



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NORTHWEST REGIONAL COUNSEL

April 29, 2014

**VIA E-MAIL**

Glenda Davidson  
Docket Clerk  
Department of Environmental Protection  
400 Market Street  
Rachel Carson State Office Building  
16<sup>th</sup> Floor  
Harrisburg, PA 17101

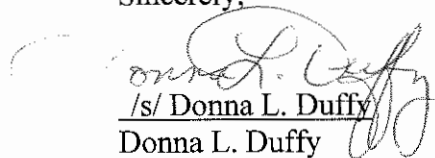
RE: Hilcorp Energy Company  
MMS No. 2013-SLAP-000528  
Docket No. 2013-01

Dear Ms. Davidson:

Enclosed for filing in the above-referenced matter is the Commonwealth of Pennsylvania, Department of Environmental Protection's Answer to the Property Owner's Petition to Intervene, and response to the request to continue the hearing in the above-referenced matter.

Please call me if you have any questions concerning this matter. Thank you.

Sincerely,



/s/ Donna L. Duffy

Donna L. Duffy  
Regional Counsel  
PA I.D. No. 68030

Enclosures

cc via e-mail: Michael L. Bangs, Hearing Officer  
Elizabeth Nolan, Esq.  
Michael A. Braymer, Esq.  
Kevin L. Colosimo, Esq.  
Daniel P. Craig, Esq.  
Omar K. Abuhejleh, Esq.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF OIL AND GAS MANAGEMENT

In Re. The Matter of the Application of )  
Hilcorp Energy Company for )  
Well Spacing Units ) Docket No. 2013-01  
)

**DEP'S ANSWER TO PROPERTY OWNERS' PETITION TO INTERVENE  
AND RESPONSE TO REQUEST TO CONTINUE THE HEARING ON HILCORP'S  
APPLICATION FOR GAS WELL SPACING ORDER**

NOW COMES, the Commonwealth of Pennsylvania, Department of Environmental Protection ("DEP"), and files this Answer to the Petition to Intervene in the above-referenced matter filed on April 25, 2014, by Martin and Suzanne Matteo, Robert and Carol Valentine, and Steve Emery (collectively the "Property Owners"). The DEP also hereby responds to the request by Counsel for the Property Owners to continue the hearing in the above-referenced matter.

Regarding the Property Owners' Petition to Intervene, the DEP answers as follows pursuant to 1 Pa. Code §35.36:

The rules of Administrative Procedure at 1 Pa. Code §35.28, state in pertinent part that the right to intervene in an Administrative proceeding includes, among other things, "a right conferred by statute . . . of the Commonwealth."

In this case, Section 2 of the Oil and Gas Conservation Law, 58 P.S. §402, defines the term "royalty owner" as, among other things, "the owner of an interest in the oil or gas in place or oil or gas rights who has not executed an oil or gas lease to the extent that the owner is not designated an operator." Under the Oil and Gas Conservation Law regulation at 25 Pa. Code §79.23(b), "any other operator or *royalty owner* of land within the area sought to be covered by the prospective spacing order *shall have the right to appear and oppose or support* the spacing plan sought by the applicant and to present its own plan for consideration." (emphasis added).

Based on information and belief, the Property Owners satisfy the definition of a “royalty owner” under Section 2 of the Oil and Gas Conservation Law, 58 P.S. §402, as they own land in the area sought to be covered by Hilcorp Energy Company’s (“Hilcorp”) application for a gas well spacing order (“Application”), and Hilcorp has not executed an oil or gas lease with them.

Accordingly, pursuant to 1 Pa. Code §35.28, and 25 Pa. Code §79.23(b), the DEP does not oppose the Property Owners’ Petition to Intervene in the above-referenced matter.

In their Petition to Intervene at Paragraph 11, the Property Owners state, in part, that the “DEP, has staked out an amorphous position with a vague pre-trial statement from which it is impossible to discern what it attempts to prove or disprove at the upcoming hearing.” By way of further answer and as explained further below, the DEP does not form its position on the Application before the hearing, nor is it required to prove or disprove any item at the hearing.

At the hearing on the Application, information and evidence will be provided to the Hearing Officer regarding the Application in accordance with the Oil and Gas Conservation Law, 58 P.S. §§401-419, and its regulations at 25 Pa. Code Chapter 79, and the Administrative Agency Law and its regulations. Based on the complete hearing and post-hearing briefs filed by all of the Parties, the Hearing Officer will make a recommendation to the Secretary of DEP. Thus, the formation of the DEP’s position on the Application is not formed until the entire Administrative process is complete, not just the filing of the Application and the hearing.

Finally regarding Intervention, based on information and belief, other persons exist who also satisfy the definition of a “royalty owner” or an “operator” under the Oil and Gas Conservation Law and, therefore, have the right under 25 Pa. Code §79.23(b), or otherwise have a right to appear at the hearing on the Application. However, these other persons have not joined the Property Owners’ Petition to Intervene. Accordingly, pursuant to 1 Pa. Code §35.28, the DEP

respectfully requests that the Hearing Officer issue an order entering a date fixed for the filing of any other Petitions to Intervene in the above-referenced matter.

Regarding the request for a continuance of the hearing, via e-mail message on April 25, 2014, Counsel for the Property Owners stated:

Per Hearing Officer Bangs' Standing Practice Order, I am hereby requesting that the parties agree to a continuance of this matter to allow my clients adequate time to prepare a response to Hilcorp's application. I request a continuance of 30 days.

The hearing on the Application is scheduled to begin on May 7, 2014. The DEP does not oppose Counsel's request for a continuance of the hearing to allow the Property Owners a meaningful opportunity to participate in the hearing on the Application, as is their right under 25 Pa. Code §79.23(b).

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

/s/ Donna L. Duffy

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Date: April 29, 2014

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF OIL AND GAS MANAGEMENT

In Re: The Matter of the Application of )  
Hilcorp Energy Company for )  
Well Spacing Units ) Docket No. 2013-01  
)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the DEP's Answer to the Property Owner's Petition to Intervene, and response to the request to continue the hearing in the above-referenced matter was this day served upon the following *via* E-mail:

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Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

/s/ Donna L. Duffy  
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