

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Proposed

Field-wide Spacing and Integration Rules
for the **Terry Hill South Field**,
pursuant to ECL Article 23 and 6 NYCRR
Parts 550 through 559

RULING ON
MOTION
FOR CLARIFICATION
AND TO EXTEND TIME
TO APPEAL

DMN Project No. DMN-02-03

July 2, 2004

Department of Environmental Conservation (“DEC” or “Department”) Staff proposes issuance of an order which would establish field-wide spacing and integration rules for the Terry Hill South natural gas field (the “Field”). The Field is situated on portions of acreage located in the Towns of Catlin and Veteran, in Chemung County, and the Towns of Dix and Montour, in Schuyler County, New York. Following a legislative hearing and issues conference, an issues ruling dated June 17, 2004 (the “Ruling”) found no issues for adjudication. By letter dated June 25, 2004, proposed intervenors Buck Mountain Associates (“BMA”) requested clarification of the Ruling, and an extension of the time to appeal. Department Staff opposed the motion in a submission dated July 1, 2004. For the reasons set forth below, the motion for clarification is denied. The time to appeal is extended by one week, as discussed below.

BMA requests clarification with respect to the ruling on the first proposed issue, which dealt with the proposed intervenors’ entitlement to a working interest where petitioner’s acreage was not of sufficient size to satisfy drilling permit requirements. BMA’s motion pointed out that the Ruling’s discussion of the first proposed issue “does not state that Buck Mountain Associates’ interest will be integrated to the full extent of its working interest, subject only to the 200% risk penalty provision of ECL § 23-0901(3).” Motion, p. 2. The motion sought a ruling that would incorporate certain terms consistent with this position into the Commissioner’s final order of compulsory integration with respect to the Lant #1 and Hammond #1 well.¹

Department Staff’s opposition points out that BMA was afforded a full opportunity to present the proposed terms over the course of the earlier hearings in this matter, as well as in written submissions, and failed to do so. Department Staff notes that it had not received any such proposals, and that the language suggested by BMA was “insufficient and contrary to the Ruling.” Opposition, at p. 2.

Applicant Fortuna Energy Inc. did not submit a response to the motion.

¹ According to the motion, the Hammond #1 well is now the unit well for the Colson #1 spacing unit as originally proposed.

Ruling

The motion for clarification is denied. Consistent with Declaratory Ruling 23-14 (Jan. 29, 2004), the Ruling makes clear that any entitlement to an eight-eighths interest is not automatic, and that any compulsory integration order is field-specific. Department Staff takes exception to the terms that BMA's motion seeks to incorporate into the final order of compulsory integration. Under the circumstances, clarification is not warranted.

The time to appeal the Ruling is extended by one week, and any appeals in this matter must be received at the office of Commissioner Erin M. Crotty, 625 Broadway, Albany, New York 12233, no later than the close of business on Friday, July 16, 2004. The time to submit responses to the initial appeals is also extended by one week. Any such responses must be received no later than the close of business on Friday, August 6, 2004.

The appeals and any responses sent to the Commissioner's Office must include an original and two copies. In addition, one copy of all appeal and response papers must be sent to the administrative law judge and to all other persons on the service list, at the same time and in the same manner as to the Commissioner. Service of any appeal or response thereto by facsimile transmission (FAX), or by electronic mail, is not permitted and any such service will not be accepted.

/s/

Maria E. Villa
Administrative Law Judge

Albany, New York
July 2, 2004

TO: Attached Service List

TERRY HILL SOUTH FIELD

Preliminary Service List

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