

**FILED**

OCT 05 2009

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 KERR-MCGEE OIL & GAS ONSHORE LP FOR AN ORDER SUSPENDING APPLICATION OF UTAH ADMIN. CODE RULES R649-3-2, R649-3-10 AND R649-3-11 (1) AND (2) INSOFAR AS THEY PERTAIN TO LANDS WITHIN THE LOVE FEDERAL EXPLORATORY UNIT, COVERING PORTIONS OF TOWNSHIP 11 SOUTH, RANGES 21 AND 22 EAST, SLM, UINTAH COUNTY, UTAH

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

Docket No. 2009-014

Cause No. 268-01

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, September 23, 2008, at 9:00 a.m. in Room 210 of the East (Senate) Building of the Capitol Complex in Salt Lake City. Cause Nos. 173-23, 173-24 and 210-05 were called concurrently with this Cause in the interest of efficiency, but the presentation by the Petitioner and deliberation on the merits by the Board occurred separately for each Cause. The following Board members were present and participated at the hearing: Chairman Douglas E. Johnson, Samuel C. Quigley, Jean Semborski, James T. Jensen, and Kelly L. Payne. Board Members Jake Y. Harouny and Ruland J. Gill, Jr. were unable to attend. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner Kerr-McGee Oil & Gas Onshore LP ("KMG") were Jessica Pink – Landman, Scott C. Mitchell – Geologist, and John L. Eisele – Reservoir Engineer, who were recognized as experts in petroleum land management,

geology and reservoir engineering, respectively, for purposes of this Cause. Justin C. Rammell, Esq., of and for Beatty & Wozniak, P.C., appeared as attorney for KMG.

Testifying on behalf of the Division of Oil, Gas and Mining (the "Division") was Gil Hunt – Associate Director – Oil & Gas. Steven F. Alder, Esq., Assistant Attorney General, appeared as attorney on behalf of the Division. The Division expressed its support for the granting of KMG's Request for Agency Action filed July 13, 2009 in this Cause (the "Request"), at the conclusion of its presentation.

EOG Resources, Inc. ("EOG"), a working interest/operating rights owner within the area of interest in this Cause, filed a letter with the Board in support of the granting of the Request.

No other party filed a response to the Request and no other party appeared or participated at the hearing.

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

#### **FINDINGS OF FACT**

1. KMG is a Delaware limited partnership in good standing and authorized to conduct business in the State of Utah. It is duly bonded with all appropriate State of Utah and Federal agencies relevant to this cause.

2. The following lands comprise the Love Federal Exploratory Unit (the "Unit"):

Township 11 South, Range 21 East, SLM

Section 3: S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$   
Section 4: S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$   
Section 5: SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$   
Section 8: NE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 9: N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
Section 10: W $\frac{1}{2}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$   
Section 11: S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$   
Section 12: S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$   
Section 13: N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
Section 14: N $\frac{1}{2}$ N $\frac{1}{2}$   
Section 15: N $\frac{1}{2}$ N $\frac{1}{2}$   
Section 16: NE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 24: NE $\frac{1}{4}$ NE $\frac{1}{4}$

Township 11 South, Range 22 East, SLM

Section 7: Lot 4 (34.72)  
Section 18: Lot 1 (34.77), Lot 2 (34.84), Lot 3 (34.90), Lot 4 (34.97), SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$   
Section 19: Lot 1 (35.04), E $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$

(containing 4,609.24 acres, more or less, in Uintah County, Utah)

3. The Unit was initially approved effective September 13, 1979 and has been contracted down to its participating area as mandated under the terms of the governing Unit Agreement. The Unit is administered by the Bureau of Land Management ("BLM"). All oil and gas in any and all formations underlying the committed tracts within the Unit are unitized. KMG serves as Unit Operator of the Unit. There are no uncommitted tracts within the Unit.

4. The oil and gas underlying the Unit are owned 99.13% by the United States, which is subject to several Federal oil and gas leases, and 0.87% by the State of Utah, which is subject to one State of Utah oil, gas and hydrocarbon lease, with no Indian or fee lands. KMG is the only lessee, and KMG and EOG are the only operating rights owners, in the Unit.

5. No lands within the Unit are currently covered by any Board spacing order.

6. Paragraph 16 of the Unit Agreement expressly requires 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 or regulation.

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 plan of Unit development approved by the BLM. Drilling applications are approved by both the BLM and the Division.

