

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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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 Bradley Brook Field located in Madison County, New York

DECISION AND ORDER

(DEC File No. DMN 04-1)

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Whereas:

1. This Decision and Order relates to the proposal of the New York State Department of Environmental Conservation Staff (“Department”) to establish well spacing units, integrate interests and set field-wide spacing rules in the Bradley Brook Field, a discovery of natural gas, in portions of Madison County. The well spacing and compulsory integration proposals are made pursuant to ECL Article 23, Titles 5 and 9, respectively;

2. Pursuant to a Notice of Public Hearing published on April 21, 2004, and April 22, 2004, a public hearing and an issues conference were held before Administrative Law Judge (“ALJ”) Richard R. Wissler on May 20, 2004, and May 21, 2004, respectively, at the Colgate Inn in Hamilton, New York;

3. As stated in the Notice of Public Hearing, Nornew, Inc. (“Nornew”) and Department Staff reached agreements on matters raised in the Department Staff’s proposal and embodied those agreements in an executed Stipulation, dated April 15, 2004 (“Stipulation”);

4. As stated in the Notice of Public Hearing, requests for party status were required by close of business on May 14, 2004. None were received;

5. No one appeared at the issues conference to request party status after the deadline and no issues were proposed which could require an adjudicatory hearing;

6. Department Staff requested by letter dated May 19, 2004, that, in the absence of any late filed petitions, a ruling be made which would allow Department Staff to immediately prepare and complete a Commissioner’s Decision and Order establishing units and releasing royalties for the thirty-nine units in Bradley Brook Field; and

7. At the issues conference, ALJ Wissler granted the Department Staff’s motion and directed Department staff to provide him with this Order.

8. As stated in ALJ Wissler’s Summary Hearing Report dated July 7, 2004, and pursuant to his direction, Department Staff finalized this proposed Decision and Order, incorporating the provisions set forth in the Stipulation, establishing units and releasing royalties for the thirty-nine units in Bradley Brook Field.

NOW, THEREFORE, having found that the Stipulation will result in the efficient and economical development of the gas pool as a whole; that no disputes exist regarding the thirty-nine Spacing Units the Stipulation seeks to establish for existing and future wells in the Bradley Brook Field; and that an order establishing spacing units and integrating acreage therein is necessary to carry out the policy provisions of ECL Section 23-0301, it is hereby ORDERED that:

I. The Stipulation executed by Nornew and Department Staff, dated April 15, 2004, and its terms and conditions, including Exhibits "A1" through "E", are hereby incorporated by reference into and made a part of this Decision and Order. As set forth in the Stipulation, updated Exhibits "A1" and "B1" through "B15" which reflect changes in property ownerships and descriptions may be prepared, if necessary, within 90 days of the effective date of this Decision and Order and made part hereof;

II. The Stipulation resolves the following issues: (1) well spacing in the Bradley Brook Field, (2) allocation of royalty interest due to unit owners affected by the production from existing wells in Spacing Units in the Bradley Brook Field, and (3) procedures for permitting future wells and establishing future units in Bradley Brook Field. The Stipulation applies only to natural gas and/or oil production realized from that area in Madison County, New York, as identified on the map attached to the Stipulation as Exhibit "A1," which shows those surface lands overlying the natural gas bearing pool within the Oneida and Oswego formations;

III. Nornew is authorized to immediately release royalty payments due to unit owners affected by the production from existing wells in Spacing Units established by this order; and

IV. As set forth in Section XI of the Stipulation, Nornew shall file a copy of this Order, including the Stipulation and Exhibit "A1", with the Madison County Clerk against all tracts in the thirty-nine Spacing Units established by this Order. Exhibits "B1" through "B15" shall be included with the copies of the Order filed against tracts in the units established for existing wells. Nornew shall submit proof of such filing to the Director of the Bureau of Oil & Gas Regulation in the Department's Division of Mineral Resources by three months after the effective date of this Order.

