

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

FILED

MAR 08 2000

SECRETARY, BOARD OF
OIL, GAS & MINING

IN THE MATTER OF THE REQUEST)
 FOR AGENCY ACTION OF PATRICK)
 HEGARTY FOR AN ORDER)
 ESTABLISHING 160-ACRE (OR)
 SUBSTANTIAL EQUIVALENT)
 THEREOF) DRILLING AND SPACING)
 UNITS FOR THE PRODUCTION OF)
 GAS (INCLUDING COALBED)
 METHANE) FROM THE FERRON)
 FORMATION IN THE NORTH HALF)
 OF SECTION 5, TOWNSHIP 15)
 SOUTH, RANGE 10 EAST, SLB&M,)
 CARBON COUNTY, UTAH)
)
)
)
)
)
)

FINDINGS OF FACT, CONCLUSIONS
 OF LAW, AND ORDER
 ESTABLISHING DRILLING AND
 SPACING UNITS

Docket No. 99-016

Cause No. 243-3

This cause came on regularly for hearing (the "Hearing") before the Utah Board of
 Oil, Gas and Mining (the "Board") on Wednesday, January 26, 2000, at the hour of 10:00 a.m. in
 the Board Room of the Department of Natural Resources at 1594 West North Temple, Suite
 1040A, Salt Lake City, Utah. The following Board members were present and participated at the
 hearing:

Dave D. Lauriski, Chairman
 Raymond Murray
 Elise L. Erler
 Allan Mashburn; and
 Jim Peacock.

At the commencement of the hearing, Board member Thomas B. Faddies, citing a potential conflict of interest, recused himself and did not participate. The Board was represented by its legal counsel Assistant Attorney General Thomas A. Mitchell.

Lowell Braxton, Director; and John Baza, Associate Director, Oil and Gas attended and participated on behalf of the Division of Oil, Gas and Mining (the "Division"). The Division was represented by its legal counsel Assistant Attorney General Patrick J. O'Hara.

Petitioner Patrick Hegarty and his expert witness, Thomas Mullins, were present and testified on behalf of Petitioner. Petitioner was represented by his legal counsel H. Michael Keller of the law firm of Van Cott, Bagley, Cornwall & McCarthy.

Respondents River Gas Corporation, Texaco Exploration and Production Inc., and Dominion Reserves-Utah, Inc. were represented by their legal counsel Frederick M. MacDonald of the law firm of Pruitt, Gushee & Bachtell. Joseph L. Stephenson, Vice-President-Land of River Gas Corporation, and Richard R. Sutton, a professional landman, were present and testified on behalf of Respondents.

The Utah School and Institutional Trust Lands Administration was represented by its Special Counsel, John W. Andrews.

The Board, having fully considered the testimony adduced and the exhibits received at the Hearing, and being fully advised, and good cause appearing, hereby makes the following Findings of Fact, Conclusions of Law, and Order ("Order"):

FINDINGS OF FACT

1. By his Request for Agency Action in this matter, Petitioner requested that the Board enter an order establishing 160-acre (or substantial equivalent thereof) spacing and

drilling units for the production of gas, including, but not limited to, coalbed methane, from the Ferron Formation in the following described lands in Carbon County, Utah (hereinafter referred to as the "Subject Lands"):

Township 15 South, Range 10 East, SLB&M

Sec. 5: N $\frac{1}{2}$

(consisting of Lots 2, 3, 4, and 5 through 35, and the S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$)

being 315.84 acres, more or less. At the Hearing, Petitioner orally requested that such spacing and drilling units be established as of the respective date of first production from each of the existing wells located on the Subject Lands.

2. Notices of the time, place, and purpose of the Hearing were mailed to all interested parties by first-class mail, postage prepaid pursuant to the requirements of Utah Administrative Code ("U.A.C.") Rule R641-106-100 (1999). Copies of the Request for Agency Action were mailed to all interested parties pursuant to U.A.C. Rule R641-104-135.

