

FILED

MAY 08 2001

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 STONE ENERGY, L.L.C.)
(FORMERLY BASIN EXPLORATION, INC.) FOR)
AN ORDER SUSPENDING APPLICATION OF THE)
BOARD'S ORDERS ENTERED IN CAUSE NOS.)
85 AND 85-3 INSOFAR AS THEY PERTAIN TO)
LANDS WITHIN THE RECAPTURE CREEK)
FEDERAL EXPLORATORY UNIT, COVERING)
PORTIONS OF SECTIONS 21 AND 28,)
TOWNSHIP 40 SOUTH, RANGE 23 EAST, SLM,)
SAN JUAN COUNTY, UTAH)

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

Docket No. 2001-013

Cause No. 085-05

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, April 25, 2001, at the hour of 10:00 a.m. The following Board members were present and participated at the hearing: Chairman Dave D. Lauriski, Elise L. Erler, W. Allan Mashburn, Stephanie Cartwright, J. James Peacock, Robert J. Bayer and Kent R. Petersen. 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 Philip C. Pugsley, Esq., and Thomas A. Mitchell, 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.

Testifying on behalf of Petitioner Stone Energy, L.L.C. (“Stone”) was Bruce N. Burley – Land Consultant. Frederick M. MacDonald, Esq., Pruitt, Gushee & Bachtell, appeared as attorney on behalf of Stone.

At the conclusion of Stone’s presentation, the BLM expressed its support of, and the Division stated it had no objections to, the Request for Agency Action. No other statements were made at the hearing in opposition of the Request for Agency Action and no other parties 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 appearing, hereby makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Utah Code Ann. § 40-6-5(3)(b) and Utah Admin. Code Rule R649-2-3.
2. A copy of the Request for Agency Action was mailed to all royalty and working interest owners and operators within the existing drilling and spacing units created under the Board’s Orders in Cause Nos. 85 and 85-3 inclusive of or adjacent to the Recapture Creek Unit Area (as defined below), being all persons whose legally protected interests may be affected by the Request for Agency Action, at their last known addresses as disclosed by the BLM and San Juan County realty records.

3. Notice of the Request for Agency Action and of the hearing thereon was duly published in the Salt Lake Tribune, Deseret News and San Juan Record as required by Utah Admin. Code Rule R641-106-100.

4. Stone is a Delaware limited liability company in good standing, with its principal place of business in Lafayette, Louisiana. Stone is authorized to conduct business in the State of Utah and is fully bonded with all appropriate Federal and State of Utah agencies. Stone is the successor to Basin Exploration, Inc. through corporate conversion and name change effective as of February 1, 2001.

5. Stone is the unit operator of the Recapture Creek Federal Exploratory Unit (the "Unit") which, after contraction in 1961, is comprised of the following San Juan County, Utah lands:

Township 40 South, Range 23 East, SLM

Section 21: SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 28: NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$

(containing 160 acres)

(hereinafter the "Unit Area"). The Unit Area is covered by one Federal oil and gas lease (UTU-01890).

6. The Unit Agreement was approved by the Federal government effective May 16, 1956 and, pursuant to its terms, all oil and gas in any and all formations

underlying the Unit Area are deemed unitized. There are no uncommitted tracts or uncommitted owners within the Unit Area.

7. Paragraph 16 of the Unit Agreement expressly requires Stone, as 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.

8. 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 the Division.

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

10. By Order entered February 14, 1963 in Cause No. 85, this Board's predecessor, the Utah Oil and Gas Conservation Commission (the "Commission"), established temporary stand-up 80 acre drilling and spacing units for the production of oil from the Lower Ismay and/or Desert Creek zones for all of Section 21 and the N½ of Section 28 of Township 40 South, Range 23 East, SLM, among other lands. The Commission further decreed that only one well may be drilled on each unit and produce from the specified zones; provided, however, that if a well is completed as a producer in the Lower Ismay Zone or in the Desert Creek Zone, a subsequent "twin well" may be

drilled on the same unit to the zone in which the first well was not completed as a producer after notice and hearing in front of the Commission.

11. By Order entered June 26, 1979 in Cause No. 85-3, the Board modified the Order entered in Cause No. 85 to provide that the permitted well for each drilling unit shall be in the NW¼ or the SE¼ of each quarter section and not less than 500 feet from any property or lease line or governmental quarter-quarter section line; provided, however, that an exception location may be granted administratively by the Division without notice or hearing by the Board upon filing an application therefor and showing (a) that topographic or geologic conditions exist which require an exception location, or (b) that an exception location is necessary to conform to adjacent producing well locations either within or without the spaced area; provided, further, that all owners within a radius of 660 feet of the proposed exception location have consented in writing to the proposed exception location.

12. In order to allow the greatest flexibility in Unit well locations based on topographic and geological conditions, suspension of the Board's Orders in Cause Nos. 85 and 85-3 and the general well siting rule (Utah Admin. Code Rule R649-3-2) as to the Unit Area is fair and reasonable; provided that no well may be located closer than 500 feet from the Unit Area boundary without the approval of the Division in accordance with Utah Admin. Code Rule R649-3-3; and provided further that the suspension shall only remain

effective as to lands remaining in the Unit Area. Upon further Unit contraction or termination, the Orders and/or general well siting rule shall once again apply.

13. 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.

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:

- A. The Request for Agency Action in this cause is granted.
- B. The Board's orders entered in Cause Nos. 85 and 85-3 and Utah Admin. Code Rule R649-3-2 are suspended insofar as they pertain to the Unit Area; provided, however, that no well may be located closer than 500 feet from the Unit Area boundary without the approval of the Division in accordance with Utah Admin. Code Rule R649-3-3; and provided further that the suspension shall only remain effective as to lands remaining in the Unit Area, *i.e.* upon further Unit contraction or termination, the Board's Orders in Cause Nos. 85 and 85-3 or the general well siting rule shall once again apply.
- C. 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.

D. 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.

E. 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 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. § 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.

- F. 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.
- G. 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 May, 2001.

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

By: 
Dave D. Lauriski, 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. 2001-013, Cause No. 085-05 to be mailed with postage prepaid, this 10 day of May, 2001, to the following:

Frederick M. MacDonald
PRUITT, GUSHEE & BACHTELL
Attorneys for Stone Energy
1850 Beneficial Life Tower
Salt Lake City, UT 84111

Thomas A. Mitchell
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

Kurt E. Seel
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

Philip C. Pugsley
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

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

Bruce N. Burley, Land Consultant
Stone Energy, L.L.C
1670 Broadway, Suite 2800
Denver, CO 80202-4801

Robert Henricks
Chief - Branch of Fluid Minerals
Bureau of Land Management
324 South State Street, Suite 301
Salt Lake City, UT 84111-2303

Kerr-McGee Oil and Gas Onshore, L.P.
123 South Kerr Avenue
Oklahoma City, OK 73102

Eric Jones, Petroleum Engineer
Bureau of Land Management
Moab Field Office
82 East Dogwood
Moab, UT 84532

Yates Petroleum Corporation
105 South 4th Street
Artesia, NM 88210

