

**FILED**

**BEFORE THE BOARD OF OIL, GAS AND MINING**

**AUG 24 2011**

**DEPARTMENT OF NATURAL RESOURCES**

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

**STATE OF UTAH**

**IN THE MATTER OF THE REQUEST )**  
**FOR AGENCY ACTION OF UTE )**  
**ENERGY UPSTREAM HOLDINGS )**  
**LLC FOR AN ORDER MODIFYING )**  
**THE BOARD’S ORDER IN CAUSE NO. )**  
**142-03 TO ALLOW AN ADDITIONAL )**  
**(SECOND) WELL IN EACH OF THE )**  
**80-ACRE (OR SUBSTANTIALLY )**  
**EQUIVALENT) DRILLING UNITS )**  
**ESTABLISHED FOR PRODUCTION )**  
**OF HYDROCARBONS FROM THE )**  
**LOWER GREEN RIVER FORMATION )**  
**IN PORTIONS OF SECTIONS 23-26, 35, )**  
**AND 36, TOWNSHIP 3 SOUTH, )**  
**RANGE 1 EAST, U.S.M., AND )**  
**SECTIONS 19 AND 29-33, TOWNSHIP )**  
**3 SOUTH, RANGE 2 EAST, U.S.M., )**  
**UINTAH COUNTY, UTAH )**

**FINDINGS OF FACT,**  
**CONCLUSIONS OF LAW, AND**  
**ORDER ALLOWING IN-FILL**  
**WELLS**

**Docket No. 2011-012**  
**Cause No. 142-05**

This Cause came on regularly for hearing before the Utah Board of Oil, Gas, and Mining (the “Board”) on Wednesday, July 27, 2011, at the hour of 9:00 a.m. in the Auditorium of the Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The following Board members were present and participated at the hearing: James T. Jensen, Chairman, Jean Semborski, Jake Y. Harouny, Ruland J. Gill, Jr., Kelley L. Payne, and Charles D. Hansen. Board Member Carl F. Kendell recused himself and did not participate in the hearing or the Board’s decision in this Cause. John R. Baza, Director, was present for the Utah Division of Oil, Gas and Mining (the “Division”). The Board was represented by Michael S. Johnson, Assistant Attorney General.

The petitioner, Ute Energy Upstream Holdings LLC (“Ute Energy”), was represented by Thomas W. Clawson of Van Cott, Bagley, Cornwall & McCarthy; and David Eckelberger, Land Manager; Greg Hinds, Ute Energy’s Chief Operating Officer and Geologist; and James Jagers, Reservoir Engineer, testified on behalf of Ute Energy. Messrs. Hinds and Jagers were qualified and recognized by the Board as experts in geology and petroleum engineering, respectively, for purposes of this Cause.

The Division was represented by Emily Lewis, Assistant Attorney General. The Division filed its Staff Memorandum to the Board on July 21, 2011. Clint Dworshak, Compliance Manager and Geologist, testified on behalf of the Division. The Division expressed its support for granting Ute Energy’s Request for Agency Action filed in this Cause (the “Request”).

Jerry Kenczka, Assistant Field Manager for Lands and Minerals, Vernal Field Office, United States Department of the Interior, Bureau of Land Management (the “BLM”), appeared at the hearing and expressed the BLM’s support for granting the Request. The BLM also filed a letter dated July 12, 2011, in support of Ute Energy’s Request.

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

At the conclusion of the hearing, Ute Energy moved the Board to take official notice of the record in underlying Cause No. 142-03, the administrative proceeding related to the Prior Order as discussed herein.

The Board, having fully considered the testimony adduced and the exhibits received into evidence at the July 27, 2011 hearing, being fully advised, and good cause appearing, hereby makes the following findings of fact, conclusions of law, and order:

#### **FINDINGS OF FACT**

1. Notices of the time, place, and purposes of the Board's regularly scheduled July 27, 2011 hearing were mailed to all interested parties by first-class mail, postage prepaid, and were duly published in the Salt Lake Tribune, Deseret Morning News, Uintah Basin Standard, and The Vernal Express pursuant to the requirements of the Utah Administrative Code ("U.A.C.") Rule R641-106-100. Copies of the Request were mailed to all interested parties pursuant to U.A.C. Rule R641-104-135.

2. Ute Energy Upstream Holdings LLC is a Delaware limited liability company in good standing, having its principal place of business in Denver, Colorado. Ute Energy is qualified to do and is doing business in Utah.