3. Petitioner is a leasehold owner of 128.86 net acres, more or less, within the Subject Lands.

4. The Subject Lands are located within the boundaries of, but are not committed to, the Drunkards Wash Federal Exploratory Unit ("Drunkards Wash Unit") located in Townships 14, 15, and 16 South, Ranges 8, 9, and 10 East, SLB&M, in Carbon and Emery Counties, Utah.

5. The Drunkards Wash Unit, which affects the Ferron Formation, was approved by the United States Bureau of Land Management effective December 28, 1990.

6. The Subject Lands are not subject to any prior spacing or unitization order of the Board.

7. Respondents River Gas Corporation, Texaco Exploration and Production Inc., and Dominion Reserves-Utah, Inc. are working interest owners within the Drunkards Wash Unit and the Subject Lands and filed Objections to Petitioner's Request.

8. For purposes of this Cause and this Order, the Ferron Formation, including all coal and surrounding sands, is defined as the stratigraphic equivalent of the interval from approximately 1435' below the surface to approximately 1716' below the surface as shown in the density log for the Utah 5-94 well located in the NW $\frac{1}{4}$ (consisting of Lots 3 and 4, and the S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 5, Township 15 South, Range 10 East, SLB&M, and as depicted on Petitioner's Exhibit G admitted into evidence at the Hearing.

9. The Subject Lands are not subject to any spacing order of the Board for production of gas, including, but not limited to, coalbed methane, from the Ferron Formation.

10. There are currently two wells (the "Subject Wells") drilled within the Subject Lands producing coalbed methane from the Ferron Formation:

(a) the Utah 5-94 located in Lot 4 of Section 5, Township 15 South, Range 10 East, SLB&M, which first produced in November of 1995; and

(b) the Woolstenhulme 5-266 located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 15 South, Range 10 East, SLB&M, which first produced in December 1998.

11. Both of the Subject Wells are operated by Respondent River Gas Corporation.

12. Plans of unit development within the Drunkards Wash Unit have been approved by the managing agency, the Bureau of Land Management, based on 160-acre well pattern density.

13. Prior orders of the Board in Cause Nos. 137-2(B), 241-1, 243-1, 243-2, and 245-1 established 160-acre (or substantial equivalent thereof) drilling and spacing units for the production of gas, including, but not limited to, coalbed methane, from the Ferron Formation within lands surrounding or in close proximity to the Subject Lands or the Drunkards Wash Unit.

14. Geologic and technical evidence presented at the Hearing establishes that:

(a) the Ferron Formation within the Subject Lands correlates in character with said formation as it underlies the lands within the Drunkards Wash Unit and the lands subject to the prior orders of this Board in Cause Nos. 137-2(B), 241-1, 243-1, 243-2 and 245-1.

(b) the Ferron Formation within the Subject Lands generally constitutes one pool for gas, including, but not limited to, coalbed methane.

(c) 160 acres (or its substantial equivalent) is not smaller than the maximum area within the Subject Lands that can be efficiently and economically drained by one well.

15. The Subject Wells each produce as unit wells, and each efficiently and economically drains approximately 160 acres; and specifically:

(a) the Utah 5-94 will economically and efficiently drain the NW $\frac{1}{4}$ (consisting of Lots 3 and 4, and the S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 5, Township 15 South, Range 10 East, SLB&M; and,

(b) the Woolstenhulme 5-266 will economically and efficiently drain the NE $\frac{1}{4}$ (consisting of Lot 2, Lots 5 through 35, and the SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 5, Township 15 South, Range 10 East, SLB&M.

16. The establishment of 160-acre (or substantial equivalent thereof) drilling and spacing units and the designation of the Subject Wells as unit wells within the Subject Lands will allow for the orderly development of the Subject Lands, prevent waste in the drilling of unnecessary wells, and result in the greatest recovery of hydrocarbon substances from the Subject Lands.

17. The vote of the Board members present and participating in the hearing was 4 in favor of and 1 against granting the Request for Agency Action.

CONCLUSIONS OF LAW

1. Due and regular notice of the filing of the Request for Agency Action was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board.

2. Due and regular notice of the time, place, and purposes of the Hearing was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board.

