

BEFORE THE OIL & GAS COMMISSION

CITY OF MUNROE FALLS, OHIO,

Appellant,

-vs-

DIVISION OF OIL & GAS RESOURCES
MANAGEMENT,

Appellee,

and

BECK ENERGY CORPORATION,

Intervenor.

Appeal No. 835

Review of Chief's Order 2011-18;
(Beck Energy, Inc.; Bechter #1 Well)

FINDINGS, CONCLUSIONS AND ORDER OF THE COMMISSION

Appearances: Jack Morrison, Jr., Thomas R. Houlihan, Counsel for Appellant City of Munroe Falls, Ohio; Molly Corey, Megan DeLisi, Assistant Attorneys General, Counsel for Appellee Division of Oil & Gas Resources Management; John K. Keller, Robert J. Krummen, Counsel for Intervenor Beck Energy, Inc.

Date Issued: February 23, 2012

BACKGROUND

This matter came before the Oil & Gas Commission upon appeal by the City of Munroe Falls ["Munroe Falls"] from Chief's Order 2011-18. Through Order 2011-18, the Chief of the Division of Oil & Gas Resources Management [the "Division"]¹ approved an application for mandatory pooling, associated with the drilling of a well to be known as the Bechter #1 Well. Munroe Falls owns property, which is affected by this mandatory pooling order. Beck Energy Corporation ["Beck Energy" or "Beck"] is the applicant for mandatory pooling, and intends to permit, drill and operate the Bechter #1 Well.

¹ Prior to September 29, 2011, Revised Code Chapter 1509 was administered by the Chief of the Division of Mineral Resources Management. On September 29, 2011, pursuant to Sub. H.B. 153, the Division of Mineral Resources Management was split into two divisions. The Chief of the Division of Oil and Gas Resources Management is now responsible for administering Chapter 1509. Where appropriate, the term Division of "Oil and Gas" Resources Management has been substituted for the term Division of "Mineral" Resources Management.

Munroe Falls filed its appeal of Chief's Order 2011-18 with the Commission on June 15, 2011. Beck Energy moved for intervention into this action. On October 14, 2011, the Commission **granted** Beck Energy's request for intervention, and Beck Energy has participated in this appeal with full-party status. Beck Energy's position is adverse to Munroe Falls' position.

On October 28, 2011 and December 5, 2011, this cause came on for hearing before three members of the Oil & Gas Commission. Commission member Howard Petricoff **recused** himself from this matter, and did not participate. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

ISSUE

The issue presented by this appeal is: **Whether the Chief acted lawfully and reasonably in approving Beck Energy's application for mandatory pooling for the well to be known as the Bechter #1 Well.**

THE LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief if the Commission finds that the order appealed is lawful and reasonable.

2. O.R.C. §1509.27 provides *inter alia*:

If a tract of land is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, and the owner of the tract who also is the owner of the mineral interest has been unable to form a drilling unit under agreement as provided in section 1509.26 of the Revised Code, on a just and equitable basis, the owner of such tract may make application to the division of [oil and gas] resources management for a mandatory pooling order.

The application shall include information as shall be reasonably required by the chief of the division of [oil and gas] resources management and shall be accompanied by an application for a permit as required by section 1509.05 of the Revised Code. The chief shall notify all owners of land within the area proposed to be included within the drilling unit of the filing of the application and of their right to a hearing. After the hearing or after the expiration of thirty days from the date notice of application was mailed to such owners, the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide effective development, use, and conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable

3. The Technical Advisory Council on Oil and Gas [the "TAC"] is created under O.R.C. §1509.38:

There is hereby created in the division of [oil and gas] resources management a technical advisory council on oil and gas, which shall consist of eight members to be appointed by the governor with the advice and consent of the senate. ... All members ..., except the members representing the public and persons having landowners' royalty interests, shall have at least five years of practical or technical experience in oil or gas drilling and production. ...

