



October 2, 2019

CERTIFIED MAIL NO. 7000 2260 0005 8732 3080

Mike Hahn
Xtreme Energy Co.
PO Box 2326
Victoria, TX 77902-2326

Re: Menhorn 2H and Hillegass 2H Gas Wells

NOTICE OF PERMIT SUSPENSION

Dear Mr. Hahn:

Xtreme Energy Co. ("XEC") is the "owner" and "operator," as those terms are defined in Section 3203 of the Oil and Gas Act, 58 Pa. C.S. § 3203, of the Hillegass 2H gas well (Permit No. 111-20277) and the Menhorn 2H gas well ("Permit No. 111-20272") (collectively, "the Wells"). In a letter dated September 10, 2019, the Pennsylvania Public Utility Commission ("Commission") notified the Pennsylvania Department of Environmental Protection ("Department") of XEC's continued failure to pay its Act 13 impact fees ("Fees") for the Wells pursuant to Section 2308 of the Oil and Gas Act, 58 Pa. C.S. § 2308 ("Notification"). The Notification stated that XEC has not paid its Fees for the Wells for the 2014, 2015, and 2016 calendar years.

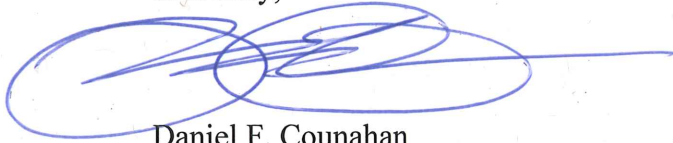
Pursuant to Section 2308 of the Oil and Gas Act, 58 Pa. C.S. § 2308, the Department shall suspend the permit for any well until the Fees have been paid to the Commission. As such, the letter serves as notification to XEC that the Department shall suspend Well Permit Nos. 111-20272 and 111-20277 effective **October 9, 2019** ("Suspension") without further notification from the Department besides this letter.

The Suspension shall remain in place until the Fees are paid to the Commission, the Department receives notice of the full payment of the Fees to the PUC, and the Department notifies XEC, in writing, that the Permits are no longer suspended.

Pursuant to 25 Pa. Code, § 78a.12, no person may operate a well except in accordance with a permit. Continued operation of the Wells while their permits are suspended would constitute additional violations of the Department's Rules and Regulations, and subject XEC to additional enforcement actions.

You may contact the undersigned regarding this matter and your legal counsel may contact the Department's legal counsel, Rick Watling, at (412)442-4262.

Sincerely,



Daniel F. Counahan
District Oil and Gas Manager
Southwest District Oil and Gas Operations
Pennsylvania Department of Environmental Protection

cc: Rick Watling, OCC, Pgh.
PUC
Permit File Nos. 111-20272 and 111-20277



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

September 10, 2019

Via Electronic Mail and First-Class Mail

Richard T. Watling, Esq.
Pennsylvania Department of Environmental Protection
Southwest Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Re: Notification of Xtreme Energy Company's Failure to Pay the Act 13
Impact Fee, Related Charges, Interest and Penalties to the Pennsylvania
Public Utility Commission

Dear Attorney Watling:

Pursuant to Section 2308(c) of the Unconventional Gas Well Impact Fee Act ("Act 13"), 58 Pa.C.S. § 2309(c), the Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission" or "PUC") hereby notifies the Pennsylvania Department of Environmental Protection ("DEP") of the failure of Xtreme Energy Company ("Xtreme" or "Company") to pay the Act 13 impact fee and related charges, interest and penalties for wells that it operated during the 2014, 2015 and 2016 calendar years. I&E recommends that DEP suspend permits for the two wells that Xtreme operates in the Commonwealth: Well No. 111-20277 (Hillegass) and Well No. 111-20272 (Menhorn).

A procedural background of this matter follows.

BACKGROUND

On April 12, 2017, I&E¹ filed a Formal Complaint (“Complaint”) before the Commission against Xtreme, an Act 13 producer and well operator. The Complaint was docketed at Docket No. C-2017-2599145.² In the Complaint, I&E averred that Xtreme failed to comply with Section 2303(c) of Act 13 by failing to pay impact fees and administrative charges for the 2014 and 2015 calendar years related to the Company’s two unconventional gas wells operating in Pennsylvania. I&E’s Complaint requested that Xtreme be ordered to pay its past due impact fees and administrative charges in the amount of \$70,600 plus interest and penalties in the amount of \$19,768, as well as a civil penalty of \$21,180, for a total amount due of \$111,548.

