

**FILED**

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

**AUG 02 2001**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

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IN THE MATTER OF THE REQUEST FOR	)	<b>FINDINGS OF FACT,</b>
AGENCY ACTION OF SHENANDOAH	)	<b>CONCLUSIONS OF LAW AND</b>
ENERGY INC. FOR AN ORDER	)	<b>ORDER</b>
SUSPENDING RULE R649-3-2 INSOFAR	)	
AS IT APPLIES TO THE WONSITS	)	Docket No.: 2001-017
VALLEY UNIT AREA LOCATED IN	)	Cause No.: 187-06
UINTAH COUNTY, UTAH	)	

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This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, June 27, 2001, at the hour of 3:30 p.m. The following Board members were present and participated at the hearing:

Elise L. Erler, Chairman  
J. James Peacock  
W. Allan Mashburn  
Stephanie Cartwright  
Robert J. Bayer  
Kent R. Petersen and  
Douglas E. Johnson

Attending and participating on behalf of the Division of Oil, Gas and Mining ("DOGM") was John Baza, Associate Director – Oil and Gas. The Board was represented by Kurt E. Seel, Esq., Assistant Attorney General. Attending and participating on behalf of the Bureau of Land Management ("BLM") was Robert Henricks, Chief-Branch of Fluid Minerals, Utah State Office. Attending and making a statement on behalf of the Utah School and Institutional Trust Lands Administration ("SITLA") was Dave Tabet, a geologist with the Utah Geological Survey.

Testifying on behalf of Petitioner Shenandoah Energy Inc. ("Shenandoah") was M. Scott Homsher, Senior Landman, and Robert LaRocque, Geologist. Thomas W. Bachtell, Esq., of Pruitt, Gushee & Bachtell, appeared as attorney on behalf of Shenandoah.

The BLM and SITLA expressed their support of, and DOGM stated it had no material objections to, the Request for Agency Action. No statements were made at the hearing in opposition of the Request for Agency Action and no other parties appeared or participated at the hearing.

Board member Doug Johnson expressed concern that Coastal Oil & Gas Corporation was not named on the mailing list even though it owned property adjacent to the Wonsits Unit Area. Mr. Bachtell promised to provide the Board with a letter from Coastal Oil & Gas Corporation, or its successor company by merger, El Paso Corporation, waiving notice of the hearing and objection to Shenandoah's Request for Agency Action prior to the Board entering any Order granting the Request. A letter dated July 5, 2001 and received by the Board on July 12, 2001 from G.L. Miles, Jr., Director of Lands, Rocky Mountain District for El Paso Corporation, satisfied Mr. Bachtell's promise.

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

## FINDINGS OF FACT

1. Shenandoah is a Delaware corporation in good standing and authorized to conduct business in the State of Utah.

2. Shenandoah is the owner of all operating rights in the lands described below comprising the Wonsits Valley Unit:

### Township 8 South, Range 21 East, SLM

Section 1: S $\frac{1}{2}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$   
Section 2: SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$   
Section 9: SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$   
Section 10: E $\frac{1}{2}$ , SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$   
Section 11: All  
Section 12: All  
Section 13: All  
Section 14: All  
Section 15: All  
Section 16: All  
Section 21: N $\frac{1}{2}$ N $\frac{1}{2}$   
Section 22: N $\frac{1}{2}$ N $\frac{1}{2}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 23: N $\frac{1}{2}$   
Section 24: N $\frac{1}{2}$

### Township 8 South, Range 22 East, SLM

Section 7: Lots 1, 2, 3 and 4,  
E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$   
Section 8: N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ,  
N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$   
Section 17: NW $\frac{1}{4}$ NW $\frac{1}{4}$   
Section 18: Lots 1, 2, 6, 7, 8, 9 and  
10, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$   
Section 19: Lots 7 and 8

(containing 8,022.50 acres)

(hereafter the "Unit Area").

3. The lands comprising the Unit Area are currently not covered by any Board well spacing order and there are no uncommitted lands within the Unit Area.

4. The Unit Area is, however, subject to the Board's Order in Cause No. 116-1 authorizing the injection of water into all "Lower Green River Sand Reservoirs." Shenandoah did not request any modification or change to this Order.

