pennsylvania. Okay. Let's get something  
13 straight before I start reading what I've prepared.  
14 This hearing right here is to bypass the well station  
15 hearing, which would essentially lead to an  
16 integration hearing, which would be force pulling.  
17 You can call it what you want, but that's what this  
18 is.

19 And well number 8H is 305 feet from the  
20 Dubrasky property line as it --- it's only 505 from  
21 his residence. That's only five feet more. There's  
22 five feet for error. Okay.

23 On October 22nd, 2014, Hilcorp Energy  
24 attempted to get local conditional use permits from  
25 Pulaski Township for five wells at the Pulaski

1 Chrastina well site. One of those wells was 8H. At  
2 that time Hilcorp wanted to bore three feet under the  
3 Dubrasky property, but they also failed --- they had  
4 also failed to even submit this permit to the DEP and  
5 still attempted to get permission from Pulaski  
6 Township at that time.

7           At that time, Hilcorp already begun  
8 constructing the well pad without proper local permits  
9 in order and even hired off-duty local officers to sit  
10 across around four generation Dubrasky family home.  
11 Many of us felt that this was an intimidation tactic  
12 by Hilcorp to get the family to sign the waiver. They  
13 didn't, and that tactic failed. Just after that local  
14 Pulaski Township hearing, Hilcorp did apply for the  
15 permit from the Department for well 8H.

16           Shortly after that, I, Suzanne Matteo,  
17 on Monday, November 17th, 2014 at 8:23 a.m. submitted  
18 the following concerns via e-mail to the DEP. Pulaski  
19 Chrastina 6H, the applicant has checked that the  
20 permit application was submitted to the oil and gas  
21 --- was submitted to the Oil and Gas Conservation Law  
22 and appears to have failed to maintain the 330 foot  
23 setback from the Dubrasky property. Mr. Dubrasky's  
24 property is also involuntarily placed into a unit  
25 without the required well spacing order.

1 From a supply well plan it's  
2 questionable whether that work on a well bore of 6H  
3 has the required 330 foot setback from the Dubrasky  
4 property, making the horizontal well pad of this well  
5 bore an illegal taking. Pulaski Chrastina 7H, the  
6 applicant has checked that the permit application was  
7 subject to the Oil and Gas Conservation Law. It  
8 appears they have failed to maintain the 330 foot  
9 setback from the Dubrasky property. Mr. Dubrasky's  
10 parcel is also involuntary placed into the unit  
11 without the required well spacing order.

12 Pulaski Chrastina 8H, the applicant has  
13 checked that the permit application was subject to the  
14 Oil and Gas Conservation Law and it appears to have  
15 failed to maintain the 330 foot setback from the  
16 Dubrasky property. Mr. Dubrasky's parcel is also  
17 involuntary placed into the unit without the required  
18 well spacing order. From the supply of well land, the  
19 horizontal well bore of 8H appears to bore directly  
20 under the Dubrasky property, making the horizontal  
21 drilling path of this well bore an illegal and  
22 unconstitutional taking.

23 The vertical well bore of 8H at that  
24 time was less than 500 feet from the Dubrasky home,  
25 was required a waiver or variance. Coincidentally on

1 that same day, November 17th, representatives of  
2 Hilcorp Energy met with the DEP to discuss matters on  
3 these permits, and came to the agreement that the  
4 horizontal portions of 6 and 7H could not be drilled  
5 until the permits were resubmitted and approved by the  
6 Department with the horizontal portions meeting the  
7 required setback.

8                   The following days, Mr. Babb of the DEP  
9 kindly called me back and left me a message on my  
10 phone saying I was right. And that 6 and 7H were  
11 going to be resubmitted in the bore lines with the  
12 reroute of the stay back, the required 330 feet under  
13 the Conservation Law of the Dubrasky property. So  
14 while 6H and 7H could be moved and redirected to  
15 maintain the 330 foot setback required by law, so  
16 could the new 8H.

