

FILED

MAY 18 2005

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

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

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR AN ORDER MODIFYING THE BOARD'S ORDERS IN CAUSE NOS. 131-81 AND 131-107 TO ALLOW THE DRILLING OF A SECOND WELL TO PRODUCE FROM THE UPPER GREEN RIVER FORMATION IN SECTIONS 2 AND 9, RESPECTIVELY, OF TOWNSHIP 1 SOUTH, RANGE 2 WEST, USM, DUCHESNE COUNTY, UTAH

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

Docket No. 2005-005

Cause No. 131-123

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, April 27, 2005, at approximately 3:00 p.m. The following Board members were present and participated at the hearing: Chairman J. James Peacock, Robert J. Bayer, Douglas E. Johnson, Kent R. Petersen and Jake Y. Harouny. Board members Samuel C. Quigley and Jean Semborski were unable to attend. The Board was represented by Michael S. Johnson, Esq. and Stephen E. Schwendiman, Esq., Assistant Attorneys General.

Testifying on behalf of Petitioner Devon Energy Production Company, L.P. ("Devon") were Charles A. Speer - Land Advisor, William L.M. Wilsey - Rockies District GeoScience Supervisor, and David C. Yaw - Reservoir Engineering Advisor. Frederick M. MacDonald, Esq., of and for Pruitt Gushee, a Professional Corporation, appeared as attorney for Devon.

Testifying on behalf of the Division of Oil, Gas and Mining (the "Division") was Gil Hunt, Technical Service Manager – Oil and Gas. Steven F. Alder, Esq., Assistant Attorney General, appeared as attorney on behalf of the Division. At the conclusion of its presentation, the Division expressed its support for the granting of the Request for Agency Action.

Robert Henricks, Acting Chief, Branch of Fluid Minerals, and Assad Raffoul, Petroleum Engineer, of the Utah State Office, and Kirk Fleetwood, Petroleum Engineer, of the Vernal District Office, Bureau of Land Management, in its advisory capacity to the Bureau of Indian Affairs, Uintah and Ouray Agency, were present but did not make a formal appearance or participate in the hearing.

No other party filed a response to Devon's Request for Agency Action 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. Devon is an Oklahoma limited partnership in good standing, with its principal place of business in Oklahoma City, Oklahoma. Devon is duly qualified to conduct

business in the State of Utah, and is fully bonded with all appropriate Federal and State agencies.

2. By Order entered March 27, 1989 in Cause No. 131-81 (the "1989 Order"), the Board established drilling and spacing units comprised of the entirety of Sections 2 (686.16 acres) and 9 (640 acres) of Township 1 South, Range 2 West, USM, respectively, for the production of gas, oil and related hydrocarbons from the Upper Green River formation, defined as follows:

the interval from the top of the Green River formation, as encountered at a depth of 6,540 feet in the Boren 3-11A2 well situated in the SW¹/₄SW¹/₄ of Section 11, T. 1 S., R. 2 W., USM, down to the base of the TGR₃ marker bed, encountered at a depth of 9,748 feet in the Boren 3-11A2 well,

(the "Spaced Formation"), and ruled only one well on each unit producing in said interval would be allowed. The Board further ordered that the permitted well for each such unit shall be located no closer than 660 feet from any quarter section boundary and not less than 3,960 feet from an existing well completed in the Spaced Formation, with a variance of up to 150 feet for topographic purposes without prior approval, or otherwise as may be permitted by administrative action for topographic or geological reasons without the necessity of a formal Board hearing.

3. By Order entered November 7, 1991 in Cause No. 131-107 (the "1991 Order"), the Board modified the 1989 Order to substitute "2,640 feet" for "3,960 feet" with respect to the required location set-off to producing wells from the Spaced Formation.

4. The 1989 Order was clearly premised on preliminary and limited technical data and it was acknowledged by the petitioner for said Order, Pennzoil Exploration & Production Company ("Pennzoil"), that future additional data may require modification of the drilling and spacing units created thereunder. However, in the interest of maximizing protection of correlative rights until such data was generated, the Board authorized only one well to produce from the Spaced Formation for each such unit established.

5. Since entry of the 1989 and 1991 Orders, Devon and/or Pennzoil, its predecessor in title, drilled several wells which produce from the Spaced Formation, including the following wells located on the subject Section 2 and 9 lands:

<u>Well Name</u>	<u>Location</u>
Duncan 4-2A2	Section 2: NE $\frac{1}{4}$ SE $\frac{1}{4}$ (1,700' FSL/660' FEL)
Hamblin 3-9A2	Section 9: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (1,450' FNL/510' FEL).

6. The data generated from these wells has confirmed that there is a lack of correlation of individual sandstones, unpredictable matrix reservoir properties within said

sandstones and natural fractures, resulting in different locations and quality of pay zones, *i.e.* discontinuity of the Spaced Formation, across the subject Section 2 and 9 lands.