3. The Board has jurisdiction of the parties and the subject matter of the Request for Agency Action in this matter pursuant to Sections 40-6-5, and 40-6-6 of the Utah Code Annotated and has power and authority to make and promulgate this Order.

4. The establishment of 160-acre (or substantial equivalent thereof) drilling and spacing units and the designation of the Subject Wells as unit wells within the Subject Lands will adequately protect the correlative rights of all interested parties, is in the public interest, and is just and reasonable under the circumstances.

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

Action did not request retroactive spacing to the dates of first production from the Subject Wells; and Petitioner's oral request at the Hearing to make this Order retroactive should be denied.

ORDER

Based upon the Request for Agency Action, the testimony and evidence submitted, and the Findings of Fact and Conclusions of Law set forth hereinabove, and good cause appearing for granting the Request for Agency Action, IT IS HEREBY ORDERED:

1. The Request for Agency Action in this cause is granted.
2. The following drilling and spacing units are established for the Subject

Lands (as defined herein) for the production of gas, including, but not limited to, the coalbed methane, from the Ferron Formation (as defined herein), including all coals and surrounding sands:

- a. Unit No. 1 (NW $\frac{1}{4}$):

Township 15 South, Range 10 East, SLB&M

Section 5: Lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$

(containing 157.72 acres, more or less)

- b. Unit No. 2 (NE $\frac{1}{4}$):

Township 15 South, Range 10 East, SLB&M

Section 5: Lots 2 and 5-35, SW $\frac{1}{4}$ NE $\frac{1}{4}$

(containing 158.12 acres, more or less).

3. The Utah 5-94 well located in Lot 4 of Section 5, Township 15 South, Range 10 East, SLB&M, shall be the designated unit well for Unit No. 1 described above.

4. The Woolstenhulme 5-266 well located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 15 South, Range 10 East, SLB&M, shall be the designated unit well for Unit No. 2 described above.

5. The Petitioner's oral request at the Hearing to make this Order retroactive to the respective date of first production from each of the Subject Wells is denied.

6. This Order shall be effective as of January 26, 2000, the date of the Hearing in this matter.

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

8. This 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 Utah Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code R641-109.

9. 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.

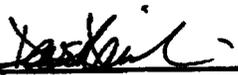
Id. See Utah Administrative Code R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann § 63-46b-13 and the deadline in Utah Administrative Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later 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.

10. 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.

11. 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 8th day of March, 2000.

STATE OF UTAH
BOARD OF OIL, GAS AND 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 ESTABLISHING DRILLING AND SPACING UNITS for Docket No. 99-016, Cause No. 243-3 to be mailed, postage prepaid, this 9 day of March, 2000, to the following:

H. Michael Keller
Van Cott, Bagley, Cornwall & McCarthy
Attorneys for Patrick Hegarty
50 South Main Street, Suite 1600
P. O. Box 45340
Salt Lake City, UT 84145

Frederick M. MacDonald
Pruitt, Gushee & Bachtell
Attorneys for Respondents River Gas
Corporation and Texaco Exploration
and Production Inc.
1850 Beneficial Life Tower
Salt Lake City, UT 84111

Thomas A. Mitchell
Assistant Attorney General
Attorney for Board of Oil, Gas & Mining
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

John Baza
Associate Director, Oil & Gas
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801
(Hand Delivered)

Patrick Hegarty
27 C.R. 3025
P.O. Box 1317
Aztec, NM 87410

Synergy Operating, LLC
Patrick Hegarty, Tom Mullins, Glen Papp
P.O. Box 5513
Farmington, NM 87410

River Gas Corporation *Resent*
Attn: Randy Allen
511 Energy Center Boulevard
Northport, AL 35473

Texaco Exploration and Production Inc.
Attn: Chuck Snure
P.O. Box 2100
Denver, CO 80201

Dominion-Reserves-Utah, Inc.
Attn: Mark Webb, Esq.
901 East Byrd Street
P.O. Box 26532
Richmond, VA 23219

Utah School and Institutional
Trust Lands Administration
675 East 500 South, #500
Salt Lake City, UT 84102