The council shall hold at least one regular meeting in each quarter of a calendar year. Five members constitute a quorum, and no action of the council is valid unless five members concur.

The council, when requested by the chief of the division of [oil and gas] resources management, shall consult with and advise the chief and perform other duties that may be lawfully delegated to it by the chief. The council may participate in hearings held by the chief under this chapter and has power of approval as provided in section 1509.24 and 1509.25 of the Revised Code....

3. O.A.C. §1501:9-1-04 addresses the spacing of wells and provides:

(A) General spacing rules:

(1) The division of [oil and gas] resources management shall not issue a permit for the drilling of a new well . . . unless the proposed well location and spacing substantially conform to the requirements of this rule.

* * *

(4) A permit shall not be issued unless the proposed well satisfies the acreage requirements for the greatest depth anticipated.

* * *

(C) Location of wells:

* * *

(4) No permit shall be issued to drill . . . a well for the production of the oil or gas from pools from four thousand (4000) feet or deeper unless the proposed well is located:

(a) Upon a tract or drilling unit containing not less than forty (40) acres;

* * *

(c) Not less than five hundred (500) feet from any boundary of the subject tract or drilling unit.

(5) For new applications to drill wells in urbanized areas, the proposed wellhead location shall be no closer than seventy five (75) feet to any property not within the subject tract or drilling unit. . . .

FINDINGS OF FACT

1. Beck Energy has applied for a permit to drill an oil & gas well in Stow Township, Summit County, Ohio. The well would be known as the Bechter #1 Well. The Bechter #1 Well is proposed to be drilled in an urbanized area, within the City of Munroe Falls.

2. The Bechter #1 Well is proposed to be drilled vertically to an approximate depth of 3,995 feet, and would produce from the Clinton / Medina Formation.

3. The Bechter #1 drilling unit² consists of 21 voluntary lessors. The majority of the oil & gas leases supporting this drilling unit are non-drilling leases, which were entered into between individual landowners and Beck Energy during 2009. The surface installations associated with this well are proposed to be located on the Jacques J. Bechter property. Beck Energy holds a development lease on the Bechter property.³ The properties voluntarily pooled to create the Bechter #1 drilling unit encompass the oil & gas rights beneath 39.59 acres of ground. Based upon the proposed depth of the Bechter #1 Well, Beck Energy attempted to assemble a drilling unit that was 40 acres in size and that included all properties within 500 feet of the well.⁴

4. The City of Munroe Falls is the fee owner of a portion of Castle Drive. Castle Drive is a dedicated roadway, maintained for public use. Approximately 0.41 acre of Castle Drive is located within 500 feet of the proposed Bechter #1 Well.

5. In May and June 2010, Beck Energy sent letters to Munroe Falls Mayor Larson and/or the City Planning Commission, offering a \$1,000 advance royalty payment in exchange for the for the city's signing of a non-drilling lease covering the oil & gas rights on the 0.41-acre area of Castle Drive. Both of these offers were rejected by the city, and no counter offers were made. On June 1, 2010, a representative of Beck Energy attended a Munroe Falls City Council meeting, and was informed that the Council opposed the drilling of the Bechter #1 Well. Munroe Falls has indicated, in letters to both the Division Chief and Beck Energy, that the city is strongly opposed to the drilling of the Bechter #1 Well.

² "Drilling unit" is defined at O.R.C. §1509.01(G) as "the minimum acreage on which one well may be drilled, ..."

³ A development lease for oil & gas grants to the lessee the mineral interests in the property and includes the right of ingress and egress for the surface development associated with a well. A non-development, or non-drilling, lease for oil & gas grants to the lessee only the underlying mineral interests and does not provide for any surface affectment of the property subject to the lease. In this case, Beck Energy secured 19 non-drilling leases and two development leases. The Bechter lease and the Brick lease were development leases.

