

NOV 07 2002

SECRETARY, BOARD OF  
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR )  
AGENCY ACTION OF LONE MOUNTAIN )  
PRODUCTION COMPANY FOR AN ORDER )  
DOWNSPACING EXISTING 320-ACRE )  
SPACING TO TWO 160-ACRE (OR )  
SUBSTANTIAL EQUIVALENT THEREOF) )  
SPACING UNITS FOR THE PRODUCTION OF )  
GAS FROM THE DAKOTA AND MORRISON )  
FORMATIONS IN PORTIONS OF TOWNSHIP )  
16 SOUTH, RANGE 26 EAST, SLM, )  
GRAND COUNTY, UTAH )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

Docket No. 2002-016  
Cause No. 107-05

This cause came regularly for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, October 23, 2002, at the hour of 1:30 p.m. in Salt Lake City, Utah. The following Board members were present and participated at the hearing:

- Elise Erler, Chairman
- Robert J. Bayer
- Stephanie Cartwright
- Douglas E. Johnson
- Kent Petersen
- Jim Peacock

Attending and participating on behalf of the Division of Oil, Gas and Mining ("DOGMA") was John Baza, Associate Director-Oil and Gas. The Board and DOGMA were represented by Kurt E. Seel and Steven F. Alder, Assistants Attorney General,

respectively. Attending and participating on behalf of the Bureau of Land Management (“BLM”) was Robert Henricks, Chief-Branch of Fluid Minerals, Utah State Office.

Thomas W. Bachtell, Esq., with the law firm of Pruitt, Gushee & Bachtell, appeared on behalf of Petitioner Lone Mountain Production Company (“Lone Mountain”). Also appearing on behalf of Lone Mountain were Angie Weber, Land and Title Analyst with GeoScout Land & Title Company, Salt Lake City, Utah and James G. Routson, Petroleum Engineer and President of Lone Mountain. Mr. Routson was admitted by the Board as an expert in his professional field. Lone Mountain introduced testimony and exhibits in support of its petition, and questions were addressed to Lone Mountain’s witnesses and attorney.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause appearing, hereby makes the following findings of fact, conclusions of law, and order.

#### **FINDINGS OF FACT**

1. Lone Mountain is a Montana corporation in good standing and authorized to conduct business in the State of Utah.
2. This matter came on before the Board as a formal adjudication governed by the procedural requirement of the Utah Administrative Procedures Act, Utah Code Ann. § 634-46b-1 *et seq.* (1953, as amended) (“UAPA”). As may be required by UAPA, this Order shall serve as the Board’s written ruling on the issues set forth herein.

3. The purpose of the proceeding was for the Board to receive testimony and evidence and to make findings as to whether the Board should enter an order to:

- (a) Modify its previous orders in Cause Nos. 107-1 and 107-2 insofar as they cover the below described lands located in Grand County, Utah, to downspace the lands from 320-acre drilling and spacing units to 160-acre drilling and spacing units (or substantial equivalent thereof) in the Dakota and Morrison geological formations.

Township 16 South, Range 26 East, SLM

- Section 4: Lots 1 (32.90 acres),  
2 (40.68 acres), 3 (32.63  
acres), 4 (32.98 acres) and  
5 (33.33 acres), SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,  
W<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> [All]
- Section 5: Lots 1 (40.63 acres),  
2 (40.64 acres), 3 (40.66  
acres) and 4 (40.67 acres),  
S<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>, S<sup>1</sup>/<sub>2</sub> [All]
- Section 6: Lots 1 (40.60 acres),  
2 (40.42 acres), 3 (40.26  
acres) and 4 (40.08 acres),  
S<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>, S<sup>1</sup>/<sub>2</sub> [All]
- Section 7: All
- Section 8: All
- Section 9: Lots 1 (33.58 acres),  
2 (33.74 acres), 3 (33.9  
acres) and 4 (34.06 acres),  
W<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub> [All]
- Section 17: All
- Section 18: E<sup>1</sup>/<sub>2</sub>

(containing 4,111.76 acres, more or less)

hereinafter the "Subject Lands";

- (b) To provide that each such unit shall be comprised of the governmental quarter section (or lots and quarter-quarter sections substantially comprising the same);
- (c) Designating the “Existing Wells” as the unit well for the 160-acre drilling and spacing unit in which they are located;
- (d) Making such findings and orders in connection with Lone Mountain’s Request as it deems necessary; and
- (e) To provide for such other and further relief as may be just and equitable under the circumstances.

4. Lone Mountain identified eleven (11) “Existing Wells” on the Subject Lands as follows:

<u>Well</u>	<u>Bottom Hole Location</u>
(1) MOXA Federal A-1 (API # 4301930792)	NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 4
(2) Credo Federal 1 (API # 4301930797)	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> , Section 5
(3) Credo Federal A-1 (API # 4301930798)	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , Section 5
(4) BMG Federal 5 (API # 4301931131)	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> , Section 7
(5) BMG Federal 1 (API # 4301931017)	NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , Section 8
(6) BMG Federal 2 (API # 4301931108)	SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 8
(7) MOXA Federal 1 (API # 4301930698)	NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 9
(8) BMG Federal 7 (API # 4301931183)	NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> , Section 17
(9) Federal 9 (API #4301931351)	NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> , Section 17
(10) BMG Federal 4 (API # 4301931130)	NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , Section 17
(11) BMG Federal 3 (API # 4301931114)	NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> , Section 18

5. Evidence was submitted that the Board had previously issued two orders in Cause No. 13-6 for land near and adjacent to the Subject Lands to provide for 160-acre

drilling and spacing units for production of natural gas from the Dakota and Morrison formations.