3. By that certain Findings of Fact, Conclusions of Law and Order entered on September 26, 2007, in Cause No. 142-03 (the "Prior Order"), the Board established 80-acre (or substantially equivalent) lay-down (horizontal) drilling units for the production of oil and associated gas and other hydrocarbons from the Lower Green River Formation defined as follows (the "Subject Formation"):

[T]hat interval between the stratigraphic equivalent of 5,858 feet as shown on the Induction log of the Knight 14-30 Well, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 30, Township 3 South, Range 2 East, U.S.M., and the stratigraphic equivalent of 7,610 feet as shown on the Laterolog of the Gulf Randlett #2 Well, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 3 South, Range 2 East, U.S.M.,

for the following described lands in Uintah County, Utah:

Township 3 South, Range 1 East, U.S.M.

Section 23:	S $\frac{1}{2}$ S $\frac{1}{2}$
Section 24:	S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$
Section 25:	All
Section 26:	All
Section 35:	N $\frac{1}{2}$
Section 36:	All

Township 3 South, Range 2 East, U.S.M.

- Section 19: Lots 2 (39.94) and 4 (39.68)  
[W $\frac{1}{2}$ SW $\frac{1}{4}$ ], E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$
- Section 29: Lots 1 (39.39) [SE $\frac{1}{4}$ NE $\frac{1}{4}$ ] and 2  
(39.50) [SE $\frac{1}{4}$ SW $\frac{1}{4}$ ], NW $\frac{1}{4}$ , SE $\frac{1}{4}$ ,  
N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SW $\frac{1}{4}$  [All]
- Section 30: Lots 1 (40.54), 2 (40.74), 3  
(40.94) and 4 (41.00) [W $\frac{1}{2}$ W $\frac{1}{2}$ ],  
E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All]
- Section 31: Lots 1 (41.02), 2 (40.96), 3  
(40.70) and 4 (40.55) [W $\frac{1}{2}$ W $\frac{1}{2}$ ],  
E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All]
- Section 32: Lots 1 (39.50) [NE $\frac{1}{4}$ NW $\frac{1}{4}$ ] and 2  
(40.04) [SE $\frac{1}{4}$ SW $\frac{1}{4}$ ], NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 33: Lots 1 (41.12) and 2 (41.31)  
[W $\frac{1}{2}$ NW $\frac{1}{4}$ ], E $\frac{1}{2}$ NW $\frac{1}{4}$

(the "Subject Lands"), and expressly provided for the establishment of the following special drilling units to account for the irregular lots contained in certain sections of the Subject Lands within

Township 3 South, Range 2 East, U.S.M.:

- Section 19: Lot 4 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 19: Lot 2 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 29: Lot 1 and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ ;
- Section 29: Lot 2 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 30: Lot 1 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;
- Section 30: Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;
- Section 30: Lot 3 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 30: Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 31: Lot 1 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;
- Section 31: Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;
- Section 31: Lot 3 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 31: Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 32: Lot 1 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;
- Section 32: Lot 2 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;
- Section 33: Lot 1 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; and
- Section 33: Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The Board further ordered that the permitted well for each such drilling unit shall be located no closer than 460 feet from a drilling unit boundary and no closer than 920 feet from another well

producing from the Subject Formation without an exception well location approved by the Division in accordance with U.A.C. Rule R649-3-3.

4. In accordance with the Prior Order, the following wells have been drilled and completed and continue to produce (or are capable of producing) oil and associated gas and other hydrocarbons from the Subject Formation beneath the Subject Lands, each of which currently constitutes the authorized well for the identified drilling unit (the "Subject Wells"):

<u>Well</u>	<u>Location</u> (All T3S-R2E)	<u>Applicable Drilling Unit</u>
Knight 16-30	Sec. 30: SE $\frac{1}{4}$ SE $\frac{1}{4}$ (691 FSL/640 FEL)	Sec.30: S $\frac{1}{2}$ SE $\frac{1}{4}$
Eliason 6-30	Sec. 30: SE $\frac{1}{4}$ NW $\frac{1}{4}$ (1,949 FNL/1,998 FWL)	Sec. 30: Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$
Knight 14-30	Sec. 30: SE $\frac{1}{4}$ SW $\frac{1}{4}$ (660 FSL/2,180 FWL)	Sec. 30: Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$
Ult 4-31	Sec. 31: NW $\frac{1}{4}$ NW $\frac{1}{4}$ (663 FNL/664 FWL)	Sec. 31: Lot 1 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$
Deep Creek 2-31	Sec. 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$ (663 FNL/1,977 FEL)	Sec. 31: N $\frac{1}{2}$ NE $\frac{1}{4}$
Deep Creek 8-31	Sec. 31: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (1,980 FNL/660 FEL)	Sec. 31: S $\frac{1}{2}$ NE $\frac{1}{4}$
Ult 12-29	Sec. 29: NW $\frac{1}{4}$ SW $\frac{1}{4}$ (1,797 FSL/741 FWL)	Sec. 29: N $\frac{1}{2}$ SW $\frac{1}{4}$
Eliason 12-30	Sec. 30: NW $\frac{1}{4}$ SW $\frac{1}{4}$ (1,980 FSL/ 660FWL)	Sec. 30: Lot 3 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$