⁴ See O.A.C. §1501:9-1-04 for size, set-back and spacing requirements. The Bechter #1 Well is proposed to be drilled to a depth of 3,995 feet, and to produce from the Clinton / Medina Formation. Generally, if a well is expected to produce from a pool that is shallower than 4,000 feet, a 20-acre drilling unit is required. However, as testified to by Division Geologist Steve Opritza, data from previously drilled wells in the area indicates that the Clinton Formation is frequently located below 4,000 feet. Therefore, the size, set-back and spacing requirements for a well producing from a pool at or below 4,000 feet were applied. This required Beck Energy to assemble a 40-acre drilling unit, which included all of the oil & gas rights for properties located within a 500-foot radius of the proposed well.

6. The proposed Bechter #1 Well is located within approximately 350 feet of the Cuyahoga River and is located approximately 4,500 feet from a municipal water well field. The municipal water wells provide drinking water to approximately 60,000 residents living in the vicinity of Munroe Falls.

7. On April 1, 2011, Beck Energy filed an application for the mandatory pooling of the 0.41-acre area of Castle Drive into the drilling unit for the Bechter #1 Well. The inclusion of this property would increase the size of the drilling unit to 40 acres. With the inclusion of this 0.41-acre area, the drilling unit would also include the oil & gas rights associated with all properties within 500 feet of the proposed well. An amended application for mandatory pooling was filed on April 8, 2011.

8. On April 11, 2011, the Division sent to both the Clerk of the City Council for Munroe Falls and Beck Energy, a Notification of Hearing Before the Technical Advisory Council on Oil and Gas [the "TAC"]. The notification stated:

In accordance with the provisions of Section 1509.27 of the Ohio Revised Code, you are notified that the Division of [Oil and Gas] Resources Management has received an application for a Mandatory Pooling Order that concerns land in which you have an interest.

Specifically, Beck Energy Corporation has applied for a permit to drill an oil/gas well in Lot 6, Stow Township (City of Munroe Falls), Summit County, to be known as the Bechter #1. ...

Said application does qualify for consideration under Section 1509.27 for the following reasons:

1. The tracts of land that are under lease to Beck Energy Corporation contained within the proposed drilling unit are of insufficient size or shape to meet the requirements for drilling a well thereon as provided in Section 1509.24 of the Ohio Revised Code.
2. The owner, as defined in Section 1509.01(K) of the Ohio Revised Code, has been unable to form a drilling unit under agreement provided in Section 1509.26 of the Ohio Revised Code on a just and equitable basis.

3. The mineral interest owner within the proposed drilling unit identified as the Bechter #1 with the exception of .41 acres owned by the City of Munroe Falls is Beck Energy Corporation.

4. Beck Energy Corporation has been unable to negotiate with the affected landowners on a just and equitable basis under provisions of Section 1509.26 of the Ohio Revised Code, providing for voluntary pooling to form a drilling unit.

Statutes require that the Chief of the Division of [Oil & Gas] Resources Management notify all owners of land within the area proposed to be included in the Order of the filing of such application and of their right to a hearing.

A hearing on this matter has been scheduled before the Technical Advisory Council on Oil and Gas on May 10, 2011 Both the applicant and the owners of land proposed to be included in the Order are encouraged to attend the hearing. ...

(See Division's Exhibit D. Emphasis in original.)

9. On May 10, 2011, the TAC conducted a hearing. Four members of the TAC were in attendance. During this hearing, the TAC received information relative to Beck Energy's application for the mandatory pooling of 0.41 acre of Castle Drive into the drilling unit for the Bechter #1 Well. The TAC members heard statements from representatives of both the City of Munroe Falls and Beck Energy. Following these presentations, the TAC moved to recommend approval of Beck Energy's mandatory pooling application. This motion passed with the support of all four TAC members in attendance.

10. On May 12, 2011, the Division Chief issued Chief's Order 2011-18, which approved Beck Energy's application for the mandatory pooling of 0.41 acre of land, owned by Munroe Falls, into the drilling unit for the Bechter #1 Well. Chief's Order 2011-18 states in part:

An application for a Mandatory Pooling Order for drilling unit requirements for the drilling of a well in Lot 6, Stow Township (City of Munroe Falls), Summit County, Ohio to be known as the Bechter #1 was submitted by Beck Energy Corporation on April 1, 2011.