Xtreme contested I&E’s Complaint by filing an Answer and New Matter on May 18, 2017. Xtreme denied that it was the producer obligated to pay impact fees and administrative charges for the wells listed in I&E’s Complaint and cited a change in the ownership of the wells that it believed rendered Xtreme first responsible for impact fees and administrative charges beginning with the 2016 calendar year. Xtreme also argued that one of its wells identified in the Complaint qualified as a stripper well and was not subject to the Act 13 impact fee.

¹ I&E serves as the prosecutory bureau at the Commission and is responsible, *inter alia*, for enforcing compliance with state and federal laws over which the Commission has jurisdiction.

² The record of this proceeding may be viewed on the Commission’s website at www.puc.pa.gov by searching under Docket No. C-2017-2599145.

I&E filed an Amended Complaint on September 4, 2018, which updated the allegations against Xtreme to include violations pertaining to the 2016 calendar year. I&E's Amended Complaint requested that Xtreme be ordered to pay its past due impact fees and administrative charges for the 2014, 2015 and 2016 calendar years in the amount of \$100,900 plus statutory interest and penalties of \$28,252. I&E also requested that Xtreme be ordered to pay an administrative civil penalty of \$31,770, for a total amount due of \$160,922.

Xtreme filed an Answer and New Matter in response to I&E's Amended Complaint on September 27, 2018, in which it denied the various material averments made by I&E.

The matter proceeded to litigation before the Commission with Deputy Chief Administrative Law Judge ("DCALJ") Joel H. Cheskis presiding over the matter. Written statements of testimony were exchanged. Approximately one month before an evidentiary hearing was scheduled to be held, I&E and Xtreme announced that they had reached a settlement-in-principle on January 7, 2019 and litigation was suspended.

On April 19, 2019, I&E and Xtreme submitted a Joint Petition for Approval of Settlement ("Settlement Agreement") in which I&E and Xtreme agreed to the following pertinent terms:

- A. Xtreme will pay past due impact fees and administrative charges related to Well No. 111-20277 (Hillegass) and Well No. 111-20272 (Menhorn) in the amount of Sixty-Five Thousand, Six Hundred Dollars (\$65,600) within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement. Payment of the impact fees and administrative

charges, as well as the remaining monetary terms of Paragraph 3, shall be made by certified check or money order made payable to the "Commonwealth of Pennsylvania," with the docket number of this proceeding, C-2017-2599145, indicated on the payment, and sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

- B. Xtreme will pay interest, pursuant to 58 Pa.C.S. § 2308(a), in the amount of One Thousand, Five Hundred and Nine Dollars (\$1,509) within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement. The interest shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).
- C. Xtreme will pay a penalty (hereinafter referred to as "Act 13 penalty"), pursuant to 58 Pa.C.S. § 2308(b), in the amount of Twelve Thousand, Five Hundred and Seventy-Five Dollars (\$12,575) within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement. The Act 13 penalty should not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).
- D. Xtreme will pay an administrative civil penalty, pursuant to 58 Pa.C.S. § 2310, in the amount of Fifteen Thousand Dollars (\$15,000) within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement. The administrative civil penalty should not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).
- E. I&E agrees to forego prosecuting Respondent, including seeking the imposition of interest, Act 13 penalties and administrative civil penalties, for any late payments related to the impact fee and administrative charge for Well No. 111-20277 (Hillegass) for the 2017 calendar year.
- F. Xtreme and I&E agree that the Supreme Court of Pennsylvania's decision in *Snyder Brothers, Inc. v. Pa. Pub. Util. Comm'n*, 198 A.3d 1056 (Pa. 2018) is dispositive as to Well No. 111-20272 (Menhorn).

- G. Xtreme agrees to timely pay the amounts set forth in any invoice sent by the Commission with respect to Well No. 111-20272 (Menhorn) related to the 2017 calendar year. Upon timely payment of this invoice, I&E agrees to forego from prosecuting Xtreme, including seeking the imposition of interest, Act 13 penalties and administrative civil penalties, with respect to any issue regarding the timeliness of Xtreme's Act 13 report and dispute concerning Well No. 111-20272 (Menhorn) related to the 2017 calendar year.
- H. Xtreme agrees that it will cease and desist from violating Act 13 and will submit Act 13 reports, disputes and applicable payments by April 1 of each year.
- I. **Xtreme agrees that if it fails to comply with a Commission Order that approves any settlement of this matter, the Company will be subject to the remedies set forth in Act 13, including, *inter alia*, a lien placed on its property pursuant to 58 Pa.C.S. § 2308(e), contempt proceedings in Commonwealth Court pursuant to 58 Pa.C.S. § 2309(b), and suspension of well permits pursuant to 58 Pa.C.S. § 2308(c).**
- J. The following written testimony and associated exhibits served in this case shall be deemed admitted into the record of this proceeding:
- Direct Testimony of Amy R. Zuvich – I&E Statement No. 1;
 - Rebuttal Testimony of Michael Hahn – Xtreme Statement No. 1; and
 - Surrebuttal Testimony of Amy R. Zuvich – I&E Statement No. 1-SR.