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
ERIN M. CROTTY, COMMISSIONER

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/s/

Albany, New York  
August 25, 2004

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STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Office of Hearings and Mediation Services  
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In the Matter of the Proposed Well Spacing Rules  
and Integration of Interests pursuant to Environmental  
Conservation Law Article 23 for the

BRADLEY BROOK FIELD  
Madison County, New York

DEC File No. DMN 04-1

Summary Hearing Report

by

/s/

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Richard R. Wissler  
Administrative Law Judge

July 7, 2004

## PROPOSED ACTION

The New York State Department of Environmental Conservation (the “Department”) proposes to establish field-wide spacing and integration rules for portions of acreage located in the Towns of Lebanon and Eaton, Madison County, New York, identified as the Bradley Brook Field (the “Field”). The Field is situated between the Villages of Eaton and Lebanon, New York, and produces natural gas from the Oneida and Oswego formations. Exploration and development of the Field is being conducted by Nornew, Inc. (“Nornew”), 19 Ivy Street, Jamestown, New York 14701. This proposal is Division of Mineral Resources Project No. DMN 04-1.

Development of the Field commenced in July 1997 with the successful drilling and completion of the L.&C. Warren #1 well. At the present time, Nornew operates all fourteen wells which have been successfully drilled in the Field. Permits to drill were issued for these existing wells pursuant to section 552.1 of title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“6 NYCRR”). Nornew proposes to complete and produce additional wells to develop the existing Field and to identify similar producing reservoirs in adjacent areas.

An order establishing spacing rules will serve to configure production units for each of the existing wells and will include procedures for future infill wells. All ownership interests identified for existing production units and proposed spacing units will be integrated so that the royalties attributable to development within each unit can be disseminated.

The Department proposed this action because the geologic conditions in the field appear to make the statewide minimum well spacing inadequate for ensuring the efficient development of the resource and protecting correlative rights, as required by Environmental Conservation Law (“ECL”) article 23. The proposed action is set forth in a stipulation dated April 15, 2004, between the Department and Nornew. The Department Staff regards the stipulation as resolving the following issues: the distribution of escrowed production royalties and integration of unleased parcels contained in some of the production units.

## PROCEEDINGS

In accordance with the requirements of 6 NYCRR part 624, a notice of public hearing was published in the Department’s *Environmental Notice Bulletin* on April 21, 2004, and as a legal notice in the Madison County *Mid-York Weekly* on April 22, 2004. The notice was also mailed to the Supervisors of the Towns of Eaton and Lebanon, and to other parties who had expressed an interest in the proposed action.

The notice reiterated that, pursuant to the State Environmental Quality Review Act (“SEQRA,” ECL article 8 and 6 NYCRR part 617), the Department Staff, as lead agency, issued a negative declaration on February 3, 2004, concluding that the proposed action would not have

a significant effect on the environment and that a Draft Supplemental Environmental Impact Statement would not be prepared. The negative declaration also noted that the Final Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program, dated July 1992, provides a detailed description of well drilling and well spacing and establishes the basis for environmental reviews and approvals of Department actions subject to the Oil, Gas and Solution Mining Law.

As indicated in the notice, a hearing to receive unsworn comments from the public was convened on Thursday, May 20, 2004 at 7:00 p.m. at the Colgate Inn, 1-5 Payne Street, Hamilton, New York 13346, before Administrative Law Judge (“ALJ”) Richard R. Wissler. At the commencement of the hearing, Department Staff and Nornew each made brief statements with respect to the proposed well spacing and integration plan. The hearing was attended by approximately twenty members of the public, four of whom provided oral statements. One written comment was received. Generally, the comments received expressed support for the proposed action.

Pursuant to the notice, an issues conference was held the next day, Friday, May 21, 2004, at 9:00 a.m., at the aforementioned Colgate Inn. Nornew was represented by John H. Heyer, Esq., of Olean, New York. The Department Staff was represented by Arlene J. Lotters, Esq., of the Department’s Division of Legal Affairs, Albany, New York.

