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November 14, 2011

George A. Patterson III
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Honorable Rory L. Perry
Clerk of the West Virginia Supreme Court of Appeals
Capitol Complex
Building 1, Room E-317
Charleston, West Virginia 25305

Re: *James Martin, et al. v. Matthew L. Hamblet*
Docket No. 11-1157

Dear Mr. Perry:

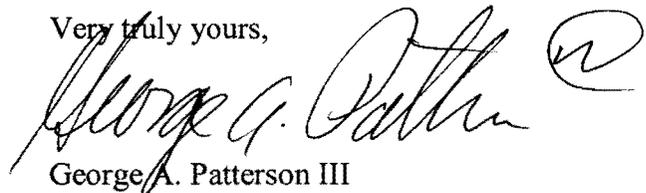
Enclosed are the original and ten (10) copies of:

(1) The Independent Oil and Gas Association of West Virginia, Inc.'s Motion Pursuant to Rule 30(d) of the West Virginia Rules of Appellate Procedure for Leave to File Brief and Argue as *Amicus Curiae* in Response to Position of the West Virginia Surface Owners' Rights Organization, and

(2) Rule 30 Notice of Intent to File *Amicus Curiae* Brief on behalf of the Independent Oil and Gas Association of West Virginia, Inc.

We respectfully request that you file the papers enclosed in the Supreme Court's file for the matter noted above. Please call 304 347 2146 if we may be of any assistance whatsoever.

Very truly yours,



George A. Patterson III

GAP/bdc

Honorable Rory L. Perry
November 11, 2011
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Enclosures

cc: David McMahon, J.D., Esquire
Joseph L. Jenkins, Esquire
Richard L. Gottlieb, Esquire
Cynthia J. T. Loomis, Esquire

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

NO. 11-1157

JAMES MARTIN, IN HIS OFFICIAL CAPACITY AS DIRECTOR, OFFICE OF OIL AND GAS, WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION; OFFICE OF OIL AND GAS, WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND EQT PRODUCTION COMPANY,

Respondents Below/Petitioners,

v.

MATTHEW L. HAMBLET,

Petitioner Below/Respondents.

INDEPENDENT OIL AND GAS ASSOCIATION OF WEST VIRGINIA INC.'S MOTION PURSUANT TO RULE 30(d) OF THE WEST VIRGINIA RULES OF APPELLATE PROCEDURE FOR LEAVE TO FILE BRIEF AND ARGUE AS *AMICUS CURIAE* IN RESPONSE TO WEST VIRGINIA SURFACE OWNERS' RIGHTS ORGANIZATION AND IN SUPPORT OF PETITIONER

On November 4, 2011, the West Virginia Surface Owners' Rights Organization Incorporated ("WVSORO") filed in this Court a Motion to Intervene as a Respondent in this matter. WVSORO wishes to represent the interests of many additional surface owners who may be affected by this case, and to provide a fuller perspective and fuller articulation of the issues. The Independent Oil and Gas Association of West Virginia, Inc. ("IOGA") is an association of independent oil and gas producers with over 650 members who are vitally interested in issues affecting ownership and production of oil and gas in our State. IOGA, by brief and argument, participated in the *State ex Rel. Lovejoy v. Callaghan*, 576 S.E.2d 246, 213 W. Va. 1 (2002), the case relied upon by the Circuit Court below. IOGA seeks leave of this Court to respond to WVSORO, and participate by brief and argument in this Court's consideration of the Certified Question

formulated by the Circuit Court below. IOGA is focused on issues affecting oil and gas producers and has an interest in this case because it may have a direct impact on the oil and gas well permitting process, which directly affects the business interests of IOGA members. An *amicus curiae* brief is desirable because IOGA is uniquely positioned to represent the interests of its membership, advocating from the standpoint of the effect this Court's decision will have on the production industry, and not just the interest of the petitioner. Accordingly, pursuant to Rule 30(d) of the Revised Rules of Appellate Procedure for the Supreme Court of Appeals of West Virginia, IOGA respectfully requests leave of this Court to file an *amicus curiae* brief and argue in response to any position expressed by WVSORO and in support of the petition of EQT Production Company ("Petitioner"). If this request is untimely, IOGA requests leave to file out of time. IOGA requests that it be permitted to file its brief at the time for filing a response to the position expressed by WVSORO herein.

