

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the order of establishing spacing units pursuant to Environmental Conservation Law (“ECL”) § 23-0501 for the County Line Field located in Chemung, Schuyler and Steuben Counties, pursuant to Environmental Conservation Law Article 23, Mineral Resources, for the wells designated as the Purvis 1 (31-097-22893-00-00), Whiteman 1 (31-015-22839-00-00) and Roy 1 (31-015-22901-00-00). INTERIM ORDER

(DEC File No. DMN 02-5)

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WHEREAS:

1. This Interim Order relates to the proposal of the New York State Department of Environmental Conservation (“Department”) Staff to establish well spacing units and release royalties in the County Line natural gas field (“the Field”) in portions of Chemung, Schuyler, and Steuben Counties. The well spacing proposal was made pursuant to Title 5 of Article 23 of the Environmental Conservation Law (“ECL”);
2. Fairman Drilling Company (“Fairman”), Pennsylvania General Energy (“PGE”) and Department Staff reached agreements on matters raised in Department Staff’s proposal and embodied those agreements in an executed Stipulation, dated December 30, 2002 (“Stipulation”);
3. Fairman’s and PGE’s responsibilities in the Field were assumed by Fortuna Energy Inc. (“Fortuna”) pursuant to Administrative Orders dated, respectively, November 4, 2002 and March 17, 2003;
4. Pursuant to a Notice of Public Hearing published on February 26, 2003 in the Environmental Notice Bulletin and February 28, 2003 in the Elmira Star-Gazette, a public hearing and an issues conference were held before Administrative Law Judge (“ALJ”) Susan J. DuBois on March 25, 2003, and March 26, 2003, respectively, at the Holiday Inn in Painted Post, New York;
5. ALJ DuBois’ Ruling on Motion for Recusal dated June 23, 2003 denied Western Land Services, Inc.’s motion for her recusal from the County Line hearing;
6. ALJ DuBois’ Ruling on Motion for Stay dated June 23, 2003, granted Department Staff’s request to hold her issues ruling in abeyance in light of a petition submitted by Western Land Services, Inc. for a declaratory ruling that was pending before the Department’s General Counsel;

7. ALJ DuBois' Ruling 2 dated September 19, 2003, granted Department Staff's request to hold her issues ruling in abeyance until a declaratory ruling was issued;

8. In response to Western Land Services, Inc., the Department's General Counsel issued two declaratory rulings on January 29, 2004 which were distributed to the issues conference participants;

9. ALJ DuBois's Issues Ruling dated February 20, 2004, held that one adjudicable issue existed concerning the western boundary of the proposed Youmans Unit 1 in the Field;

10. My Interim Decision dated May 24, 2005, affirmed and modified ALJ DuBois' ruling and directed Department Staff to prepare an Interim Order to establish unit boundaries for wells other than the Youmans 1 well in the Field;

11. ALJ DuBois' Summary Hearing Report, dated August 2, 2005, reviewed the status of the Youmans 1 well and recommended that, because the well had been plugged and abandoned without ever having produced gas, and the proposed spacing unit withdrawn, the issue regarding the Youmans Unit 1 boundary no longer required adjudication; and

12. My Decision dated August 24, 2005, affirmed ALJ DuBois' recommendation in her August 2, 2005 Summary Hearing Report and again directed Department Staff to prepare an order establishing unit boundaries in the Field.

NOW, THEREFORE, having found that this order establishing spacing units in and releasing royalties for the Field is necessary to carry out the provisions of ECL § 23-0301, it is hereby ORDERED that:

I. Exhibits "B1", "B2", "B3" of the Stipulation executed among Fairman, PGE and Department Staff, dated December 30, 2002 are hereby incorporated by reference into and made a part of this Interim Order. The spacing units in the Field established by this Interim Order for the Purvis, Whiteman and Roy wells consist of the unit boundaries and parcels shown on Exhibits "B1", "B2" and "B3", respectively. Only those separately owned tracts or parts thereof shown on the attached Exhibits "B1", "B2" and "B3" are included in the respective units;

II. As set forth in the Stipulation, Fortuna may prepare updated Exhibits "B1", "B2" and "B3" which reflect changes in property ownerships and descriptions, if necessary, within 90 days of the effective date of this Interim Order and make them part hereof;

III. Fortuna is the operator of the spacing units for the Purvis 1, Whiteman 1, and Roy 1 wells shown in Exhibits "B1", "B2" and "B3", respectively;

IV. Fortuna is authorized to immediately release royalty payments for the spacing units established by this Interim Order to all of Fortuna's lessors and other mineral rights owners in the spacing units. Royalty payments for non-lessors are to be equal to the lowest royalty fraction, but not less than one-eighth, contained in any oil and gas lease within each respective spacing

unit; and

V. As set forth in the Stipulation, Fortuna shall file a copy of this Interim Order, including Exhibits “B1”, “B2” and “B3”, with the Chemung, Schuyler, and Steuben County Clerks against all parcels in each respective spacing unit established by this Interim Order and shall submit proof of such filing to the Director of the Bureau of Oil and Gas Regulation in the Department's Division of Mineral Resources by three months after the effective date of this Interim Order.

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

/s/

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Henry L. Hamilton  
Assistant Commissioner

Albany, New York  
December 7, 2005

Alison Crocker, Esq.  
NYSDEC Division of Legal Affairs  
625 Broadway, 14th Floor  
Albany, New York 12233-1500

Bradley J. Field, Director  
NYSDEC Division of Mineral Resources  
625 Broadway, 3rd Floor  
Albany, New York 12233-6500

Susan J. DuBois, Administrative Law Judge  
NYSDEC Office of Hearings and Mediation  
Services  
625 Broadway, 1<sup>st</sup> Floor  
Albany, New York 12233-1550

John H. Heyer, Esq.  
P.O. Box 588  
604 Exchange National Bank Building  
Olean, New York 14760

Harv Rasmussen, Land Manager  
Fortuna Energy Inc.  
203 Colonial Drive, Suite 101  
Horseheads, New York 14845