

FILED

JUN 18 2007

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 BILL BARRETT CORPORATION FOR AN ORDER MODIFYING THE BOARD'S ORDERS ENTERED IN CAUSE NOS. 139-8, 139-17 AND 140-6 TO REMOVE THE RESTRICTION THAT FIRST LOWER GREEN RIVER-WASATCH FORMATION WELLS BE LOCATED WITHIN THE NE¹/₄ OF SECTIONS 13-36 INCLUSIVE, TOWNSHIP 3 SOUTH, RANGE 6 WEST, USM, SECTIONS 13, 24, 25 AND 36, TOWNSHIP 3 SOUTH, RANGE 7 WEST, USM, AND SECTIONS 1-18 INCLUSIVE, TOWNSHIP 4 SOUTH, RANGE 6 WEST, USM, DUCHESNE COUNTY, UTAH

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

Docket No. 2007-009

Cause No. 139-77

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, May 23, 2007, at 10:00 a.m. The following Board members were present and participated at the hearing: Chairman Douglas E. Johnson, Robert J. Bayer, Kent R. Petersen, Samuel C. Quigley, Jean Semborski, Jake Y. Harouny and Ruland J. Gill, Jr. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner Bill Barrett Corporation ("BBC") were Douglas W.G. Gundry-White – Senior Landman, and Kurt M. Reinecke – Senior Vice President of Exploration – Southern Division. Frederick M. MacDonald, Esq., of and for Pruitt Gushee, a Professional Corporation, appeared as attorney for BBC.

Testifying on behalf of the Division of Oil, Gas and Mining (the "Division") was Brad Hill, Oil & Gas Permitting Manager. Jim Allen, Esq., Assistant Attorney General, appeared

as attorney on behalf of the Division. The Division expressed its support for BBC's Request for Agency Action dated April 4, 2007 (the "Request").

Four letters were received by the Board concerning this Cause. By Letter dated April 9, 2007 and filed with the Board on April 23, 2007, Ute Energy LLC, an operator within the area affected by the Request, expressed its support. By Letter dated and received both by electronic transmission and facsimile on May 21, 2007, and with the original filed with the Board on May 23, 2007, El Paso E&P Company, L.P., a working interest owner and operator within the area affected by the Request, also expressed its support. By Letter dated April 9, 2007, and filed with the Board on May 23, 2007, as supplemented by Letter dated May 21, 2007 and received by facsimile on May 23, 2007, the Ute Indian Tribe, a mineral owner within the area affected by the Request, expressed its support, but with clarification and reaffirmation of its concurrent jurisdictional rights and, in particular, its rights to establish spacing for the exploration and development of its mineral rights. Finally, by Letter dated and received by facsimile on May 23, 2007, Robert B. Rowley and Helen Rowley, as Trustees of the Rowley Family Trust, and purportedly on additional behalf of their brother and sister-in-law, Arthur W. Rowley and Maxine L. Rowley, mineral interest owners within the area affected by the Request, stated they did not know if the Request would be to their advantage or disadvantage and had contacted their lessor for additional information, but that, if there were no change in their interests, they would have no objection to 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 as well as the aforementioned letters, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. BBC is a Delaware corporation with its principal place of business in Denver, Colorado. BBC is duly qualified to conduct business in the State of Utah, and is fully and appropriately bonded with all relevant Federal, Indian and State of Utah agencies.

2. By Order entered August 11, 1971 in Cause No. 140-6 (the "140-6 Order"), the Board established 640-acre drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River and Wasatch formations (no definition set forth) for the following lands:

Township 3 South, Range 6 West, USM

Sections 15-22 and 27-34

Township 3 South, Range 7 West, USM

Sections 13, 24, 25 and 36

(the "140-6 Lands"), among others. Under the 140-6 Order, only one well may produce on each such unit so established, which must be located in the center of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ with a

tolerance of 660 feet in any direction; provided that an exception to said tolerance may be granted without a hearing where a topographical exception is deemed necessary.

3. By Order entered September 20, 1972 in Cause No. 139-8 (the "139-8 Order"), the Board established 640-acre drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River-Wasatch formations, defined as:

The interval from the top of the Lower Green River formation (TGR₃ marker) to the base of the Green River-Wasatch formations (top of Cretaceous), which base is defined as the stratigraphic equivalent of the Dual Induction Log depths of 16,720 feet in the Shell-Ute 1-18B5 well located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 18, Township 2 South, Range 5 West, U.S.M., and 16,970 feet in the Shell-Brotherson 1-11B4 well located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 11, Township 2 South, Range 4 West, U.S.M.,

for the following lands:

Township 3 South, Range 6 West, USM

Sections 13, 14, 23-26, 35 and 36

Township 4 South, Range 6 West, USM

Sections 1 and 2

(the "139-8 Lands"), among others. Under the 139-8 Order, only one well may produce on each such unit so established, which must be located in the center of the NE $\frac{1}{4}$ with a tolerance of 660 feet in any direction; provided that an exception to said tolerance may be

granted administratively without a hearing where a topographical exception is deemed needed.

