



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NORTHWEST REGIONAL COUNSEL

August 8, 2014

**VIA E-MAIL ONLY**

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

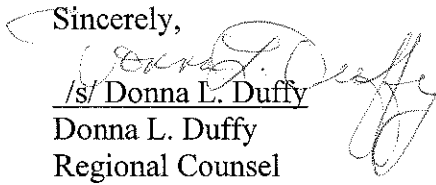
Re: Hilcorp Energy Company  
MMS No. 2013-SLAP-000528  
Docket No. 2013-01

Dear Ms. Davidson:

Enclosed for filing in the above-referenced matter is the Commonwealth of Pennsylvania, Department of Environmental Protection's Answer to the Intervener Property Owner's Renewed Motion to Stay Proceedings, Proposed Order, and Certificate of Service.

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. and Michael A. Braymer, Esq.  
Kevin L. Colosimo, Esq. and Daniel P. Craig, Esq.  
Omar K. Abuhejleh, Esq. and Dwight D. Ferguson, Esq.  
Michael 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  
)

**DEP'S ANSWER TO INTERVENOR PROPERTY OWNERS' RENEWED MOTION TO  
STAY PROCEEDINGS ON HILCOPRP'S APPLICATION  
FOR GAS WELL SPACING ORDER**

NOW COMES, the Commonwealth of Pennsylvania, Department of Environmental Protection ("DEP"), and pursuant to 1 Pa. Code §35.179, files this Answer to the Renewed Motion to Stay Proceedings in the above-referenced matter that was filed on August 5, 2014, by Martin and Suzanne Matteo, Robert and Carol Valentine, and Steve Emery (collectively the "Intervener Property Owners"). DEP respectfully requests that the Hearing Officer grant the Renewed Motion, and stay these proceedings pending a final ruling by the Commonwealth Court on the related matter filed by the Intervener Property Owners in that Court.

On May 5, 2014, the Intervener Property Owners filed a Petition in the Commonwealth Court for Review in the Nature of a Complaint for Declaratory Judgment and Injunction Relief (the "Petition"). In sum, the Intervener Property Owners seek, among other things, a declaration from the Commonwealth Court that the Pennsylvania Oil and Gas Conservation Law, 58 P.S. §§401-419 ("Oil and Gas Conservation Law"): violates the prohibition under Art I Section 10 of the Pennsylvania Constitution against the taking of property without compensation; violates the Intervener Property Owners' due process rights; and has been repealed *sub silentio* in whole or part as inconsistent with the Pennsylvania Property Rights Protection Act, 26 Pa. C.S. §§201-207. They also seek a decree from the Commonwealth Court that application of the Oil and Gas Conservation Law is preliminarily and permanently enjoined.

The proceedings before the Hearing Officer in the above-referenced matter relate to Hilcorp Energy Company's application for a gas well spacing order ("Application") for an area located in Mercer and Lawrence Counties, Pennsylvania. These proceedings are governed by the Oil and Gas Conservation Law, along with its regulations at 25 Pa. Code Chapter 79, and the Administrative Agency Law and its regulations.

On July 18, 2014, DEP Secretary Abruzzo issued an order that, among other things, directed 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." DEP hereby incorporates herein in full its Answers in support of a stay of these proceedings, which Answers it previously filed on May 5, 2014, and June 18, 2014. As discussed more fully in those Answers, a stay in these proceedings before the Hearing Officer pending a final ruling by the Commonwealth Court is appropriate because the Commonwealth Court's determinations under the Petition regarding the Oil and Gas Conservation Law will control the outcome in these proceedings.

In the alternative, if the Hearing Officer denies the Intervener Property Owners' Renewed Motion to Stay Proceedings in the above-referenced matter, DEP offers the following.

In response to Hilcorp's Motion, on July 11, 2014, the Hearing Officer re-scheduled the hearing in the above-reference matter for September 16 and 17, 2014. As directed by the Hearing Officer in his July 11, 2014 order, DEP reserved the Lawrence County Government Center Annex in New Castle, PA, for this re-scheduled hearing.

In addition, DEP also notified all of the owners of property within the proposed spacing order by mail, and notified the public by news release, of the re-scheduled hearing dates of September 16 and 17, 2014. Besides promptly obtaining the hearing venue and notifying the

public and property owners, DEP also arranged for applicable staff and DEP expert witnesses to attend the hearing re-scheduled for September 16 and 17, 2014.

On July 30, 2014, Hilcorp informed the Parties and the Hearing Officer by letter that one of its expert witnesses had an unavoidable conflict and could not attend the hearing on September 16 and 17, 2014. By letter, dated August 1, 2014, the Hearing Officer requested that the Parties verify whether September 30 and October 1, 2014, are suitable dates to further re-schedule the hearing in the above-referenced matter. However, one of DEP's expert witnesses is not generally available for a hearing on September 30 and October 1, 2014.

For the reasons stated herein and in the Answers that DEP previously filed on May 5, 2014, and June 18, 2014, DEP hereby respectfully requests that, pursuant to 1 Pa. Code §35.180(a) and DEP Secretary Abruzzo's order, dated July 18, 2014, the Hearing Officer grant the Renewed Motion, and stay the proceedings in the above-referenced matter pending a final ruling by the Commonwealth Court on the Intervener Property Owners' Petition.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

/s/ Donna L. Duffy  
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Date: August 8, 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  
                                                                          )

**[PROPOSED] ORDER**

NOW, this \_\_\_\_\_ day of August 2014, based upon the Renewed Motion to Stay Proceedings in the above-referenced matter that was filed on August 5, 2014, by Martin and Suzanne Matteo, Robert and Carol Valentine, and Steve Emery (collectively the “Intervener Property Owners”), and the answers thereto, it is hereby ORDERED and DIRECTED that the Intervener Property Owners’ Renewed Motion for Stay of Proceedings is GRANTED until such time as the Commonwealth Court rules on the Intervener Property Owners’ Petition and all of the responses thereto.

After ruling by the Commonwealth Court, the Parties may file further pleadings regarding the stay of this matter in light of the ruling by the Commonwealth Court on the Intervener Property Owners’ Petition before that Court.

SO ORDERED,

\_\_\_\_\_  
Michael L. Bangs  
Hearing Officer

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 Intervener Property Owners' Renewed Motion to Stay Proceedings and Proposed Order 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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