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April 25, 2014

Glenda K. Davidson
Department of Environmental Protection
Office of Chief Counsel
400 Market Street, 16th Floor
Harrisburg, PA 17105

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

Dear Ms. Davidson:

Enclosed for filing please find a Petition to Intervene in the above-captioned matter.

Very truly yours,



Omar K. Abuhejleh

Enclosure

**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
)

PETITION TO INTERVENE

Pursuant to 1 Pa. Code § 35.28, Martin and Suzanne Matteo, husband and wife, Robert and Carol Valentine, husband and wife, and Steve Emery (hereinafter collectively referred to as the “Property Owners”), by and through their counsel, Omar K. Abuhejleh, Esq., hereby petition to intervene in the above-captioned matter and in support thereof aver the following:

- 1) Suzanne and Martin Matteo are the owners of property located at 1230 New Bedford-Sharon Road, West Middlesex, PA 16159.
- 2) Bob and Carol Valentine are the owners of property located at 1251 Deer Creek Road, West Middlesex, PA 16159.
- 3) Steve Emery is the owner of property located at 745 Sharon Bedford Road, West Middlesex, PA 16159.
- 4) Pursuant to 58 P.S. §§ 401-419 (Oil & Gas Conservation Law), Hilcorp Energy Company has filed an application for an order establishing spacing units covering an area of approximately 3,267 acres (“the parcel”). The application avers that a common accumulation of natural gas underlies the parcel and that such accumulation constitutes a pool as it is “not in

communication laterally or vertically with any other accumulation of oil or gas.” 58 P.S. § 402(10).

5) The Property Owners’ properties are among those included in the parcel.

6) The Pennsylvania Department of Environmental Protection (DEP) has appointed Michael L. Bangs, Esquire, as the hearing officer in this matter. Hearing Officer Bangs has scheduled a hearing for May 7-8, 2014.

7) The Property Owners own their mineral rights and have not leased any of these rights to Hilcorp or a third party.

8) The Property Owners’ rights to their minerals and to prevent trespass upon their underground estates are guaranteed by Article I of the Pennsylvania Constitution, which states, “All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of **acquiring, possessing and protecting property** and reputation, and of pursuing their own happiness.” PA CONST. art. I, § 1 (emphasis added).

9) Additionally, Property Owners will be asserting their right, pursuant to 25 Pa. Code § 79.23(b), to oppose the spacing plan sought by Hilcorp.

10) Pursuant to 58 P.S. § 408, Hearing Officer Bangs, “as part of the order establishing a spacing unit or units shall prescribe the terms and conditions upon which the royalty interests in the unit or units shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent separate order integrating the royalty interests.” 58 P.S. § 408(a). Hilcorp’s application is premised upon the integration of the Property Owners’ interests, as demonstrated by the plat indicating the location of the proposed wells. *See* Hilcorp’s February 28, 2014 Supplemental Documents, Exhibit C-1. Therefore, if

Hearing Officer Bangs grants Hilcorp's application, it will result in the integration of the Property Owners' interests, which would allow Hilcorp to take their interests without their "voluntary agreement." *Id.*

11) The Property Owners' interests are not represented by the existing parties because the only other party, 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. Furthermore, to the extent that the DEP will represent the Property Owners' interests, there is nothing of record to demonstrate that such representation will be adequate, as their filings are devoid of any documents or statements that would establish that Hilcorp's attempt to avail itself of the Oil and Gas Conservation Law is improper and unfounded in the instant case or in any case involving horizontal drilling.

12) The Property Owners seek to intervene and if permitted to do so, shall introduce evidence to demonstrate that:

- a. The identified accumulation of gas is not a "pool" within the meaning of 52 P.S. § 410(2).
- b. Hilcorp's application is facially deficient, in that it does not include a plat "indicating the latitude and longitude of each well drilled to the pool sought to be spaced." 25 Pa. Code § 79.21(2). Although the DEP sent Hilcorp a deficiency letter requesting that it remedy this deficiency, Hilcorp's February 26, 2014 filing of supplemental documents contains the same plat with the same X and Y coordinates, which are not latitude and longitude coordinates. *See* Hilcorp's February 26, 2014 Supplemental Documents, Exhibit C. *See also* Hilcorp's February 28, 2014 Supplemental Documents, Exhibit G-1.

- c. Hilcorp's application is facially deficient in that it fails to identify "each well drilled to the pool." 25 Pa. Code § 79.21(2). In particular, Hilcorp has filed documents with the DEP indicating the existence of well 3H (No. 073-20398) in the Pulaski-Kinkela South Unit, which Hilcorp did not identify in the plat supporting its application.
- d. Hilcorp has not recommended spacing units based on "the maximum area which may be drained efficiently and economically by one well." 25 Pa. Code § 79.21. Rather, its spacing units are based on well pads for more than one horizontal drilling run. For instance, the Pulaski-Kinkela North Unit indicates a lateral (4H, No. 073-20384) extending from the well pad on the Pulaski-Kinkela South Unit.
- e. The Oil and Gas Conservation Law's purpose of protecting correlative rights is inapplicable in instances of horizontal drilling for natural gas in shale formations.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Petition to Intervene was sent April 25, 2014 by U.S. First Class Mail:


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