8. KMG has since drilled several wells in the Wasatch-Mesaverde formations in the Unit Area, and on nearby lands on equivalent 10-acre density, the data from which has evidenced and/or confirmed that:

- a) The sand bodies are numerous, small and discontinuous. Wells drilled even as close as 505 feet apart do not intersect all of the same sand bodies and therefore reflect great lateral variability in the productive sandstones of the Unit. Surface outcrop studies indicate that the average apparent width of the sand bodies is 637 feet.

Theoretically, wells on a 10-acre density pattern would be located 660 feet apart;

- b) The sand bodies contain complex internal structures, many of which are barriers to flow, and are tight with permeability in the micro-darcy range;
- c) Consistent fracture orientation in the area allows wells to be placed in a pattern so as to minimize potential interference; and
- d) Pressure measurement (DFIT) data detected minimal or no depletion and validated KMG's pressure model.

9. Volumetric estimations reflect a 55% recovery efficiency on a 10-acre density pattern for the Unit.

10. Economic Sensitivity to Reserve analysis reflects that drilling wells on a 10-acre density pattern for the Unit is economic.

11. The Board has previously authorized 10-acre equivalent well density for Wasatch and Mesaverde production in the nearby Bonanza and Hatch areas in Cause Nos. 179-14 and 179-15, respectively, and suspension of the general well siting rule and/or directional drilling rules pursuant to Utah Admin. Code Rule R649-2-3 for the nearby Natural Buttes Unit (Cause No. 173-14) and River Bend and Little Canyon Units (Cause No. 259-01).

12. There is likelihood that, if development of the Unit does not occur on an approximate 10-acre well density pattern as to the discontinuous sand bodies, particularly as to the Wasatch and Mesaverde formations, valuable resources will not be recovered.

13. Drilling on a 10-acre density pattern will almost always prohibit locating within the allowed "window" under the general well siting regulation (Utah Admin. Code Rule R649-3-2) and conversely almost always requires an exception location approval (in accordance with Utah Admin. Code Rule R649-3-3). Furthermore, wells may need to be directionally drilled from existing pads to minimize surface disturbance and alleviate certain environmental concerns.

14. A copy of the Request was mailed, postage pre-paid, certified with return receipt requested, and properly addressed, to all working interest/operating rights owners in the Unit to their last addresses disclosed by the appropriate Federal, State and County realty records, and to the governmental agencies having jurisdiction over the minerals underlying the Unit. Copies of the return receipts, evidencing receipt of all such mailings, were filed with the Board.

15. Notice of the filing of the Request and of the hearing thereon was duly published in the Salt Lake Tribune and Deseret Morning News on August 2, 2009, and in the Vernal Express on August 4, 2009, and the Uintah Basin Standard on August 5, 2009.

16. The vote of the Board members present in the hearing and participating in this Cause was unanimous (5-0) in favor of granting the Request.

#### **CONCLUSIONS OF LAW**

1. Due and regular notice of the time, place and purpose of the hearing was properly given to all parties whose legally protected interests are affected by the Request

in the form and manner as required by law and the rules and regulations of the Board and Division. The caption of the original Request and many of the subsequent pleadings on file in this Cause contains a typographical error, incorrectly identifying the subject Ranges as "11 and 12" East instead of "21 and 22 East." However, the Board deems the error to be harmless and non-material because: (1) the Ranges are correctly described in the body of the Request; (2) the Unit is clearly identified as the subject of the Request; and (3) all parties having a legally protected interest in this Cause were confirmed to have received a copy of the Request.

2. The Board has jurisdiction over all matter covered by the Request 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.

3. The conservation of oil and gas and the prevention of waste are accomplished by operations conducted in accordance with the terms of the Unit Agreement.

4. In the absence of any Board spacing orders covering the Unit, the lands are subject to the general statewide well siting and directional drilling rules (Utah Admin. Code Rules R649-3-2, R649-3-10 and R649-3-11 (1) and (2)).

