



Ohio Department of Natural Resources

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SEAN D. LOGAN, DIRECTOR

John F. Husted, Chief
*Ohio Department of Natural Resources
Division of Mineral Resources Management
2045 Morse Road, Building H-3
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ORDER BY THE CHIEF

**TO: Ohio Valley Energy Systems Corp.
200 Victoria Road, Building 4
Austintown, Ohio 44515**

ORDER NUMBER: 2009-19

DATE: April 16, 2009

PERMIT NUMBER: 34-055-2-1983-00-00

SUBJECT: REPLACEMENT OF PUBLIC WATER SUPPLY

Pursuant to Section 1509.03 of the Ohio Revised Code, the Chief of the Division of Mineral Resources Management (DMRM) hereby makes the following findings and issues the following orders:

FINDINGS OF FACT

1. Permit No. 34-055-2-1983-00-00 was issued to Ohio Valley Energy Systems Corp (OVESC) on October 2, 2007 to drill the English No. 1 in Lot 21, Tract 2, Bainbridge Township of Geauga County.
2. OVESC commenced drilling of the English No. 1 well on October 18, 2007 and reached permitted total depth on October 26, 2007.
3. Following completion of the English No. 1, on December 15, 2007, the Geauga County Emergency Management Agency notified the ODNR, Division of Mineral Resources Management (DMRM) that there had been an explosion that damaged a house on 17975 English Drive in Bainbridge Township of Geauga County.
4. After completing an investigation, the DMRM determined that accumulation and confinement of deep, high-pressure gas in the surface-production casing annulus of the English No. 1 well, between November 16 and December 15, 2007, resulted in over-pressurization of the annulus. This over-pressurized condition resulted in the invasion, or migration, of natural gas from the annulus of the well into natural fractures in the bedrock below the base of the cemented surface casing. This gas migrated vertically through fractures into the overlying aquifers, discharged or exited the aquifers through local water wells, and entered some inhabited structures in the area in varying concentrations through ground water.

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5. As a proximate result thereof, a public water well located at 8353 Bainbridge Road was substantially disrupted by contamination, diminution or interruption by OVESC's operation of the English No. 1 well.
6. The DMRM released its Report on the Investigation of the Natural Gas Invasion of Aquifers in Bainbridge Township of Geauga County, Ohio on September 1, 2008.
7. The DMRM Report of Investigation identified one public water supply that was deemed probably affected by natural gas from the English No. 1 well.
8. Bainbridge Township is an owner who holds interest in real property and obtains all or part of their domestic water supply from a well that was deemed probably affected by natural gas resulting from OVESC's operation of the English No. 1 well.

CONCLUSIONS OF LAW

The Chief of the DMRM, based upon the foregoing Findings of Fact, makes the following Conclusions of Law:

1. Section 1509.03 provides that no person shall violate any rule of the chief adopted under Chapter 1509 of the Ohio Revised Code.
2. Section 1501:9-1-07 of the Ohio Administrative Code requires all persons engaged in any phase of operation of an oil and gas well to conduct such operation in a manner that will not contaminate or pollute the subsurface water.
3. Section 1501:9-9-02 of the Ohio Administrative Code requires owners to use all reasonable means to safeguard against hazards to life, limb and property while wells are being drilled, produced or shut-in.
4. Section 1509.22(F) of the Ohio Revised Code requires the owner to replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic purposes where the supply has been substantially disrupted or interrupted proximately resulting from the owner's oil and gas operation.
5. The English No. 1 well was originally constructed in a manner which violated Ohio Revised Code Section 1509.03 and Ohio Administrative Code Sections 1501:9-1-07 and 1501:9-9-02.

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ORDER

Based upon the foregoing Finding of Fact and Conclusions of Law the following Order is hereby issued:

IT IS HEREBY ORDERED THAT the permittee shall:

1. Within fourteen (14) days of receipt of this Order, provide written plans that provide a detailed proposal, including engineering plans with timelines, for replacing the water well at 8353 Bainbridge Road. The plan must describe how OVESC will provide the property owner with a supply of water that is at minimum comparable in quantity and quality to that which existed prior to the gas invasion incident.
2. OVESC must obtain DMRM's written approval of the plan, in addition to all other required permits, prior to execution of the plan.
3. Within thirty (30) days of approval of the plan by DMRM and receipt of required State, County or local government approvals and permits, OVESC will commence implementation of the approved water replacement plan, and proceed with due diligence until the full plan is executed.
4. During execution of the approved and permitted plans OVESC will provide DMRM with detailed, written progress updates, including an explanation for unanticipated delays.

Therefore, Chief's Order Number 2009-19 is hereby issued.

INSTRUCTIONS FOR FILING A NOTICE OF APPEAL

To initiate an appeal to the Oil and Gas Commission, you must have an interest which is or may be adversely affected by a decision of the Division Chief. The owner may appeal the order in its entirety, or in part by filing a notice of appeal with the Oil and Gas Commission. At a minimum, your notice of appeal to the Oil and Gas Commission must be filed within 30 days of your receipt of the Chief's Order; include a statement of the grounds upon which your appeal is based; and have attached to it a copy of the Chief's decision being appealed. Your notice of appeal may include a request that the Commission members view the site in question. Temporary Relief may also be requested; this will allow for an expedited hearing in some cases. Your notice of appeal must be directed to the Oil and Gas Commission at the following address:

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Oil and Gas Commission

Linda Osterman
2045 Morse Road
Building F-2
Columbus, OH 43229

Also, a copy of your notice of appeal, including the attached copy of the Chief's decision, must be sent to the Division Chief at:

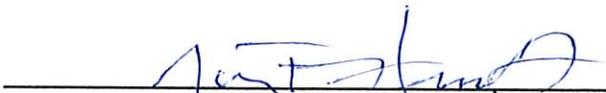
Chief, Division of Mineral Resources Management

2045 Morse Road
Building H-2
Columbus, OH 43229

FAILURE TO COMPLY WITH ANY OF THESE REQUIREMENTS WILL RESULT
IN A DISMISSAL OF YOUR APPEAL WITHOUT A HEARING

4.16.09

Date


John F. Husted, Chief

Enc: Attachments A and B

cc: Cathryn Loucas, Deputy Directory
Scott Kell, Deputy Chief, DMRM
Rick Simmers, Field Enforcement Administrator, DMRM
Robert Frey, Chief, Health Assessment Section, Ohio Department of Health

To: **Ohio Valley Energy Systems Corp**

Charles Masters, President
200 Victoria Road, Building 4
Austintown, Ohio 44515

John Keller

Vorys, Sater, Seymour and Pease
52 East Gay Street
Columbus, Ohio 43216-1008

CERTIFIED MAIL No.:

91 7108 2133 3933 7063 4412

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