7. The data generated from these wells additionally strongly suggests one well producing from the Spaced Formation is not efficiently and economically draining subject Sections 2 and 9. Consequently, there is a strong possibility that reserves will be left in the ground unless additional drilling occurs.

8. Devon has proposed on a pilot basis to drill a second well each in subject Sections 2 and 9 at locations within the location parameters set under the 1989 and 1991 Orders for production of gas, oil and associated hydrocarbons from the Spaced Formation, and to produce said wells concurrent with the two wells specifically identified in Paragraph 5 above. However, Devon is currently prohibited, without further order from the Board, from drilling the proposed wells by virtue of the 1989 Order as modified by the 1991 Order.

9. The second wells proposed by Devon have a likelihood of economically recovering additional reserves.

10. There currently are Declarations of Unitization in place covering the Spaced Formation in subject Sections 2 and 9, recorded in Duchesne County in Book 248MR, Page 301, and in Book 241MR, Page 31, respectively, pursuant to which any production

from the Spaced Formation will be allocated to all royalty, overriding royalty and working interest owners within the entirety of such sections on a pro-rata acreage basis.

11. A copy of the Request for Agency Action was mailed, postage pre-paid, to the working interest owners within subject Sections 2 and 9, and to the working interest owners and/or unleased owners in the eight sections contiguous to subject Sections 2 and 9, respectively, at their last addresses disclosed by the appropriate Federal and County realty records.

12. Notice of the filing of Devon's Request for Agency Action and of the hearing thereon was duly published in the Salt Lake Tribune, Deseret Morning News and Uintah Basin Standard.

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.

CONCLUSIONS OF LAW

1. All royalty, overriding royalty and working interest owners outside of subject Sections 2 and 9 are not deemed to be owners whose legally protected interests are affected by Devon's Request for Agency Action.

2. 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

for Agency Action in the form and manner as required by law and the rules and regulations of the Board and Division.

3. The Board has jurisdiction over all matter 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(6).

4. Modification of the 1989 Order as modified by the 1991 Order to allow the drilling of a second well in subject Sections 2 and 9, respectively, as proposed by Devon on a pilot basis, and allowing said wells to produce concurrently with the two wells specifically identified in Findings of Fact Paragraph No. 5 above are just and reasonable under the circumstances.

5. The Declarations of Unitization described in Findings of Fact Paragraph No. 10 above establish proration units in conformity with the 1989 Order and will govern allocation of any additional production from the Spaced Formation, and therefore the correlative rights of all parties within subject Sections 2 and 9 are protected and will not be adversely affected by the drilling of the second wells as proposed by Devon.

6. Devon has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of its Request for Agency Action.

7. The relief granted hereby will result in the orderly development and greatest recovery of gas, oil and associated hydrocarbons from the Spaced Formation in subject

Sections 2 and 9, prevent waste and adequately protect the correlative rights of all affected parties.

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. The Board's Orders entered in Cause Nos. 131-81 and 131-107 are hereby modified to allow the drilling of a second well in anticipation of gas, oil and associated hydrocarbon production from the Upper Green River formation, defined as follows:

the interval from the top of the Green River formation, as encountered at a depth of 6,540 feet in the Boren 3-11A2 well situated in the SW $\frac{1}{4}$ /SW $\frac{1}{4}$ of Section 11, T. 1 S., R. 2 W., USM, down to the base of the TGR₃ marker bed, encountered at a depth of 9,748 feet in the Boren 3-11A2 well,

each in Sections 2 and 9, Township 1 South, Range 2 West, USM, respectively; provided, that said wells may not be located more than 660 feet from any quarter section boundary and not less than 2,640 feet from an existing well completed in the Upper Green River formation, with a variance of up to 150 feet for topographic purposes without prior approval or otherwise as may be permitted by administrative action for topographic or geologic reasons without the necessity of a formal Board hearing in accordance with Utah

Admin. Code Rule R649-3-3, and are subject to Division approval of conforming applications for permit to drill.

3. The second wells authorized herein may produce concurrently with the Duncan 4-2A2 well as to subject Section 2 and the Hamblin 3-9A2 well as to subject Section 9, respectively.

4. 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.

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. § 63-46b-10 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. § 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.

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 18th day of may, 2005.

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

By:


J. James Peacock, 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" for Docket No. 2005-005, Cause No. 131-123 to be mailed with postage prepaid, this 24th day of May, 2005, to the following:

Frederick M. MacDonald
PRUITT GUSHEE
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36 South State Street, Suite 1800
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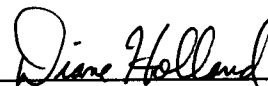
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United States of America
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United States of America
Bureau of Land Management
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Vernal, UT 84078



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MAY 18 2005

**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 DEVON ENERGY PRODUCTION COMPANY, L.P. FOR AN ORDER MODIFYING THE BOARD'S ORDERS IN CAUSE NOS. 131-81 AND 131-107 TO ALLOW THE DRILLING OF A SECOND WELL TO PRODUCE FROM THE UPPER GREEN RIVER FORMATION IN SECTIONS 2 AND 9, RESPECTIVELY, OF TOWNSHIP 1 SOUTH, RANGE 2 WEST, USM, DUCHESNE COUNTY, UTAH