1. The drilling unit owned by the applicant is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in Section 1509.24 of the Ohio Revised Code, and the applicant has been unable to form a drilling unit under agreement as provided in Section 1509.26 of the Ohio Revised Code on a just and equitable basis.
2. As the affected mineral interest owner(s) of land within the area proposed to be included within the Order, you were notified by certified mail and regular mail of the filing of such application and of a hearing scheduled for May 10, 2011 before the Technical Advisory Council on Oil and Gas which recommends disposition of mandatory pooling requests to the Chief of the Division of [Oil and Gas] Resources Management.
3. A hearing on this matter was held before the Technical Advisory Council on Oil and Gas on May 10, 2011 at the Ohio Department of Natural Resources in Columbus, Ohio.
4. The applicant testified⁵ that reasonable attempts were made to secure all oil and gas leases in the unit so that mandatory pooling would not be necessary. The applicant further testified that all such attempts were unsuccessful.
5. After having given due consideration to all testimony presented at the hearing and all facts filed by the applicant, a determination has been made that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide for the effective development, use and conservation of oil and gas.

(See Division's Exhibit F.)

11. Munroe Falls appealed Chief's Order 2011-18 to the Oil & Gas Commission, and Chief's Order 2011-18 is the subject of this decision.

⁵ While Chief's Order 2011-18 refers to "testimony" before the TAC, witnesses at the Commission's hearing stated that the TAC did not swear in witnesses and did not permit the cross-examination of persons presenting information. (See also Division Exhibit E and Munroe Falls Exhibit J, Transcript of TAC Hearing.)

CONCLUSIONS OF LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief, if the Commission finds that the order appealed is lawful and reasonable.
2. O.R.C. §1509.27 requires the Division Chief to provide all owners of land subject to an application for mandatory pooling, the opportunity for a hearing upon such application.
3. Pursuant to O.R.C. §1509.38, the Division Chief may delegate to the TAC, the authority to conduct the hearing provided for in O.R.C. §1509.27. Following such hearing, the TAC may recommend approval or disapproval of a mandatory pooling application to the Division Chief.
4. Pursuant to O.R.C. §1509.38, five members of the TAC constitute a quorum and no action of the TAC is valid unless five members concur.
5. Munroe Falls and Beck Energy were not afforded the hearing anticipated by O.R.C. §1509.27 for the review of a mandatory pooling application.
6. The Division Chief did not receive a valid recommendation from the TAC regarding Beck Energy's application to mandatorily pool 0.41 acre of land, owned by Munroe Falls, into the drilling unit for the proposed Bechter #1 Well.
7. Due to the failure of the Division to provide a hearing, as required under the provisions of O.R.C. §1509.27, the issuance of Chief's Order 2011-18 was not consistent with law.

DISCUSSION

Ohio's oil & gas law is designed to protect both the public's interest in the conservation and efficient development of oil & gas resources, and the private property interests of those, like the Appellant, who owns land, which overlies deposits of oil & gas.

The law requires that an applicant for a drilling permit assemble a drilling unit meeting certain set-back, acreage and spacing requirements. See O.R.C. §1509.24; O.A.C. §1501:9-1-04. If an adequately-sized drilling unit cannot be established through the voluntary participation of landowner-lessors, the permit applicant may seek to mandatorily pool some non-leased lands into the drilling unit. See O.R.C. §1509.27.

The Bechter #1 Well was initially proposed to be drilled to a depth of 3,995 feet. However, based upon experience with other wells in this area, Beck Energy attempted to assemble a drilling unit consistent with a well proposed to produce from a pool located at or below 4,000 feet. For a well of this depth, O.A.C. §1501:9-1-04 requires a 40-acre drilling unit, which must also include the oil & gas rights associated with all properties located within a 500-foot radius of the proposed well.

