

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 NEWFIELD PRODUCTION COMPANY FOR AN ORDER MODIFYING THE BOARD'S ORDERS ENTERED IN CAUSE NOS. 139-8, 131-51 AND 139-90 TO ESTABLISH SPECIAL 1280-ACRE (OR SUBSTANTIAL EQUIVALENT) DRILLING UNITS FOR THE PRODUCTION OF OIL, GAS AND ASSOCIATED HYDROCARBONS FROM THE UTELAND BUTTE MEMBER OF THE LOWER GREEN RIVER FORMATION, COMPRISED OF SECTIONS 4 AND 9, AND SECTIONS 15 AND 22, T3S, R2W, USM, SECTIONS 18 AND 19, T3S, R3W, USM, AND SECTIONS 1 AND 12, T3S, R4W, USM, RESPECTIVELY, DUCHESNE COUNTY, UTAH, AND TO ALLOW, ON A PILOT BASIS, THE DRILLING AND PRODUCTION OF UP TO FOUR (4) HORIZONTAL WELLS ON EACH SPECIAL DRILLING UNIT SO ESTABLISHED

Docket No. 2012-039
Cause No. 139-98

INDEX OF ORDERS

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	12/14/2012	Findings of Fact, Conclusions of Law and Order

FILED

DEC 14 2012

SECRETARY, BOARD OF
OIL, GAS & MINING

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

Docket No. 2012-039

Cause No. 139-98

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, December 5, 2012, at approximately 2:00 p.m., in the Auditorium of the Utah Department of Natural Resources Building in Salt Lake City. The following Board members were present and participated at the hearing: Chairman James T. Jensen, Ruland J. Gill, Jr., Jake Y. Harouny, Kelly L. Payne and Carl F. Kendell. Board Members Jean Semborski and Chris D. Hansen were unable to attend. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner Newfield Production Company ("Newfield") were Laura Smith – Land Lead, Zac Gonsior – Geologist, and Mike Jensen – Engineering

Advisor. Said witnesses were recognized by the Board as experts in petroleum land management, geology and petroleum engineering, respectively, for purposes of this Cause. Frederick M. MacDonald, Esq., of and for MacDonald & Miller Mineral Legal Services, PLLC, appeared as attorney for Newfield.

The Division of Oil, Gas and Mining (the “Division”) did not file a staff memorandum in this Cause but nevertheless participated in the hearing. Steven F. Alder, Esq., Assistant Attorney General, appeared as attorney for the Division. At the conclusion of Newfield’s presentation–in–chief, Clint Dworshak, Compliance and Public Outreach Manager, made a statement expressing the Division’s support for the granting of Newfield’s Request for Agency Action dated October 12, 2012 (the “Request”), as conformed to the testimony and other evidence provided at the hearing.

On November 20, 2012, Bill Barrett Corporation (“BBC”), a working interest owner and operator within the lands relevant to the Request, and Ute Energy Upstream Holdings LLC (“Ute Energy”), a working interest owner within the lands relevant to the Request, filed letters with the Board expressing their respective support for the granting of the Request. Neither BBC nor Ute Energy made an appearance at the hearing.

On December 3, 2012, the Vernal District Office of the United States Bureau of Land Management (“BLM”), acting in its trust capacity on behalf of the Ute Indian Tribe and Indian Allottees and as advisor to the Bureau of Indian Affairs, Uintah & Ouray Agency (“BIA”), filed a letter with the Board Secretary expressing its support for the

granting of the Request. Jerry Kenczka, Assistant Field Manager for Lands and Minerals, BLM, was present at the hearing but declined to make a further statement when provided the opportunity by the Board to do so.

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, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

FINDINGS OF FACT

1. Newfield is a Texas corporation with its principal place of business for Rocky Mountain operations in Denver, Colorado. Newfield 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 on September 20, 1972 in Cause No. 139-8 (the “139-8 Order”), the Board established sectional (640-acre or substantial equivalent) drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River and Wasatch formations, defined as follows:

that 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 numerous lands located in the western portion of the greater Altamont-Bluebell field, including subject Sections 1 and 12 of Township 3 South, Range 4 West, and Sections 18 and 19 of Township 3 South, Range 3 West. Under the original 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.

