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AMENDMENT TO SUPPLEMENTAL DETERMINATION OF THE EXECUTIVE DIRECTOR CONCERNING NATURAL GAS EXTRACTION ACTIVITIES IN SHALE FORMATIONS WITHIN THE DRAINAGE AREA OF SPECIAL PROTECTION WATERS

On June 14, 2010 I extended to all natural gas exploratory wells, with the exception of those for which the Pennsylvania Department of Environmental Protection (PADEP) had already granted well drilling permits, my determination that the sponsors of natural gas extraction projects in shale formations within the drainage area of Special Protection Waters must obtain the Commission's approval before commencing such projects.

Following this decision, I received a request from the Hess Corporation that it be allowed to proceed with the initial phase of an exploratory drilling program planned for its lease holdings in Wayne County, Pennsylvania. Specifically, Hess requested permission to construct two vertical exploratory wells for which it had obtained Pennsylvania Erosion and Sediment Control General Permits (ESCGP-1's) prior to June 14th and for which as of that date well drilling permit applications had been filed with PADEP and were under active review. A state drilling permit for the Davidson 1V well has since been issued – PADEP Permit No. 127-20020 dated July 13, 2010 – and a PADEP permit for the Hammond 1V well is expected to be approved in July.

Hess cited as a basis for its request that by mid-June the Davidson 1V and Hammond 1V wells were in the final stages of the permitting process and represented a level of investment equivalent to that of the natural gas exploratory wells that were “grandfathered” by my decision of June 14th. Hess also urged that the scientific information to be derived from the two wells was critical to the company and to many hundreds of property owners with whom it has signed leases. Hess and its investment partner Newfield Appalachia LLC (“Newfield”) have combined lease holdings of more than 100,000 acres in the Delaware Basin. Although Newfield is proceeding with an exploratory program that includes five wells in east, southeast Wayne County, no other exploratory wells have been approved in the north, northwest portion of the county, where Hess's leases are concentrated. The timing of the exploratory program is important to both entities and their lessors. Hess representatives have advised me that if the company is able to proceed with the Davidson 1V and Hammond 1V wells this summer, the two wells are expected to meet its program needs through the end of the year. Further, Hess has assured me that it supports the Commission's initiative to establish robust and responsible regulations governing natural gas development in the Delaware Basin in that timeframe.

I am convinced that the scientific information that may be derived from the two proposed exploratory wells is important in the near term, while the risk from allowing two additional exploratory wells to proceed is subject to the same balancing that I discussed in my Supplemental Determination of June 14th. Only two exploratory wells are at issue; both are

subject to PADEP well drilling permits; and in light of the erosion and sediment control permits issued before June 14th, both are included in Hess's investment-backed expectations. Hess's ESCGP-1 applications, which Hess furnished to the DRBC, provide specific information regarding siting of the two proposed wells and set forth in detail the erosion and sediment control measures to be implemented during and after their construction to protect water resources. These measures go beyond the requirements applicable to the other exploratory well projects "grandfathered" by my June 14th Determination, each of which fell below the five-acre threshold at which the requirement for an ESCGP-1 is triggered. In light of the other factors discussed above, Hess's additional sediment and erosion control demonstrations tip the balance in favor of allowing the two exploratory wells to proceed.

Accordingly, I find that allowing the Davidson 1V and Hammond 1V natural gas exploratory wells to be constructed at this time would serve multiple interests and in particular could help indicate the extent of natural gas development activity that is likely to occur in the Basin. By this Amended Supplemental Determination, I am advising the Hess Corporation that it may proceed with construction of the Davidson 1V and Hammond 1V natural gas exploratory wells. This approval is limited to the two well projects as described in Hess's letter to me of July 13, 2010 and supporting documents, including the ESCGP-1 applications and corresponding permits issued by Pennsylvania in May (collectively "letter of July 13th"). Any proposed deviation from the projects as described in Hess's letter of July 13th will invalidate this Amended Determination unless and until Hess demonstrates to my satisfaction that the proposed change does not increase the risk of harm to the basin's water resources. Any proposal to reconfigure either of the two exploratory wells for production must undergo review and approval by the Commission in accordance with my Determinations of May 19, 2009 and June 14, 2010.

Except as modified herein as to the two Hess exploratory wells, my Supplemental Determination of June 14, 2010 remains in full effect.

Any person adversely affected by this action may request a hearing by submitting a request in writing to the Commission Secretary within thirty (30) days of the date set forth below, in accordance with the Commission's *Rules of Practice and Procedure*.



Carol R. Collier, Executive Director

Dated: July 23, 2010