

COPY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In The Matter Of:

Atlas Resources, Inc.	:	Oil and Gas Act
Westpointe Corporate Center One	:	Water Supply Replacement
1550 Coraopolis Heights Road,	:	[REDACTED]
Second Floor	:	Jefferson Township
Moon Twp, PA 15108	:	Fayette County

ORDER

Now, this 4TH day of January, 2008, the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Oil and Gas Act, Act of December 19, 1984, P.L. 1140, *as amended*, 58 P.S. §§ 601.101-601.605 ("Oil and Gas Act"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulation ("rules and regulations") promulgated thereunder.

**Atlas Resources, Inc.**

B. Atlas Resources, Inc. ("Atlas") is a Pennsylvania corporation engaged in the exploration and production of oil and gas resources in Pennsylvania. Atlas' mailing address is Westpointe Corporate Center One, 1550 Coraopolis Heights Road, Moon Township, PA 15108.

**The [REDACTED] Water Supply**

C. [REDACTED] reside in Jefferson Township, Fayette County, and have a mailing address of [REDACTED] Two springs provide the water supply serving the [REDACTED] residence, garden and trees, orchard and

goats. One spring feeds a cistern that provides the water supply serving the [REDACTED] residence and is also used to irrigate some trees and a garden ("House Spring"). A second spring feeds a pond that provides the water supply for fifteen goats and a small orchard ("Pond Spring"). The House Spring and the Pond Spring constitute a water supply as the term is defined by Section 78.1 of the rules and regulations, 25 Pa. Code § 78.1 ("Water Supply").

#### **The Gas Wells**

D. On November 14, 2005, the Department issued well Permit No. [REDACTED] to Atlas authorizing Atlas to drill the [REDACTED] Gas Well in Jefferson Township, Fayette County, Pennsylvania [REDACTED].

E. On or about January 28, 2006, Atlas commenced drilling the [REDACTED]. Drilling of the [REDACTED] was completed on February 2, 2006.

F. On November 14, 2005, the Department issued well Permit No. [REDACTED] to Atlas authorizing Atlas to drill the [REDACTED] Gas Well in Jefferson Township, Fayette County, Pennsylvania [REDACTED].

G. On or about February 2, 2006, Atlas commenced drilling the [REDACTED]. Drilling of the [REDACTED] was completed on February 9, 2006.

#### **Water Supply Diminution Investigation**

H. On or about August 10, 2007, [REDACTED] notified the Department that following commencement of drilling operations at the [REDACTED] and [REDACTED] well sites, the quantity of water flowing from both the House Spring and the Pond Spring decreased. Immediately after the drilling of the [REDACTED] the water flowing into the [REDACTED] residence from the House Spring was muddy for roughly 24 hours. At the urging of Atlas, [REDACTED] requested that the Department conduct an investigation.

I. On August 17, 2007, the Department initiated an investigation of the alleged diminution of the Water Supply.

J. The [REDACTED] is located topographically up-gradient and roughly 500 feet from the Pond Spring and topographically up-gradient and roughly 800 feet from the House Spring.

K. The [REDACTED] is located topographically up-gradient and roughly 1,000 feet from the Pond Spring and topographically up-gradient and roughly 600 feet from the House Spring.

L. The House Spring and the Pond Spring at all times adequately served their purposes until shortly after the Gas Wells were drilled. Since the Wells were drilled, the Pond Spring has been reduced to a trickle and the House Spring is no longer adequate to water the garden and irrigate the trees.

M. The [REDACTED] reported the change in the quantity of their Water Supply to Atlas in 2006. Atlas supplied [REDACTED] with a "water buffalo" in June 2006. Since then, Atlas has provided and continues to provide a "water buffalo" of 2,500 gallons of water per week to the [REDACTED]

N. The Water Supply is diminished in quantity.

O. Well operators who affect a private or public water supply by pollution or diminution are required to restore or replace the affected water supply with an alternate water supply adequate in quantity and quality for the purposes served by the supply. 58 P.S. § 601.208(a) and 25 Pa. Code § 78.51(a).

P. The Department advised Atlas of the diminution of the Water Supply. Atlas provided no information as to the cause of the diminution of the Water Supply.

Q. Section 78.51(d) of the rules and regulations, 25 Pa. Code § 78.51(d), requires that the operator shall affirmatively demonstrate to the Department's satisfaction that the quality of the restored or replaced water supply to be used for human consumption is at least equal to the

quality of the supply before it was affected by the operator. However, if the quality of the water supply before it was affected by the operator cannot be affirmatively established, the operator shall demonstrate that the concentration of substances in the restored or replaced water supply does not exceed the primary and secondary maximum contaminant levels ("MCLs") established under 25 Pa. Code § 109.202 (relating to state MCLs and treatment technique requirements).

R. Section 78.51(e) of the rules and regulations, 25 Pa. Code § 78.51(e), requires that if the water supply is for uses other than human consumption, the operator shall demonstrate to the Department's satisfaction that the restored or replaced water supply is adequate for the purposes served by the supply.

S. The diminution of the Water Supply constitutes a public nuisance and unlawful conduct pursuant to Sections 502 and 509(2) of the Oil and Gas Act, 58 P.S. §§ 601.502 and 601.509(2).

NOW, THEREFORE, pursuant to Sections 208 and 503 of the Oil and Gas Act, 58 P.S. §§ 601.208 and 601.503; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, the Department hereby orders that:

1. Atlas shall continue to provide a temporary water supply to the [REDACTED] adequate in quality and quantity for the purposes served by the Water Supply until Atlas completes the permanent restoration or replacement of the [REDACTED] Water Supply as required in Paragraph 2 hereof.

2. a. Within thirty (30) days of receipt of this Order, Atlas shall provide the Department with a written plan and schedule which describes in detail the methods and/or

techniques proposed to restore or replace permanently the [REDACTED] Water Supply and when it will do so ("Plan and Schedule"). The proposed Plan and Schedule shall include, at a minimum:

i. A proposed schedule for completing the permanent replacement or restoration of the Water Supply. However, the proposed replacement or restoration of the Water Supply shall be constructed, installed and operating no later than thirty (30) days after the Department's approval or approval with modifications of the Plan and Schedule;

ii. A method of demonstrating to the satisfaction of the Department that the quantity and quality of the permanently restored or replaced water supply meet the requirements of 25 Pa. Code §§ 78.51(a), (d), (e), (f), and (g);

iii. A description of how Atlas will compensate the [REDACTED] on a permanent basis for any increased operation and maintenance costs associated with the restored or replaced water supply which exceed those associated with the Water Supply. A copy of any signed agreements between Atlas and the [REDACTED] in this regard should be submitted with the proposed Plan and Schedule.

b. Atlas shall commence implementation of the Plan and Schedule as approved by the Department upon the Department's approval or approval with modifications.

c. Atlas shall respond to any Department requests for additional information concerning the Plan and Schedule or comments concerning the Plan and Schedule within ten (10) days of such request for comments.

3. In complying with this Order, Atlas shall not affect by pollution or diminution any other water supply.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483.

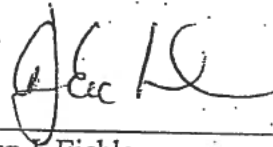
TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board.

The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.



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Alan J. Eichler  
Manager  
Oil and Gas Management  
Southwest Region