

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Transfer of Well
Plugging Responsibility from
FAIRMAN DRILLING COMPANY and
EAST RESOURCES, INC. to
FORTUNA ENERGY INC.

ORDER

THIS ORDER, is made and entered into this 31st day of October 2002 between the New York State Department of Environmental Conservation (hereinafter "DEC"), having its principal offices at 625 Broadway, Albany, New York 12233-6500, and Fortuna Energy Inc. (hereinafter "Fortuna"), having its principal offices at 1519 Olean-Portville Road, Olean, New York 14760.

WITNESSETH:

WHEREAS, Fairman Drilling Company (hereinafter "Fairman") is a partnership and East Resources, Inc. (hereinafter "East") is a corporation authorized to do business in the State of New York and both Fairman and East presently have well plugging responsibility for natural gas production facilities located in Chemung, Steuben and Schuyler Counties, which facilities are subject to the jurisdiction of DEC pursuant to Environmental Conservation Law (hereinafter "ECL"), Articles 23 and 71, Title 6 NYCRR Parts 550-559; and

WHEREAS, Fortuna is a corporation authorized to do business in the State of New York, and has filed an acceptable organization report pursuant to Article 23 of the ECL and the regulations promulgated thereunder, and has requested from the DEC approval of the transfer of well plugging responsibilities from Fairman and East; and

WHEREAS, Fortuna has agreed to purchase leasehold interests from Fairman and East and to undertake well plugging responsibilities from Fairman and East, and by its signature hereto, to obligate

itself to undertake and complete the reclamation work outlined herein; and

WHEREAS, Fortuna has submitted financial security and transfer requests and DEC has approved transfer of well plugging responsibilities for wells listed in Paragraph 1 herein (the approved transfer of well plugging responsibilities requests are annexed hereto and made a part hereof as Exhibit “A”); and

WHEREAS, Fortuna, by its signature hereto, has agreed to comply with the terms of the draft stipulations regarding well spacing and compulsory integration in Terry Hill South Field (effective October 9, 2002) and County Line Field (transmitted to the DEC with signature for Fairman on August 29, 2002), and annexed hereto and made a part hereof, respectively, as Exhibits “B” and “C”; and

WHEREAS, DEC and Fortuna (hereinafter collectively “parties”) are desirous of reaching an agreement formalizing the transfer of well plugging responsibilities and insuring the completion of necessary reclamation at the well sites, and implementation of spacing and integration orders consistent with ECL Article 23 and the interests of the general public (ECL Article 23-0301).

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

1. Well Transfer Request

DEC has approved the request for transfer of well plugging responsibilities for all the below-listed wells.

LIST OF WELLS OWNED AND/OR OPERATED AND/OR PERMITTED BY FAIRMAN or EAST

East	SRA 2 #1	31-097-22841-00	temporarily abandoned, reclamation complete	Sugar Hill Field
Fairman	Broz #1	31-015-22826	producing, reclamation complete	Terry Hill South Field
Fairman	Clauss #1A	31-015-22889-01	producing, reclamation complete	Terry Hill South Field
Fairman	Gublo #1	31-015-22910-00	producing	Terry Hill South Field

Fairman	Hinman #1	31-015-22953	not yet drilled	Terry Hill South Field
Fairman	Kienzle #1A	31-015-22880-01	producing	Terry Hill South Field
Fairman	Kimball #1	31-015-22857	producing	Terry Hill South Field
Fairman	Lant #1	31-015-22862	producing	Terry Hill South Field
Fairman	Lant #2	31-015-22977-01	not yet drilled	Terry Hill South Field
Fairman	Learn #1	31-097-22881	temporarily abandoned	no field name assigned
Fairman	Purvis #1	31-097-22893	producing	County Line Field
Fairman	Roy #1	31-015-22901	producing	County Line Field
Fairman	Whiteman #1	31-015-22839-00	producing, reclamation complete	County Line Field
Fairman	Wonderview Farms #1A	31-097-22935-01	temporarily abandoned	no field name assigned

2. Plugged and Abandoned Wells

Upon this Order becoming effective, Fortuna assumes regulatory responsibility for all the below-listed wells previously plugged and abandoned by Fairman. This includes responsibility to complete site reclamation pursuant to paragraph 6 herein and/or monitor vegetative growth pursuant to paragraph 5 herein to the satisfaction of DEC and to comply with any future DEC directive to investigate, reenter and replug any such well.