17                   On December 18th, the Pulaski Chrastina  
18 8H well bore, at least --- on December 18th, the  
19 original Pulaski Chrastina 8H well bore that bore  
20 illegally under the Dubrasky property was withdrawn  
21 and the following e-mail was submitted to Mr. Babb  
22 from Tim Kline of Hilcorp and obtained by me through  
23 file review of this office. It says Mr. Babb, please  
24 accept this e-mail as a formal withdrawal of Hilcorp  
25 Energy Company's application for a permit to drill

1 Chrastina 8H. We look forward to discussing these  
2 issues that surrounded this application at this time.  
3 Thanks, Tim Kline, Asset Team Manager, Hilcorp.

4 In fact, these matters were discussed on  
5 January 16th, when again representatives of Hilcorp  
6 Energy met with the DEP to determine how they could  
7 fumble with the unit sizing of their submitted  
8 permits. There they came to the agreement that they  
9 could change units from the normal 640-ish acres that  
10 they have always submitted in their applications to  
11 the Department to just the horizontal bore line and  
12 the required 330 foot on each side of it.

13 MS. WILLIAMS:

14 I'm sorry, your time is up.

15 MS. MATTEO:

16 Oh, I have more to go.

17 MS. WILLIAMS:

18 I understand, but we have ---.

19 MS. MATTEO:

20 Can I borrow Mr. Dubrasky's time? He  
21 didn't take his five.

22 MS. WILLIAMS:

23 No, I'm sorry. You can't.

24 MS. MATTEO:

25 Why can't I? I have plenty to say.

1 MS. WILLIAMS:

2 And you're able to say it. Send it to  
3 us in writing ---.

4 MS. MATTEO:

5 When did my five minutes start? When I  
6 got to the podium?

7 MS. WILLIAMS:

8 No actually, I waited until you ---  
9 after you did your address.

10 MS. MATTEO:

11 So you're going to cut me off here?

12 MS. WILLIAMS:

13 Yes. Thank you.

14 MS. MATTEO:

15 Well, I actually brought written copies,  
16 so all of you guys can finish.

17 MS. WILLIAMS:

18 Okay. Thank you. And next I want to  
19 call David Craigdean.

20 MR. CRAIGDEAN:

21 Thank you for this opportunity. My name  
22 is David Craigdean, D-A-V-I-D, C-R-A-I-G-D-E-A-N. I  
23 live at 17143 Harecreek Road, H-A-R-E-C-R-E-E-K,  
24 Corry, Pennsylvania, 16407. I've met with you, sir,  
25 before about these issues.

1           Mr. Dubrasky is an American citizen, a  
2 homeowner who worked hard for his home, his castle.  
3 It's always been flooded with lights at night. As DEP  
4 or Hilcorp provided us three tier water tests by a  
5 licensed contract for Mr. --- of Mr. Dubrasky's  
6 choice. His view for months was of the guard shack  
7 facing his front window.

8           Well, Mr. Dubrasky received the same  
9 inaction that Mr. Nick Lesevitch (phonetic) of Pulaski  
10 Township received from the DEP. I've been to his  
11 house. He cannot drink his water. He's had to take  
12 water from the spring elsewhere on his farm for three  
13 years now. I've talked to you about this. People are  
14 getting angry. Citizens have rights. And to deny  
15 those rights is unjust. I have two kids. I will  
16 defend them and I will defend my property. We need a  
17 moratorium. There are lawsuits flooding Washington  
18 County and Bradford County. You have a responsibility  
19 to the people of Pennsylvania.

20           His fundamental rights are more  
21 important than these correlative rights. It's in the  
22 Constitution. He has a right to his private property  
23 and for it not to be invaded and for it not to worry  
24 about whether his family will become ill, or I cannot  
25 worry that my children will contract leukemia. It is

1 time to wake up. I will defend my property.