Beck Energy attempted to obtain voluntary leases for all of the properties needed to meet the set-back, acreage and spacing requirements for the Bechter #1 Well. Twenty-one landowners voluntarily leased their oil & gas rights to Beck Energy. However, Munroe Falls chose not to lease the oil & gas rights beneath a 0.41-acre portion of Castle Drive. Inclusion of the 0.41 acre of Castle Drive into the Bechter #1 drilling unit was necessary for two reasons: (1) to achieve the required unit size of 40 acres, and (2) to include all acreage within 500 feet of the proposed well. As Beck Energy was unable to obtain a voluntary lease from the city, Beck filed an application with the Division for mandatory pooling, addressing this 0.41-acre area.

Mandatory pooling is designed to allow for mineral development on a drilling unit, which is of insufficient size and/or shape to meet the requirements of state spacing laws. Mandatory pooling is considered a tool of last resort, and is used only when sufficient size and shape cannot be voluntarily achieved. *See Chodkiewicz v. Division & Ohio Valley Energy, Mark Scoville and Jerry Esker, #788* (Oil & Gas Commission, October 31, 2008).

Mandatory pooling prevents a minority landowner, whose acreage is small but necessary to form a legal drilling unit, from disrupting the majority landowners' ability to develop their properties. It is designed not only to protect the voluntary lessors' correlative rights,⁶ but also to protect the correlative rights of the landowner whose property is pooled. Under O.R.C. §1509.27, the landowner whose property is mandatorily pooled will receive royalties, proportionate to the acreage subject to pooling, and may elect to hold a working interest in the proposed well.⁷

O.R.C. §1509.27 addresses the procedures to be employed where mandatory pooling is requested, and provides that:

The chief shall notify all owners of land within the area proposed to be included within the drilling unit of the filing of the application and of their right to a hearing. After the hearing or after the expiration of thirty days from the date notice of application was mailed to such owners, the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide effective development, use, and conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable . . .

(Emphasis added.)

⁶ "Correlative rights" is defined at O.R.C. §1509.01(I) as the "reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense."

⁷ A "working interest" would allow a landowner to participate in the profits of a successful well, subject to the payment of a share of all costs and expenses associated with the drilling and production of the well.

Traditionally, the task of conducting hearings upon applications for mandatory pooling has been delegated by the Division Chief to the Technical Advisory Council on Oil and Gas. The statutory language creating the TAC allows for such delegation:

The council, when requested by the chief of the division of [oil and gas] resources management, shall consult with and advise the chief and **perform other duties that may be lawfully delegated to it** by the chief. The council **may participate in hearings held by the chief under this chapter** and has power of approval as provided in section 1509.24 and 1509.25 of the Revised Code....

(Emphasis added. See O.R.C. §1509.38.)

In this case, the TAC scheduled and conducted a hearing to review the mandatory pooling application associated with the proposed Bechter #1 Well. Four members of the TAC were present, and these four members unanimously recommended to the Chief that mandatory pooling be allowed. However, a quorum of the TAC is defined in O.R.C. §1509.38 as follows:

Five members constitute a quorum, and no action of the council is valid unless five members concur.

As a quorum of the TAC was not present at the scheduled hearing, the action of the TAC in conducting the hearing was not valid. Thus, the hearing promised under O.R.C. §1509.27 was not provided. Moreover, as a quorum of the TAC did not participate in the review of the Bechter #1 Well mandatory pooling application, the TAC's advice and recommendation to the Division Chief was, likewise, not valid.

An issue was raised in this appeal, regarding the meaning of the phrase "the owner of the tract who also is the owner of the mineral interest," as that phrase is used in O.R.C. §1509.27.⁸

⁸ In June 2010, O.R.C. §1509.27 was amended. The language "the owner of the tract who also is the owner of the mineral interest" replaced the word "owner" in that statute. The word "owner" is defined at O.R.C. §1509.01(K) as: "the person who has the right to drill on a tract of drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others" Prior to 2010, the "owner" identified in O.R.C. §1509.27 was interpreted to be the "owner" as defined in O.R.C. §1509.01(K).

