

MAY 16 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 KLABZUBA OIL &)
GAS, INC. FOR AN ORDER ESTABLISHING)
160 ACRE (OR SUBSTANTIAL)
EQUIVALENT THEREOF) DRILLING AND)
SPACING UNITS FOR THE PRODUCTION)
OF GAS FROM THE FERRON FORMATION)
IN THE PORTIONS OF TOWNSHIP 14)
SOUTH, RANGES 7 AND 8 EAST, SLM,)
CARBON COUNTY, UTAH)

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

Docket No. 2002-008

Cause No. 248-01

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, March 27, 2002, at the hour of 10:00 a.m. The following Board members were present and participated at the hearing: Chairman Elise L. Erler, J. James Peacock, Robert J. Bayer, Kent R. Petersen, and W. Allan Mashburn. Attending and participating on behalf of the Division of Oil, Gas and Mining (the "Division") was John Baza, Associate Director – Oil and Gas. The Board and the Division were represented by Thomas A. Mitchell, Esq., and Kurt Seel, Esq., Assistant Attorneys General, respectively. Attending and participating on behalf of the Bureau of Land Management ("BLM") were Robert Henricks, Chief – Branch of Fluid Minerals, and Assad Raffoul, Utah State Office. Attending and participating on behalf of the Utah School and Institutional Trust Lands Administration ("SITLA") was LaVonne J. Garrison, Assistant Director – Oil and Gas.

Testifying on behalf of Petitioner Klabzuba Oil & Gas, Inc. (“KOG”) was Mark S. Caldwell, Senior Geologist. Relma M. Miller, Esq., and Robert G. Pruitt, Jr., Esq., Pruitt, Gushee, & Bachtell, appeared on behalf of KOG.

At the conclusion of KOG’s presentation, the Division, BLM and SITLA all expressed their support of the Request for Agency Action provided that issues relating to the Gordon Creek II Federal Exploratory Unit (contracted in 1987) were resolved. No statements were made at the hearing in opposition of the Request for Agency Action and no other parties appeared at the hearing. Letters in support of KOG’s request were received from Dudley & Associates and Forest Oil Corporation (“Forest”).

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. The following described Carbon County lands (hereinafter referred to as the “Subject Lands”) were, as of the date of the hearing, not subject to any spacing order, although certain lands are included within the boundaries of the contracted Gordon Creek II Federal Exploratory Unit:

Township 14 South, Range 7 East, SLM

Section 12: Lots 1 (42.23), 2 (41.72), 3 (41.39)
and 4 (41.21), W½E½, W½ [All]

Section 13: Lots 1 (41.05), 2 (40.89), 3 (40.75) and
4 (40.59), W½E½, W½ [All]

- Section 24: Lots 1 (40.60), 2 (40.74), 3 (40.57) and 4 (40.03), W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ [All]
- Section 25: Lots 1 (39.94), 2 (40.39), 3 (40.56) and 4 (40.33), W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ [All]
- Section 36: Lots 1 (40.19), 2 (40.14), 3 (40.09), 4 (41.08), 5 (40.79), 6 (40.45) and 7 (40.18), W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ [All]

(containing 3,215.91 acres, more or less)

Township 14 South, Range 8 East

- Section 7: Lots 1 (39.41), 2 (39.35), 3 (39.29) and 4 (39.23), E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ [All]
- Section 8: All
- Section 17: All
- Section 18: Lots 1 (39.17), 2 (39.11), 3 (39.05) and 4 (38.99), E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ [All]
- Section 19: Lots 1 (38.99), 2 (39.05), 3 (39.11) and 4 (39.17), E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ [All]
- Section 20: All
- Section 29: All
- Section 30: Lots 1 (39.15), 2 (39.05), 3 (38.95) and 4 (38.85), E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ [All]
- Section 31: Lots 1 (38.74), 2 (38.64), 3 (38.54), 4 (35.74), 5 (37.31), 6 (37.43), and 7 (37.54), E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ [All]
- Section 32: Lots 1 (40.47), 2 (40.46), 3 (40.53), 4 (40.54), 5 (38.02), 6 (37.89), 7 (37.75), and 8 (37.61), N $\frac{1}{2}$ [All]

(containing 6,363.13 acres, more or less)

being 9,579.04 aggregate acres.

2. The contracted Gordon Creek II Federal Exploratory Unit (“Gordon Creek II Unit”), administered by the BLM and comprised of 160 acres, covers the following described lands:

Township 14 South, Range 8 East, SLM

Section 18: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 19: NE $\frac{1}{4}$ NW $\frac{1}{4}$

Although the BLM is unit manager, all the lands in the Gordon Creek II Unit are owned by the State of Utah and managed by SITLA. The Gordon Creek II Unit is operated by Forest, successor by merger to Forcenergy Partners, LP.

3. KOG is a Texas corporation in good standing and authorized to conduct business in the State of Utah. KOG holds leasehold or operating rights in 3,466.87 acres of the Subject Lands.