6. The Board took notice at the request of Lone Mountain that the Order in Cause No. 13-6 provided new well siting in such units to be at a point not less than 500 feet from the unit boundaries and 2,000 feet from other wells producing from the Dakota and Morrison formations, with a 200 foot tolerance to each requirement to be administratively approved by DOGM.

7. Evidence was also submitted that the BLM administers the nearby San Arroyo Federal Oil and Gas Unit and has approved numerous well drilling and production locations equivalent to 160-acre drilling and spacing units for production of natural gas from the Dakota and Morrison formations.

8. The Subject Lands are owned exclusively by the United States of America and administered by the BLM. Two federally issued oil and gas leases cover the entire area.

9. After hearing the evidence, the BLM representative informed the Board on the record that the BLM was in favor of the Board granting Lone Mountain's Request for Agency Action.

10. After hearing the evidence, DOGM's Associate Director of Oil and Gas recommended that the Board grant Lone Mountain's Request for Agency Action.

11. A copy of the Request for Agency Action was mailed to all companies, persons and governmental agencies known to own or administer a legally protected interest which could be affected by Lone Mountain's Request for Agency Action in this matter.

12. Notice was duly published as required by Utah Admin. Code R641-106-100.

13. The vote of the Board members present at the hearing and in this Cause was unanimous.

#### CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purpose of the hearing was properly given to all interested parties in the form and manner as required by law and the rules and regulations of the Board and DOGM.

2. The Board has jurisdiction over all matters covered by the Request for Agency Action and all interested parties therein, and has the power and authority to render the Order herein set forth pursuant to Utah Code Ann. § 40-6-5(3).

3. The sufficiency and weight of the evidence presented at the hearing by Lone Mountain supported the Request for Agency Action.

4. One well will efficiently and economically drain approximately 160 acres of natural gas produced from the Dakota and Morrison formations underlying the Subject Lands.

5. Granting the Request for Agency Action will allow for the orderly development of the Subject Lands and provide for a greater ultimate recovery of natural gas under the common source of supply in the Dakota and Morrison formations.

6. Granting the Request for Agency Action will also promote the public interest, prevent the drilling of unnecessary wells, prevent waste, protect the correlative rights of all affected parties, and is just and reasonable.

### **ORDER**

Based upon the Request for Agency Action, testimony and evidence submitted, and the Findings of Fact and Conclusions of Law stated above, the Board hereby orders:

1. The Orders in Cause Nos. 107-1 and 107-2 insofar as they cover the Subject Lands are modified to authorize 160-acre (or substantial equivalent) drilling and spacing units for the development and production of natural gas from the Dakota and Morrison formations.

2. The permitted additional wells should be located no closer than 2,000 feet from other wells completed in and producing gas and associated hydrocarbons from the Dakota and Morrison formations and no closer than 500 feet from the exterior boundary of the 160-acre, more or less, drilling and spacing unit, with a 200 foot tolerance to each which may be granted administratively by DOGM pursuant to Utah Admin. Code R649-3-3.

3. All of the “Existing Wells” referred to hereinabove are deemed lawful at the locations at which they are drilled, and are designated as the unit well for the approved drilling and spacing units in which they are located.

4. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63-46b-10(e) to -10(g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. § 63-46b-14(3)(a) and -16. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63-46b-13, entitled “Agency review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

*Id.* The Board also hereby notifies the parties that Utah Admin. Code R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10<sup>th</sup> day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15<sup>th</sup> day of that month.

*Id.* See Utah Admin. Code R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in the Utah Code Ann. § 63-46b-13 and the deadline in Utah Admin. Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

5. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this Order by the Utah Supreme Court.

6. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this 7<sup>th</sup> day of <sup>November</sup>~~October~~, 2002.  
EL

STATE OF UTAH  
BOARD OF OIL, GAS & MINING

By: Elise Erlar  
Elise Erlar

5. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this Order by the Utah Supreme Court.

6. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this \_\_\_\_ day of October, 2002.

STATE OF UTAH  
BOARD OF OIL, GAS & MINING

By: \_\_\_\_\_  
Elise Erler

**CERTIFICATE OF MAILING**

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Docket No. 2002-016, Cause No. 107-05 to be mailed with postage prepaid, this 15<sup>th</sup> day of November, 2002, to the following:

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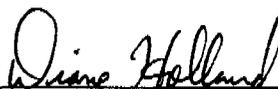
J. G. Turner, Jr. Trust (Undeliverable)  
1900 Mercantile  
Dallas, TX 75201

J. Glenn Turner, Jr.  
3838 Oak Lawn, Suite 1600  
Dallas, TX 75219

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William G. Webb  
806 Cordova  
Dallas, TX 75223

Dean Wright, IRA (Undeliverable)  
Broadwater & 5th Str. West  
Billings, MT 59101

  
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