Because the Commission has determined that the Chief's review of the Bechter #1 Well mandatory pooling application was inconsistent with law, due to the failure of a quorum of TAC members to hear, review and make a recommendation regarding this application, the Commission need not decide whether Beck Energy qualifies as an "owner" under the current language of O.R.C. §1509.27. The Commission, however, notes that the General Assembly's inclusion of additional language in O.R.C. §1509.27 must be viewed as having some significance. Clearly, the General Assembly has attempted to somehow qualify the type of "owner" who may seek mandatory pooling. Each party to this action presented its own distinct interpretation of the phrase "the owner of the tract who also is the owner of the mineral interest." Frankly, none of the interpretations presented were totally satisfactory, and it is unclear how this newly-amended language will be applied. The Commission would recommend that efforts be undertaken to clarify the meaning of this statutory language, perhaps through the addition of a specific definition of the term "the owner of the tract who also is the owner of the mineral interest."

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Commission hereby **VACATES** the Division's issuance of Chief's Order 2011-18.

Date Issued: 2/23/2012

Robert W. Chase
ROBERT W. CHASE, Acting Chair

Karen H. Fryer
KAREN H. FRYER

Jerry D. Jordan
JERRY D. JORDAN

RECUSED
M. HOWARD PETRICOFF

INSTRUCTIONS FOR APPEAL

This decision may be appealed to the Court of Common Pleas for Franklin County, within thirty days of your receipt of this decision, in accordance with Ohio Revised Code §1509.37.

DISTRIBUTION:

Jack Morrison, Jr., Thomas R. Houlihan (Via e-mail [Houlihan@amer-law.com], Fax [330-762-9918] & Certified Mail #: 91 7108 2133 3936 6718 6518)

Molly Corey, Megan DeLisi (Via e-mail [molly.corey@ohioattorneygeneral.gov & megan.delisi@ohioattorneygeneral.gov], Fax [614-268-8871] & Inter-Office Certified Mail #: 6663)

John Keller, Robert J. Krummen (Via e-mail [JKKeller@vorys.com & rjkrummen@vorys.com], FAX [614-719-4794] & Certified Mail #: 91 7108 2133 3936 6716 8507)

BEFORE THE OIL & GAS COMMISSION

CITY OF MUNROE FALLS, OHIO, :

Appellant, :

-vs- :

DIVISION OF OIL & GAS RESOURCES :
MANAGEMENT, :

Appellee, :

and :

BECK ENERGY CORPORATION, :

Intervenor. :

Appeal No. 835

Review of Chief's Order 2011-18;
(Beck Energy, Inc.; Bechter #1 Well)

INDEX OF EVIDENCE PRESENTED AT HEARING

Before: Robert Chase, Acting Chair

In Attendance: Karen Fryer, Jerry Jordan

Appearances: Jack Morrison, Jr., Thomas R. Houlihan, Counsel for Appellant City of Munroe Falls, Ohio; Molly Corey, Megan DeLisi, Assistant Attorneys General, Counsel for Appellee Division of Oil & Gas Resources Management; John Keller, Robert J. Krummen, Counsel for Intervenor Beck Energy Corporation.