The notice of hearing stated that petitions for party status to participate in an adjudicatory hearing, if one was necessary, would need to be received at the Department’s Office of Hearings and Mediation Services by close of business on Friday, May 14, 2004. No petitions for party status were received. In addition, no one appeared at the issues conference to request party status after the deadline. Moreover, no late filed petitions for party status have been received since the date of the issues conference.

The transcript of the hearing was received on June 4, 2004, and the record of the hearing closed on that date.

#### COMMENTS AT LEGISLATIVE HEARING

As indicated above, representatives of the Department Staff and Nornew made brief statements with respect to the proposed well spacing and integration plan. On behalf of Department Staff, Ms. Lotters stated that the minimum statewide well spacing requirements set forth under 6 NYCRR part 553 are inadequate for this field in order to meet the goals of ECL article 23. She stated that it is the position of the Department Staff that the April 15, 2004, stipulation satisfies the requirements of the ECL relative to preventing waste of the resource, providing for greater ultimate recovery and protecting the correlative rights of all owners of the resource. Thomas E. Noll, Mineral Resources Specialist, DEC Division of Mineral Resources, described the field and its discovery, and discussed the provisions of the stipulation.

On behalf of Nornew, Mr. Heyer discussed the history and incorporation of Nornew, the various producing wells presently within the proposed field, the collection system currently in place, and Nornew's interest in future development of the Field. Moreover, Mr. Heyer indicated that royalties from production are being held in escrow pursuant to Department requirements and that Nornew supports the issuance of a Commissioner's Order to allow their disbursement.

James Goldstein, Supervisor of the Town of Lebanon, indicated that he was pleased that this hearing was taking place and hoped the process could be expedited in the future. Charles D. Crouch read a written statement, which was also received, expressing his hope that a Commissioner's Order would be forthcoming to allow release of the escrowed royalties. Gordon Corbin expressed his frustration that it had been almost three years without an Order pursuant to which royalties could be paid out and also expressed the hope that the process could be expedited in the future. Bruce Selleck indicated that he had a property apparently adjacent to the proposed Field but didn't know the Field's boundaries. He indicated that he would be inspecting the documents made available as part of the application.

#### RULING ON ISSUES

Inasmuch as no petitions for party status were received prior to the issues conference pursuant to 6 NYCRR 624.5(b), nor have any late filed petitions for party status been subsequently received pursuant to 6 NYCRR 624.5(c), I find that no adjudicable issues have been raised which would require further adjudicatory proceedings.

#### REVIEW OF STIPULATION AND PROPOSED DECISION AND ORDER

I have reviewed the stipulation of April 15, 2004, executed by Department Staff and Nornew, and note that it resolves the following issues: (1) well spacing in the Bradley Brook Field, (2) allocation of royalty interest due to unit owners affected by the production from existing wells in Spacing Units in the Bradley Brook Field, and (3) procedures for permitting future wells and establishing future units in Bradley Brook Field.

On May 25, 2004, and pursuant to my direction at the issues conference of May 21, 2004, Department Staff provided me with a proposed decision and order in this matter. I have reviewed the document and find that it comports with the requirements of ECL article 23, titles 3, 5 and 9, and their implementing regulations, particularly ECL 23-0501, ECL 23-0901, 6 NYCRR part 553, as well as the policy provisions articulated in ECL 23-0301. Moreover, I find that the document fully incorporates by reference the aforementioned stipulation of April 15, 2004, and is consistent with all the proceedings held herein pursuant to 6 NYCRR part 624.

## RECOMMENDATION

I recommend that the proposed decision and order be finalized by Department Staff, incorporating the provisions set forth in the April 15, 2004, stipulation, and that the final decision and order be issued by the Commissioner.