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

**JAN 14 2000
SECRETARY, BOARD OF
OIL, GAS & MINING**

IN THE MATTER OF THE REQUEST FOR)
AGENCY ACTION OF EOG RESOURCES,)
INC. FOR AN ORDER MODIFYING)
AND/OR VACATING THE SPACING)
ORDERS IN CAUSE NOS. 173-1, 173-2,)
173-6, 173-7, 173-9-S, 173-13 AND 187-2 (AS)
AMENDED BY THE ORDERS IN CAUSE)
NOS. 187-3 AND 187-4) TO PROVIDE FOR)
THE DRILLING OF ADDITIONAL WELLS)
TO ACHIEVE A WELL DENSITY)
EQUIVALENT TO 40-ACRE WELL)
SPACING FOR DEVELOPMENT AND)
PRODUCTION OF GAS AND ASSOCIATED)
HYDROCARBONS FROM THE WASATCH-)
MESAVERDE OR WASATCH FORMATION,)
AS APPLICABLE, IN THE OURAY FIELD)
AREA IN UINTAH COUNTY, UTAH)

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

Docket No. 99-014
Cause No. 173-16

This cause came on regularly for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, December 8, 1999, at the hour of 10:00 a.m. in Salt Lake City, Utah. The following Board members were present and participated at the hearing:

- Dave D. Lauriski, Chairman
- Raymond Murray
- Thomas B. Faddes
- Elsie L. Erler
- W. Allan Marshburn
- Jim Peacock
- Stephanie Cartwright

Attending and participating on behalf of the Division of Oil, Gas and Mining ("DOGM") was John Baza, Associate Director—Oil and Gas. The Board and DOGM were represented by Thomas A. Mitchell, Esq. and Patrick J. O'Hara, Esq., Assistant Attorneys 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, and Jerry Kenczka, Petroleum Engineer, Vernal Field Office. Attending and participating on behalf of the Bureau of Indian Affairs ("BIA") was Diane Mitchell, Fort Duchesne, Utah.

Thomas W. Bachtell, Esq., with the law firm of Pruitt, Gushee & Bachtell, appeared on behalf of Petitioner EOG Resources, Inc. ("EOG"). Also appearing on behalf of EOG were Toni Lei Miller, Project Landman, Bill Hobbs, Geologist, and Anthony Krupa, Petroleum Engineer. Messrs. Hobbs and Krupa were admitted by the Board as experts in their respective professional fields. EOG introduced testimony and exhibits in support of its petition, and questions were addressed to EOG'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. EOG is a Delaware 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. § 63-46b-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) Vacate the Orders in Cause Nos. 173-1, 173-2, 173-6, 173-7, 173-9-S, 173-13 and 187-2 (as amended by the Orders in Cause Nos. 187-3 and 187-4) insofar as said Orders cover the following lands:

Township 8 South, Range 21 East, SLM

- Section 19: S½
- Section 22: S½
- Section 24: S½
- Section 25: All
- Section 26: All
- Section 27: All
- Section 28: All
- Section 29: All
- Section 30: All
- Section 31: N½
- Section 32: N½

Township 8 South, Range 22 East, SLM

Section 32: All

Section 33: All

Township 9 South, Range 20 East, SLM

Section 2: S $\frac{1}{2}$

Section 3: S $\frac{1}{2}$

Section 4: S $\frac{1}{2}$

Section 8: N $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$

Section 9: All

Section 10: All

Section 11: All

Section 16: S $\frac{1}{2}$

Section 17: All

Township 9 South, Range 22 East, SLM

Section 4: N $\frac{1}{2}$

Section 5: S $\frac{1}{2}$

Section 6: S $\frac{1}{2}$

- (b) Authorize the drilling of the Duck Creek 70-9 well in its presently staked location approximately 1,037' FNL and 896' FEL in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 9 South, Range 20 East, SLM, as an off-pattern well;
- (c) Modify the Orders in Cause Nos. 173-1, 173-2, 173-9-S and 187-2 to authorize the drilling of additional wells up to a total of eight (8) wells in each drilling unit comprising a communitized area by establishing a well density equivalent to 40-acre spacing within each 320-acre, more or less, drilling unit for the development and production of gas and associated hydrocarbons from the Wasatch-

Mesaverde or Wasatch formation, as applicable, insofar as said

Orders cover the following lands:

Township 8 South, Range 21 East, SLM

Section 33: N $\frac{1}{2}$

Section 34: N $\frac{1}{2}$

Township 9 South, Range 20 East, SLM

Section 16: N $\frac{1}{2}$

Township 9 South, Range 22 East, SLM

Section 5: N $\frac{1}{2}$

The permitted additional wells to be located no closer than 920' from other wells completed in and producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, and no closer than 460' from the exterior boundary of the 320-acre, more or less, drilling unit, or such other location on the described lands as may be granted administratively pursuant to Utah Administrative Code R649-3-3;

- (d) Include provisions for granting administrative approval for exception well locations for topographical, environmental, and archeological considerations and when "no surface occupancy" stipulations imposed by the landowners prohibit drilling at a legal location, without the necessity of a full hearing before the Board;

- (e) Find that all of the existing wells on the lands described above in subparagraphs (a) and (c) which are producing or capable of producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, will each drain an average area of 40 acres or less, and that the locations at which they are drilled are approved and deemed lawful consistent with the Board's ruling;
- (f) Make such findings and orders in connection with EOG's Request for Agency Action as the Board deems necessary; and
- (g) Provide for such other and further relief as may be just and equitable under the circumstances.

