

**FILED**

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

**MAY 18 2006**

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

**IN THE MATTER OF THE REQUEST  
FOR AGENCY ACTION OF ENDURING  
RESOURCES LLC FOR AN ORDER  
VACATING CAUSE NO. 119-1 SPACING  
ORDER AS TO SECTIONS 13, 14, 15, 22,  
23 AND 24 OF TOWNSHIP 12 SOUTH,  
RANGE 21 EAST, S.L.M., PERTAINING  
TO THE PRODUCTION OF GAS AND  
ASSOCIATED HYDROCARBONS FROM  
THE WASATCH AND MESAVERDE  
FORMATIONS, UTAH COUNTY,  
UTAH**

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

Docket No. 2006-001

Cause No. 119-02

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the “Board”) on Wednesday, April 26, 2006, at approximately 10:00 a.m. The following Board members were present and participated at the hearing: J. James Peacock, Chairman; Samuel Quigley; Kent Petersen; Robert Bayer; Jake Harouny; Douglas Johnson; and Jean Semborski. Attending and participating on behalf of the Utah Division of Oil, Gas and Mining (“DOG M”) was Dustin Doucet, Petroleum Engineer, and Keli Beard, Esq. The Board was represented by Michael Johnson, Esq.

Testifying on behalf of Petitioner Enduring Resources, LLC (“Enduring”), were Alex Campbell, Vice President Land for Enduring, and Dr. David Wavrek, a Utah certified geologist. Chris D. Jones, Esq., of Snell & Wilmer LLP appeared as attorney for Enduring.

The DOGM, through the testimony of Mr. Doucet, expressed its support for Enduring’s Request for Agency Action. A representative of the BLM (defined below) offered a statement in

support of the petition at the hearing. No statements were made at the hearing in opposition to Enduring's Request for Agency Action and no other parties appeared or participated in 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 order.

### **FINDINGS OF FACT**

1. Enduring owns a majority of the working interests in oil and gas leases covering the following described lands located in Uintah County, Utah (collectively, the "Subject Lands"):

#### **Township 12 South, Range 21 East, S.L.M.**

Section 13: All  
Section 14: All  
Section 15: All  
Section 22: All  
Section 23: All  
Section 24: All

(containing 3,840.00 acres, more or less)

The Subject Lands are owned by the United States of America, and are administered by the Bureau of Land Management ("BLM").

2. By Order in Cause No. 119-1, dated February 17, 1966 ("**Prior Order**"), the Board established 640-acre drilling and spacing units for the production of gas from the Wasatch and Mesa Verde Formations (the "**Spaced Interval**") underlying the Subject Lands, authorizing one well per 640-acre drilling unit to be located in a quarter-quarter section nearest the center of the section. The Spaced Interval is not specifically defined in the Prior Order.

3. Enduring submitted a Request for Agency Action to the Board, requesting that the Board vacate the Prior Order, and provide that the Subject Lands revert to the Board's default 40-acre spacing rules, as set forth in Utah Administrative Code R649-3-2.

4. Since the issuance of the Prior Order, improvements in technologies and knowledge about the producing formations in the area surrounding the Subject Lands have led to development on 40-acre spacing and drainage patterns in neighboring oil and gas fields.

5. The lands surrounding the Subject Lands are not subject to any spacing orders of the Board and are subject only to the 40-acre default spacing rules under Utah Administrative Code R649-3-2. The Subject Lands, with 640-acre spacing requirements, are subject to potential drainage by neighboring lands that are being or can be developed on 40-acre spacing. Geologic and engineering data obtained from existing wells in the general area of the Subject Lands since the issuance of the Prior Order in 1966 support a well density equivalent to 40-acre well spacing for the development of gas resources from the Spaced Interval.