(Emphasis added).

On May 7, 2019, DCALJ Cheskis entered an Initial Decision approving the Joint Petition for Approval of Settlement in its entirety without modification. On June 17, 2019, the Commission entered a Final Order adopting the Initial Decision of DCALJ Cheskis without modification. Consequently, Xtreme was required to submit a total payment of \$94,684 within thirty (30) days of June 17, 2019, or by the close of business on July 17, 2019.

To date, the Commission has received no payment from Xtreme related to this matter and the Commission's June 17, 2019 Order is not the subject of any appeal.

NOTIFICATION TO DEP

Pursuant to Section 2308(c) of Act 13, I&E hereby notifies DEP of Xtreme's failure to pay the impact fee, administrative charges, interest and penalties related to the 2014, 2015 and 2016 calendar years for Well No. 111-20277 (Hillegass) and Well No. 111-20272 (Menhorn). Section 2308(c) of Act 13 provides as follows:

(c) Timely payment. - - If the commission determines that a producer has not made a timely payment of the fee, the commission shall send written notice of the amount of the deficiency to the producer within 30 days from the date of determining the deficiency. The commission shall notify the department of a producer that has failed to pay the fee for any unconventional gas well under section 2302 (relating to unconventional gas well fee). If the producer does not have a pending appeal related to payment of the fee in process, the department shall suspend the permit for that well until the fee has been paid.

58 Pa.C.S. § 2308(c).

The Commission's June 17, 2019 Order directed Xtreme to pay \$65,600 in impact fees and administrative charges related to the 2014, 2015 and 2016 calendar years, \$1,509 in interest, \$12,575 with respect to an Act 13 penalty, and a \$15,000 administrative civil penalty, for a total payment of \$94,684, within thirty (30) days. Xtreme did not appeal the Order and did not pay the outstanding amounts. A copy of the Order is enclosed.

By letter dated August 6, 2019, I&E advised Xtreme that \$94,684 remains outstanding and that I&E would pursue the available remedies under Act 13 and as agreed-upon in the Settlement if Xtreme did not pay the delinquent amounts. Xtreme

remitted no payment in response to I&E's letter. A copy of the letter is enclosed.

I&E therefore notifies DEP of Xtreme's failure to comply with Act 13 by paying the impact fee, administrative charges, interest and penalties, and recommends that DEP promptly suspend the permits for Well No. 111-20277 (Hillegass) and Well No. 111-20272 (Menhorn) pursuant to 58 Pa.C.S. § 2308(c). I&E further recommends that the well permits remain suspended until Xtreme has remitted \$94,684 to the Commission.

Counsel for Xtreme has been copied on this letter.

Please do not hesitate to contact the undersigned should you have any questions.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Enclosures
SMW/jfm

cc: *(Via electronic mail only)*
Michael L. Swindler, Deputy Chief Prosecutor, I&E
Amy R. Zuvich, Bureau of Administration
Kurt Klappkowski, DEP
John Ryder, DEP
Daniel Counahan, DEP
Kareen Milcic, DEP
Karen O. Moury, Esq., Counsel for Xtreme Energy Company

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

v.

Xtreme Energy Company

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C-2017-2599145

FINAL ORDER

In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Deputy Chief Administrative Law Judge Joel H. Cheskis dated May 7, 2019, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Approval of Settlement filed on April 19, 2019 at Docket No. C-2017-2599145 by the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Xtreme Energy Company is hereby approved in its entirety without modification.

2. That the following previously served written testimony and associated exhibits are admitted into the record of this proceeding:

- Direct Testimony of Amy R. Zuvich – Bureau of Investigation and Enforcement Statement No. 1;

- Rebuttal Testimony of Michael Hahn – Xtreme Energy Company Statement No. 1; and
- Surrebuttal Testimony of Amy R. Zuvich – Bureau of Investigation and Enforcement Statement No. 1-SR.

