

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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 Wilson Hollow Field located in Steuben and Chemung Counties, New York

DECISION AND ORDER

(DEC File No. DMN 01-1)

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 in the Wilson Hollow Field, a discovery of natural gas, in portions of Steuben and Chemung Counties. It also relates to the Department Staff's proposal to establish procedures for future well spacing and compulsory integration, when needed, in the Wilson Hollow Field. 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 February 28, 2001, a public hearing and an issues conference were held before Administrative Law Judge ("ALJ") Molly T. McBride on April 10, 2001, and April 11, 2001, respectively, at the Holiday Inn, Highways 15 & 17, Painted Post, New York;

3. As stated in the May 3, 2001 Ruling on Issues and Party Status ("Ruling") of ALJ McBride, Pennsylvania General Energy ("PGE") and Department Staff reached agreements on matters raised in the Department Staff's proposal and embodied those agreements in an executed Stipulation, dated December 27, 2000 ("Stipulation");

4. ALJ McBride's Ruling found that no issues were raised which require further adjudication;

5. This Ruling was appealed by Buck Mountain Associates ("Buck Mountain") in a letter, dated May 10, 2001, which requested an additional two weeks in which to submit a brief in support of an appeal;

6. Department Staff, by letter of May 16, 2001, requested an opportunity to file a response in opposition to any appeals granted;

7. Department Staff further requested, in its letter of May 16, 2001, permission to

prepare a Commissioner's Decision and Order addressing all other aspects of the proceeding;

8. My Interim Decision, dated June 5, 2001, granted Buck Mountain's request for 2 weeks to file a brief in support of its appeal, granted Department Staff's request for an opportunity to reply to Buck Mountain's brief, and directed Staff to submit for my review a Decision and Order that encompasses the terms of the aforementioned Stipulation and allows a Commissioner's Order to be executed for 4 units that have not been challenged, excluding the Fratarcangelo unit (Interim Decision, p. 3);

9. Staff submitted the aforementioned Decision and Order, which I signed effective June 21, 2001, thereby establishing four of the five Spacing Units originally proposed at hearing;

10. Buck Mountain submitted a Memorandum of Law dated June 15, 2001, in support of its May 10, 2001 appeal. PGE filed a Memorandum of Law dated June 22, 2001 and a page replacement dated June 27, 2001, and Staff filed its Reply Memorandum of Law dated June 29, 2001.

11. As stated in my Second Interim Decision, dated August 8, 2001 (attached), I found that the matters raised by Buck Mountain are without merit and are rejected and I affirmed the ALJ's May 3, 2001 ruling denying party status to Buck Mountain and finding no substantive and significant issues for adjudication. Accordingly, I adopted the reasoning stated by both Staff and PGE in their responses as my own and noted that Buck Mountain is not without financial relief in that Buck Mountain is entitled to receive its appropriate share of the royalty. I directed Staff to proceed with a Decision and Order regarding the Fratarcangelo unit (Second Interim Decision, p. 7).

NOW, THEREFORE, having found that the Stipulation will result in the efficient and economical development of the gas pool as a whole; that it is necessary to establish the Fratarcangelo Spacing Unit and procedures for compulsory integration therein to carry out the policy provisions of ECL Section 23-0301; that the acreage controlled by Buck Mountain within the Fratarcangelo Spacing Unit should be compulsorily integrated; and that Buck Mountain is entitled to receive royalties pursuant to terms of the Stipulation, it is hereby ORDERED that:

I. The Stipulation executed by PGE and Department Staff, dated December 27, 2000, and its terms and conditions, including Exhibits "A" through "E", and updated by the tabulation for Exhibit "B5" dated August 20, 2001 (attached), are hereby incorporated by reference into and made a part of this Decision and Order. As set forth in the Stipulation, further updates to Exhibit "B5" 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 Wilson Hollow Field; (2) allocation of royalty interest due to unit owners affected by the production from existing wells in Spacing Units in the Wilson Hollow Field; and (3) permit application procedures for any future proposed wells by any applicant. The Stipulation applies only to natural gas and/or oil production realized from that area in Steuben and Chemung Counties, New

York, as identified on the map attached to the Stipulation as Exhibit "A," which shows those surface lands overlying the natural gas bearing pool within the Ordovician Trenton/Black River carbonates, and as extended or modified by additional wells drilled and completed pursuant to this Decision and Order;

III. PGE is authorized to immediately release royalty payments for the Spacing Unit established by this order and shown on Exhibit "B5"; and

IV. As set forth in the Stipulation, PGE shall file a copy of this Order, including the Stipulation and Exhibits "A" and "B5", with the Steuben and Chemung County Clerks against all parcels in the Spacing Unit established by this Order and shall submit proof of such filing to the Director of 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



Albany, New York
September 13, 2001

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