6. Available data from wells near and surrounding the Subject Lands strongly indicates that the Wasatch and Mesaverde Formations (the Spaced Interval under the Prior Order) are discontinuous, and that drilling on 640-acre spacing patterns, per the Prior Order, would not result in efficient and economic development of gas and hydrocarbon resources, and would result in significant waste of resources. The Wasatch and Mesaverde Formations (the Spaced Interval under the Prior Order), as found within and near the Subject Lands, are substantially similar to the same formations found in surrounding areas within the Uinta Basin that are being drilled on 40-acre spacing patterns.

7. No pooling or other sharing arrangements exist among the owners in the Subject Lands that would require maintaining the Prior Order in order to protect correlative and

contractual rights. Vacation of the Prior Order will protect correlative rights in allowing the independent development of the small tracts not owned by Enduring in the Subject Lands.

8. Vacation of the Prior Order and defaulting to the Board's 40-acre well location and siting rules will promote the public interest, increase ultimate recovery, prevent waste, and protect correlative rights of all owners.

9. A copy of Petitioners' Request for Agency Action was mailed to persons or companies known to have legally protected interests to explore for and drill into and produce from the Spaced Interval in the Subject Lands and to appropriate the oil and gas produced, and whose interests which could be impacted by Enduring's Request for Agency Action.

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

11. The Board members present at the hearing voted unanimously in favor of granting the Request for Agency Action.

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction of the parties and of the subject matter of Enduring's Request for Agency Action, pursuant to Chapter 6 of Title 40 of the *Utah Code Annotated*.

2. The Board gave due and regular notice of the time, place, and purpose of the hearing to all interested parties as required by law and by the rules and regulations of the Board. Enduring properly served all owners entitled to notice by mailing copies of the Request for Agency Action to those owners having legally protected interests.

3. Vacation of the Prior Order will promote the public interest, increase the ultimate recovery of the resources, prevent physical waste of oil, gas, and associated hydrocarbons, and protect correlative rights.

**ORDER**

**IT IS THEREFORE ORDERED** that to promote the public interest, to increase the ultimate recovery of the resources, to prevent physical waste of oil, gas, and associated hydrocarbons, and to protect the correlative rights of all owners:

1. Enduring's Request for Agency Action to vacate the Prior Order is granted.
2. The Board's Order entered in Cause 119-1 is vacated in its entirety and the Subject Lands shall be subject to the statewide siting rule found in Utah Admin. Code Rule R649-3-2.
3. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63-46b-6 through -10, and of the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641.
4. This Findings of Fact, Conclusions of Law, and Order ("**Order**") is based exclusively upon evidence of record in this proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63-46b-10, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.
5. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** The Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah

within 30 days after the date this Order is entered. Utah Code Ann. § 63-46b-10(f).

6. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this Order. Utah Code Ann. § 63-46b-10(e). 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 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.

Utah Code Ann. § 63-46b-13.

The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled "Rehearing and Modification of Existing Orders" state:

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 that month.

Utah Admin. Code R641-110-100.

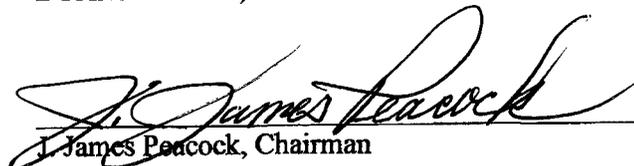
The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within 30 days thereafter.

7. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

8. The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

ENTERED this 18<sup>th</sup> day of May, 2006.

