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David E. Asbury Jr., Director, Division of Gas and Oil

**By Decision of the  
Director, Division of Gas and Oil**

**Informal Fact Finding Conference 23809 (Herein "IFFH 23809")**

**Wellmore Energy Company LLC**  
(Herein "Surface Owners")

vs.

**Equitable Production Company (EQT)**  
(Herein "Permit Applicant")

**Application 15448 for VCI-539500**  
(Herein "Permit Application")

**Background**

On May 4, 2009, the Division of Gas and Oil (DGO) received application for permit from Equitable Production Company, LLC for gas operations named VCI-539500. On May 6, 2009 the Division received Surface Owner objections from Mr. Robert L. Bringlinger, Manager of Engineering for Wellmore Energy Company, identified in the permit application as Surface Owner of tracts to be affected by the operations. All objections were considered to be timely and appropriate.

Objections filed by Wellmore Energy company against the permit application for Equitable Production Company gas operations VCI-539500 w/Pipeline are in accordance with § 45.1-361.35 which states, in part:

§ 45.1-361.35. Objections to permits; hearing.

4. The Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided, however, that a reasonable alternative site is available within the unit, granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

Further: The well directly impinges on the VA DMLR permit held by Wellmore Energy Company, LLC. Also, the proposed well work is an unreasonable and arbitrary exercise of the well operator's right to explore for, market, and produce gas.

**The Surface Owners' objections were deemed acceptable under § 45.1-361.35.**

**Hearing Date and Place**

IFFH 23809 was scheduled to be convened on Friday, August 21, 2009 in the conference room of the Department of Mines, Minerals, and Energy on the Campus of Mountain Empire Community College, 3405 Mountain Empire Road, Big Stone Gap Virginia. All parties with standing to object to the Permit Application were notified of the time and place by United States certified mail, return receipt requested.

**Appearances:**

Jim Kiser, Esq., appeared on behalf of Permit Applicant. Wellmore Energy Company LLC. did not appear but provided a written letter of withdrawal of their objection, received by the Director mid-morning of August 21, 2009.

**Findings of Fact:**

1. In accordance with § 45.1-361.35.H, notice of IFFH 23809 was given to the Permit Applicant and to every person with standing to object as prescribed by §45.1-361.30.
2. IFFH 23809 was convened at the time and place indicated in notice.
3. Wellmore Energy Company LLC was notified as surface owner of properties to be affected by the proposed operations and, as such, have standing to object to the proposed operations.

**Controlling Law and Regulation**

1. Sections 45.1-361.30.A(1 & 6) of the Virginia Gas and Oil Act require that permit applicants notify all Surface Owners within the unit to be served by the proposed gas well.
2. Section 45.1-361.30.D gives standing to object to permit applications to all parties receiving required notice.
3. Section 45.1-361.35.H requires the Director to schedule an informal fact finding hearing concerning objections, and provide notice of the hearing to all parties with standing to object to the permit.
4. Section 45.1-361.35.I requires the Director to issue a decision regarding the objection if the parties to the hearing fail to reach an agreement.

5. Section 45.1-361.35.G states that the Director shall have no jurisdiction to hear any matters that are subject to the jurisdiction of the Board.

### **Results of Hearing**

The morning of August 21, 2009, the Director received a written letter (via fax) from Wellmore Energy Company LLC, withdrawing their objection to EQT well operation Application 15448 for VCI-539500.

**With the objection withdrawn, it is therefore the decision of the director, the permit application for proposed operations VCI-539500 will be assessed and issued according to standard DGO procedures.**

### **Right of Appeal**

Any person with standing under § 45.1-361.30 who is aggrieved by this decision of the Director **may appeal** the decision to the Virginia Gas and Oil Board **by filing a petition with the Board within ten days following the decision** (§45.1-361.36). No petition or appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals or claims made and specified in writing at the informal fact finding conference.

**Signed this 21<sup>th</sup> day of August, 2009**

*David E. Asbury Jr.*

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**Director, Virginia Division of Gas and Oil**