2 MS. MATTEO:

3 Can I take his extra time?

4 MS. WILLIAMS:

5 Thank you. No, I'm sorry. The next  
6 person that we would like to call is Michael Genz.

7 MR. GENZ:

8 Mike, Michael Genz, M-I-C-H-A-E-L,  
9 G-E-N-Z. I don't have a lot of that technical or  
10 factual information. All I can speak is from my  
11 heart. I believe --- I just met Mr. Dubrasky a couple  
12 months back. I'm an artist, I'm an animator. I have  
13 a project that I'm working on and I come from  
14 California. I worked for Disney for many years. I  
15 came to Edinboro to teach animation and now I'm seeing  
16 this state just go to hell with all these fireballs I  
17 had never seen in my life. All of a sudden just, you  
18 know, going down the highway.

19 And when I came to visit Mr. Dubrasky  
20 and his family, I couldn't believe that he had right  
21 out front in his front door there. You couldn't hear  
22 or talk because the noise was so loud it was like a  
23 jet engine. I just got --- I'm really regretting  
24 living here and moving here to Pennsylvania. I do  
25 believe that his rights are being violated. And it's

1 clear and evident that he has experienced a lot of  
2 suffering and pain.

3 I don't know what else it would take for  
4 you to hear that. I do believe it's intimidation,  
5 corporate bullying really. There's a lot of land out  
6 there and the people that did lease why isn't it in  
7 front of their front doors? Why is it so close to  
8 his? It just breaks my heart you know, to be able to  
9 see that that kind of --- he's suffering that kind of  
10 a situation. And I believe that I --- I was looking  
11 on your website to see if I can find a mission  
12 statement for the DEP. I couldn't find one.

13 And if you're there to protect the  
14 environment and there to protect the people that live  
15 in that environment, I don't see that happening. And  
16 you know, I just, you know, support and hope that you  
17 would advocate to protect Mr. Dubrasky's rights and  
18 not grant that waiver. I believe that he has a right  
19 to live in peace and he's not bothering anybody. He's  
20 a taxpaying citizen. And I'm honored to know him.  
21 But I really --- you know, I feel his pain.

22 And I live in just, you know, a half  
23 hour north of here, and I'm afraid that this is just  
24 going to proliferate and just spread. So please  
25 consider his wanting not to have that waiver. And I

1 appreciate the time and for the opportunity to have  
2 this hearing. Thank you so much. I appreciate that.

3 MS. WILLIAMS:

4 Thank you. Next I'd like to call  
5 Christian Fulkman.

6 MR. FULKMAN:

7 Christian Fulkman, C-H-R-I-S-T-I-A-N,  
8 F-U-L-K-M-A-N, 4156 Old Pulaski Road, Wilmington, PA.  
9 As I said, my name is Christian Fulkman. I live in  
10 Pulaski Township. My farm, my family's farm is within  
11 the township and within this proposed unit of the 8H  
12 well bore. Three years ago my family celebrated the  
13 200th anniversary of our farm, and our farm's a  
14 bicentennial farm through to the PA Department of  
15 Agriculture. It has been recognized as the Lawrence  
16 County conservation farm of the year.

17 I'll distinguish a few things about our  
18 farm. It began in 1812 and it's been passed down  
19 through many generations. I'm the eighth generation.  
20 My children will be the ninth generation living on the  
21 farm. And the farm has been --- had many, many years  
22 of hardworking men and women dedicating their lives to  
23 sustaining the legacy of our farm. My parents, Gary  
24 and Glenda, currently own the farm and they've owned  
25 it since the death of my grandmother in 2005.

1                   Our farm is not a high production farm.  
2 We sustain the farm. It's about sustainability. We  
3 have beef cows. We raise hay. We have a hundred and  
4 five acres. It's hard for us to continue to work. We  
5 continue to work hard to keep the farm going and  
6 continue to maintain full-time jobs as well.

7                   In 1997 my grandparents were approached  
8 by Atlas Oil and Gas wanting to lease the farm. They  
9 signed the lease for \$7 an acre and they received  
10 various royalties. This was obviously a conventional  
11 gas well.

12                   We received less than \$100 an acre, or  
13 \$100 a year in royalties from this conventional well  
14 over the last 18 years. This has been very  
15 disappointing to us, especially when the cost of taxes  
16 and insurance and general upkeep of the farm  
17 continuing to rise. In addition to the lack of  
18 royalties alone from this conventional shallow well,  
19 our land's been held in production.

