



STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

IN THE MATTER OF:

INFORMAL HEARING CONCERNING) Permit Numbers: 56148, 56149,
ISSUANCE OF COAL BED METHANE) 56150, 56157, 56158 and 56159
DRILLING PERMITS TO)
PIONEER OIL COMPANY, INC.)

FINDINGS OF FACT, LEGAL CONCLUSIONS, AND DETERMINATION
ON INFORMAL HEARING UNDER 312 IAC 29-3-4

As provided in 312 IAC 29-3-4, the Department of Natural Resources, through its Division of Reclamation, Oil and Gas Section (“Division”) conducted an informal hearing on, October 27, 2022, concerning proposed wells to be drilled under permit numbers 56148, 56149, 56150, 56157, 56158 and 56159.

Having reviewed the entire record in this matter, and being duly advised, the Director of the Division issues the following findings, legal conclusions, and determination:

Findings of Fact

1. On October 27, 2022, the Division conducted an informal hearing at the offices of the Indiana Department of Natural Resources, Division of Reclamation, 14619 West State Road 48, Jasonville, IN 47438.
2. The informal hearing was held to consider applications for permits associated with permit numbers 56148, 56149, 56150, 56157, 56158 and 56159 (“the 6 proposed coal bed methane drilling permits”).
3. Notice about the date, time, and location of the informal hearing was provided as required by law to the parties attending and on the Division’s website.
4. The Division received comments about and objections to the 6 proposed coal bed methane permit applications on June 30, 2022, and July 26, 2022. Written and oral comments to the 6

proposed coal bed methane drill and operate permits were submitted and heard during the informal hearing held on October 27, 2022.

5. The Division Director advised those present that he would leave the informal hearing record open until November 4, 2022, for the submittal of additional written comments.
6. Comments and concerns were received initially for the informal hearing on October 27, 2022, and during the open comment period subsequent to the informal hearing.

Below are Gibson County Coal, LLC's ("GCC") concerns with the coal bed methane ("CBM") permit applications pending for Pioneer Oil Company, Inc. ("Pioneer") for the Marvel #s 1, 2, and 3 wells (permit #56148, #56149, and #56150) and Heidenreich #s 1, 2, and 3 wells (permit #56157, #56158, and #56159).

- 1) Pioneer proposes to drill the CBM wells into a coal mine subject to an active underground coal mining permit held by GCC and issued by the Division of Reclamation of the Indiana Department of Natural Resources.
- 2) Pioneer's proposed venting of the coal seam methane will constitute waste. Pioneer's CBM wells are therefore not authorized under Indiana law.
- 3) GCC is currently flaring gas and mitigating the environmental harm that is caused by coal mine methane escaping from mine works.
- 4) GCC has received a permit revision authorizing it to dispose of refuse into the Gibson North mine.

Response by the Division

The Division does not have regulatory authority over private agreements between the coal lessee and operators. The Division does require that a well owner or operator have a valid lease for real property minerals on all acres within a proposed drilling unit before it will issue a permit.

The Division does not have regulatory authority over the end use of marketable produced natural gas. Pioneer Oil Company, Inc. proposes to commercially produce the gas for either carbon offset credits or to be sold into the pipeline. The gas will be measured and reported for purposes including, but not limited to, severance tax and royalties. The Division does have enforceable rules that address reporting monthly production and abandonment when the operation of a well is terminated.

The Division does have enforceable rules that address drilling and operation, including reporting fires and emergency measures that will be taken.

The Division does not have regulatory authority over private agreements between landowners and operators. Landowners should control this relationship through the lease.

Legal Discussion and Authorities

7. Indiana Code (“I.C.”) 14-37-4-5 governs issuance of well permits by the Division and provides that a permit application requires the following information:

- (1) A plat of the land or lease upon which the well is to be located, together with all property and lease lines and the acreage within the tract.
- (2) The location of the proposed well as certified by a professional surveyor registered under IC 25-21.5.
- (3) The surface elevation of the proposed well and the method used for determining that elevation.
- (4) The depth of the proposed well.
- (5) The number and location of all other dry, abandoned, or producing wells located within one-fourth (1/4) mile of the proposed well.
- (6) The distance from the proposed well to the three (3) nearest boundary lines of the tract.
- (7) With respect to an application to drill within a city or town, a certified copy of the official consent by ordinance of the municipal legislative body.
- (8) Other information determined by the commission that is necessary to administer this article.