Carbon County
120 East Main Street
Price, UT 84501

Longwall Sales and Service, Inc.
3175 South -125 West
Price, UT 84501

Clifford L. Penses, Trustee of
Clifford L. & Esther E. Penses
Revocable Trust Dated 10/05/92
and Ronald L. Penses
1936 Hwy F
Fredricktown, MO 63645

Western Mine Services, Inc
PO Box 756
Price, UT 84501

Intermountain Electronics, Inc.
PO Box 914
Price, UT 84501

Michelle Lea *Resent*
808 North 1100 East
Price, UT 84501

Five Star Enterprises, Inc.
PO Box 488
Price, UT 84501

LaRue Layne, Teri Layne
& Kelly Layne-Benning
17243 Knapp Street
Northridge, CA 91325

Terry T. Olsen, Trustee under Trust Agrs.
dated 11/5/85 & 9/25/87
#40 C.R. 5109
Bloomfield, NM 87413

Morris Orvill Alexander
1629 Maddux Lane
McLean, VA 22101

Rita Beck
5984 South Village III Road
Salt Lake City, UT 84121

Omega Transworld, Inc. of Utah
2400 Leechburg Road
New Kensington, PA 15068

College of Eastern Utah
451 East 400 North
Price, UT 84501

Steven R. & Francine Woolstenhulme
426 West 2900 South
Price, UT 84501

State of Utah
Department of Natural Resources
Division of Forestry, Fire & State Lands
1594 West North Temple, Suite 3520
Salt Lake City, UT 84114-5703

Chevron USA Inc.
Chevron Tower Complex
1301 McKinney
Houston, TX 77010

United States of America
Bureau of Land Management
PO Box 45155
Salt Lake City, UT 84145-0155

David Swenson
2269 North Hill Crest Drive
Price, UT 84501

John Palacios
729 North Molyneux
Price, UT 84501

Diane Holland

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

FILED

DEC 03 1999

SECRETARY, BOARD OF
OIL, GAS & MINING

IN THE MATTER OF THE REQUEST)
FOR AGENCY ACTION OF)
PATRICK HEGARTY FOR AN)
ORDER ESTABLISHING 160-ACRE)
(OR SUBSTANTIAL EQUIVALENT)
THEREOF) DRILLING AND)
SPACING UNITS FOR THE)
PRODUCTION OF GAS (INCLUDING)
COALBED METHANE) FROM THE)
FERRON FORMATION IN THE)
NORTH HALF OF SECTION 5,)
TOWNSHIP 15 SOUTH, RANGE 10)
EAST, SLB&M, CARBON COUNTY,)
UTAH)

ORDER FOR
CONTINUANCE OF HEARING

Docket No. 99-016

Cause No. 243-3

Based upon the foregoing Stipulation and Motion of the parties, and good cause appearing therefor, IT IS HEREBY ORDERED:

That the hearing currently set in this matter for December 8, 1999, shall be and the same is hereby continued until the Board's next regularly scheduled hearing date set for January 26, 2000.

DATED this 3rd day of December, 1999.

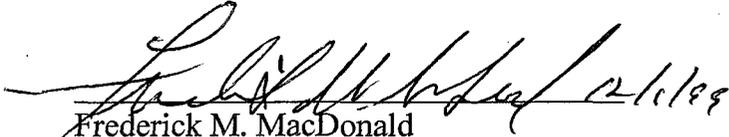
THE BOARD OF OIL, GAS AND MINING

By *Dave Lauriski*
DAVE D. LAURISKI, CHAIRMAN

APPROVED AS TO FORM:

 12/11/99

H. Michael Keller
Attorney for Petitioner

 12/11/99

Frederick M. MacDonald
Attorney for Respondents,
River Gas Corporation, and
Texaco Exploration and Production, Inc.