3. By Order entered on October 27, 1983 in Cause No. 131-51 (the "131-51 Order"), the Board established sectional (640-acre or substantial equivalent) drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River and Wasatch formations, defined as follows:

that interval below the stratigraphic equivalent of 9,600 feet depth in the "E" Log of the Carter #2 Bluebell well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, Township 1 South, Range 2 West, U.S.M. (which equivalence is the depth 9,530 feet of the SP curve, Dual Induction Log, run March 15, 1968, in the Chevron #1 Blanchard Well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said

[Section 3]), to the base of the Green River-Wasatch formations,

for numerous lands in the south-central portion of the greater Altamont-Bluebell field, including subject Section 15 of Township 3 South, Range 2 West. Under the original 131-51 Order, only one well may produce on each such unit so established, which must be located no closer than 1,320 feet from the exterior boundary of any governmental section; provided, that an exception to said 1,320-foot limitation may be granted administratively without a hearing where a topographical exception is deemed necessary.

4. By Order entered on May 9, 2012 in Cause No. 139-90 (the “139-90 Order”), the Board first extended the 139-8 Order to numerous lands within the area Newfield refers to as the “Central Basin” area which were previously unspaced, including subject Sections 4, 9 and 22 of Township 3 South, Range 2 West, USM, to create sectional (640-acre or substantial equivalent) drilling units for Lower Green River-Wasatch production, and second to modify the 139-8 and 131-51 Orders to allow up to four (4) producing Lower Green River-Wasatch formation wells, whether all vertical, all horizontal, or a combination of both, upon the drilling units, to be drilled at the option of the operator and with the operator’s full discretion as to the development of the hydrocarbon reserves; provided, each well shall not be closer than 1,320 feet from an existing well completed in and producing from the same formation and no closer than

660 feet from the drilling unit boundary. The Board also expressly eliminated any first well siting requirements under the original 139-8 and 131-51 Orders.

5. The oil, gas and associated hydrocarbons underlying the lands which are the subject of the Request as relevant to the Lower Green River-Wasatch formations are owned as follows:

Sections 4 and 9, Township 3 South, Range 2 West – Tribal and fee
Sections 15 and 22, Township 3 South, Range 2 West – Tribal, Allotted and fee
Sections 18 and 19, Township 3 South, Range 3 West – All Tribal
Sections 1 and 12, Township 3 South, Range 4 West – All Tribal

Nearly all of the oil and gas owners are under lease or exploration and development agreements in favor of Newfield and Ute Energy, but there are unlocatable and/or unleased owners within Sections 4, 9, 15 and 22, all as more particularly outlined on Exhibit “E” admitted into evidence.

6. In the Central Basin area, the Uteland Butte Member of the Lower Green River formation is a 120’–150’ thick interval of interbedded organic-rich limestone, shale and porous dolomite. It is defined for purposes of this Cause as follows:

the stratigraphic equivalent of the interval from 9,140 feet to 9,292 feet MD as identified on the Dual Laterolog run on February 22, 2012 for the Gilbert 9-9-3-3W Well, located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 3 South, Range 3 West, USM.

7. The internal stratigraphy of the Uteland Butte Member can be easily correlated which, in addition to low matrix permeability and the potential for fracture

enhancement, make it an attractive horizontal target. The exhibits admitted into evidence and testimony received reflect that shale/lime/silt barriers between the Uteland Butte Member and other productive intervals of the Lower Green River and/or Wasatch formations should eliminate or at least minimize the potential for communication between them. The Uteland Butte Member appears to be a separate and distinct “common source of supply” of oil, gas and associated hydrocarbons than other portions of the Lower Green River-Wasatch formations.

8. Based on exhibits admitted into evidence and testimony presented, it appears a fracture orientation of 116° azimuth (or N64°W) occurs in the Uteland Butte Member in and around the vicinity of the lands which are the subject of the Request. That orientation, when combined with the low matrix permeability and typical length of fracture, and with the horizontal drilling methodology proposed by Newfield, justifies a reduction from 660 feet to 330 feet set back of the intermediate casing shoe (horizontal lateral “heel”) and productive casing shoe (horizontal lateral “toe” or terminus) locations from the northern and southern drilling unit boundary lines to allow up to an additional 660 feet of Uteland Butte Member contact, to prevent waste with protection of correlative rights and add to surface location flexibility. Said factors also justify the maintenance of the 660-foot set back from the eastern and western drilling unit boundary lines currently applicable under the 139-90 Order.