On behalf of its members, IOGA seeks to file a brief as *amicus curiae* in support of the Petitioner because the ruling of the Circuit Court of Doddridge County has significant implications on the oil and gas industry throughout the state of West Virginia. Should the Circuit Court be permitted to review the West Virginia Department of Environmental Protection, Office of Oil and Gas's issuance of well work permits for horizontal Marcellus wells at the request of a surface owner, clear and unambiguous statutory language will be ignored and the permitting process for present and future wells will be unreasonably delayed. Needless permit litigation, and unnecessary delay will result in substantial losses to the industry and the State of West Virginia.

For these reasons, and any other reasons apparent to the Court, the Independent Oil & Gas Association of West Virginia, Inc., respectfully requests leave to file and argue as *amicus curiae* in opposition to WVSORO and in support of EQT Production Company's Petition.

INDEPENDENT OIL & GAS ASSOCIATION OF
WEST VIRGINIA, INC.

A handwritten signature in black ink, appearing to read "George A. Patterson, III", with a large, stylized flourish at the end.

By Counsel

George A. Patterson, III (State Bar No. 2831)

H. Hampton Rose, IV (State Bar No. 11738)

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CERTIFICATE OF SERVICE

I, George A. Patterson, III, counsel for the Independent Oil & Gas Association of West Virginia, Inc., do hereby certify that I have served “Independent Oil & Gas Association’s Motion for Leave to File Brief as *Amicus Curiae* in Support of EQT Production Company’s Petition” this 14th day of November, 2011, by mailing a true and exact copy thereof by United States mail, postage prepaid upon the following persons:

David McMahon, J.D., Esquire
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Counsel for West Virginia Surface Owners’ Right Organization

Joseph L. Jenkins, Esquire
Senior Counsel, Office of Legal Services
West Virginia Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304
*Counsel for James Martin, in his official capacity as Director, Office of Oil and Gas, West Virginia Department of Environmental Protection;
Office of Oil and Gas, West Virginia Department of Environmental Protection*

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Counsel for EQT Production Company

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104 Chancery Street
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West Union, WV 26456
Counsel for Matthew L. Hamblet



George A. Patterson, III

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

JAMES MARTIN, IN HIS OFFICIAL
CAPACITY AS DIRECTOR, OFFICE OF OIL
AND GAS, WEST VIRGINIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION;
OFFICE OF OIL AND GAS, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION; AND EQT PRODUCTION
COMPANY,

Respondents Below/Petitioners,

v.

Docket No. 1157

MATTHEW L. HAMBLET,

Petitioner Below/Respondent.

RULE 30 NOTICE OF INTENT TO FILE AMICUS CURIAE BRIEF

Pursuant to Rule 30 of the West Virginia Rule of Appellate Procedure, the Independent Oil and Gas Association of West Virginia, Inc., gives notice that it intends to file a brief *amicus curiae* herein in Opposition to the West Virginia Surface Rights Organization and in support of the position of the Petitioners herein.



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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**JAMES MARTIN, IN HIS OFFICIAL
CAPACITY AS DIRECTOR, OFFICE OF OIL
AND GAS, WEST VIRGINIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION;
OFFICE OF OIL AND GAS, WEST VIRGINIA
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v.

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MATTHEW L. HAMBLET,

Petitioner Below/Respondent.

CERTIFICATE OF SERVICE

I, George A. Patterson, III, counsel for the Independent Oil & Gas Association of West Virginia, Inc., do hereby certify that I have served the Rule 30 Notice of Intent to File Amicus Curiae Brief on the following parties this 14th day of November, 2011, by mailing a true and exact copy thereof by United States mail, postage prepaid upon the following persons: at the addresses set forth below:

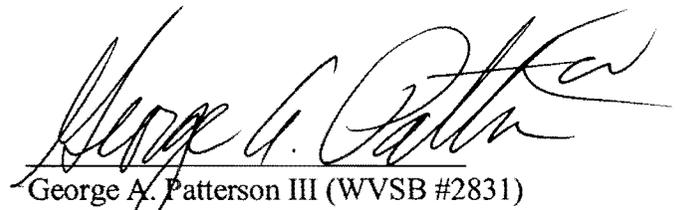
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