

V I R G I N I A:

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: ROYCE RASNAKE,)
SURFACE OWNER,)
)
) VIRGINIA GAS
 v.) AND OIL BOARD
)
)
RESPONDENT: Range Resources-Pine Mountain)
(PERMIT APPLICANT))
)
)
RELIEF SOUGHT: APPEAL OF DECISION BY THE DIRECTOR) DOCKET NO.
OF THE DIVISION OF GAS AND OIL) VGOB-13-
DATED MARCH 19, 2013, FOLLOWING) 0319-4003
INFORMAL FACT FINDING CONFERENCE)
221)

REPORT OF THE BOARD

FINDINGS AND ORDER

1. Hearing Date and Place: This matter came on for final hearing before the Virginia Gas and Oil Board (hereafter "Board") at 9:00 a.m. on March 19, 2013 at the Russell County Conference Center, Lebanon, Virginia.

2. Appearances: Shea Cook, Esq. for the Petitioner, Royce Rasnake (surface owner); Tim Scott, Esq. appeared for the Respondent, Range Resources-Pine Mountain; and Sharon M. B. Pigeon, Esq., Senior Assistant Attorney General, was present to advise the Board.

3. Jurisdiction and Notice: Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, the Board finds that it has jurisdiction over the subject matter. The Board also finds that the notices given herein satisfy all statutory requirements, Board rule requirements and the minimum standards of due process. After hearing arguments and considering the Director's decision and evidence presented, upon motion and vote, the Board denied Petitioner's application on appeal, relying on Va. Code §§ 45.1-361.1, 45.1-361.29, 45.1-361.35 and 45.1-361.36.

4. Relief Requested: Petitioner, Royce Rasnake (surface owner), appealed the Director's decision in IFFC 221, requesting:

- a. Royce Rasnake objected to Range Resources-Pine Mountain application whereas; "The operations plan for soil erosion and sediment control was not adequate or not effective and measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata".

5. The only statutory objections to permit applications available to surface owners are set out at § 45.1-361.35. (B) Objections to permits; hearing.

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata;
4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a reasonable alternative site is available within the unit, and 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; and

6. Relief Denied: The Petitioner's requested relief in this cause is hereby denied:

- a. The Board found that the Petitioner had failed to provide evidence that the erosion and sediment controls were inadequate.
- b. The Board found that the Petitioner had also failed to demonstrate that the Range Resources - Pine Mountain application for water protection was inadequate.
- c. The Board found that the Respondent had previously presented a title opinion to the Division Director establishing that Petitioner was a surface owner only and did not own royalty in the gas to be produced. Petitioner did not refute the title opinion. Further, the record did not support any of the statutory objections available to a surface owner.
- d. The Board found that the record showed this unit to be a 100% leased voluntary unit not subject to compulsory pooling.

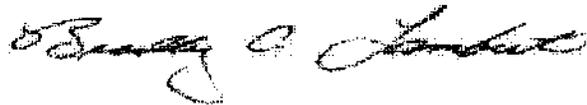
7. **Conclusion:** The decision of the Director of the Division of Gas and Oil dated March 19, 2013 in IFFC 221, and attached hereto is hereby affirmed, and the appeal of Royce Rasnake is denied. The Director of the Division of Gas and Oil is directed to issue the well permit for Application #17362, Gas Well Pipeline V-530066 and IT IS SO ORDERED.

8. **Appeals:** Appeals of this Order may be filed by an adversely affected party within thirty days after service of the Order, pursuant to the provisions of Va. Code Ann. § 45.1-361.9 that provides that any order or decision of the Board may be appealed to the appropriate circuit court where interlocutory relief may also be sought. Any appeal shall be filed in compliance with the provisions of the Administrative Process Act (Va. Code Ann. §§ 2.2-4000 et seq.) and the

Rules of the Supreme Court of Virginia.

9. Effective Date: This Order shall be effective as of the date of the Board's decision on March 19, 2013.

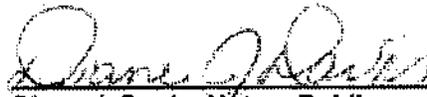
DONE AND EXECUTED this 20 day of June, 2013 by a majority of the Virginia Gas and Oil Board.



