S T A T E O F N E W Y O R K

10772

I N A S S E M B L Y

June 18, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Rosenthal) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to compulsory integration and unitization in oil and natural gas orders

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2, subparagraphs 4 and 5 of paragraph a of subdivision 3 and subdivision 13 of section 23-0901 of the environmental conservation law, subdivision 2 and subparagraphs 4 and 5 of paragraph a of subdivision 3 as amended and subdivision 13 as added by chapter 386 of the laws of 2005, are amended and two new subdivisions 14 and 15 are added to read as follows:

2. The department shall not make any order requiring the integration of interests in any spacing unit or requiring the development or operation of any field, pool or part thereof as a unit unless it finds, after detailed study and analysis, notice and hearing, that the integration of interests in spacing units, under conditions then existing in this state, or in the field or pool to be affected, is necessary to carry out the policy provisions of section 23-0301 of this article. THE DEPARTMENT SHALL ALSO CONSIDER THE IMPACT THAT COMPULSORY INTEGRATION WILL HAVE ON AN EXISTING MORTGAGE PRIOR TO MAKING AN INTEGRATION ORDER.

(4) "NON-INTEGRATED, NON-PARTICIPATING OWNER" MEANS AN OWNER, THE OWNER'S HEIRS, SUCCESSORS AND ASSIGNS, WHOLLY OR PARTIALLY LOCATED WITHIN THE SPACING UNIT, WHO ELECTS NOT TO PARTICIPATE IN THE INITIAL WELL IN A SPACING UNIT, REFUSES TO PAY ANY COSTS ASSOCIATED WITH PARTICIPATION, REFUSES TO REIMBURSE THE WELL OPERATOR, OUT OF PRODUCTION PROCEEDS FOR SUCH OWNER'S PROPORTIONATE SHARE OF THE ACTUAL WELL COSTS OF THE INITIAL WELL IN A SPACING UNIT, AND REFUSES TO COMPLY WITH THE REQUIREMENTS FOR INTEGRATION, INCLUDING THE TERMS OF INTEGRATION, AS SPECIFIED IN AN ORDER OF INTEGRATION ISSUED PURSUANT TO THE COMPULSORY INTEGRATION PROVISIONS OF THIS SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ALL NON-INTEGRATED, NON-PARTICIPATING PROPERTY OWNERS, IN ADDITION TO POSSIBLE PURCHASERS, SHALL BE PROVIDED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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WITH AN OPTION TO REFUSE INTEGRATION ALTOGETHER, AT OR BEFORE THE INTEGRATION HEARING REQUIRED PURSUANT TO THIS SECTION.

(5) "Risk penalty" means the percentage applied to well costs to reimburse the well operator for the risk involved with the exploration for and development of a well or the percentage applied to other costs that are subject to recoupment and a risk penalty, as provided herein. At any time during a risk penalty phase, an owner subject to a risk penalty may pay to the well operator the full amount subject to recoupment by the well operator, to terminate the risk penalty phase and be eligible for other opportunities for participation as provided herein.

[(5)] (6) "Well costs" means the costs incurred or estimated to be incurred by the well operator in relation to the drilling, completion, and the installation of surface equipment, other than as described in item E of clause (ii) of subparagraph 1 of paragraph c of this subdivision, including, without limitation, surveying, drill site preparation, leasing of surface rights and access roads pertinent to the drill site, construction of access roads, permitting, drilling, stimulation, testing, well logging, drilling insurance, plugging and abandonment of the well, environmental mitigation costs associated with drilling and any other costs associated with the foregoing that the operator has incurred or anticipates incurring, including a reasonable charge for supervision of the foregoing activities.

13. A. Any person taking title by operation of law to any oil and gas interests integrated into a spacing unit pursuant to an order of integration, shall take such interests subject to the terms and conditions of the final order of integration issued by the department duly recorded in accordance with the provisions of this section and shall be subject to all liabilities and benefits associated therewith, unless such person, within sixty days of the taking of such interest, elects to be an integrated royalty owner and notifies the well operator of such election.

B. FULL COST AND LIABILITY FOR ANY DAMAGES CAUSED BY WELL OPERATIONS SHALL BE BORNE SOLELY BY THE WELL OPERATOR AND THE BURDEN OF PROOF WITH RESPECT TO LIABILITY FOR SUCH DAMAGES SHALL BE UPON THE WELL OPERATOR.

14. INTEGRATION ORDERS ISSUED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO JUDICIAL REVIEW.

15. NO PARTY INVOLVED WITH COMPULSORY INTEGRATION MAY HAVE, ON OR WITHIN ONE THOUSAND OR MORE FEET FROM THE PROPERTY BOUNDARY OF ANY POOL, ANY: A. SURFACE ACTIVITY INCLUDING, BUT NOT LIMITED TO ANY DRILLING, COMPRESSOR PITS OR CLOSED WASTE SYSTEMS, OR B. SUBSURFACE GAS STORAGE.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.