STATE OF UTAH  
BOARD OF OIL, GAS AND MINING

  
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. 2006-001, Cause No. 119-02 to be mailed with postage prepaid, this 19<sup>th</sup> day of May, 2006, to the following:

Chris D. Jones  
SNELL & WILMER LLP  
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Big Snowy Exploration Ltd. Partnership  
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Elliott Industries Ltd. Partnership  
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1995 Living Trust  
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**FILED**

**MAR 16 2006**

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

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

**ORDER GRANTING CONTINUANCE**

Docket No. 2006-001

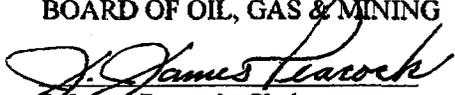
Cause No. 119-02

The Board of Oil, Gas & Mining having considered the Motion for Continuance of Enduring Resources, LLC., Petitioner in this matter, for an order continuing the hearing in this matter to the regularly scheduled hearing date on April 26, 2006, and being fully advised in the premises;

IT IS HEREBY ORDERED that the Motion for Continuance is granted and the above-captioned case continued to the regularly scheduled hearing on April 26, 2006.

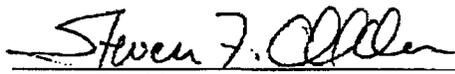
DATED this 16<sup>th</sup> day of March, 2006.

BOARD OF OIL, GAS & MINING

  
J. James Peacock, Chairman

Approved as to Form:

  
Michael Johnson  
Assistant Attorney General  
Board of Oil, Gas & Mining

  
Steven F. Alder  
Assistant Attorney General  
Division of Oil, Gas & Mining

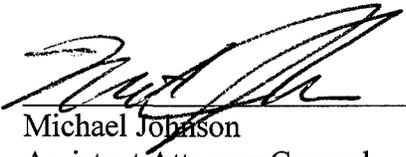
DATED this \_\_\_\_\_ day of March, 2006.

BOARD OF OIL, GAS & MINING

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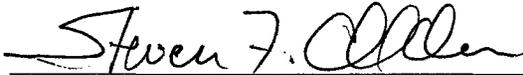
J. James Peacock, Chairman

Approved as to Form:



---

Michael Johnson  
Assistant Attorney General  
Board of Oil, Gas & Mining



---

Steven F. Alder  
Assistant Attorney General  
Division of Oil, Gas & Mining

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing ORDER GRANTING CONTINUANCE for Docket No. 2006-001, Cause No. 119-02 to be mailed with postage prepaid, this 17<sup>th</sup> day of March, 2006, to the following:

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Howard Cleavinger  
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Attn: Billy Washington  
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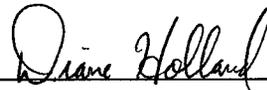
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**FILED**

**JAN 27 2006**

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

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**ORDER GRANTING CONTINUANCE**

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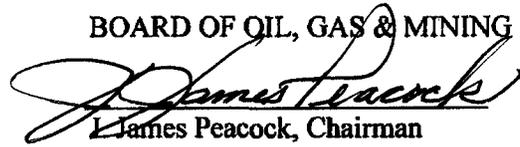
Cause No. 119-02

The Board of Oil, Gas & Mining having considered the Motion for Continuance of Enduring Resources, LLC., Petitioner in this matter, for an order continuing the hearing in this matter to the regularly scheduled hearing date on March 22, 2006, and being fully advised in the premises;

IT IS HEREBY ORDERED that the Motion for Continuance is granted and the above-captioned case continued to the regularly scheduled hearing on March 22, 2006.

DATED this 27<sup>th</sup> day of January, 2006.

BOARD OF OIL, GAS & MINING

  
James Peacock, Chairman

Approved as to Form:

  
Michael Johnson  
Assistant Attorney General  
Board of Oil, Gas & Mining

  
Steven F. Alder  
Assistant Attorney General  
Division of Oil, Gas & Mining

DATED this \_\_\_\_\_ day of January, 2006.

BOARD OF OIL, GAS & MINING

---

J. James Peacock, Chairman

Approved as to Form:



---

Michael Johnson  
Assistant Attorney General  
Board of Oil, Gas & Mining



---

Steven F. Alder  
Assistant Attorney General  
Division of Oil, Gas & Mining

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing ORDER OF CONTINUANCE for Docket No. 2006-001, Cause No. 119-02 to be mailed with postage prepaid, this 1<sup>st</sup> day of February, 2006, to the following:

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