20                   Therefore, we had no opportunity to sign  
21 an oil and gas lease for \$3,500 an acre as many people  
22 did when Hilcorp first moved into the area to develop  
23 unconventional gas wells. Even though we are unable  
24 to have the opportunity to lease land with Hilcorp due  
25 to being held by production, we have still --- we're

1 still very optimistic about the potential of being  
2 within a unit of an unconventional gas well and  
3 receiving potential royalties that could help benefit  
4 the farm and keep it sustainable for years to come.

5           We see this new well as a way to help  
6 keep our farm costs, taxes and insurance premiums and  
7 countless other improvements and help to make this.  
8 We want to continue the Crystalair Farm legacy and  
9 pass it down to our children and grandchildren so they  
10 may enjoy the land as we have in many years past. The  
11 development of this well will definitely help  
12 alleviate the burden of high costs in maintaining the  
13 farm and help ensure that the farm can stay in this  
14 family for years to come.

15           I'm sad to say I may not show the same  
16 viewpoints as our friends Kathy and Ivan Dubrasky. We  
17 would not do anything that we believe would be willing  
18 to be harmful to them, and we understand their  
19 discomfort with the activities that have happened on  
20 the surface near their home. This waiver for --- is a  
21 subservice activity totally unrelated to the surface  
22 activities.

23           Based on facts, we don't believe this is  
24 harmful in any way. And based on the law, it is  
25 apparent that if Hilcorp stays 330 feet from

1 Dubrasky's parcel and the proposed unit foundry of the  
2 producing portion of the 8H well bore, there is no  
3 reason that this unit and its well bore should not be  
4 permitted. I, as a professional engineer, have a  
5 complete confidence in Hilcorp Energy and their  
6 development strategy and safety of the completion of  
7 the 8H well bore. We know that DEP will give great  
8 consideration to granting this waiver.

9           And in the instance that this waiver is  
10 not granted and the unit can't be developed as  
11 proposed, we would be unable to capture the value of  
12 our property. We're not asking anyone to diminish the  
13 value of their property or change their mind. We just  
14 want to fully explore and extract what is rightfully  
15 ours.

16           MS. WILLIAMS:

17           Thank you. Could you tell me if Gary  
18 Fulkman is here or were you testifying?

19           MR. FULKMAN:

20           I was testifying on his behalf.

21           MS. WILLIAMS:

22           Oh, perfect. Thank you so much.

23           MR. FULKMAN:

24           He is here.

25           MS. WILLIAMS:

1                   Okay. Next I'd like to call Becky  
2 Hackert.

3                   MS. HACKERT:

4                   Becky Hackert, B-E-C-K-Y, H-A-C-K-E-R-T,  
5 2055 Mercer Wilmington Road, Wilmington, Pennsylvania.  
6 As I said, my name is Becky Hackert. I'm an employee  
7 of Western Land Services and throughout the last four  
8 or five years I have worked within the area with  
9 numerous landowners in the process of them securing  
10 and negotiating the oil and gas leases. And in that  
11 process landowners are under the assumption and the  
12 impression that we may --- will eventually be able to  
13 develop unit or pool.

14                   And by granting a waiver and the waiver  
15 process being available, it does allow the collective  
16 group to have their rights protected and developed  
17 accordingly. Not granting the waiver diminishes the  
18 law's intent of those rights as a whole. And I know  
19 from the work that I've done with the landowners,  
20 again in this area for numerous years. I've been in  
21 the land business for over nine years. That's the  
22 expectation is that they will be in that right to be  
23 developed. And again, I respectfully request that you  
24 review the waiver and the intent behind it for all  
25 those rights to be protected. Thank you.

1                   MS. WILLIAMS:

2                   Thank you very much. And next --- I'm  
3 sorry. Next I'd like to call David Dean.

4                   MR. CRAIGDEAN:

5                   I already testified.

6                   MS. WILLIAMS:

7                   Okay. You must have just been out of  
8 order. Thank you. Next I would like to call David  
9 Weinkauf.

