

BEFORE THE RECLAMATION COMMISSION

AMERICAN ENERGY – UTICA, LLC,
nka ASCENT RESOURCES – UTICA, LLC,

Appellant,

-vs-

DIVISION OF MINERAL RESOURCES,
MANAGEMENT,

Appellee,

and

MURRAY ENERGY CORPORATION, *et al.*,

Intervenors.

Case No. RC-15-005

Review of Chief's Decision re: Gatti #1
Well (Murray Energy Corporation, *et al.*)

FINAL ORDER OF THE COMMISSION

Appearances: John K. Keller, Peter A. Lusenhop, Michael J. Settineri, Timothy J. Cole, Counsel for Appellant American Energy – Utica, *nka* Ascent Resources – Utica, LLC; Brett Kravitz, Brian Becker, Assistant Attorneys General, Counsel for Appellee Division of Mineral Resources Management; Mark S. Stemm, Christopher J. Baronzzi, Counsel for Intervenors Murray Energy Corporation, *et al.*

FINDINGS, CONCLUSIONS

On June 26, 2015, Appellant American Energy - Utica, now known as Ascent Resources - Utica ["Ascent"] filed with the Reclamation Commission a *Notice of Appeal* from a decision rendered by the Chief of the Division of Mineral Resources Management ["DMRM"]. This decision addressed an application to drill an oil & gas well in Goshen Township, Belmont County, Ohio. The drilling application was filed by Ascent. The well is known as the Gatti #1 Well, and is proposed to be drilled in a coal bearing township. The DMRM Chief disapproved Ascent's application to drill the Gatti #1 Well, finding:

[Ascent] is proposing a well site in Murray Energy's reserves that will be mined by the longwall method. The proposed well location is in a longwall panel that currently is projected for mining by the Murray Energy subsidiary American Energy, Century Mine.

(DMRM Chief Erdos' June 4, 2015 letter to Division of Oil & Gas Resources Management Chief Richard Simmers.)

Murray Energy Corporation, or its subsidiaries, intends to mine the coal reserves in the area of the proposed Gatti #1 Well. On July 20, 2015, Murray Energy Corporation, American Energy Corporation, Consolidated Land Company and The Ohio Valley Coal Company [the "Murray Companies"] filed a *Petition to Intervene as Full Parties*. On August 20, 2015, the Commission **granted** the Murray Companies intervenor status, as full-parties to this appeal.

Ascent's *Notice of Appeal* raised four grounds for review by this Commission. Ascent asserts that the DMRM Chief's disapproval of the Gatti #1 drilling application was arbitrary, capricious, and/or inconsistent with law, contending:

1. That the Murray Companies are not the owners or lessees of an "affected mine" that would be entitled to notice and a right to object to Ascent's drilling application. Therefore, Ascent asserts that the DMRM Chief had no authority to consider objections filed by the Murray Companies when making a determination relative to Ascent's drilling application.
2. That the Murray Companies' objections to Ascent's drilling application were untimely submitted and should not have been considered by the DMRM Chief.
3. That the DMRM Chief's decision disapproving Ascent's drilling application was untimely rendered. Therefore, Ascent asserts that its drilling application should have been approved.
4. That the Murray Companies' objections to Ascent's drilling application were not well-founded.

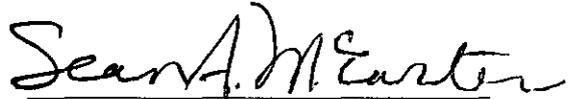
On August 14, 2015, the Murray Companies filed a *Motion for Summary Judgment and to Narrow the Issues for Hearing*. The Murray Companies argued that the sole issue properly before the Commission was ground 4, which ground questions whether the DMRM Chief correctly determined that the Murray Companies established "well-founded objections" to Ascent's application to drill an oil & gas well in coal reserves to be mined by the Murray Companies.

On September 30, 2015, the Commission issued an *Order of the Commission Granting Intervenors' Motion for Summary Judgment*. Through this order, the Commission granted summary judgment as to Ascent's grounds 1, 2 and 3. The Commission intended to proceed to hearing on Ascent's ground 4 (the "well-founded objection" issue).

On October 5, 2015, Appellant Ascent filed a *Notice of Voluntary Partial Dismissal*, voluntarily dismissing ground 4 from the Commission's consideration, and reserving its right to appeal the Commission's September 30, 2015 order on summary judgment as to ground 1 of its appeal.

Pursuant to Ohio Administrative Code §1513-3-17, case number RC-15-005 is hereby **CLOSED**, without further action required by the Reclamation Commission.

10/6/2015
DATE


SEAN A. McCARTER
Chairman, Reclamation Commission

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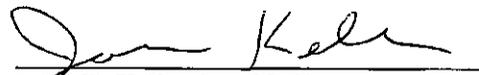
BEFORE THE STATE OF OHIO
RECLAMATION COMMISSION

RECLAMATION COMMISSION

AMERICAN ENERGY - UTICA, LLC,)	Appeal No. RC-15-005
)	
<i>Appellant,</i>)	Review of Chief's Decision re:
)	Gatti #1 Well (American Energy - Utica, LLC)
)	Permit Application No. aPATT027373
)	
v.)	
)	APPELLANT ASCENT RESOURCES'
)	NOTICE OF VOLUNTARY PARTIAL
OHIO DIVISION OF MINERAL)	DISMISSAL
RESOURCES MANAGEMENT, <i>et al.</i>)	
)	
<i>Appellee.</i>)	

Pursuant to Ohio Revised Code § 1513.13 and Ohio Administrative Code § 1513-3-17, Appellant, Ascent Resources - Utica, LLC f/k/a American Energy - Utica, LLC ("Ascent Resources"), hereby dismisses this matter with respect to ground for appeal #4 only. This notice of dismissal does not apply to ground for appeal #1 and Ascent Resources respectfully reserves the right to appeal the Commission's September 30, 2015 decision with respect to the same.

Respectfully submitted,



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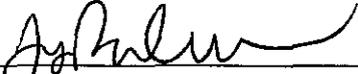
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 5th day of

October 2015, via e-mail, upon the following:

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