5. Ute Energy is the operator of the Subject Wells.

6. In addition to the Subject Wells, as of June 13, 2011, the date the Request was filed, Applications for Permit to Drill (“APD”) have been filed with and approved by the Division for the following wells located within the Subject Lands and identified drilling units:

<u>Well</u>	<u>Location</u> (All T3S-R2E)	<u>Applicable Drilling Unit</u>
Ult 6-31	Sec. 31: SE $\frac{1}{4}$ NW $\frac{1}{4}$ (1,980 FNL/1,980 FWL)	Sec.31: Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$
Ute Tribal 10-30-3-2E	Sec. 30: NW $\frac{1}{4}$ SE $\frac{1}{4}$ (1,800 FSL/ 1,936 FEL)	Sec. 30: N $\frac{1}{2}$ SE $\frac{1}{4}$
Ute Tribal 6-32-3-2E	Sec. 32: SE $\frac{1}{4}$ NW $\frac{1}{4}$ (1,975 FNL/ 1,984 FWL)	Sec. 32: S $\frac{1}{2}$ NW $\frac{1}{4}$

7. As of June 13, 2011, APDs also have been filed with, but not approved by, the Division for the following wells located within the Subject Lands and identified drilling units:

<u>Well</u>	<u>Location</u> (All T3S-R2E)	<u>Applicable Drilling Unit</u>
Deep Creek 13-32-3-2E	Sec. 32: SW $\frac{1}{4}$ SW $\frac{1}{4}$ (660 FSL/ 660 FWL)	Sec. 32: Lot 2 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$
Ult 14-31-3-2E	Sec. 31: SE $\frac{1}{4}$ SW $\frac{1}{4}$ (808 FSL/ 1,978 FWL)	Sec. 31: Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$
Ult 12-31-3-2E	Sec. 31: NW $\frac{1}{4}$ SW $\frac{1}{4}$ (1,979 FSL/ 657 FWL)	Sec. 31: Lot 3 and NE $\frac{1}{4}$ SW $\frac{1}{4}$

8. The ownership of the oil and associated gas and other hydrocarbons in the Subject Lands is a mixture of fee (private) and Indian minerals. With the exception of the drilling units within the S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 30, Township 3 South, Range 2 East, Ute Energy owns 100% of the working interests in the established drilling units, including those containing a Subject Well. Because Ute Energy owns the entire working interests in each such drilling unit, no pooling agreements are required for those units.

9. The drilling unit comprised of Lot 2 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$  [S $\frac{1}{2}$ NW $\frac{1}{4}$ ] of said Section 30 is subject to that certain Findings of Fact, Conclusions of Law and Order dated September 17, 2008, entered by the Board in Cause No. 142-04 (the "Force Pooling Order"). At the July 27, 2011 hearing, Ute Energy acknowledged that an additional well drilled in that drilling unit would not be subject to the existing Force Pooling Order, and that if a voluntary pooling agreement covering such a well was not entered into by all interested parties, Ute Energy would have to return to the Board to seek a force pooling order covering such a well, if Ute Energy so desired.

10. The drilling unit comprised of Lot 3 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$  [N $\frac{1}{2}$ SW $\frac{1}{4}$ ] of said Section 30 includes four unleased mineral owners whose combined unleased working interests within said drilling unit totals 4.3946%. Ute Energy owns 93.47% of the working interest in said drilling unit and McCully Chapman Exploration owns 2.1345% of the working interest. This drilling unit is not subject to a pooling order or voluntary pooling agreement. To date, it has been developed on a co-tenancy basis.