10                  MR. WEINKAUF:

11                  My name is David Weinkauf, D-A-V-I-D,  
12 W-E-I-N-K-A-U-F, 11601 Thatcher Road, Conneautville,  
13 Pennsylvania, 16406. I am late to this and so I'll  
14 try to be as brief as I can. I visited Ivan at his  
15 house and I was very impressed with his house and his  
16 property, but I'm very unimpressed with the closeness  
17 of that rig. And when I was there, Ivan talked to me  
18 about his fear of his water being contaminated. And  
19 that's the issue I want to deal with right now.

20                  Has anybody seen this (indicating)? It  
21 came out this morning. And I'll give you a copy  
22 because I picked up some extra copies. It says,  
23 quote, how Pennsylvania regulators keep water  
24 contamination from fracking off the books. In other  
25 words, it's an article on how the DEP cooks the books

1 on contamination. There are 260 contaminated wells  
2 that are documented, but this article documents how  
3 that is just the tip of the iceberg based on nine  
4 principles which I'm going to read. And it has to do  
5 with water quality and that's why I'm addressing this  
6 issue.

7                   And the article, because of its length,  
8 does not have all the documentation. But if you go on  
9 line you can get all the documentation about which  
10 they base these nine points on. Number one, baseline  
11 data from pre-drilled water test results is dismissed.  
12 Post-drilled water tests become the baseline or the  
13 norm. The DEP issues a non-impact determination  
14 despite documented changes in water quality before and  
15 after drilling. This changes the local water quality  
16 history. Pre-drilled tests are essentially thrown  
17 out. DEP cites post-drilled water tests if they are  
18 pre-drilled test results.

19                   Number three, DEP issues non-impact  
20 determination letters to neighbors of residents with  
21 positive determination letters. Number four, DEP  
22 kicks a can. In other words, it kicks the can down  
23 the road to another department so the results are  
24 never documented and never put on the books. Number  
25 five, DEP uses the presumption of liability section

1 under Act 13 to dismiss the complaint, basing their  
2 conclusion on the loophole in the law rather than  
3 documented evidence of water contamination.

4           Number six, oil and gas operator reports  
5 residential water contamination left to handle its own  
6 investigation. In other words, the company tells DEP  
7 that his test of the homeowner's water and found  
8 post-drilled contamination. DEP contacts the water  
9 well owner who declines DEP's assistance so the case  
10 is left off the books. In other words, it's never  
11 documented. And this is what the article is talking  
12 about. Number seven, DEP water tests find  
13 contamination but fails to make a determination in  
14 some cases for years, until water quality returns to  
15 normal background conditions.

16           Number eight, the Department or operator  
17 cites pre-existing or background conditions as reasons  
18 for contamination without providing evidence.  
19 Pre-drilled test results to demonstrate the history of  
20 water quality problems or cites no evidence at all.  
21 And number nine which is the most disturbing. The  
22 Department shreds complaints after five years;  
23 therefore, never putting them on the books.

24           This is outrageous. This is absolutely  
25 outrageous. How are you --- why are you in bed with

1 these bullies and these drillers who are contaminating  
2 water and the air. We have a right to clean water and  
3 air and you people are dismissing it. You are not  
4 enforcing the law. You're not going after the  
5 drillers. You're not putting things on the books that  
6 we need to see. And as to say, that is my concern  
7 about everybody who is in this mess that we call  
8 fracking.

9 I'm a landowner myself and I fear it's  
10 coming this way. And I don't want my health ruined.  
11 And I don't want my water ruined. So as I say, do  
12 your job. You're working for us, not these bullies.  
13 Thank you.