**ORDER GRANTING MOTION TO
AMEND ORDER ORALLY READ
INTO RECORD**

Docket No. 2005-005

Cause No. 131-123

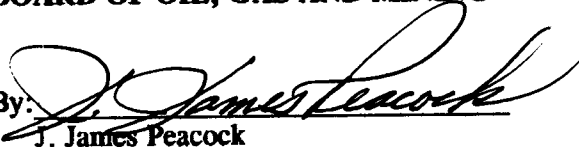
The Board of Oil, Gas and Mining, having fully considered Devon Energy Production Company, L.P.'s ("Devon's") Motion to Amend Order Orally Read Into Record dated May 9, 2005 and finding good cause therefore, hereby grants said Motion. The Board's Order read into the record at the conclusion of the April 27, 2005 hearing on this Cause is hereby amended to delete any reference to specific locations for the authorized second Upper Green River formation wells in subject Sections 2 and 9 and instead to provide that said wells may be located anywhere within said Sections 2 and 9 but not less than 660 feet from any quarter section boundary and not less than 2,640 feet from an existing well completed in the Upper Green River formation, with a variance of up to 150 feet for topographic purposes without prior approval or as may be permitted by administrative action for topographic or geologic reasons without the necessity of a formal Board hearing in accordance with Utah Admin. Code Rule R649-3-3, and subject to the Division of Oil, Gas and Mining's approval of conforming applications for permit to drill.

The Board's Findings of Fact, Conclusions of Law and Order shall include, and be in conformance with, the terms of this Order.

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 18th day of May, 2005.

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

By: 
J. James Peacock
Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing "Order Granting Motion to Amend Order Orally Read into Record" for Docket No. 2005-005, Cause No. 131-123 to be mailed with postage prepaid, this 24th day of May, 2005, to the following:

Frederick M. MacDonald
PRUITT GUSHEE
Attorneys for Devon Energy Production
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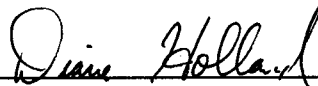
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APR 14 2005

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 DEVON ENERGY PRODUCTION COMPANY, L.P. FOR AN ORDER MODIFYING THE BOARD'S ORDERS IN CAUSE NOS. 131-81 AND 131-107 TO ALLOW THE DRILLING OF A SECOND WELL TO PRODUCE FROM THE UPPER GREEN RIVER FORMATION IN SECTIONS 2 AND 9, RESPECTIVELY, OF TOWNSHIP 1 SOUTH, RANGE 2 WEST, USM, DUCHESNE COUNTY, UTAH

**ORDER GRANTING LEAVE
TO SUBSTITUTE EXHIBITS**

Docket No. 2005-005

Cause No. 131-123

The Board of Oil, Gas and Mining, having fully considered Devon Energy Production Company, L.P.'s ("Devon's") Motion for Leave to Substitute Exhibits filed April 11, 2005, and finding good cause therefore, hereby grants said Motion and authorizes substitution of the Exhibits "F" and "G" attached to Devon's Motion for those with the same designation filed by Devon on March 28, 2005.

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 ^{14th} 11th day of April, 2005.**STATE OF UTAH
BOARD OF OIL, GAS AND MINING**By: J. James Peacock
Chairman



State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

MARY ANN WRIGHT
Acting Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

**UTAH DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET**

DATE: April 15, 2005
FAX #: 531-8468
ATTN: Frederick M. MacDonald
COMPANY: PRUITT GUSHEE
FROM: Diane Holland, Legal Secretary *Diane*
DIVISION: Division of Oil, Gas and Mining

NUMBER OF PAGES BEING SENT (INCLUDING THIS ONE): 2

If you do not receive all of the pages, or if they are illegible, please call Diane Holland at 801-538-5302.

MESSAGES: Devon Board Order

Please find attached the signed "Order Granting Leave to Substitute Exhibits" for Devon Energy Production Company, LP, dated April 14.

dh

IMPORTANT: This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return this original message to us at the above address via regular postal service. Thank you.

TRANSACTION REPORT

P. 01

APR-15-2005 FRI 08:16 AM

FOR: OIL, GAS & MINING

801 359 3940

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
APR-15	08:15 AM	5318468	52"	2	SEND	OK	596	

TOTAL : 52S PAGES: 2



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

MARY ANN WRIGHT
Acting Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

UTAH DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET

DATE: April 15, 2005

FAX #: 531-8468

ATTN: Frederick M. MacDonald
COMPANY: PRUITT GUSHEE

FROM: Diane Holland, Legal Secretary
DIVISION: Division of Oil, Gas and Mining

NUMBER OF PAGES BEING SENT (INCLUDING THIS ONE): 2

If you do not receive all of the pages, or if they are illegible, please call Diane Holland at 801-538-5302.