11. The Subject Formation is comprised of discontinuous sandstones deposited in multiple depositional environments: alluvial channels, fans, shallow marginal-lacustrine channels, and bars. The sandstones have low porosity and high permeability. Ute Energy's geologic testimony and exhibits demonstrated that these multiple-discontinuous reservoirs are of very low quality, limiting efficient reservoir drainage, and that the lack of reservoir continuity and quality results in inadequate recovery of oil and associated gas and other hydrocarbons from the established drilling units based on 80-acre spacing. Ute Energy's evidence also demonstrated that the limiting geologic factors support a need for in-fill drilling in the established 80-acre drilling units, and that one well based on 80-acre lay-down (horizontal) spacing will not adequately drain each drilling unit. Ute Energy showed that allowing an additional in-fill well in each drilling unit is

a more appropriate well density than already exists for the Subject Formation beneath the Subject Lands. Without an additional wellbore being authorized in each drilling unit, it is likely that valuable resources will be left in place within each drilling unit.

12. The Subject Formation, as described in the geologic testimony and exhibits admitted and adduced at the hearing, is a stratigraphic trap, which underlies all or substantially all of the Subject Lands. The productive intervals in the Subject Formation constitute a pool—a common source of supply of oil, gas and other hydrocarbons—based on their common depositional environment and interwoven nature.

13. Ute Energy's reservoir engineering testimony and exhibits admitted and adduced at the hearing, including projected production decline curves and economic analyses, show that wells drilled on the Subject Lands on the basis of a 40-acre well density may be efficiently and economically drilled and produced.

14. Ute Energy has proposed modifying the Prior Order to allow an additional well in each of the 80-acre (or substantially equivalent) drilling units established under the Prior Order. Ute Energy desires to maintain the same general set-off limitations (*i.e.*, no closer than 460 feet to a drilling unit boundary or 920 feet to another well producing from the Subject Formation, unless otherwise permitted by the Division in accordance with U.A.C. Rule R649-3-3) as are currently established under the Prior Order.

15. The testimony and evidence submitted at the July 27, 2011 hearing supports Ute Energy's Request to modify the Prior Order to allow an additional well in each of the 80-acre (or substantially equivalent) drilling units established under the Prior Order. Ute Energy's Request is reasonable and justified.



16. Two wells in each 80-acre or equivalent unit is necessary to adequately recover the reserves therein. Accordingly, drilling and producing the Subject Formation beneath the Subject Lands on the basis of a 40-acre well density will not constitute waste. Forty acres is not smaller than the maximum area that can be efficiently and economically drained by a well completed and producing from the Subject Formation beneath the Subject Lands.

17. The Board voted unanimously (6-0) to approve Ute Energy's Request.

### **CONCLUSIONS OF LAW**

1. Due and regular notice of the time, place, and purposes of the Board's regularly scheduled July 27, 2011 hearing was given to all interested parties in the form and manner and within the time required by law and the rules and regulations of the Board. Due and regular notice of the filing of the Request was given to all interested parties in the form and manner required by law and the rules and regulations of the Board.

2. Pursuant to Sections 40-6-5 and 40-6-6 of the Utah Code, the Board has jurisdiction over all of the interested parties and the subject matter of the Request, and has the power and authority to make and issue the order herein set forth.

3. The drilling of an additional (second) well for production of oil and associated gas and other hydrocarbons from the Subject Formation on each of the established 80-acre drilling units for the Subject Lands is currently prohibited unless the Prior Order is modified by the Board.

4. In-fill drilling of an additional well on each of the established drilling units for the Subject Lands appears necessary to recover oil and gas reserves from the Subject Lands that otherwise would be left in the ground and is deemed otherwise appropriate, just, and reasonable under the circumstances.

5. The correlative rights of all interested parties will not be adversely affected because Ute Energy seeks in-fill drilling authorization, not down spacing.

6. The relief granted hereby will result in the orderly development and greatest recovery of oil and gas from the Subject Formation as to the Subject Lands, prevent waste, and adequately protect the correlative rights of all affected parties.

7. Good cause appears to grant Ute Energy's Request as provided herein.

8. Modifying the Prior Order to allow for an additional (second) well in each 80-acre drilling unit established by that order within the Subject Lands with the same set-off limitations contained in the Prior Order is just and reasonable and will further the public policies of this State by: (1) allowing for the orderly development of the Subject Formation within the Subject Lands; (2) preventing waste; (3) adequately protecting the correlative rights of all interested parties; (4) promoting the public interest; and (5) increasing the ultimate recovery of hydrocarbons from the Subject Lands.

