

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF GAS AND OIL

**Re: Edwards & Harding Petroleum Company
application to establish field rules
and drilling units for the Flatwoods
Gas Field in Wise County, Virginia**

Docket No. VGOB-0326-97

RESPONSE TO MOTION TO DISMISS
OF ANR PRODUCTION COMPANY AND
EQUITABLE RESOURCES EXPLORATION

Edwards & Harding Petroleum Company ("Applicant") responds to the motion to dismiss filed by ANR Production Company ("ANR") and Equitable Resources Exploration ("EREX") by stating that the motion to dismiss was untimely filed as well as procedurally incorrect, and in support thereof would show as follows:

1. Pursuant to Va. Code Ann. § 45.1-361.20 (Supp. 1990), Applicant filed its application to establish field rules and drilling units for the exploration, development and production of certain formations underlying a boundary of land located in Wise County, Virginia, on February 22, 1991.

2. The name of the field proposed by this application is the Flatwoods Gas Field (the "Field").

3. Applicant's application to establish the Field is presently scheduled to be heard by the Virginia Gas and Oil Board ("Board") on Tuesday, March 26, 1991.

4. Applicant's petition was submitted in accordance with and has met the requirements of VR 480-05-22.2 § 4(b)(1990).

5. Pursuant to Va. Code Ann. § 45.1-361.20 (Supp. 1990), Applicant is not required to present such evidence prior to the hearing held on such an application, nor is it required to include such evidence in its application.

6. Pursuant to Va. Code Ann. § 45.1-361.20 (Supp. 1990), Applicant will present evidence to support its statements in the application at the March 26, 1991 hearing.

7. The motion to dismiss is, therefore, premature and untimely filed in that the evidence ANR and EREX claims has not been presented is not required to be presented prior to the hearing which will be held on March 26, 1991.

8. The motion to dismiss alleges that Applicant's request for field rules is an attempt to "impinge and violate correlative rights by attempting to circumvent the distance requirements of Va. Code Ann. § 45.1-361.17."

9. One of the movants, ANR, has filed well work permit applications for four wells, Well Numbers 10923, 10926, 10929 and 10930, which will be located within the boundaries of the Field.

10. The site of each well proposed by ANR falls within the unit boundaries proposed by Applicant. None of the well sites proposed by ANR would have to be moved under the spacing rules proposed by the Applicant.

11. Thus, ANR's allegation as quoted in Paragraph 7 from the motion to dismiss is inconsistent with its own acts in placing these proposed well sites at such distances and locations. Such actions on the part of ANR totally negate its allegation that

Applicant's proposed field rules are an attempt to impinge and violate correlative rights and only serve to support Applicant's proposed field rules.

12. In addition to the motion to dismiss being untimely filed, such a motion is procedurally incorrect in that the Board cannot dismiss an application filed pursuant to the Virginia Gas and Oil Act, Va. Code Ann. §§ 45.1-361.1 *et seq.* (Supp. 1990), without violating the constitutional rights of Applicant.

13. U.S. Const. amend. V and Va. Const. art. I, § 11 provide that all persons are entitled to due process of law before private property can be affected.

14. Due process of law requires that a person shall have reasonable notice and a reasonable opportunity to be heard by an impartial tribunal before a binding decree can be entered affecting his property rights.

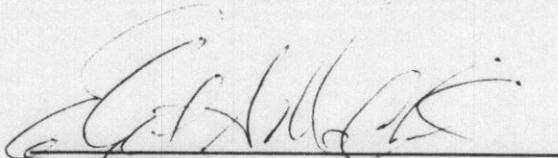
15. Due process of law is required to be administered not only by courts of law, but administrative tribunals as well.

16. A dismissal of Applicant's application for field rules prior to the hearing on March 26, 1991, would be a violation of Applicant's statutory rights and its federal and state constitutional rights of due process.

17. The motion to dismiss is, therefore, procedurally incorrect in that it requests that the Board violate such statutory and constitutional rights of Applicant.

WHEREFORE, Applicant requests that the motion to dismiss be denied in that it is untimely filed and procedurally incorrect.

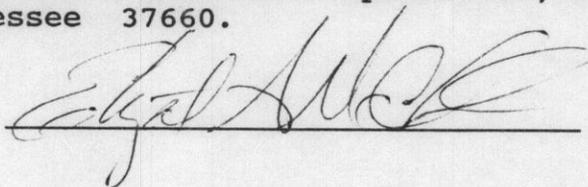
EDWARDS & HARDING PETROLEUM COMPANY


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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was mailed this 25th day of March, 1991, to Michael A. Lepchitz, Assistant Attorney General, Post Office Drawer U, Big Stone Gap, Virginia 24219, Byron T. Fulmer, State Oil and Gas Inspector, Post Office Box 1416, Abingdon, Virginia 24210, John S. Graham, III, Counsel for Olin Prather Revocable Trust, One James Center, Richmond, VA 23219, and Richard A. Counts, Counsel for ANR Production Company and Equitable Resources Exploration, Post Office Box 298, Kingsport, Tennessee 37660.



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