4. By Order entered September 27, 1978 in Cause No. 139-17 (the "139-17 Order"), the Board extended the 139-8 Order to cover the following lands:

Township 4 South, Range 6 West, USM

Sections 3-18 inclusive,

(the "139-17 Lands"). The 140-6, 139-8 and 139-17 Lands are collectively hereinafter referred to as the "Subject Lands."

5. There appears to be no technical justification for requiring a well to be located in the NE $\frac{1}{4}$ under the 139-8, 139-17 and 140-6 Orders and it further appears that such requirement was adopted merely in recognition of development that had occurred to the date of entry of the respective orders and to help facilitate orderly development, rather than to maximize recovery of hydrocarbons.

6. By Order entered April 17, 1985 in Cause No. 139-42 (the "139-42 Order"), the Board modified the 139-8, 139-17 and 140-6 Orders, among other orders, to provide that an additional Lower Green River-Wasatch well may be drilled, completed, and produced on the established drilling units to a density of no greater than two producing wells in each unit comprising a section. Additional wells may be drilled at the option of the operator of the unit based upon geologic and engineering data for that unit which will justify an additional well

in order to recover oil, provided that said operator would have a reasonable opportunity to recover costs of drilling, completing, producing and operating a well plus a reasonable profit. Any additional well must be located at least 1,320 feet from an existing well in the unit and not closer than 660 feet from the exterior boundary of the unit, and no two wells may be drilled in the same quarter section.

7. Pursuant to the 139-8, 139-17 and 140-6 Orders, as modified by the 139-42 Order, numerous wells were drilled and produced on the Subject Lands, but many have since been plugged and abandoned such that no producing wells exist on many of the established drilling units. The only producing Lower Green River-Wasatch wells currently existing upon the Subject Lands are as follows:

<u>Well</u>	<u>Location</u>	<u>Operator</u>
Ute 2-14C6	<u>T3S, R6W, USM</u> Sec. 14: SW $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso E&P Company, LP ("El Paso")
Cedar Rim 10-A-15C6	<u>T3S, R6W, USM</u> Sec. 15: NE $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
Ute 2-17C6	<u>T3S, R6W, USM</u> Sec. 17: SW $\frac{1}{4}$ SE $\frac{1}{4}$	El Paso
WLR Tribal 2-19C6	<u>T3S, R6W, USM</u> Sec. 19: NW $\frac{1}{4}$ SE $\frac{1}{4}$	El Paso
Cedar Rim 2-A	<u>T3S, R6W, USM</u> Sec. 20: SE $\frac{1}{4}$ SE $\frac{1}{4}$	El Paso

Cedar Rim 8-A	<u>T3S, R6W, USM</u> Sec. 22: Center of SW $\frac{1}{4}$	El Paso
Ute Tribal G-1 (1-24C6)	<u>T3S, R6W, USM</u> Sec. 24: SW $\frac{1}{4}$ NE $\frac{1}{4}$	El Paso
Cedar Rim 12-A	<u>T3S, R6W, USM</u> Sec. 28: SE $\frac{1}{4}$ SE $\frac{1}{4}$	El Paso
Ute-Fee 2-33C6	<u>T3S, R6W, USM</u> Sec. 33: SW $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
Cedar Rim 15	<u>T3S, R6W, USM</u> Sec. 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$	El Paso
Baker Ute 2-34C6	<u>T3S, R6W, USM</u> Sec. 34: NW $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
BH Ute 1-35C6	<u>T3S, R6W, USM</u> Sec. 35: SW $\frac{1}{4}$ NE $\frac{1}{4}$	El Paso
BH Ute 2-35C6	<u>T3S, R6W, USM</u> Sec. 35: SE $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
Ute Tribal 2-24C7	<u>T3S, R7W, USM</u> Sec. 24: NE $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
McFarlane 1-4D6	<u>T4S, R6W, USM</u> Sec. 4: SW $\frac{1}{4}$ NE $\frac{1}{4}$	El Paso
Ute 1-6D6	<u>T4S, R6W, USM</u> Sec. 6: NE $\frac{1}{4}$ NE $\frac{1}{4}$	El Paso
Ute Tribal 1-11D6	<u>T4S, R6W, USM</u> Sec. 11: NW $\frac{1}{4}$ SW $\frac{1}{4}$	El Paso
Ute 1-14D6	<u>T4S, R6W, USM</u> Sec. 14: SW $\frac{1}{4}$ NE $\frac{1}{4}$	Homeland Gas & Oil Inc.