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

### **ORDER**

Based upon the Request, the testimony and evidence submitted and entered at the July 27, 2011 hearing and the findings of fact and conclusions of law as stated above, it is therefore ordered that:

1. The Request in this Cause is granted.
2. The Board's Findings of Fact, Conclusions of Law, and Order entered on September 26, 2007, in Cause No. 142-03 is hereby modified to permit the drilling of an additional

(second) well for the production of oil and associated gas and other hydrocarbons from the Subject

Formation defined as follows:

[T]hat interval between the stratigraphic equivalent of 5,858 feet as shown on the Induction log of the Knight 14-30 Well, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 30, Township 3 South, Range 2 East, U.S.M., and the stratigraphic equivalent of 7,610 feet as shown on the Laterolog of the Gulf Randlett #2 Well, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 3 South, Range 2 East, U.S.M.,

to achieve a 40-acre (or substantially equivalent) well density within the drilling units established by the Order in Cause No. 142-03 for the following lands:

Township 3 South, Range 1 East, U.S.M.

Section 23: S $\frac{1}{2}$ S $\frac{1}{2}$   
Section 24: S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
Section 25: All  
Section 26: All  
Section 35: N $\frac{1}{2}$   
Section 36: All

Township 3 South, Range 2 East, U.S.M.

Section 19: Lots 2 (39.94) and 4 (39.68)  
[W $\frac{1}{2}$ SW $\frac{1}{4}$ ], E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
Section 29: Lots 1 (39.39) [SE $\frac{1}{4}$ NE $\frac{1}{4}$ ] and 2  
(39.50) [SE $\frac{1}{4}$ SW $\frac{1}{4}$ ], NW $\frac{1}{4}$ , SE $\frac{1}{4}$ ,  
N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SW $\frac{1}{4}$  [All]  
Section 30: Lots 1 (40.54), 2 (40.74), 3  
(40.94) and 4 (41.00) [W $\frac{1}{2}$ W $\frac{1}{2}$ ],  
E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All]  
Section 31: Lots 1 (41.02), 2 (40.96), 3  
(40.70) and 4 (40.55) [W $\frac{1}{2}$ W $\frac{1}{2}$ ],  
E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All]  
Section 32: Lots 1 (39.50) [NE $\frac{1}{4}$ NW $\frac{1}{4}$ ] and 2  
(40.04) [SE $\frac{1}{4}$ SW $\frac{1}{4}$ ], NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$   
Section 33: Lots 1 (41.12) and 2 (41.31)  
[W $\frac{1}{2}$ NW $\frac{1}{4}$ ], E $\frac{1}{2}$ NW $\frac{1}{4}$

3. No such additional well may be drilled closer than 460 feet from the exterior boundary of each such drilling unit or closer than 920 feet from other wells completed and producing oil and associated gas or other hydrocarbons from the Subject Formation without an exception well location approved by the Division in accordance with U.C.A. Rule R649-3-3.

4. Ute Energy's Motion made at the conclusion of the July 27, 2011 hearing is granted and the Board hereby takes official notice of the record in Cause No.142-03 pursuant to U.A.C. Rule R641-108-204.

5. Pursuant to U.A.C. Rule R641 and Utah Code Ann. §§ 63G-4-204 to -208, the Board has considered and decided this matter as a formal adjudication.

6. 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 Utah Administrative Procedures Act, Utah Code Ann. § 63G-4-208 and U.A.C. Rule R641-109.

7. Notice re Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: 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. §§ 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. The Utah Administrative Procedures Act provides:

(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 Administrative 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 10<sup>th</sup> 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 15<sup>th</sup> day of that month.

Id. See Utah Administrative 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 § 63G-4-302 and the deadline in Utah Administrative 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.

8. 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.

9. 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 24<sup>th</sup> day of August, 2011.

STATE OF UTAH  
BOARD OF OIL, GAS AND MINING

By   
James T. Jensen, 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 ALLOWING IN-FILL WELLS for Docket No. 2011-012, Cause No. 142-05 to be mailed with postage prepaid, this 29th day of August, 2011, to the following:

Thomas W. Clawson  
Attorneys for Petitioner  
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Salt Lake City, Utah 84111

Ute Energy Upstream Holdings LLC  
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Denver, Colorado 80202

Michael S. Johnson  
Assistant Attorneys General  
Utah Board of Oil, Gas & Mining  
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**[Via Email]**

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**[Via Email]**

Peter Franklin Gavitte and  
Shelly A. Gavitte Joint Tenants  
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A/K/A Donald Bruce Gavitte  
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Norman S. Sheya  
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Costa Mesa, CA 92627

Ruth Helen Rimback  
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Lancaster, PA 17602-4861  
**[Address updated 7/11/2011]**

Deep Creek Investments  
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