LIST OF WELLS PLUGGED AND ABANDONED BY FAIRMAN FOR WHICH FORTUNA ASSUMES REGULATORY RESPONSIBILITY

Bennett #1	31-015-22827-00
Bonham #1	31-097-22942-00
Ganung #1/#1A/#1B	31-097-22886-00/01/02
Peterson #1	31-015-22890

3. General Intention of Order

The parties agree that the general intention of this Order is to establish circumstances by which

Fortuna shall commence and maintain an aggressive compliance program with respect to reclamation of well sites, record keeping, permitting, financial security, field-wide spacing, compulsory integration and all other requirements of the ECL and Title 6 NYCRR in the support and furtherance of the declared public interests of the People of the State of New York (see ECL §23-0301).

4. Well Plugging Obligations

Fortuna hereby agrees to submit, for the each of the wells listed as “temporarily abandoned” in paragraph 1 herein, either a Request for Shut-In or Temporary Abandonment or a Notice of Intention to Plug and Abandon within thirty (30) days of the effective date of this Order. Fortuna will submit the forms to Regional Minerals Manager Randall C. Nemecek, NYSDEC Region 8, 6274 E. Avon-Lima Rd., Avon, NY 14414.

5. Site Monitoring

Upon this Order becoming effective, Fortuna agrees to monitor vegetative growth at the following well sites and take whatever steps become necessary to establish permanent vegetative growth to DEC’s satisfaction.

Bennett #1	Lant #1
Bonham #1	Learn #1
Gublo #1	Peterson #1
Kienzle #1A	Roy #1
Kimball #1	Purvis #1

6. Site Reclamation

Upon this Order becoming effective, Fortuna agrees to complete full site reclamation not later than April 30, 2003 at the below listed well sites. Once reclamation is complete, Fortuna agrees to monitor vegetative growth at the below listed well sites and take whatever steps become necessary to establish permanent vegetative growth to DEC’s satisfaction.

Ganung #1/#1A/#1B

7. Well Plugging Reports

Fortuna hereby agrees to submit plugging reports for the Ganung #1 (31-097-22886), the Ganung #1A (31-097-22886-01) and the Wonderview Farms #1 (31-097-22935-00) within thirty (30) days of the effective date of this Order.

8. Royalty Escrow

Fortuna hereby agrees to continue and maintain interest-bearing escrow accounts for production royalties generated in Terry Hill South and County Line Fields prior to issuance of Commissioner's Decisions and Orders on spacing and integration. Fortuna will submit affidavits attesting to such escrow within ten (10) business days of the effective date of this Order. Upon issuance of any Decision and Order authorizing royalty release, Fortuna will make payments as set forth in the Decision and Order for all production by both Fairman and Fortuna.

9. Outstanding Information - County Line Field

Fortuna hereby agrees to submit to DEC, within ten (10) business days of the effective date of this order, the below listed outstanding information required by Exhibit C annexed hereto.

- a. Affidavit attesting to notice to uncontrolled interests in County Line Field.

10. DEC Execution of Stipulation for County Line Field

DEC hereby agrees to execute the draft Stipulation annexed hereto as Exhibit C only upon receipt, review and approval of all materials listed in paragraph 9 herein.

11. Approvals to Continue Production

Notwithstanding drilling permit conditions or prior correspondence, DEC hereby approves continued commercial production until December 31, 2002, at the wells in County Line Field listed as "producing" in paragraph 1 herein. Continued commercial production beyond December 31, 2002 in County Line field will be approved only upon DEC execution of a Stipulation for the subject field.

12. Approvals to Commence Production

Notwithstanding prior correspondence, the parties acknowledge that, in the absence of fully

executed Stipulations for County Line Field and/or Sugar Hill Field, commercial production is not authorized to commence at any additional wells. Commercial production at additional well(s) in any field will be approved only in accordance with procedures set forth in a fully executed Stipulation for the subject field.