Ute 1-15D6

T4S, R6W, USM
Sec. 15: NE $\frac{1}{4}$ NE $\frac{1}{4}$

El Paso

In addition, an application for permit to drill relating to the following Lower Green River-Wasatch well has been approved by the Division:

<u>Well</u>	<u>Location</u>	<u>Operator</u>
7-7-46 BTR	<u>T4S, R6W, USM</u> Sec. 7: NW $\frac{1}{4}$ SE $\frac{1}{4}$	BBC

8. Data gathered from wells drilled pursuant to the 139-8, 139-17 and 140-6 Orders, as modified by the 139-42 Order, indicate the Lower Green River – Wasatch formations constitute a highly complex series of productive rock beds, randomly distributed across the Subject Lands, and resulting in certain areas of continuity and other areas of discontinuity. In addition, the data suggests elliptical drainage, with a general north-south orientation, may be occurring.

9. These geologic characteristics suggest there are recoverable hydrocarbons left in place, notwithstanding the previously productive, but now plugged and abandoned, wells. Some estimates are that only 10% of the hydrocarbons have been recovered so far. As a consequence, the Lower Green River – Wasatch formations across the Subject Lands have not been depleted by the wells drilled to date. It is possible that additional drilling upon the Subject Lands may ultimately confirm that more than two wells per section may be required.

10. In addition to these geologic characteristics, there are numerous surface constraints on well locations throughout the Subject Lands. There are subdivisions platted and approved covering portions of the captioned lands. In addition, there are Division of Wildlife Resources and State Parks and Recreation (associated with Starvation Reservoir) lands which result in wildlife habitat and other inconsistent use restrictions. Finally, there are topographic challenges as well.

11. The geologic characteristics and surface constraints, when collectively viewed, illustrate the need for flexibility in locating wells upon the Subject Lands.

12. BBC is a working interest/operating rights owner in many of the Subject Lands and is developing a drilling program in exercise of those rights. BBC's goal is to drill additional wells upon the Subject Lands to confirm additional hydrocarbons can in fact be recovered.

13. A copy of the Request was mailed, postage prepaid, to all working interest owners and operators, including unleased owners, within the Subject Lands, and to all working interest owners and operators within the adjacent drilling units comprised of Section 7-11 of T3S, R6W, and Section 12 of T3S, R7W, being the adjacent drilling units to the Subject Lands under the 140-6 Order which could be affected by the modification of the 660 foot tolerance window from the center of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ requested by BBC, all at their last addresses as disclosed by the appropriate Indian, State and County records. A copy of the

Request was also mailed, postage prepaid, to the Federal agencies having supervisory jurisdiction over development of Indian lands.

14. 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 May 6, 2007, and in the Uintah Basin Standard on May 1, 2007.

15. The vote of the Board members present in the hearing and in this Cause was unanimous 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.

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 40-6-6(6).

3. BBC has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Request.

4. Allowing flexibility in locating Lower Green River – Wasatch wells in the Subject Lands, with the existing set-off limitations under the 139-42 Order, is just and reasonable and will not affect existing correlative rights.

5. The relief granted hereby will be in furtherance of the public policies of this State to promote greater recovery of oil, gas and associated hydrocarbons without waste and with protection of the correlative rights of all affected owners, constitutes orderly development of the Subject Lands, and is just and reasonable.

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. The 139-8, 139-17 and 140-6 Orders are hereby modified to eliminate the requirement that the first well on the drilling units comprised of the Subject Lands established thereunder be located in the NE¹/₄ of the section and instead allow the location to be anywhere in the drilling unit so long as it is no closer than 660 feet from the boundaries of the unit (section) and no closer than 1,320 feet from a well producing from the same formations without an exception location approval in accordance with Utah Admin. Code Rule R649-3-3. No more than two wells producing from the Lower Green River – Wasatch formations shall be allowed on any such drilling unit without additional Board authorization.

3. The existing producing wells described in Paragraph 7 of the Findings of Fact above are hereby declared to be at lawful locations notwithstanding the relief granted herein.

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 is 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 18 day of JUNE, 2007.

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

By: Douglas E. Johnson
Douglas E. Johnson

CERTIFICATE OF SERVICE

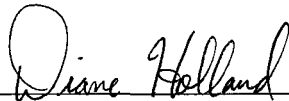
I hereby certify that I caused a true and correct copy of the foregoing "Findings of Fact, Conclusions of Law and Order" for Docket No. 2007-009, Cause No. 139-77 to be mailed, postage prepaid, on June 22, 2007, to those listed below and those listed on the following attachment:

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