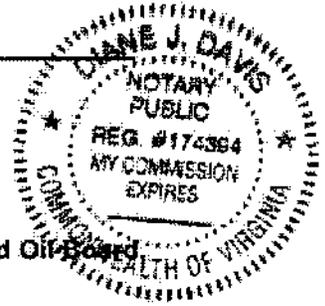
Chairman, Bradley C. Lambert

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL

Acknowledged on this 20th day of June, 2013 personally before me a notary public in and for the Commonwealth of Virginia, appeared Bradley C. Lambert, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.



Diane J. Davis, Notary Public
174394



My Commission expires: September 30, 2013

DONE AND PERFORMED this 21 day of June, 2013 by Order of the Virginia Gas and Oil Board



Rick Cooper
Principal Executive to the
staff, Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL

Acknowledged on this 21st day of June, 2013 personally before me a notary public in and for the Commonwealth of Virginia, appeared Rick Cooper, being duly sworn did depose and say that he is the Principal Executive to the staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.



Diane J. Davis, Notary Public
174394

My Commission expires: September 30, 2013



Virginia Division of Gas and Oil
P. O. Box 159
135 Highland Drive
Lebanon, VA 24266
Telephone: (276) 415-9700
Fax: (276) 415-9671



Rick Cooper, Director,
Division of Gas and Oil

By Decision of the Director in

Informal Fact Finding Conference 221 (Herein "IFFH 221")

**Royce Rasnake
(Herein "Surface Owner")**

Vs.

**(Herein "Permit Applicant")
Range Resources-Pine Mountain**

**Permit Application for Gas and Oil operations:
Conventional gas operation V-530066 permit application 17362
(Herein "Application")**

Background

Conventional gas operation V-530066 permit application 17362 for Range Resources-Pine Mountain was received at the Virginia Division of Gas and Oil (DGO) on July 22, 2010. The evidence regarding the applications and objections filed support the fact that the objections were timely and appropriate under Virginia Statute.

The objection was filed by **Royce Rasnake** against the permit application **Conventional gas operation V-530066 permit application 17362 for Range Resources-Pine Mountain** and was in accordance with objections provided by law under § 45.1-361.35.

§ 45.1-361.35. (B) Objections to permits; hearing.

B. The only objections to permits or permit modifications that may be raised by surface owners are:

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata;

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

Hearing Date and Place

IFFH 221 was convened on Tuesday, November 13, 2012 in the Russell County Government Center, Highland Drive, Lebanon Virginia. All parties with standing to object to **Conventional gas operation V-530066 permit application 17362** were notified of the time and place by United States certified mail, return receipt requested.

Appearances:

For the Objecting Party: Jerry Rasnake (brother of Royce Rasnake), Surface owner.

For Range Resources-Pine Mountain: Mr. Tim Scott, Counsel, Phil Horn and Michael Shepard, representing the applicant.

Findings of Fact:

1. In accordance with § 45.1-361.35.H, notice of IFFH 221 was given to the Permit Applicant and to every person with standing to object as prescribed by §45.1-361.30.
2. **Royce Rasnake** was notified as a **surface owner** of properties to be affected by the proposed operations **Conventional gas operation V-530066 permit application 17362**, as such, has standing to object to the proposed operations.
3. IFFH 221 was convened at the time and place indicated in the notice.

Controlling Law and Regulation

1. Section 45.1-361.30.A (1) of the Virginia Gas and Oil Act requires that permit applicants notify all surface owners, coal owners, and mineral owners on tracts to be drilled.
2. Section 45.1-361.30.A (3) of the Virginia Gas and Oil Act requires that permit applicants notify all surface owners on tracts where the surface will be disturbed.
3. Section 45.1-361.30(D) of the Virginia Gas and Oil Act gives standing to object to permit applications to all parties receiving required notice.
4. Section 45.1-365.35(B) of the Virginia Gas and Oil Act details objections that may be filed by surface owners.
5. Section 45.1-361.35(H) of the Virginia Gas and Oil Act 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.
6. Section 45.1-361.35(I) of the Virginia Gas and Oil Act requires the Director to issue a decision regarding the objection if the parties to the hearing fail to reach an agreement.

