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AUG 03 2001

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 SHENANDOAH )  
ENERGY INC. FOR AN ORDER VACATING )  
THE SPACING ORDER IN CAUSE NO. 187-2 )  
TO PROVIDE FOR THE DRILLING OF )  
ADDITIONAL WELLS TO ACHIEVE A WELL )  
DENSITY EQUIVALENT TO 40-ACRE WELL )  
SPACING FOR DEVELOPMENT AND )  
PRODUCTION OF GAS AND ASSOCIATED )  
HYDROCARBONS FROM THE WASATCH )  
FORMATION, UINTAH COUNTY, UTAH )

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

Docket No.: 2001-016  
Cause No.: 187-05

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, June 27, 2001, at the hour of 2:30 p.m. The following Board members were present and participated at the hearing:

- Elise L. Erler, Chairman
- J. James Peacock
- W. Allan Mashburn
- Stephanie Cartwright
- Robert J. Bayer
- Kent R. Petersen and
- Douglas E. Johnson

Attending and participating on behalf of the Division of Oil, Gas and Mining ("DOGM") was John Baza, Associate Director - Oil and Gas. The Board and DOGM were represented by Kurt E. Seel, 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. Attending and making a statement on behalf of the Utah School and Institutional Trust Lands Administration (“SITLA”) was Dave Tabet, a geologist with the Utah Geological Survey.

Testifying on behalf of Petitioner Shenandoah Energy Inc. (“Shenandoah”) was M. Scott Homsher, Senior Landman, Robert LaRocque, Geologist, and Roger Flahive, Petroleum Engineer. Thomas W. Bachtell, Esq., of Pruitt, Gushee & Bachtell, appeared as attorney on behalf of Shenandoah.

The BLM, SITLA and DOGM expressed their support of the Request for Agency Action. No 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, 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**

1. Shenandoah is a Delaware corporation in good standing and authorized to conduct business in the State of Utah.

2. Shenandoah Energy Inc. is the owner of working interests in the lands described below:

Township 8 South, Range 21 East, SLM

Section 23: S½

(hereafter the “Subject Lands”).

3. By Order in Cause No. 187-2, the Board established 320-acre drilling units, either vertical or horizontal at operator's option, for production from "gas wells" (natural gas and associated hydrocarbons) in the Wasatch formation underlying part of the Subject Lands, among others.

4. The Order in Cause No. 187-2 covers the Subject Lands, but excepts "that portion of the Stagecoach Unit lying within the S½ of Section 23." On the date this Order was entered, August 20, 1980, the NW¼SE¼ and the N½SW¼ were within the Stagecoach Unit area. However, the Stagecoach Unit has since contracted to exclude all of the Subject Lands.

5. Geologic and engineering data obtained from existing gas wells and other drilling and development operations in the surrounding area support a well density, based on drainage, equivalent to 40-acre well spacing for the development and production of gas and associated hydrocarbons from the Wasatch formation, underlying the Subject Lands.

6. The Order in Cause No. 187-2 originally covered thousands of acres, much of which is in the same township and range as the Subject Lands. However, pursuant to the Orders in Cause Nos. 173-16 and 173-19, the Order in Cause No. 187-2 was vacated as to all lands in said township and range except the Subject Lands.

7. An Order vacating the Order in Cause No. 187-2 as to the Subject Lands and allowing future drilling to proceed under the general state-wide well location rule

codified at Utah Admin. Code Rule R649-3-2 will promote the public interest, increase ultimate recovery, prevent waste, protect the correlative rights of all owners and be in the public interest.

8. A copy of the Request for Agency Action was mailed to all companies, persons and governmental agencies known to own or administer a legally protected interest which could be affected by the Request for Agency Action in this matter.

9. Notice was duly published as required by Utah Admin. Code Rule R641-106-100.

10. The vote of the Board members present at the hearing and in this Cause was unanimous in favor of granting the Request for Agency Action.

### CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purpose of the hearing was properly given to all interested parties in the form and manner as required by law and the rules and regulations of the Board and DOGM.

2. The Board has jurisdiction over all matters 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 Utah Admin. Code Rule R649-2-1.

3. The Request for Agency Action satisfies all statutory and regulatory requirements for the relief sought therein and should be granted.

## 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 Order entered in Cause No. 187-2 is vacated with respect to the Subject Lands.
3. 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.
4. 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.
5. 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 a 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 specified 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 heard, or a person designated for that purpose, shall issue a written order granting the request or denying 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 petitioner 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 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.

6. 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.

7. 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 3<sup>rd</sup> day of August, 2001.

STATE OF UTAH  
BOARD OF OIL, GAS & MINING

By: Elise Erler  
Elise L. Erler, 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. 2001-016, Cause No. 187-05 to be mailed with postage prepaid, this 6 day of August, 2001, to the following:

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