



GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 12, 2012

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Act 13 of 2012 – Implementation of
Unconventional Gas Well Impact Fees
Docket No. M-2012-2288561

Dear Secretary Chiavetta:

Please find the Response of the Pennsylvania Department of Environmental Protection to Petition of Anadarko E&P Company LP for Amendment and Clarification on behalf of the Pennsylvania Department of Environmental Protection in the above referenced matter which was e-filed today. Copies have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

Elizabeth A. Nolan
Assistant Counsel

cc: Service List

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Act 13 of 2012 – Implementation of :
Unconventional Gas Well Impact Fee : **M-2012-2288561**

**RESPONSE OF THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL
PROTECTION TO PETITION OF ANADARKO E&P COMPANY LP FOR
AMENDMENT AND CLARIFICATION**

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DATE: October 12, 2012

In its Petition for Amendment and Clarification, dated September 28, 2012, Anadarko E&P Company LP (Anadarko) requests that the Pennsylvania Public Utility Commission (Commission) exclude the setting of conductor pipe from the definition of “spud” and its interpretation of “actual start of drilling” for purposes of imposing the unconventional gas well fee. Anadarko’s assertion that setting a conductor is not spudding a well is contrary to Department of Environmental Protection’s (Department) long-standing interpretation that drilling commences as soon as a drill bit penetrates the ground for the purpose of setting any length of casing or when a conductor begins to be set by being driven into the ground.

The Department’s Interpretation of a Spud Well Includes Wells with Only Conductor Pipe

Spudding a Well Occurs When the Operator Starts to Set the Conductor Pipe.

1. The Department is the agency primarily responsible for implementing Chapter 32 of §§ 2301–3504 (Act 13). Chapter 32 sets forth the permitting, financial responsibility, drilling, casing, reporting, plugging and site restoration requirements for oil and gas wells. *See* 58 Pa.C.S. §§ 3201–3274. Section 3211(f) requires operators to provide the Department, among others, 24 hours’ notice of the date that drilling will commence. 58 Pa.C.S. § 3211(f). The Department interprets the date that drilling commences or “spud date” as the date when the drilling bit penetrates the surface of the land or when conductor pipe is begun to be set by being driven into the ground.
2. Conductor is a length of pipe or several pipes welded or threaded together that prevents loose soil and overburden from collapsing into the wellbore while additional lengths or “strings” of casing are set and is one of the first steps in well construction. The Department publically notified operators about this long-standing interpretation through a series of trainings on Act 13 held in March and April of 2012 and on its publically-accessible website. Specifically, on the Department’s “Act 13 Frequently Asked Questions” webpage, the response to the question “What does ‘spud’ mean?” is as follows: “Act 13 defines ‘spud’ as the actual start of drilling of an unconventional well. DEP considers a well to be spud when the drilling bit penetrates the surface of the land. Therefore, any well with conductor pipe or any other casing is a spud well. Well sites with only a cellar would not be considered to have a spud well.” Act 13 Frequently Asked Questions, http://www.portal.state.pa.us/portal/server.pt/community/act_13/20789/act_13_faq/1127392.
3. Anadarko contends that defining the actual start of drilling as setting conductor misapplies the ordinary meaning of drilling. Significantly, the requirement to notify the Department of the commencement of drilling and the Department’s interpretation that drilling commences when the conductor is set pre-dates Act 13. *See* 58 P.S. 601.201(f) (repealed).

The Department's Spud Unconventional Well List Contains Wells With Only Conductor Pipe

4. In addition to its obligations under Chapter 32, Chapter 23 requires the Department to (1) develop a list of all spud unconventional wells, (2) provide that list to the Commission for the purpose of imposing the unconventional gas well fee, and (3) update that list on a monthly basis. *See* 58 Pa.C.S. § 2304. Accordingly, Act 13 provides that the Department determines whether a well is a spud unconventional well. Section 2301 defines “spud” and “[t]he actual start of drilling of an unconventional well.” 58 Pa.C.S. § 2301. The Department considers “spud” to be the same as the commencement of drilling pursuant to Section 3211(f). For that reason, the Department listed wells on the spud unconventional well list if the Department had received notice pursuant to Section 3211(f) that drilling had commenced. Further, the Department worked with operators, including Anadarko, to ensure that the spud unconventional well list contained an accurate list of spud unconventional wells in the Commonwealth.

The Interpretation of Spud Impacts the Department's Oil and Gas Well Permitting Program.

5. The interpretation of “spud”, “actual start of drilling”, and “commencement of drilling” is significant because this activity triggers a permit requirement under Act 13. *See* 58 Pa.C.S. § 3211(a) (“No person shall drill or alter a well . . . without having first obtained a well permit . . .”). If setting conductor does not constitute drilling a well, this activity would not necessitate a permit. If a permit is not required then the well site may be built and a wellbore may be commenced all without a permit from the Department. This is in direct conflict with Act 13's requirements that a well permit be posted at the well site during site preparation, well site construction and the drilling, operating and altering the well. *See* 58 Pa.C.S. § 3211(a), (g). It also deprives the surface landowner of their statutory opportunity to object to the well site location prior to development. *See* 58 Pa.C.S. § 3212, 3251.
6. Finally, this interpretation avoids the need to complete drilling with due diligence in accordance with 58 Pa.C.S. § 3211(i) or restore the well site if the well site is constructed and the well is not drilled within 30 days of expiration of the well permit in accordance with 25 Pa. Code 78.65(2).

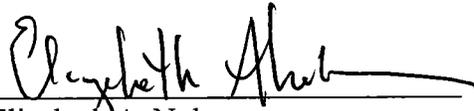
Conclusion

7. For the above-stated reasons, the Department requests that the Commission deny Anadarko's request to amend and clarify its Final Implementation Order to interpret "spud" as excluding well with set conductor pipe.

Respectfully submitted,

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Dated: October 12, 2012

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 13 of 2012 – Implementation of :
Unconventional Gas Well Impact Fee : **M-2012-2288561**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Response of Pennsylvania Department of Environmental Protection to Petition of Anadarko E&P Company LP for Amendment and Clarification, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner upon the persons listed below:

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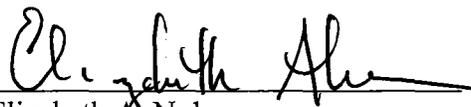
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