4. A comment was made by the BIA representative and acknowledged by the Board that the BIA questions the validity of the Indian Allotted Oil and Gas Lease BIA No. 14-20-462-941 covering lands only insofar as they relate to the S $\frac{1}{2}$ SW $\frac{1}{4}$ (Lot 7 and SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 6, Township 9 South, Range 22 East, SLM. EOG respectfully disagreed with the position taken by the BIA, but acknowledged to the Board that it was only recently made aware of the BIA's position, and that title to the lands or validity of any oil and gas lease was not an issue before the Board, and would be addressed and resolved at a later time between the parties.

5. Evidence was presented by EOG and accepted by the Board that the Duck Creek 70-9 well had at the time of the hearing, already been drilled at the stated location, in compliance with the then existing Order of the Board. The Board approved EOG's motion to amend the Request for Agency Action to recognize this well as a lawful location.

6. EOG presented testimony addressing:

- (a) Identification of the lands subject to the Request;
- (b) The history of Orders of the Board affecting the identified lands;
- (c) A definition of the geologic intervals spaced in the Board Orders;
- (d) Support for a well density, based on drainage, equivalent to 40-acre well spacing for the development and production of gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, underlying the identified lands;
- (e) That authorizing future drilling to proceed on a well density equivalent to 40-acre spacing under the general state-wide well location rule codified at Utah Admin. Code R649-3-2 on the identified lands not then communitized for the development and production of gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, would promote

the public interest, increase ultimate recovery, prevent waste and protect correlative rights of all owners;

(f) That authorizing a well density equivalent to 40-acre spacing within the identified 320-acre drilling units on the identified lands then covered by existing communization agreements for the development and production of gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, would also promote the public interest, increase ultimate recovery, prevent waste and protect the correlative rights of all owners, providing that the permitted additional wells shall be located no closer than 920' from other wells completed in and producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, and no closer than 460' from the exterior boundary of the 320-acre, more or less, drilling unit, or other such location on the identified lands as may be granted administratively pursuant to Utah Admin. Code R649-3-3;

(g) That provision should be made for granting administrative approval for exception well locations for the identified lands for topographical, environmental, and archeological considerations and when "no surface occupancy" stipulations imposed by the

landowners prohibit drilling at a legal location, without the necessity of a full hearing before the Board; and

- (h) That all existing wells on the described lands, including the Duck Creek 70-9 well, which are producing or capable of producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, will each drain an average area of 40 acres or less, and that the locations at which the wells are drilled are approved and deemed to be lawful locations.

7. After hearing the evidence, the BLM representative informed the Board on the record at the hearing that it was in favor of the Board granting EOG's Request for Agency Action, as amended.

8. After hearing the evidence, DOGM's Associate Director of Oil and Gas recommended that the Board grant EOG's Request for Agency Action, as amended.

9. 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 EOG's Request for Agency Action in this matter.

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

11. The Chairman of the Board identified three separate letters in support of the Request for Agency Action from Chandler & Associates, LLC, Chevron U.S.A. Inc., and Coastal Oil & Gas Corporation.

12. 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 EOG supported the Request for Agency Action, as amended, including support to approve the existing Duck Creek 70-9 well location as a lawful location under the prior applicable Board Order instead of granting an off-pattern exception location as originally requested.

4. Based upon the evidence presented at the hearing, the Board determined that granting the Request for Agency Action will promote the public interest, increase

ultimate recovery of gas and associated hydrocarbons, prevent waste and protect the correlative rights of all owners.

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. 173-1, 173-2, 173-6, 173-7, 173-9-S, 173-13 and 187-2 (as amended by the Orders in Cause Nos. 187-3 and 187-4) insofar as they cover the lands described in paragraph 3(a) under Findings of Fact above, are hereby vacated.

2. The Orders in Cause Nos. 173-1, 173-2, 173-9-S and 187-2 insofar as they cover the lands described in paragraph 3(c) under Findings of Fact above, are modified to authorize the drilling of additional wells up to a total of eight (8) wells in each drilling unit for such lands, establishing a well density equivalent to 40-acre spacing within each 320-acre, more or less, drilling unit for the development and production of gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable. The permitted additional wells should be located no closer than 920' from other wells completed in and producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, and no closer than 460' from the exterior boundary of the 320-acre, more or less, drilling

unit, or such other location as may be granted administratively by the Board pursuant to Utah Admin. Code R649-3-3.

3. Provision is made for granting administrative approval for exception well locations for topographical, environmental, and archeological considerations and when “no surface occupancy” stipulations imposed by the landowners prohibit drilling at a legal location, without the necessity of a full hearing before the Board.

4. All of the existing wells on the lands referred to in paragraphs 1 and 2 immediately above which are producing or capable of producing gas and associated hydrocarbons from the Wasatch-Mesaverde or Wasatch formation, as applicable, including the Duck Creek 70-9 well, are deemed lawful at the locations at which they are drilled.

5. 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 Administrative 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 10th 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 15th day of that month.

Id. See Utah Administrative Code R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63-46b-13 and the deadline in Utah Administrative 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.

6. 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.

7. 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 13th day of January, 2000.

STATE OF UTAH
BOARD OF OIL, GAS & MINING

By: 
Dave D. Lauriski, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER for Docket No. 99-014, Cause No. 173-16 to be mailed, postage prepaid, this 14 day of January, 2000, to the following:

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