

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**MARTIN AND SUZANNE MATTEO,
HUSBAND AND WIFE, ROBERT AND
CAROLE VALENTINE, HUSBAND
AND WIFE, AND STEVE EMERY,
Petitioners**

Vs.

Docket No. 266 MD 2014

**HILCORP ENERGY COMPANY,
COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE ATTORNEY GENERAL,
KATHLEEN KANE, in her Official Capacity
As ATTORNEY GENERAL of the
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION, and
E. CHRISTOPHER ABRUZZO, in his
Official Capacity as SECRETARY of the
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Respondents

ORDER

AND NOW, this day of July, 2014, upon consideration of the Commonwealth Respondents' Application in the Form of a Motion for an Enlargement of Time to File Responsive Pleading, the motion is **GRANTED**. The Commonwealth Respondents may serve and file a responsive pleading to the Amended Petition for Review on or before August 11, 2014.

BY THE COURT:

J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARTIN AND SUZANNE MATTEO,
HUSBAND AND WIFE, ROBERT AND
CAROLE VALENTINE, HUSBAND
AND WIFE, AND STEVE EMERY,

Petitioners

Vs.

Docket No. 266 MD 2014

HILCORP ENERGY COMPANY,
COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE ATTORNEY GENERAL,
KATHLEEN KANE, in her Official Capacity
As ATTORNEY GENERAL of the
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION, and
E. CHRISTOPHER ABRUZZO, in his
Official Capacity as SECRETARY of the
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondents

APPLICATION IN THE FORM OF A MOTION FOR AN
ENLARGEMENT OF TIME TO FILE RESPONSIVE PLEADING

Pursuant to Pennsylvania Rule of Civil Procedure 208.1 and Pennsylvania Rule of Appellate Procedure 123, Respondents Commonwealth of Pennsylvania, the Office of Attorney General of Pennsylvania, Kathleen Kane, the Pennsylvania Department of Environmental Protection, and E. Christopher Abruzzo (hereinafter "Commonwealth Respondents"), by and through their counsel, Michael L. Harvey, Senior Deputy Attorney General, submits this Application in the Form of a Motion for an Enlargement of Time to File a Responsive Pleading. In support of this application, the Commonwealth Respondents state as follows:

1. Petitioners filed an Amended Petition for Review in the above captioned matter on June 5, 2014.

2. The Amended Petition for Review was served by electronic means on the Commonwealth Respondents.

3. Accordingly, the Commonwealth Respondents' responsive pleading is presently due on or before July 10, 2014.

4. The Amended Petition for Review requests this Court enjoin the Oil and Gas Conservation Law, 58 P.S. §§ 401-419, as unconstitutional on the grounds that it authorizes a taking for a private purpose and that it violates due process. The amended petition for review also makes several statutory construction arguments asserting that the Law does not authorize the present administrative proceedings before the Department of Environmental Resources.

5. The amended petition contains seven counts and raises complex issues of law. Because of the nature of the claims, counsel has spent substantial time consulting with their clients.

6. Due to the time needed to prepare a response in this case and meet obligations in other cases, counsel for the Commonwealth Respondents require more time to prepare a responsive pleading.

7. Therefore, the Commonwealth Respondents request a thirty (30) day enlargement of time to file a responsive pleading.

8. If this Motion is granted, the Commonwealth Respondents' responsive pleading would be due on or before August 11, 2014.¹

¹ The thirtieth day after the present due date is August 9, 2014, which falls on a Saturday. The next day that does not fall on a Saturday, Sunday or holiday is Monday, August 11, 2014. *See* Pa.R.C.P. 106(b) ("Whenever the last day of any such period shall fall on Saturday or Sunday, or

9. The requested enlargement of time will not materially delay the disposition of this case, nor will it prejudice the Petitioners.

10. This is the first enlargement of time requested by the Commonwealth Respondents.

11. Counsel for Petitioners has been contacted and concurs in this request for enlargement of time.

12. Counsel for Respondent Hilcorp Energy Company has been contacted and objects to the requested enlargement of time. Counsel asserts that his client has been prejudiced by the delay of the administrative proceeding now pending before the Department of Environmental Resources and it cannot agree to any further delays.

WHEREFORE, the Commonwealth Respondents request this Honorable Court grant their motion for an enlargement of time and permit them to file a responsive pleading on or before August 11, 2014, in the above-captioned matter.

on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.”)

Respectfully submitted,

KATHLEEN G. KANE
Attorney General

By: *s/Michael L. Harvey*

MICHAEL L. HARVEY
Senior Deputy Attorney General
Attorney ID #30098

JONATHAN D. KOLTASH
Deputy Attorney General
Attorney I.D. #206234

GREGORY R. NEUHAUSER
Chief Deputy Attorney General
Chief, Civil Litigation Section

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
Phone: (717) 783-6896 - Direct
Fax: (717) 772-4526
mharvey@attorneygeneral.gov

Date: July 8, 2014

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARTIN AND SUZANNE MATTEO,
HUSBAND AND WIFE, ROBERT AND
CAROLE VALENTINE, HUSBAND
AND WIFE, AND STEVE EMERY,

Petitioners

Vs.

Docket No. 266 MD 2014

HILCORP ENERGY COMPANY,
COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE ATTORNEY GENERAL,
KATHLEEN KANE, in her Official Capacity
As ATTORNEY GENERAL of the
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION, and
E. CHRISTOPHER ABRUZZO, in his
Official Capacity as SECRETARY of the
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondents

CERTIFICATE OF SERVICE

I, Michael L. Harvey, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on July 8, 2014, I caused to be served a true and correct copy of the foregoing document titled Entry of Appearance to the following by U.S. First Class Mail:

Kevin L. Colosimo, Esq.
Daniel P. Craig, Esq.
Southpointe Town Center
1900 Main Street, Suite 201
Canonsburg, PA 15317
Counsel for Hilcorp Energy Company

Omar K. Abuhejleh, Esq.
429 Forbes Avenue, Suite 450
Pittsburgh, PA 15219
Counsel for Petitioners

s/ Michael L. Harvey

MICHAEL L. HARVEY
Senior Deputy Attorney General
Attorney ID #30098