WITNESS INDEX

Appellant's Witnesses:

John Husted
Brian Morley
Frank Larson
David Beck
Raymond Beck

Direct Examination; Cross Examination
Direct Examination; Cross Examination
Direct Examination; Cross Examination
Direct Examination; Cross Examination
Direct Examination; Cross Examination

Appellee's Witnesses:

Steve Opritza

Direct Examination; Cross Examination

EXHIBIT INDEX

Appellant Munroe Falls' Exhibits:

NO.	DESCRIPTION	also marked as; additional information	STATUS
A	Plat map showing dedication of Castle Drive, recorded on March 7, 1963, (1 page)		introduced through a witness at hearing, admitted
B	Magistrate's Decision, <i>State ex rel. Morrison et al. vs. Beck Energy, Inc.</i> , Summit County Common Pleas Court Case No. CV-2008-10-7089, dated May 29, 2009, (6 pages)		introduced through a witness at hearing, admitted
C	Ruling, Preliminary Injunction, <i>State ex rel. Morrison et al. vs. Beck Energy, Inc.</i> , Summit County Common Pleas Court Case No. 2011-04-1897, dated May 3, 2011, (4 pages)		introduced through a witness at hearing, admitted
D	Certified copies of Ohio EPA records regarding environmental complaints concerning Beck Energy, (21 pages)		introduced through a witness at hearing, admitted
E	Certified copies of ODNR records regarding Notices of Violation issued to Beck Energy, (82 pages)	7 th page not Bate stamped	introduced through a witness at hearing, admitted
F	Oil & Gas Leases for the Bechter #1 Drilling Unit (50 pages, 21 separate leases)		introduced through a witness at hearing, admitted
G	Ruling, Permanent Injunction, <i>State ex rel. Morrison et al. vs. Beck Energy, Inc.</i> , Summit County Common Pleas Court Case No. 2011-04-1897, dated May 26, 2011, (1 page)		introduced through a witness at hearing, admitted

H	Munroe Falls Ordinances, Chapter 721; Ordinances 721.01 - 721.09 and 721.99, (4 pages)		introduced through a witness at hearing, admitted
I	Letter, Jack Morrison (Munroe Falls) to Raymond Beck (Beck Energy), dated April 19, 2011, (2 pages)		introduced through a witness at hearing, admitted
J	Full Transcript of Technical Advisory Council Meeting, May 10, 2011, (57 pages, including index)	partial version of this transcript is marked as Appellee's Exhibit E	introduced through a witness at hearing, admitted
K	<i>Curricula Vitae</i> of Jack Morrison, Jr., (7 pages)		admitted
L	Division's Responses to Discovery Requests by Munroe Falls (documents produced by the Division of Oil & Gas Resources Management), (15 pages)		admitted
M	List of 2008 - 2010 Mandatory Pooling Applications, (5 pages)		admitted
N	Letter, David Beck (Beck Energy) to Steve Opritza (Division), dated March 30, 2011, (1 page)	included in Appellee's Exhibit A	introduced through a witness at hearing, admitted
O	Letter, David Beck (Beck Energy) to the Technical Advisory Council, dated March 30, 2011, (2 pages)	included in Appellee's Exhibit A	introduced through a witness at hearing, admitted
P	Document entitled "Attachment B," including correspondence between Munroe Falls and the Division, and between Beck Energy and Munroe Falls, (21 pages, a portion of page 2 of this exhibit was improperly copied and information is missing from the top of page 2)	similar to Appellant's Exhibit U; portions of this exhibit may be contained in Appellant's Exhibit V; portions of this document are included in Appellee's Exhibit A	introduced through a witness at hearing, admitted
Q	Document entitled "Attachment F," authorization for expenses, (2 pages)	part of Appellant's Exhibit BB and Appellee's Exhibits A & F	introduced through a witness at hearing, admitted

R	Beck Energy's Responses to Discovery Requests by Munroe Falls (documents produced by Beck Energy), (13 pages)		admitted
S	Beck Energy's Supplemental Responses to Discovery Requests by Munroe Falls (documents produced by Beck Energy), (11 pages)		admitted
T	E-Mail, John Keller (Beck Energy) to Thomas Houlihan (Munroe Falls), dated October 17, 2011, (1 page)		admitted
U	Document entitled "Attachment B," including correspondence between Munroe Falls and the Division, and between Beck Energy and Munroe Falls (23 pages)	portions of this document are included in Appellee's Exhibit A; similar to Appellant's Exhibit P	introduced through a witness at hearing, admitted
V	Document titled "Attachment B," dated April 7, 2011, (3 pages)	included in Appellee's Exhibit A; an improperly copied version of this document may be included in Appellant's Exhibit P; a similar version of this document, dated March 30, 2011 is included in Appellant's Exhibit U	introduced through a witness at hearing, admitted
W	OPEN		
X	WITHDRAWN		
Y	WITHDRAWN		
Z	OPEN		
AA	Business Cards for Jim Burhart and Jack Shuman, (2 pages)		admitted
BB	Chief's Order 2011-18, (7 pages)	last page of document is the same as second page of Appellant's Exhibit Q; similar to Appellee's Exhibit F	introduced through a witness at hearing, admitted