Informal Fact Finding hearings are proceedings conducted under guidelines of the Administrative Process Act, the hearing can recess at any time if the involved parties mutually agree that they would like to negotiate off the record. This opportunity was offered by the Director and agreed to by both parties.

It was unanimous that a settlement could not be reached at this time.

I. TESTIMONY BY THE SURFACE OWNER

Mr. Jerry Rasnake wanted to know who had the mineral rights to the gas.

Mr. Jerry Rasnake was concerned that the sediment and erosion plan would not keep soil out of the pond that his sister's cattle utilize. Mr. Rasnake wanted to know what sediment and erosion controls would be utilized.

Mr. Jerry Rasnake wanted to know if Range Resources-Pine Mountain would repair the gate that was installed on the property and limit access to the property. Mr. Rasnake stated family members used the area to hunt and did not want others to have access to the property.

Mr. Jerry Rasnake's main concern was the potential loss of water in the pond on the property. Mr. Rasnake's sister had cattle on the property and the pond was the only source of water.

II. TESTIMONY BY THE APPLICANT

Mr. Tim Scott provided testimony that the title issues relating to a gas versus coal ownership Mr. Jerry Rasnake brought forth are not relevant due to the Virginia Supreme Court's decision on mineral ownership.

Mr. Horn provided testimony and provided a severance deed stating the deed grants coal, ore and other minerals which include gas as interpreted by their (Range Resources-Pine Mountain) attorney. The deeds presented appear to give Range Resources-Pine Mountain the right to extract coal, oil, gas and other minerals and the perpetual right to enter upon the land to build the necessary structures.

Mike Shepard provided testimony that the severance deed and surface to mineral chain provided gives Range-Resources-Pine Mountain rights to the minerals according to the Range Resource-Pine Mountain counsel.

Mr. Phil Horn provided testimony that the casing design in the application would ensure the objecting parties' water well should not be affected by the drilling of the conventional gas well. Mr. Horn provided testimony that the casing design should alleviate any water problems with the cattle pond Mr. Rasnake had raised. Mr. Horn provided testimony that the permit application submitted to the Division of Gas and Oil requires a minimum 40 feet of 13 3/8 inch surface conductor and 591 feet of 9 5/8 inch diameter intermediate casing cemented to the surface which should alleviate any damage to the pond that Mr. Rasnake's sister's cattle utilized.

Mr. Horn provided testimony that Range Resources-Pine Mountain would provide compensation for any surface damage to Mr. Royce Rasnake.

Mr. Phil Horn stated he would check with EQT Production Company and Range Resources-Pine Mountain employees who pass through and assure they keep the gate locked to limit access entrance to the property. Range Resources-Pine Mountain would repair the gate that entered the property.

Mr. Phil Horn provided in testimony that demonstrated the sediment and erosion concerns are addressed in the application. Mr. Horn provided testimony that a brush barrier or windrow would be installed to assure the sediment and erosion controls are adequate.

Decision of the Director

After thorough research and consideration:

The Director is satisfied the proposed development plan by Range Resources-Pine Mountain is undertaken with the intent of minimal damage to the property and environment.

The Director is satisfied the erosion and sediment control plan meets best practice standards for the construction activities proposed for this site under current law.

The permit detail includes ground water protection strings which are planned to protect both ground water sources and below drainage coal seams that may be encountered during the drilling and resource extraction process.

The Director is further satisfied that the location of the well site does not unreasonably infringe on the surface owners' use of the property.

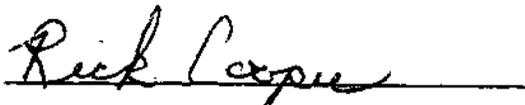
Permit Applicant apparently has rights to use surface owners' property to access their mineral estate. If this is in dispute, it must be contested in a court of proper jurisdiction. While it can be argued that any adverse use of property is an infringement, § 45.1-361.35 only allows consideration of *unreasonable infringement*.

After careful consideration and review of testimony provided, it is the decision of the Director to rule in favor of the Applicant and to proceed with the review of the permit application for Conventional gas operation V-530066 permit application 17362.

Right of Appeal

Any party 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 (10) 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 10th day of December, 2012



Rick Cooper, Director
Virginia Division of Gas and Oil