8. Under I.C. 14-37-4-8, unless the applicant is in violation of a permit or has shown a pattern of willful violation, a permit shall be issued when it complies with the statute and rules adopted pursuant to the statute.

9. 312 IAC 29-4-1, *et seq.*, contains the rules promulgated under I.C. 14-37-4-8 which further regulate the issuance of permits.

10. 312 IAC 29-6-1, *et seq.*, contains further requirements for coal bed methane wells.

11. 312 IAC 29-4-7(a) requires the Division to issue a permit if the applicant complies with I.C. 14-37 and this rule except as provided in subsection (b) which states:

(b) The Division may deny a permit application if the applicant or if a person owning or controlling the applicant:

- (1) has been issued a notice of violation and failed to abate the violation within sixty (60) days after the deadline for abatement, unless the person has requested an administrative adjudication of the notice of violation, and a final determination has not been rendered by the commission;
- (2) controls or has controlled any well for oil and gas purposes and has demonstrated a pattern of violations of IC 14-37 or this article that have resulted in damage to the environment; or
- (3) has had a permit revoked under IC 14-37.

12. Pursuant to I.C. 14-37-4-8 and 312 IAC 29-4-7 a drilling permit “shall issue” where all enumerated statutory and regulatory requirements have been complied with and the applicant has not otherwise had a history of non-compliance under prior permits.

13. 312 IAC 29-3-4(c) states in part that an informal hearing is to be conducted in a manner that will facilitate public participation and the gathering of information relevant to the matter under consideration. An informal hearing is not governed by the rules of evidence or discovery.

14. Based upon a review of all relevant comments and concerns submitted and the Division’s responses thereto, the issues raised by GCC do not apply to the permitting process of the Division.

15. The applicable Indiana Code and rules promulgated thereunder contain no requirement for the applicant to affirmatively demonstrate any of the items in the comments filed other than those contained in I.C. 14-37-4-5.

16. 312 IAC 29-25-3 The Division does have enforceable rules that address drilling and operation, including reporting fires and emergency measures that will be taken.

Legal Conclusion and Order

17. Accordingly, the Division determines that the objections and comments filed in this matter are outside the purview of the Division’s permitting process to act upon or consider. The permit applications contain the items enumerated by statute and rules of the Division such that the 6 proposed permits should be issued to Pioneer Oil Company, Inc. as requested.

Right to Administrative Review

18. The above Findings of Fact, Legal Conclusions, and Determination on Informal Hearing under 312 IAC 29-3-4 are subject to administrative review pursuant to I.C. 4-21.5 and 312 IAC 3-1. In order to qualify for administrative review, a person must file a request for review in writing stating facts that demonstrate the petitioner is:

- (A) a person to whom the order is specifically directed.
- (B) aggrieved or adversely affected by the order; or
- (C) entitled to review under any law.

In order to be timely, any petition for administrative review must be filed with the Division of Hearings, Natural Resources Commission, Indiana Government Center North, 100 N. Senate Avenue, N103, Indianapolis, IN 46204 within fifteen (15) days after notice is served or within eighteen (18) days if service is by mail.

Dated: December 7, 2022

Steven J. Weinzapfel Digitally signed by Steven J. Weinzapfel
Date: 2022.12.07 11:41:48 -05'00'

Steven J. Weinzapfel, Director
Division of Reclamation

A copy of the above determination was sent by electronic mail on December 6, 2022, to:

Wes Brooke: wbrooke@pioneeroil.net

Steve Link: slink@pioneeroil.net

Steve Miller: smiller@pioneeroil.net

Brandi Stennett: bstennett@pioneeroil.net

John Henderson: john.henderson@arlp.com

Jay Emery: j.emery@arlp.com

Ihor Boyko: iboyko@dnr.in.gov