040/202196

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER FOR CONTINUANCE OF HEARING for Docket No. 99-016, Cause No. 243-3 to be mailed, postage prepaid, this 6 day of December, 1999, to the following:

H. Michael Keller
Van Cott, Bagley, Cornwall & McCarthy
Attorneys for Patrick Hegarty
50 South Main Street, Suite 1600
P. O. Box 45340
Salt Lake City, UT 84145

Frederick M. MacDonald
Pruitt, Gushee & Bachtell
Attorneys for Respondents River Gas Corporation and Texaco Exploration and Production Inc.
1850 Beneficial Life Tower
Salt Lake City, UT 84111

Thomas A. Mitchell
Assistant Attorney General
Attorney for Board of Oil, Gas & Mining
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

Patrick J. O'Hara
Assistant Attorney General
Attorney for Division of Oil, Gas & Mining
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

John Baza
Associate Director, Oil & Gas
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801
(Hand Delivered)

Patrick Hegarty
27 C.R. 3025
P.O. Box 1317
Aztec, NM 87410

Synergy Operating, LLC
Patrick Hegarty, Tom Mullins, Glen Papp
P.O. Box 5513
Farmington, NM 87410

River Gas Corporation
Attn: Randy Allen
511 Energy Center Boulevard
Northport, AL 35473

Texaco Exploration and Production Inc.
Attn: Chuck Snure
P.O. Box 2100
Denver, CO 80201

Dominion-Reserves-Utah, Inc.
901 East Byrd Street
P.O. Box 26532
Richmond, VA 23219

Utah School and Institutional
Trust Lands Administration
675 East 500 South, #500
Salt Lake City, UT 84102

Carbon County
120 East Main Street
Price, UT 84501

Longwall Sales and Service, Inc.
3175 South -125 West
Price, UT 84501

Clifford L. Penses, Trustee of
Clifford L. & Esther E. Penses
Revocable Trust Dated 10/05/92
and Ronald L. Penses
1936 Hwy F
Fredricktown, MO 63645

Western Mine Services, Inc
PO Box 756
Price, UT 84501

Intermountain Electronics, Inc.
PO Box 914
Price, UT 84501

Michelle Lea
808 North 1100 East
Price, UT 84501

Five Star Enterprises, Inc.
PO Box 488
Price, UT 84501

LaRue Layne, Teri Layne
& Kelly Layne-Benning
17243 Knapp Street
Northridge, CA 91325

Terry T. Olsen, Trustee under Trust Agrs.
dated 11/5/85 & 9/25/87
#40 C.R. 5109
Bloomfield, NM 87413

Morris Orvill Alexander
1629 Maddux Lane
McLean, VA 22101

Rita Beck
5984 South Village III Road
Salt Lake City, UT 84121

Omega Transworld, Inc. of Utah
2400 Leechburg Road
New Kensington, PA 15068

College of Eastern Utah
451 East 400 North
Price, UT 84501

Steven R. & Francine Woolstenhulme
426 West 2900 South
Price, UT 84501

State of Utah
Department of Natural Resources
Division of Forestry, Fire & State Lands
1594 West North Temple, Suite 3520
Salt Lake City, UT 84114-5703

Chevron USA Inc.
Chevron Tower Complex
1301 McKinney
Houston, TX 77010

United States of America
Bureau of Land Management
PO Box 45155
Salt Lake City, UT 84145-0155

David Swenson
2269 North Hill Crest Drive
Price, UT 84501



**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)
PATRICK HEGARTY FOR AN)
ORDER ESTABLISHING 160-ACRE)
(OR SUBSTANTIAL EQUIVALENT)
THEREOF) DRILLING AND)
SPACING UNITS FOR THE)
PRODUCTION OF GAS (INCLUDING)
COALBED METHANE) FROM THE)
FERRON FORMATION IN THE)
NORTH HALF OF SECTION 5,)
TOWNSHIP 15 SOUTH, RANGE 10)
EAST, SLB&M, CARBON COUNTY,)
UTAH)**

**ORDER FOR
CONTINUANCE OF HEARING**

Docket No. 99-016

Cause No. 243-3

Based upon the foregoing Stipulation and Motion of the parties, and good cause appearing therefor, IT IS HEREBY ORDERED:

That the hearing currently set in this matter for December 8, 1999, shall be and the same is hereby continued until the Board's next regularly scheduled hearing date set for January 26, 2000.

DATED this _____ day of December, 1999.

THE BOARD OF OIL, GAS AND MINING

By _____
DAVE D. LAURISKI, CHAIRMAN