5. The Wonsits Valley Unit Agreement covers all geologic formations in the Unit Area, and is administered by the BLM. Shenandoah serves as the Unit Operator.

6. The objective of a Federal exploratory unit is to provide for the unified development and operation of an entire geologic prospect or producing reservoir so that exploration, drilling and production can proceed in the most efficient and economical manner by one operator. Costs are reduced because the reservoir can be produced by utilizing the most efficient spacing pattern and there is no requirement to drill unnecessary offset wells. The Wonsits Valley Unit Agreement expressly requires Shenandoah, as the Unit Operator, to produce unitized substances and conduct all operations to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law.

7. Well location and density patterns within the Unit Area are determined in accordance with the terms of the Unit Agreement and, in particular, the annual plans of Unit development approved by the BLM. Drilling applications are approved by both the BLM and DOGM. Development of oil and gas in accordance with the Unit Agreement and the approved plans of Unit development is designed to be orderly, promote the greatest recovery of unitized substances, prevent waste, and to protect the correlative rights of all affected parties, is just and reasonable, and is in the public interest.

8. Until recently, it had long been DOGM's practice, if not policy, to deem operations conducted under an approved Federal exploratory unit plan of development and subsequent drilling permits issued pursuant thereto as governing well location and density, notwithstanding the existence of the general state-wide spacing rule. The majority of wells currently within the Unit Area were located and drilled in accordance with this former practice.

9. DOGM recently revised its practice and now requires Shenandoah to comply with the location requirements of the general state-wide well location rule (Utah Admin. Code Rule R649-3-2) with respect to wells within Federal exploratory unit boundaries or obtain an exception from DOGM or the Board in accordance with regulation.

10. Suspension of the requirement in Utah Admin. Code Rule R649-3-2 as to the lands within the Unit Area is fair, reasonable and justified under the circumstances; provided, however, that no future well may be drilled closer than 460 feet from the boundary of the Unit Area without administrative approval of DOGM in accordance with Utah Admin. Code Rule R649-3-3.

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 the Request for Agency Action in this matter, except for El Paso Corporation in which case the notice was waived and no objection was taken to the proposed action.

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

13. The vote of the Board members present at the hearing and in this Cause was unanimous in favor of granting the Request for Agency Action.

### 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, except to El Paso Corporation.

2. El Paso Corporation provided the Board with an appropriate waiver of notice and objection to the Request for Agency Action.

3. 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)(b) and Utah Admin. Code Rule R649-2-3.

4. The Request for Agency Action satisfies all statutory and regulatory requirements for the relief sought therein and should be granted.

### 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 Request for Agency Action in this cause is granted.

2. Utah Admin. Code Rule R649-3-2 is suspended within the Wonsits Valley Unit Area. Upon Unit contraction or termination, lands eliminated from the Unit Area shall once again become subject to Utah Admin. Code Rule R649-3-2.

3. The locations of all wells currently within the Unit Area are approved and deemed lawful.

4. No future well may be located closer than 460 feet from the boundary of the Unit Area without administrative approval of DOGM in accordance with Utah Admin. Code Rule R649-3-3.

5. The Board's Order in Cause No. 116-1 is not modified, changed or affected by this Order.

6. Pursuant to Utah Admin. Code Rule R641 and Utah Code Ann. § 63-46b-6 to -10, the Board has considered and decided this matter as a formal adjudication.

7. This Findings of Fact, Conclusion of Law and Order ("Order") is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code Rule R641-109.

8. 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 is 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 a 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 specified 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 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 Rule 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 petitioner 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 the month.

*Id.* See Utah Admin. Code Rule 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 Admin. Code Rule 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.

9. 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.

10. 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 2nd day of August, 2001.

STATE OF UTAH  
BOARD OF OIL, GAS & MINING

By: Elise L. Erler  
Elise L. Erler, Chairman

**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. 2001-017, Cause No. 187-06 to be mailed with postage prepaid, this 3 day of August, 2001, to the following:

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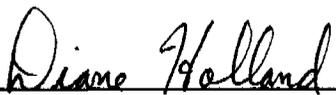
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