5. A proposed 10-acre density drilling program for Unit production appears reasonable, justified and economic.

6. To account for KMG's proposed 10-acre density drilling program for the

Unit, including associated directional drilling, suspension of Utah Admin. Code Rules R649-3-2, R649-3-10 and R649-3-11 (1) and (2) is fair, reasonably and justified with the following provisions:

- (a) no future well within the Unit may be located closer than 460 feet from a Unit boundary without administrative approval of the Division in accordance with Utah Admin. Code Rule R649-3-3;
- (b) no future well may be directionally drilled if any portion of a 460-foot radius along the projected wellbore intersects a Unit boundary without approval of the Division or Board in accordance with Utah Admin. Code Rules R649-3-10 and R649-3-11 (1) and (2);
- (c) the operator provides to the Division (1) a plat or sketch showing the distance from the surface location to section and lease lines and the target location within the intended producing interval with any application for permit to drill filed for a well to be directionally drilled in the Unit Area; and (2) copies of the annual plan of Unit development for the Unit filed with the BLM, if required by the BLM; and
- (d) this suspension shall remain in effect only for committed lands which remain part of the Unit. Upon Unit contraction or termination, lands eliminated from the Unit shall once again become subject to the applicable rules.

7. The relief granted hereby will result in the orderly development and greatest recovery of Unitized oil and gas, prevent waste and adequately protect the correlative rights of all affected parties.

8. KMG has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements, including those set forth in Utah Admin. Code Rule R649-2-3, for the granting of its Request.

## ORDER

Based upon the Request, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this cause is granted.
2. Utah Admin. Code Rules R649-3-2, R649-3-10 and R649-3-11 (1) and (2)

are suspended insofar as they apply to the Love Unit as described above; provided, however, that:

(a) no future well within the Unit may be located closer than 460 feet from a Unit boundary without administrative approval of the Division in accordance with Utah Admin. Code Rule R649-3-3;

(b) no future well may be directionally drilled if any portion of a 460 foot radius along the projected wellbore intersects a Unit boundary without approval of the Division or Board in accordance with Utah Admin. Code Rules R649-3-10 and R649-3-11 (1) and (2).

(c) KMG and any successor Unit Operator shall provide the Division: (1) a plat or sketch showing the distance from the surface location to section and lease lines and the target location within the intended producing interval with any application for permit to drill filed for a well to be directionally drilled in the Unit; and (2) copies of the annual plan of Unit development for the Unit filed with the BLM, if required by the BLM; and

(d) this suspension shall remain in effect only for committed lands which remain part of the Unit. Upon Unit contraction or termination, lands eliminated from the Unit shall once again become subject to the applicable rules.

3. If the Division should determine that operations within the Unit Area are not being conducted in a manner which is intended to maximize recovery of oil and gas,

promotes conservation, is protective of correlative rights, and/or prevents waste, it may initiate a Notice of Agency Action in accordance with Utah Admin. Code Rule R641-104-100 for the Board to reconsider the suspension of the relevant rules granted hereby.

4. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. § 63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

5. 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 Administrative Procedures Act, Utah Code Ann. § 63G-4-208 and Utah Administrative Code Rule R641-109.

6. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63G-4-208(e) - (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. §§ 63G-4-401(3)(a) and 403. 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. § 63G-4-302, 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 63G-4-301 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 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 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 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. § 63G-4-302 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

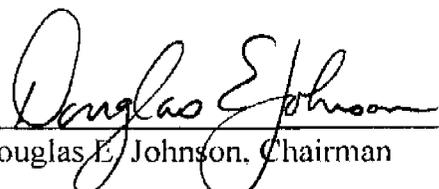
rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

7. 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.

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

DATED this 5 day of OCT, 2009.

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

By:   
Douglas E. Johnson, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF HEARING for Docket No. 2009-014, Cause No. 268-01 to be mailed with postage prepaid, this 6th day of October, 2009, to the following:

FREDERICK M MACDONALD  
JUSTIN C RAMMELL  
BEATTY & WOZNIAK PC  
6925 UNION PARK CENTER SUITE 525  
COTTONWOOD HEIGHTS UT 84047-6003

JESSICA PINK LANDMAN  
KERR-MCGEE OIL & GAS ONSHORE LP  
1099 18TH STREET  
DENVER CO 80202

MICHAEL S JOHNSON  
STEPHEN SCHWENDIMAN  
ASSISTANT ATTORNEYS GENERAL  
UTAH BOARD OF OIL GAS & MINING  
1594 WEST NORTH TEMPLE SUITE 300  
SALT LAKE CITY UT 84116  
[VIA EMAIL]

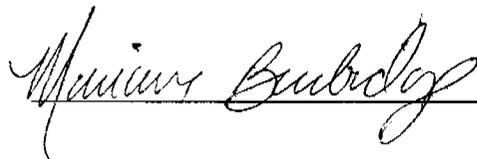
UNITED STATES OF AMERICA  
BUREAU OF LAND MANAGEMENT  
VERNAL FIELD OFFICE  
170 SOUTH 500 EAST  
VERNAL UT 84078