CC	Letter, Steve Opritza (Division) to Thomas Houlihan (Munroe Falls), dated October 21, 2010, (1 page)		introduced through a witness at hearing, admitted
DD	Chief's Order 2010-25, dated July 17, 2010, (2 pages)		admitted
EE	Chief's Order 2010-47, Affirmation of Order, dated November 9, 2010, (3 pages)	last page of this exhibit appears to be part of Appellant's Exhibit FF	admitted
FF	Chief's Order 2010-49, dated November 4, 2010, (4 pages)		admitted

Appellee Division's Exhibits:

NO.	DESCRIPTION	also marked as; additional information	STATUS
A	Permit Application; Bechter #1 Well, (45 pages)	part of this document is included in Appellant's Exhibits N, O & Q; part of this document is included in Appellant's Exhibit V; part of this document is included in Appellant's Exhibits P, U & V	introduced through a witness at hearing, admitted
B	Large Plat Map (taken from Application), (1 page)	included in Appellee's Exhibit A	introduced through a witness at hearing, admitted
B-1	Large Plat May with Drilling Unit and Pooled Acreage Highlighted, (1 page)	similar to Appellee's Exhibit B	introduced through a witness at hearing, admitted
C	Large Aerial Photos (taken from Application), (2 pages)	included in Appellee's Exhibit A	introduced through a witness at hearing, admitted

D	Notification Letter, from Steve Opritza (Division) to Whom it May Concern (including Munroe Falls and Beck Energy), regarding Technical Advisory Council Meeting, dated April 11, 2011, (6 pages)		introduced through a witness at hearing, admitted
E	Portion of the Transcript from Technical Advisory Council Meeting, May 10, 2011, (77 pages, page 16 is missing and some pages are out of order)	a full version of this transcript is Appellant's Exhibit J	introduced through a witness at hearing, admitted
F	Chief's Order 2011-18, dated May 12, 2011, (6 pages)	similar to Appellant's Exhibit BB; last page of this document is the same as second page of Appellant's Exhibit Q	introduced through a witness at hearing, admitted

Intervenor Beck Energy's Exhibits:

NO.	DESCRIPTION	also marked as, additional information	STATUS
-----	-------------	----------------------------------------	--------

A	<p>Collection of Decisions, including:</p> <ol style="list-style-type: none"> 1. Findings, Conclusions and Order of the Commission, <u>City of Munroe Falls, Ohio vs. Division and D&L Energy, Inc. Oil & Gas Commission</u>, #812, August 20, 2009 2. Decision Dismissing Appeal, <u>City of Munroe Falls, Ohio vs. Ohio State Department of Natural Resources, et al.</u>, Franklin County Common Pleas Court # 09CVF-09-14080, December 29, 2009 3. Judgment Entry, <u>City of Munroe Falls, Ohio vs. Ohio State Department of Natural Resources, et al.</u>, Franklin County Common Pleas Court # 09CVF-09-14080, January 13, 2010 4. Decision, <u>City of Munroe Falls, Ohio vs. Chief, Division of Mineral Resources Management, et al.</u>, Court of Appeals Tenth Appellate District, Franklin County # 10AP-66, September 21, 2010 <p>(21 pages)</p>		admitted , over objection of Appellant Munroe Falls
---	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------