14 MS. WILLIAMS:

15 Thank you.

16 MR. WEINKAUF:

17 And there's a copy of the article you  
18 can read at your leisure.

19 MS. WILLIAMS:

20 Thank you. Next I'd like to call Susie  
21 Beiersdorfer.

22 MS. BEIERSDORFER:

23 Hello. My name's Susie Beiersdorfer,  
24 and I'm from Youngstown, Ohio. And I was told I could  
25 write my name down in case I wanted to talk or not,

1 but this is the opportunity. So I'm going to continue  
2 with what Suzanne was saying. So in fact, these  
3 matters were discussed and on January 16th when again  
4 representatives of Hilcorp Energy met again with the  
5 DEP to determine that they could fumble with the unit  
6 sizing of their submitted permit.

7           There they came to the agreement that  
8 they could change units from the normal 640-ish acres  
9 that they already submitted in their applications, to  
10 the department to adjust the horizontal bore line and  
11 the required 330 feet on the side of it, robbing not  
12 just the unleased property owners, but also the leased  
13 property owners of their dual royalties with the same  
14 measurement.

15           Now, after this decision in the spring  
16 of 2015, Rebecca Hackert, senior project manager of  
17 Western Land Services, who was contacted by Hilcorp to  
18 do leasing for them, testified under oath on behalf of  
19 Hilcorp Energy Pulaski Township Zoning Appeal Hearing,  
20 that they can drain 1,280 acres from a single well  
21 head, that's 1,280 acres usually in our township at  
22 least 640 north and 640 south, not 660 feet along the  
23 bore line, but the department allowed them to go ahead  
24 and change the permits to benefit Hilcorp and rob the  
25 citizens whether leased or unleased.

1           Even still the department catering to  
2 Hilcorp while stealing from the citizens was not  
3 enough for the big bully from Texas. On June 12th,  
4 2015 the Dubrasky's, again, received notification that  
5 Hilcorp would be applying for a permit for well 8H,  
6 claiming that the well could be 1,176 feet in depth  
7 away from the Dubrasky property.

8           So section six drilling permits, it says  
9 unofficial version, before drilling any well which is  
10 to penetrate the Onondaga or deeper horizons or adapt  
11 to 3,800 feet, whichever's deeper, the well operator  
12 shall obtain a permit. The well operator shall have a  
13 plague prepared on the same form required by the  
14 division under the Gas Operation Wells Drilling  
15 Petroleum and Coal Mining Act. And I think you're  
16 going to have problems of this, so you can lead that  
17 because that's out of the laws.

18           So I've often heard from the DEP that  
19 they don't get involved in leased disputes and that it  
20 is the case, we wouldn't be --- and if that is the  
21 case, we wouldn't be here. I wouldn't be here. These  
22 people wouldn't be here, no, so again, well 6H and 7H  
23 at the Christina well site were adjusted to maintain  
24 the 300 foot setback. So AH can be two, but Hilcorp  
25 just wants to flex its California muscles and show us

1 all whose really in charge.

2                   Now, I have some personal experience and  
3 I just have to say why I'm reading this because this  
4 is --- so important is that I've been out to --- I've  
5 been to Kathy Dubrasky's house, I've seen the photos  
6 of the flare at night. In fact, I thought it was a  
7 candle alter, but it was the flare out their window  
8 with their children's pictures on the mantle, you  
9 know, in the middle of the night. So this is an  
10 assault on their rights and on their well-being.

11                   So Ivan and Kathy Dubrasky have  
12 approximately four acres. The new permit showed that  
13 the unit is now allowed to be just a bore within 330  
14 feet on each side. That means that easily 80 percent  
15 of the Dubrasky property would be in this unit for  
16 this well, 8H. So there's a picture of the Dubrasky  
17 property here as you will see.

18                   I've been to the Dubrasky home a number  
19 of times throughout this entire ordeal. It is  
20 something out of a nightmare. It is the American  
21 dream turned into American hell. I've witnessed the  
22 noise, lights, dust and flaring, there are even now  
23 new potential water contamination issues being  
24 investigated. Will the DEP be accountable for the ---  
25 if they do permit this and something more happens,

1 more tragedy event, will they shoulder any of the  
2 responsibility, you know, our government that we put  
3 in here to take care of us, take care of our rights.

4                   So if this waiver is allowed, does this  
5 open the door for Hilcorp to drill one more foot or  
6 one more inch from anybody's property? Will the  
7 people out there be in the same situation next?