STEVEN F ALDER  
KEVIN BOLANDER  
ASSISTANT ATTORNEYS GENERAL  
UTAH DIVISION OF OIL GAS & MINING  
1594 WEST NORTH TEMPLE STE 300  
SALT LAKE CITY UT 84116  
[VIA EMAIL]

EOG RESOURCES INC  
ATTN MS. TONI MILLER  
600 17TH ST SUITE 1000N  
DENVER CO 80202

UNITED STATES OF AMERICA  
BUREAU OF LAND MANAGEMENT  
UTAH STATE OFFICE  
ATTN BECKY HAMMOND  
CHIEF-BRANCH OF FLUID MINERALS  
PO BOX 45155  
SALT LAKE CITY UT 84145-0155

STATE OF UTAH  
TRUST LANDS ADMINISTRATION  
ATTN LAVONNE GARRISON  
ASSISTANT DIRECTOR OIL AND GAS  
675 EAST 500 SOUTH SUITE 500  
SALT LAKE CITY UT 84102

  
\_\_\_\_\_

**FILED**

SEP 14 2009

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 KERR-MCGEE OIL & GAS ONSHORE LP FOR AN ORDER SUSPENDING APPLICATION OF UTAH ADMIN. CODE RULES R649-3-2, R649-3-10 AND R649-3-11 (1) AND (2) INsofar AS THEY PERTAIN TO LANDS WITHIN THE LOVE FEDERAL EXPLORATORY UNIT, COVERING PORTIONS OF TOWNSHIP 11 SOUTH, RANGES 11 AND 12 EAST, SLM, Uintah County, UTAH

**ORDER GRANTING LEAVE TO  
FILE PETITIONER'S CORRECTED  
EXHIBIT OUT OF TIME**

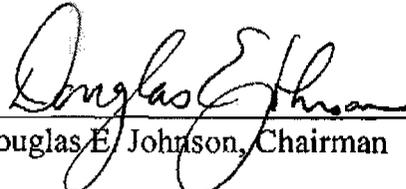
Docket No. 2009-014

Cause No. 268-01

Having reviewed the Motion for Leave to File Petitioner's Corrected Exhibits Out of Time and otherwise being fully advised on the premises,

1. Petitioner is hereby granted leave to amend the referenced Exhibit out of the time allowed by Utah Admin. Code Rule R649-105-500; and
2. The original, incorrect Exhibit will be replaced with the Replacement Exhibit as described in and submitted with Petitioner's Motion.

SO ORDERED, this 14 day of September, 2009.

  
\_\_\_\_\_  
Douglas E. Johnson, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER GRANTING LEAVE TO FILE PETITIONER'S CORRECTED EXHIBIT OUT OF TIME for Docket No. 2009-014, Cause No. 268-01 to be mailed with postage prepaid, this 15 day of September, 2009, to the following:

FREDERICK M MACDONALD  
JUSTIN C RAMMELL  
BEATTY & WOZNIAK PC  
6925 UNION PARK CENTER SUITE 525  
COTTONWOOD HEIGHTS UT 84047-6003

JESSICA PINK LANDMAN  
KERR-MCGEE OIL & GAS ONSHORE LP  
1099 18TH STREET  
DENVER CO 80202

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ASSISTANT ATTORNEYS GENERAL  
UTAH BOARD OF OIL GAS & MINING  
1594 WEST NORTH TEMPLE SUITE 300  
SALT LAKE CITY UT 84116  
**[VIA EMAIL]**

UNITED STATES OF AMERICA  
BUREAU OF LAND MANAGEMENT  
VERNAL FIELD OFFICE  
170 SOUTH 500 EAST  
VERNAL UT 84078

STEVEN F ALDER  
KEVIN BOLANDER  
ASSISTANT ATTORNEYS GENERAL  
UTAH DIVISION OF OIL GAS & MINING  
1594 WEST NORTH TEMPLE STE 300  
SALT LAKE CITY UT 84116  
**[VIA EMAIL]**

EOG RESOURCES INC  
ATTN MS. TONI MILLER  
600 17TH ST SUITE 1000N  
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UNITED STATES OF AMERICA  
BUREAU OF LAND MANAGEMENT  
UTAH STATE OFFICE  
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SALT LAKE CITY UT 84145-0155

STATE OF UTAH  
TRUST LANDS ADMINISTRATION  
ATTN LAVONNE GARRISON  
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