13. Notice

Except as otherwise provided, any notice, approval, consent, waiver or demand, pursuant to, or in connection with, this Order shall be in writing and either mailed, post-prepaid certified mail return receipt requested, via United States mail, or delivered by a nationally recognized courier service for fees prepaid against receipt, or delivered personally, or telefaxed to the person so indicated:

If the DEC:

Mr. John K. Dahl
Director, Bureau of Oil & Gas Regulation
Division of Mineral Resources
New York State Dept. of Environmental Conservation
625 Broadway, 3rd Floor
Albany, New York 12233-6500
Telephone: (518) 402-8056
Fax: (518) 402-8060

If to Fortuna:

Mr. Harv Rasmussen
Senior Landman
Fortuna Energy Inc.
1519 Olean-Portville Road
Olean, New York 14760
Telephone: (716) 373-2720
Fax: (716) 372-0515

The failure by the parties to receive communications sent to the above addresses as the result of inaccuracy or extended absences is the responsibilities of the addressees.

14. Amendment

Except as otherwise specifically stated herein, any provision of this Order, including deadlines established herein, may be amended by, and only by, written DEC approval upon receipt and review of

sufficient justification.

15. Financial Security Compliance

The parties hereby acknowledge and agree that at the time of the signing of this Order, that Fortuna has hereby posted appropriate financial security pursuant to ECL §23-0305(8)(e), 6 NYCRR §551.4 in the form of 18 separate individual well bonds for \$15,000 each for the wells listed in Paragraphs 1 and 2 herein.

16. Inspections

Fortuna specifically acknowledges and hereby agrees to allow the agents, employees and representatives of DEC to enter upon any and all facility lands as described herein pursuant to 6 NYCRR §550.5 to carry out its responsibilities pursuant to the ECL and the regulations promulgated thereunder.

17. Other Obligations

Nothing stated or implied in this Order relieves Fortuna of the responsibility of complying with all applicable federal, state or local laws, rules, regulations, permits or orders.

18. Other Rights

Nothing stated or implied in this Order shall be construed to impair or prejudice:

a. Any rights DEC may have to require Fortuna to perform additional measures to preserve or protect the environment or the public health, safety or welfare;

b. Any other rights, claims or causes of action as to any other rights, claims and causes of action not mentioned in this Order; or

c. The Commissioner's authority to exercise summary abatement powers, either in common law or as granted pursuant to statute or regulation.

19. Financial Security Default

The parties hereby acknowledge that any lapse in the adequate financial security obligation (hereinafter "default") except under the circumstances set forth at 6 NYCRR §551.4(c) constitutes a violation of ECL §71-1305(2) and shall be cause for the immediate shut-in upon notice pursuant to

paragraph 13 of the facilities at paragraph 1 herein notwithstanding the contents of any other provision of the Order.

20. Default - Well Plugging

The parties hereby acknowledge that the failure to submit a Request for Shut-In or Temporary Abandonment or a Notice of Intention to Plug and Abandon within thirty (30) days of the effective date of this Order pursuant to paragraph 4 herein (hereinafter “default”) shall be cause for the immediate shut-in upon notice pursuant to paragraph 13 of all of the facilities described at paragraph 1 herein notwithstanding the contents of any other provision of this Order.

21. Default - Site Reclamation

The parties hereby acknowledge that the failure to monitor and reclaim well sites pursuant to paragraphs 5 and 6 herein (hereinafter “default”) shall be cause for the immediate shut-in upon notice pursuant to paragraph 13 of all of the facilities described at paragraph 1 herein notwithstanding the contents of any other provision of this Order.

22. Default Notice

Upon default as provided for herein at paragraphs 19, 20 and 21 Fortuna is hereby required to cure such default in five (5) business days from the date of the notice of immediate shut-in.

23. Enforceability

This Order shall extend to and be binding upon Fortuna, its agents, successors, grantees and assigns. The parties hereto agree that this Order, together with all documents created and issued pursuant hereto, shall constitute and shall be enforceable as an obligation existing pursuant to the ECL. Any failure on the part of Fortuna to comply with any provision of this Order shall constitute a default equivalent to a violation of a Commissioner’s Order, and as such may be enforced in an enforcement action brought pursuant to Article 71 of the ECL and/or 6 NYCRR Part 622, either administratively, or in the Courts of the State of New York.

24. Effective Date

The effective date of this Order is the date that the Commissioner or her designee signs it. The Department will provide Fortuna with a fully executed copy of this Order as soon as practicable after the Commissioner or her designee signs it.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have affixed their signatures below.

Dated: November 4, 2002

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
BY:

-signed-
Peter Duncan
Deputy Commissioner for Natural Resources

Dated: October 31, 2002

FORTUNA ENERGY INC.
BY:

-signed-
Lydia Henuset
Authorized Signatory