8                   MRS. DUBRASKY:

9                   Can you read some of the beneficiaries,  
10 too ---.

11                   MS. WILLIAMS:

12                   I'm sorry. She's testifying and that  
13 needs to be her testimony. Thank you. We ask that  
14 members of the audience not speak while others are at  
15 the podium. Thank you.

16                   MS. BEIERSDORFER:

17                   Okay. Well, this is all --- you turn  
18 this all in and deny the permit, do not allow the ---.

19                   MS. WILLIAMS:

20                   Thank you for your testimony. Next, I'd  
21 like to call Hunter Coates.

22                   MR. COATES:

23                   Do I need to say my name into the  
24 record?

25                   MS. WILLIAMS:

1                   Yeah.

2                   MR. COATES:

3                   All right.

4 OFF RECORD DISCUSSION

5                   MR. COATES:

6                   My name's Hunter Coates. I'm  
7 representing Hilcorp. I'm the senior reservoir  
8 engineer from Northeast US. I'd first like to thank  
9 you all for the opportunity to speak in regards to  
10 this waiver and thank you for your time.

11                   I'd first like to start out by saying  
12 Hilcorp has the necessary land rights to drill this  
13 well. We're not trespassing. We're not force  
14 pulling. We're not drilling under our lease  
15 statements. In fact, if you look at the area that we  
16 have leased, this is the only track that's unleased.

17                   MR. LOBINS:

18                   Ma'am, I'm going to ask you to keep your  
19 comments to yourself. He has the right to testify  
20 without being interrupted.

21                   MR. COATES:

22                   The reason why we need this waiver to be  
23 approved is for the maximum efficiency production of  
24 natural gas for both our landowners and for us as  
25 operators. Due to both technical and land

1 constraints, this is the only place we can put this  
2 well. If you notice on this map, we have non-operated  
3 acreage up here, we can't go up there, the village of  
4 Pulaski is over here. There's current units in place  
5 below it. We're boxed in.

6                   So real quick I'd like to, I'd like to  
7 talk a little bit about what goes into the horizontal  
8 well. So you start --- when we start our horizontal  
9 well, we drill --- first we drill a vertical well,  
10 6,000 straight down, just like it sounds. Then  
11 there's a build section. We can't make a 90 degree  
12 turn. We have to build, and our build section is  
13 subject to the flexibility of five and a half inch  
14 steel pipe. It's not flexible. It's not very flexible.  
15 So it takes awhile to make that build and make that turn.

16                   And then --- so we have two builds  
17 because we build out and then we build for the  
18 lateral. And the lateral is where we perforate and  
19 stimulate, fracture, stimulate and produce. Without  
20 perforations, there's no fracture, there's no  
21 production.

22                   That's very important because if you  
23 look at the 330 foot circle that's drawn around the  
24 Dubrasky tract, within that circle is steel pipe.  
25 There are no perforations. In fact, in addition to

1 that, we're more than a mile deep by the time we get  
2 into that 330 foot radius. As you see here, this is  
3 where our perforations start, which is more than 760  
4 feet from the Dubrasky property, it's more than twice  
5 the minimum required by law. No perforations. No  
6 frag. No gas production within that 330 foot minimum.

7 In closing, I'd like to say that if this  
8 waiver does not get approved, the well will be drilled  
9 in the correlative rights of those land owners will  
10 not be protected. Thank you.

11 MS. WILLIAMS:

12 Thank you. Those are the end of our  
13 speakers for this evening and at this point, the  
14 hearing is ---.

15 MS. MATTEO:

16 Can I have a rebuttal?

17 MS. WILLIAMS:

18 No, I'm sorry. At this point in time,  
19 the hearing is adjourned. Thank you for coming.

20

21

\* \* \* \* \*

22

HEARING CONCLUDED AT 7:00 P.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings, hearing held before Mediator Williams was reported by me on 9/16/15 and that I, Shannon C. Fortsch, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

  
Court Reporter

Shannon C. Fortsch