4. KOG has completed three wells within the Subject Lands for production of natural gas, not coalbed methane, from the Ferron sandstone member of the Mancos formation or, as it is commonly referred to, the Ferron formation. For purposes of this cause, the Ferron formation is defined as:

The stratigraphic equivalent of the interval from 3,198 feet to 3,650 feet as shown on the Induction Log of the Oxy Petroleum Gordon Creek Unit #1 well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, Township 14 South, Range 8 East, SLM.

5. The Ferron formation generally constitutes one pool for gas in the Subject Lands and one well will efficiently and economically drain approximately 160 acres in that pool.

6. The Subject Lands are located directly west of the Drunkard's Wash Federal Exploratory Unit, the plans of unit development for which are based on a 160 acre spacing pattern. The Ferron formation underlying the Subject Lands correlates in character with said formation as underlying the lands within the Drunkards Wash Unit.

7. The establishment of approximately 160 acre drilling and spacing units for the Ferron formation underlying the Subject Lands will allow for orderly development, prevent waste by drilling unnecessary wells, adequately protect the correlative rights of all interest owners, result in the greatest recovery of the resource, and is just and reasonable under the circumstances.

8. The lands within the Gordon Creek II Unit and the initially proposed unit C [described as Lots 3 (39.05) and 4 (38.99), Section 18 (containing 78.04 acres)] are excluded from this Cause.

9. Each drilling and spacing unit created by this Order should be comprised of a governmental quarter section, *e.g.* NE $\frac{1}{4}$, or lots and quarter-quarter sections substantially comprising the same ("Regular Unit"), with the exception of two special drilling and spacing units ("Special Units") described as:

Township 14 South, Range 8 East, SLM

Unit A: E $\frac{1}{2}$ SE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 18

(containing 120 acres)

Unit B: Lots 1 (38.99), 2 (39.05) and SE¼NW¼,
Section 19

(containing 118.04 acres)

10. The permitted well for each Regular Unit shall be located no closer than 460 feet from the outer boundary of the unit, except as otherwise permitted by administrative action for topographic or geologic reasons or other good cause shown.

11. The permitted well for each unit shall be drilled no closer than 920 feet from other wells completed and producing from the Ferron formation except as otherwise permitted by administrative action for topographic or geologic reasons or other good cause shown.

12. The permitted well located in Special Unit A shall be drilled no closer than 200 feet from a boundary of said unit with prior written consent of the operator of the Gordon Creek II Unit.

13. KOG's #19-14-8 well shall be the permitted well for Special Unit B.

14. KOG is engaged in negotiations with Forest to acquire all Forest's rights in the Gordon Creek II Unit. If negotiations are successful, KOG plans to dissolve the Gordon Creek II Unit.

15. Should KOG be successful, upon dissolution of the Gordon Creek II Unit, KOG will petition the Board for an Order to dissolve Special Units A and B and to form Regular Units from the land encompassed by Special Units A and B, the Gordon Creek II Unit and the initially proposed unit C.

16. A copy of the Request for Agency Action was mailed to the royalty, overriding royalty, working interest and other production interest owners, and operators within the Subject Lands as disclosed by the appropriate Federal, State and County realty records.

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

18. The vote of the Board members present in the hearing and in this cause was unanimous in favor of granting the Request for Agency Action as modified at the hearing to exclude both the Gordon Creek II Unit and the initially proposed unit C, and to authorize drilling a permitted well in Special Unit A.

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 Division.

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)(b) and 40-6-6.

3. 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 as modified at the hearing to exclude both the Gordon Creek II Unit and the initially proposed unit C, and to authorize drilling a permitted well in Special Unit A.
2. The lands within the Gordon Creek II Unit and the initially proposed unit C are excluded from this Order.
3. 160 acre drilling and spacing units are hereby established for the remaining Subject Lands for the production of gas from the Ferron formation as defined herein.
4. Each Regular Unit shall be comprised of a governmental quarter section, *e.g.* NE $\frac{1}{4}$, or lots and quarter-quarter section substantially comprising the same. Special Units A and B (as defined herein) are established in portions of Sections 18 and 19, Township 14 South, Range 8 East, SLM.
5. The permitted well for each Regular Unit shall be located no closer than 460 feet from the outer boundary of said unit and no closer than 920 feet from other wells completed and producing from the Ferron formation (as defined herein) unless otherwise permitted by administrative action approved by the Division in compliance with Utah Admin. Code R649-3-3 (rule governing "Exception to Location and Siting of Wells").
6. The permitted well located in Special Unit A shall be drilled no closer than 200 feet from a boundary of said unit, with written consent of the Gordon Creek II Unit operator,

currently Forest, and no closer than 920 feet from any other well completed and producing from the Ferron formation. KOG's #19-14-8 well shall be the permitted well for Special Unit B.

7. Pursuant to Utah Admin. 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 Findings of Fact, Conclusions 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 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 mailed 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 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 the 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 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.

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 15th day of May, 2002.

**STATE OF UTAH
BOARD OF OIL, GAS & MINING**

By: Elise 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. 2002-008, Cause No. 248-01 to be mailed with postage prepaid, this 16 day of May, 2002, to the following:

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