

HORSEHEADS CENTRAL SCHOOL DISTRICT

September 29, 2016

TO: Board of Education

FROM: Conrad R. Wolan, Esq., School Attorney

SUBJECT: Settlement of Anschutz Exploration Corporation v. County of Chemung, et al.

Pertinent Information

Anschutz Exploration Corporation (“Anschutz”) is the owner of the “Ruger Economic Unit” natural gas well, identified on the Tax Map of the Town of Horseheads as 49.00-1-6.1/1., and the “CAH Economic Unit” natural gas well, identified on the Tax Map of the Town of Horseheads as 49.01-5-11.11/1. On May 5, 2016, Anschutz filed a Verified Petition in Chemung County Supreme Court (Index No. 2016-1465) alleging that an earlier determination made by the County, Town, and School District to deny a refund of taxes was erroneous. Anschutz specifically outlined several perceived errors in the original calculation of the assessment.

Anschutz alleges that the 2014 assessment for the Ruger Economic Unit should have been \$1,692,233 (actual: \$4,124,523) and for the CAH Economic Unit, \$4,127,837 (actual: \$8,281,643). The Petition requested a refund from the School District for 2014-2015 taxes in the amount of \$126,307.74. The District contested the Anschutz Petition and participated in an oral argument before the Chemung County Supreme Court on June 17, 2016. The Court reserved its decision, which has not yet been rendered.

Evaluation/Analysis

New York law provides that oil and gas economic units such as the Ruger and the CAH shall be assessed on an annual basis by multiplying three factors (actual production volume; a per-unit value set by the state; and an equalization rate set by the state). Anschutz asked the Court to revise all three components of the calculation to reflect updated numbers. It can be argued that the assessor should have used updated numbers from the state, but it appears after investigation that the taxpayer could have provided its updated production numbers in a more timely manner. There is no dispute as to the propriety of the numbers; rather, the dispute focuses on the availability of those numbers at the time of the assessment calculation.

The taxpayer has proposed settlement by compromising on two of the three factors (the unit value set by the state and the equalization rate set by the state). While the taxpayer was originally seeking a refund from the School District of approximately \$126,000, revision of only these two components would lead to a refund of \$93,380.39. The other Respondents have tentatively agreed to this recalculation.

There is a material risk to the District that a decision from the Court would lead to a full refund. This settlement resolves the overall risk by fairly allocating responsibility for the use of allegedly outdated figures. As usual, the School District did not have an appreciable role in determining the assessment; however, the District will be responsible for a refund based on any revisions. Based on our review, this settlement is prudent.

Recommended Resolution

That the Board of Education hereby authorizes settlement of the above-referenced proceeding on the terms outlined above; authorizes refunds as required by law; authorizes appropriation of necessary amounts from the tax certiorari reserve; and authorizes and directs the Board President, Superintendent, and School Attorney to take all actions necessary to effectuate the foregoing resolutions.