9. Technology has advanced such that “long” laterals of up to 9,900 feet in length may be efficiently and economically drilled. Allowing such laterals will allow up to an additional 1,320 feet of Uteland Butte Member contact and reduce the number of wells and associated surface disturbance resulting from the limitations currently established under the 139-90 Order.

10. The exhibits admitted into evidence and testimony received reflect an estimated ultimate recovery (“EUR”) for “long” lateral Uteland Butte Member horizontal wells of 512 MBO, compared to an EUR of 200 MBO for “short” lateral Uteland Butte Member horizontal wells. The economics of “short” lateral wells appears to be marginal (8% rate of return) whereas the economics of “long” lateral wells indicate a better yield (35% rate of return).

11. Based on Newfield’s experience with Uteland Butte Member horizontal wells drilled to date, and as reflected in the exhibits admitted into evidence and testimony received, drainage of a “long” lateral is expected to be between 215 acres and 320 acres and in a “stand-up” orientation, *i.e.*, eight (8) quarter-quarter sections vertically stacked. As such, up to four “long” lateral wells will be required to effectively drain 1,280 acres.

12. An inter-well set back requirement of 660 feet within each proposed special drilling unit is just and reasonable, will allow flexibility in well location and, when combined with the drilling unit boundary set backs, will be protective of correlative rights.

13. As a consequence, Newfield desires to conduct a pilot program establishing special 1,280-acre (or substantial equivalent) drilling units for the Uteland Butte Member as defined above comprised of the following respective Duchesne County, Utah lands:

Township 3 South, Range 2 West, USM

Sections 4 and 9: All

Sections 15 and 22: All

Township 3 South, Range 3 West, USM

Sections 18 and 19: All

Township 3 South, Range 4 West, USM

Sections 1 and 12: All

(collectively the “Subject Lands”), to confirm these initial findings, with the authorization, on a pilot basis, to drill and concurrently produce up to four (4) “long” lateral horizontal wells, to be drilled at Newfield’s (or its successor operator’s) option and with Newfield’s (or its successor operator’s) full discretion as to the development of the hydrocarbon resources, on each special drilling unit so established; provided, however, that:

- a) no producing interval of a horizontal lateral may be located closer than 330 feet to the northern or southern boundary of said special drilling unit, no closer than 660 feet from the eastern or western boundary of said special drilling unit, and no closer than 660 feet to another horizontal lateral within said drilling unit, without obtaining an exception location approval in accordance with Utah Admin. Code Rule R649-3-3;

- b) the surface location of the horizontal well(s) not only may be located anywhere on the drilling unit, but may also be located off the drilling unit presuming proper surface and sub-surface authorization for such a location has been obtained from the owners and the set backs for the laterals set forth in (a) above are maintained;
- c) any horizontal well so drilled may not be plugged back or recompleted to produce from any other formation other than the Uteland Butte Member of the Lower Green River formation, as defined above, and no existing or new vertical wells located upon the Subject Lands may be perforated or completed to produce from the Uteland Butte Member of the Lower Green River formation, as defined above, without further authorization from the Board; and
- d) within a reasonable time after analysis of the pilot program results, but in any event, not more than two years after entry of the Order, Newfield (or its successor operator) shall report back to the Board on the results of the program.

In addition, Newfield has requested that the 139-8 and 131-51 Orders, as modified by the 139-90 Order, and the 139-90 Order itself remain in full force and effect as to all formations underlying the Subject Lands covered thereby except the Uteland Butte Member of the Lower Green River formation, including the right to drill up to four (4) wells, whether all vertical, all horizontal, or a combination of both, on each drilling unit so established to produce from said formations subject to the same limitations set forth in the 139-90 Order. The terms requested are fair, reasonable and justified under the circumstances.

13. A copy of the Request was mailed, postage pre-paid, certified with return receipt requested, and properly addressed to all mineral, leasehold and production interest

owners in the Subject Lands, to all working interest owners, including unleased owners, with the drilling units adjacent to the Subject Lands and affected by the requested set back reduction from 660 feet and 330 feet, as more particularly reflected by the green hatched areas shown in Exhibit "D" admitted into evidence, and to the BIA and to the Utah State and Vernal Field Offices of the BLM. The mailings were sent to said parties at their last addresses disclosed by the relevant BIA and Duchesne County realty records.

