

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Application of Fortuna Energy Inc. for a Gas Well Spacing Order and Compulsory Integration Order for one gas well known as the ANDREWS 1 (API No. 31-101-23038-00) in the Quackenbush Hill Field located in the Town of Corning, Steuben County, pursuant to Environmental Conservation Law Article 23, Mineral Resources

ORDER

WHEREAS:

1. The Commissioner's Decision and Order, dated January 23, 2002, in the matter of the order of field-wide well spacing rules and the integration of interests pursuant to Environmental Conservation Law ("ECL") §§ 23-0501 and 23-0901 for the Quackenbush Hill Field located in Chemung and Steuben Counties, New York, established spacing units for four existing wells and procedures for future well spacing and compulsory integration.

2. The Commissioner's Decision and Order, dated December 30, 2002, in the matter of the order of field-wide well spacing rules and the integration of interests pursuant to Environmental Conservation Law ("ECL") §§ 23-0501 and 23-0901 for the Quackenbush Hill Field located in Chemung and Steuben Counties, New York, established a spacing unit for one existing well and procedures for future well spacing and compulsory integration.

3. A Stipulation is incorporated into each 2002 Decision and Order which provides for the efficient and economical development of the Quackenbush Hill Field. The incorporated Stipulation of November 1, 2001 ("Stipulation") between the New York State Department of Environmental Conservation ("Department") and Pennsylvania General Energy Corp. ("PGE") sets forth the conditions and procedures for future well spacing and compulsory integration in the Quackenbush Hill Field.

4. This well spacing and compulsory integration order is made pursuant to ECL Article 23, Titles 5 and 9, respectively, and in accordance with the Commissioner's Decisions and Orders in this matter.

DISCUSSION

Section IV of the Stipulation, entitled "Permit Application Procedures for Future Wells," established procedural requirements that both the Applicant and the Department must follow before a new well can be drilled in the Quackenbush Hill Field, before production can commence from a new well in Quackenbush Hill Field, and before the Department can issue a well spacing and compulsory integration order in Quackenbush Hill Field. The Stipulation requires, among other things, that the well be at least 9,000 feet along strike or 5,280 feet perpendicular to the strike of the geologic feature depicted in Exhibit "D" from an existing well in Quackenbush Hill Field and that the proposed spacing unit be no less than 560 acres and no more than 640 acres in size. Prior to production, the Applicant must document its control of at least 75 percent of the oil and gas interests within the proposed spacing unit, and must submit engineering and geologic data and analysis in support of the proposed spacing unit. Upon Department approval of the spacing unit, the Applicant must show proof of notification to all Operators and unleased interest owners in accordance with Paragraph IV.F.4.

FINDING OF FACTS

1. In accordance with Section IV of the Stipulation, Fortuna Energy Inc. (“Fortuna”) has submitted all required information to the Department. Fortuna has demonstrated, among other things, that it controls 98 percent of the oil and gas interests within the proposed Andrews Spacing Unit. Fortuna is the only operator of record holding leases in the Andrews Unit.

2. The Andrews Unit consists of 36 parcels and contains 626.48 acres in the Town of Corning, Steuben County. The breakdown of acreage within the unit is shown on the attached map and tabulation labeled Exhibit “B6”.

3. Fortuna has informed unleased owners, consistent with the procedural requirements contained in Paragraph IV.F.4 of the Stipulation, that their interests are encompassed by the proposed Spacing Unit, and has provided the Department with copies of the notice letters and return receipts. The unleased owners have not submitted any comments objecting to or opposing compulsory integration.

4. In accordance with Paragraph IV.D. of the Stipulation, the Department notified Fortuna by letter dated February 24, 2004, of its approval of the proposed spacing unit.

NOW, THEREFORE, having considered the matter and been duly advised and having found that the establishment of the Andrews Unit in the Town of Corning, Steuben County, and compulsory integration of interests therein are necessary to carry out the policy provisions of ECL Section 23-0301, it is hereby ORDERED that:

- A. The Andrews Unit is hereby established consisting of 36 parcels and containing 626.48 acres surrounding the Andrews 1 (API No. 31-101-23038-00) in the Town of Corning, Steuben County, as shown on the attached map labeled Exhibit “B6” which shows the unit boundary, parcel boundaries and the surface and bottom hole location of the well.
- B. Only those separately owned tracts or parts thereof listed on the attached Exhibit “B6” tabulation are included in the unit and integrated by this Order.
- C. Production from the Andrews 1 shall be allocated to each parcel within the Andrews Unit based on the acreage of the parcel within the unit as a percentage of the total acreage in the spacing unit.
- D. Fortuna is the operator of the Andrews Unit and is entitled to the working interest share of the production from the Andrews 1 well.
- E. As the only operator of record within the Andrews Unit, Fortuna is responsible for costs and expenses of drilling, producing and plugging the Andrews 1 well.
- F. Parcels not under lease within the Andrews Unit are compulsorily integrated into the Andrews Unit on a non-surface entry basis, and owners of such parcels shall receive royalty payments equal to the lowest royalty fraction, but no less than one-eighth, contained in any oil and gas lease within the Andrews Unit.
- G. Effective as of the date of this Order, all operations including, but not limited to, operation of the Andrews 1 and future drilling of an infill well in accordance with the terms of the Stipulation upon any portion of the Andrews Unit shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the Andrews Unit by the owner or several owners thereof.

- H. That portion of the production allocated to each tract included in the integrated Andrews Unit shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.
- I. Fortuna, as the unit operator, shall file a copy of this Order with the Steuben County Clerk against all parcels in the Andrews Unit, and shall submit proof of such filing to the Director, Bureau of Oil and Gas Regulation, in the Department's Division of Mineral Resources by 90 days after the date of this Order.
- J. Fortuna is authorized to immediately release any escrowed royalty payments for the Andrews Unit.

IN WITNESS WHEREOF: The Department of Environmental Conservation has caused this Order to be signed and issued and has filed the same in its office in the County of Albany, New York this 22 day of October, 2004.

DIVISION OF MINERAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BRADLEY J. FIELD, DIRECTOR

Signed (B.J.F.)

Albany, New York
October 22, 2004

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