3. That the Motion to Compel Production of Document Requested by Set III-9 filed by Xtreme Energy Company on December 28, 2018 is hereby withdrawn.

4. That, in accordance with Section 2303 of Act 13, 58 Pa.C.S. § 2303, and within thirty (30) days of the date this Order becomes final, Xtreme Energy Company shall pay Sixty-Five Thousand, Six Hundred Dollars (\$65,600) related to impact fees and administrative charges related to the 2014, 2015 and 2016 calendar years. Said payment shall be made by: (1) certified check or money order made payable to the “Commonwealth of Pennsylvania,” with the docket number of this proceeding, C-2017-2599145, indicated on the payment, and sent to:

Rosemary Chiavetta Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg PA 17120

Or (2) wire transfer directly to the Commonwealth of Pennsylvania utilizing wire transfer instructions provided by I&E to Xtreme.

5. That, in accordance with Section 2308(a) of Act 13, 58 Pa.C.S. § 2308(a), and within thirty (30) days of the date this Order becomes final, Xtreme Energy Company shall pay interest in the amount of One Thousand, Five Hundred and Nine Dollars (\$1,509). Payment shall be made in the manner set forth in Paragraph 4, supra.

6. That, in accordance with Section 2308(b) of Act 13, 58 Pa.C.S. § 2308(b), and within thirty (30) days of the date this Order becomes final, Xtreme Energy Company shall pay

a penalty in the amount of Twelve Thousand, Five Hundred and Seventy-Five Dollars (\$12,575). Payment shall be made in the manner set forth in Paragraph 4, supra.

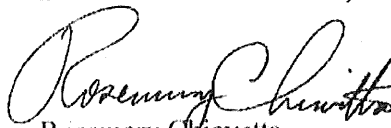
7. That, in accordance with Section 2310 of Act 13, 58 Pa.C.S. § 2310, and within thirty (30) days of the date this Order becomes final, Xtreme Energy Company shall pay an administrative civil penalty in the amount of Fifteen Thousand Dollars (\$15,000). Payment shall be made in the manner set forth in Paragraph 4, supra.

8. That Xtreme Energy Company shall cease and desist from violating Act 13, 58 Pa.C.S. §§ 2301 et seq., and shall submit Act 13 reports, disputes and applicable payments by April 1 of each year.

9. That, upon fulfillment of the conditions set forth in Paragraph 32(A)-(D) of the Joint Petition for Approval of Settlement, the Complaint filed by the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement shall be marked satisfied and the above-captioned matter shall be marked closed.

10. That copy of this Opinion and Order shall be served upon the Bureau of Administration.

BY THE COMMISSION,


Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: June 17, 2019



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

August 6, 2019

Via Electronic Mail and First Class Mail

Karen O. Moury, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Xtreme Energy Company
Docket No. C-2017-2599145

Dear Attorneys Moury and Shultz:


The Pennsylvania Public Utility Commission's ("Commission") records reflect that your client, Xtreme Energy Company ("Xtreme"), has not paid the \$65,600 in impact fees and administrative charges related to the 2014, 2015 and 2016 calendar years, \$1,509 in interest, \$12,575 with respect to an Act 13 penalty, and a \$15,000 administrative civil penalty, for a total payment of \$94,684, that was directed to be paid in the Commission's June 17, 2019 Opinion and Order in the above-referenced matter. Said payments were due within thirty (30) days of entry of the Opinion and Order, or by July 17, 2019.

Pursuant to Paragraph 33(I) of the Settlement Agreement between the Bureau of Investigation and Enforcement ("I&E") and Xtreme, I&E intends to initiate the following remedies:

- Place a lien on Xtreme's property, pursuant to 58 Pa.C.S. § 2308(e);
- Refer the matter to the Commission's Law Bureau for the initiation of contempt proceedings before Commonwealth Court, pursuant to 58 Pa.C.S. § 2309(b); and
- Notify the Pennsylvania Department of Environmental Protection ("DEP") of Xtreme's failure to pay the impact fees, which will prompt DEP to suspend Xtreme's well permits.

To avoid such action, full payment of \$94,684 must be received at the Commission by the close of business on August 9, 2019.

Sincerely,


Stephanie M. Wimer
Senior Prosecutor
PA Attorney ID No. 207522

SMW/jfm

cc: Michael L. Swindler, Deputy Chief Prosecutor, I&E