14. Notice of the filing of the Request and of the hearing thereon was duly published in the Salt Lake Tribune and the Deseret Morning News on November 13, 2012, and in the Uintah Basin Standard on November 13, 2012.

15. The vote of the Board members present and participating in the hearing on this Cause was unanimous (5-0) 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 matters 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.

3. The Uteland Butte Member of the Lower Green River formation, as underlying the Subject Lands, constitutes a “common source of supply” as that phrase is defined in Utah Code Ann. § 40-6-2(18).

4. Up to four (4) “long” (up to 9,900 feet in length) lateral horizontal wells are required to efficiently and economically drain each proposed 1,280-acre special drilling unit.

5. Creation of the four (4) 1,280-acre special drilling units for Uteland Butte Member production on a pilot basis, and with the provisos outlined in Findings of Fact No. 12 above, is fair, reasonable and justified under the circumstances.

6. An order establishing the special drilling units is required to allow conforming communitization as relating to the authorized horizontal wells in accordance with Federal regulations, guidelines and practice and to protect correlative rights.

7. The relief granted hereby will result in consistent and orderly development and the greatest recovery of oil, gas and associated hydrocarbons from the Uteland Butte Member of the Lower Green River formation underlying the Subject Lands, prevent waste and adequately protect the correlative rights of all affected parties.

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

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, 131-51 and 139-90 Orders are hereby modified to establish special 1,280-acre (or substantial equivalent combination of lots and quarter-quarter sections) drilling units for the production of oil, gas and hydrocarbons for the Uteland Butte Member of the Lower Green River formation as defined in Findings of Fact No. 6 above, comprised of subject Sections 4 and 9, Sections 15 and 22, Sections 18 and 19, and Sections 1 and 12, respectively (as set forth above), and authorizing on a pilot basis, the drilling and concurrent production of up to four (4) horizontal wells to be drilled at Newfield's (or its successor operator's) option with Newfield's (or its successor operator's) full discretion as to the development of the hydrocarbon resources; provided, however, that within a reasonable time after analysis of the pilot program results but, in any event, not more than two years after entry of this Order, Newfield (or its successor operator) will report back to the Board on the success or failure of the program.
3. No producing interval of a horizontal lateral may be located closer than 330 feet to the northern or southern boundary of said special drilling unit, no closer than 660

feet from the eastern or western boundary to said special drilling unit, and no closer than 660 feet to another horizontal lateral within said special drilling unit, without obtaining an exception location approval in accordance with Utah Admin. Code Rule R649-3-3.

4. The surface location of the authorized horizontal well(s) not only may be anywhere upon the special drilling unit, but may also be located off the drilling unit presuming proper surface and sub-surface authorization for such a location has been obtained from the owners and the set backs for the laterals set forth in (3) above are maintained.

5. Any horizontal well drilled pursuant to this Order may not be plugged back or recompleted to produce from any other formation other than the Uteland Butte Member of the Lower Green River formation as defined in Findings of Fact No. 6 above, and no vertical wells located upon the Subject Lands may be perforated to produce from the Uteland Butte Member of the Lower Green River formation as defined in Findings of Fact No. 6 above without further authorization from the Board.

6. The 139-8 and 131-51 Orders, as modified by the 139-90 Order, and the 139-90 Order itself remain in full force and effect as to all formations covered thereby underlying the Subject Lands except as the Uteland Butte Member of the Lower Green River formation as defined in Findings of Fact No. 6 above, including the right of the operator to drill up to four (4) wells, whether all vertical, all horizontal, or a combination

of both, on each drilling unit so established to produce from said formations subject to the same limitations set forth in said Orders.

7. The special drilling units established herein are declared to be “permanent” for purposes of any authorized horizontal wells drilled thereon.

8. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. § 63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

9. 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. § 63G-4-208 and Utah Administrative Code Rule R641-109.

10. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63G-4-208(e) - (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. §§ 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, 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 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 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. § 63G-4-302 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.

11. 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.

12. 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 day of December, 2012.

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

By: James T. Jensen
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** for Docket No. 2012-039, Cause No. 139-98 to be mailed via E-Mail, and First Class Mail, with postage prepaid, this 17th day of December, 2012, to the following:

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Lucille S. Conyers
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U.S. Bank National Association, as Agent
[as Trustee and Beneficiary under Deed of
Trust dated March 9, 2010, as amended and
restated on March 18, 2011, with Ute
Energy Upstream Holdings, LLC, as
Trustor]

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