

LYNCH WEIS, LLC

ATTORNEYS AT LAW

Dwight D. Ferguson
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August 5, 2014

Glenda Davidson, Docket Clerk
Commonwealth of Pennsylvania
Department of Environmental Protection
400 Market Street
Rachel Carson State Office Building, 16th Floor
Harrisburg, PA 17105

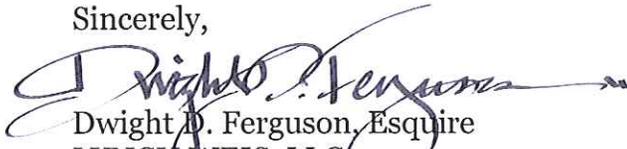
Re: Hilcorp Energy Company
MMSNo. 2013-SLAP-000528
Docket No. 2013-01

Dear Ms. Davidson,

Enclosed for filing in the above referenced matter is Property Owners, Martin and Suzanne Matteo's, Robert and Carole Valentine's, and Steve Emery's Renewed Motion for Stay of Proceedings.

Please contact me with any questions concerning the matter.

Sincerely,



Dwight D. Ferguson, Esquire
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Co-Counsel with:

Omar K. Abuhejleh, Esquire
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Enclosure

cc: Via Email to:

Michael L. Bangs, Hearing Officer
Elizabeth Nolan, Esq.
Michael A. Braymer, Esq.
Kevin L. Colosimo, Esq.
Daniel P. Craig, Esq.
Michael P. Oliverio, 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

RENEWED MOTION FOR STAY OF PROCEEDINGS

Martin and Suzanne Matteo, husband and wife, Robert and Carole Valentine, husband and wife, and Steve Emery (hereinafter collectively the “Property Owners”), by and through their attorneys, Omar K. Abuhejleh, Esquire and Dwight D. Ferguson, Esquire, Co-counsel, hereby reassert and renew the Property Owners’ still unadjudicated Motion for Stay of Proceedings and in support thereof state as follows:

1. On May 5, 2014, Property Owners filed a Motion for Stay of Proceedings in this matter on the basis that there was, and still is, a Petition for Review in the Nature of a Complaint for Declaratory Judgment and Injunctive Relief, pending at No. 266 MD 2014, in the Commonwealth Court of Pennsylvania under that court’s original jurisdiction seeking a decree from the Commonwealth Court preliminarily and permanently enjoining the application of the Conservation Law and, a determination that the Oil and Gas Conservation Law, 58 P.S. §§ 401-419 (the “Conservation Law”):
 - a. violates the prohibition under Article I, Section 10 of the Pennsylvania Constitution against the taking of property without compensation;
 - b. violates the Property Owners’ due process rights; and
 - c. has been repealed *sub silentio* in whole or in part as inconsistent with the Pennsylvania Property Rights Protection Act, 26 Pa.C.S. §§ 201-207.

(A copy of Property Owners' Motion to Stay is attached hereto as Exhibit "A").

2. On the same day that Property Owners filed their Motion for Stay of Proceedings, the Commonwealth of Pennsylvania Department of Environmental Protection filed its Answer to the Property Owners' Motion for Stay of Proceedings joining in *and independently requesting* that the Hearing Officer, pursuant to 1 Pa. Code § 35.180(a), issue an order staying the proceedings pending a final ruling by the Commonwealth Court.
3. On May 8, 2014, Hilcorp filed an Answer to Property Owners' Motion for Stay of Proceedings and Motion to Schedule Hearing Date in which it simply speculated that the Commonwealth Court would likely decline to exercise jurisdiction over the Property Owners' Petition.
4. On June 5, 2014, Property Owners filed an Amended Petition to which Hilcorp filed Preliminary Objections on June 18, 2014. Property Owners and Amici Curiae have filed briefs in opposition to Hilcorp's Preliminary Objections. No determination on either Hilcorp's Preliminary Objections or the underlying Amended Petition has been rendered by the Commonwealth Court.
5. On June 9, 2014, Hilcorp filed a Motion to Schedule Hearing Date before the Hearing Officer to which the Commonwealth of Pennsylvania Department of Environmental Protection filed an Answer requesting, again, that the Hearing Officer deny Hilcorp's Motion and grant the Property Owners' Motion for Stay of Proceedings.
6. On July 11, 2014, the Hearing Officer issued an Order scheduling a hearing on this matter for September 16, 2014 without addressing the Property Owners' Motion for Stay of Proceedings.

7. On July 18, 2014, E. Christopher Abruzzo, Secretary, Department of Environmental Protection, issued an Order dated the same date, granting the Petition to Intervene of Gerard Noguee and Claudia Noguee and directing the Hearing Officer to “address all petitions or **motions for** continuance, **stay**, or rescheduling of hearings, **pending** or subsequently filed, without first referring them to me for consideration.” (emphasis added, ¶7)
8. On August 1, 2014, the Hearing Officer acknowledged a letter from Hilcorp’s legal counsel seeking a rescheduling of the hearing due to a scheduling conflict with Hilcorp’s expert and proposing alternative dates.
9. For the foregoing reasons, and those relied upon in the Property Owners’ first Motion for Stay and those set forth in the Commonwealth of Pennsylvania Department of Environmental Protection’s Answer to the Property Owners’ Motion to Stay Proceedings, the Property Owners renew their request that the Hearing Officer, pursuant to 1 Pa. Code § 35.180(a) and in accordance with the Secretary’s Order of July 18, 2014 (not requiring submission of the motion to the Secretary), issue an order staying the proceedings pending a final ruling by the Commonwealth Court.
10. Property Owners respectfully request the Hearing Officer’s prompt ruling on their Motion to Stay and this Renewed Motion for Stay of Proceedings so that if said motions are denied, Property Owners may submit a timely Petition to the Commonwealth Court to stay these proceedings.

Accordingly, Property Owners, Martin and Suzanne Matteo, husband and wife, Robert and Carole Valentine, husband and wife, and Steve Emery respectfully request that the Hearing Officer pursuant to 1 Pa. Code § 35.180(a) and in accordance with the

Secretary's Order of July 18, 2014, issue an order staying the proceedings pending a final ruling by the Commonwealth Court.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Omar K. Abuhejleh". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Omar K. Abuhejleh, Esquire
PA I.D. No. 84048
429 Forbes Avenue, Suite 450
Pittsburgh, PA 15219

And

Dwight D. Ferguson
LYNCH WEIS, LLC
501 Smith Drive, Suite 3
Cranberry Township, PA 16066

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Renewed Motion for Stay of Proceedings was sent August 5, 2014, by electronic mail to the following parties:

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