

AUG 1 0 1999

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

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IN THE MATTER OF THE REQUEST FOR )  
AGENCY ACTION OF ENRON OIL & GAS )  
COMPANY FOR AN ORDER SUSPENDING )  
RULE R649-3-2 AND THE ORDERS IN CAUSE )  
NOS. 173-1, 173-2 AND 173-9-S INsofar )  
AS THEY APPLY TO THE CHAPITA WELLS )  
UNIT AREA AND THE STAGECOACH UNIT )  
AREA, WHICH ARE LOCATED IN TOWNSHIP )  
9 SOUTH, RANGES 22 AND 23 EAST, SLM, )  
UINTAH COUNTY, UTAH )

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

Docket No. 99-003

Cause No. 179-8

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, June 23, 1999, at the hour of 10:00 a.m. The following Board members were present and participated at the hearing:

Dave D. Lauriski, Chairman  
Thomas B. Faddies  
J. James Peacock  
Raymond Murray  
Elise L. Erler  
Allan Mashburn; and  
Stephanie Cartwright

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 Philip C. Pugsley, Esq. and Patrick J. O'Hara, 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 participating on behalf of the Utah School and

Institutional Trust Lands Administration ("SITLA") was James D. Cooper, Mineral Resource Supervisor.

Testifying on behalf of Petitioner Enron Oil & Gas Company ("Enron") was Toni Lei Miller, Project Landman. Thomas W. Bachtell, Esq., Pruitt, Gushee & Bachtell, appeared as attorney on behalf of Enron.

The BLM and SITLA expressed their support of, and DOGM stated it had no objections to, the Request for Agency Action. The Chairman read into the record a letter in support of the Request for Agency Action from Coastal Oil & Gas Corporation. 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 and 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. Enron is a Delaware corporation in good standing and authorized to conduct business in the State of Utah.

2. Enron is the owner of operating rights in the lands described below comprising the Chapita Wells Federal Exploratory Oil & Gas Unit and the Stagecoach Federal Exploratory Oil & Gas Unit, and is the Unit Operator of both Federal Exploratory Units:

Township 9 South, Range 22 East, SLM

Section 1: All  
Section 2: All  
Section 3: All  
Section 4: S $\frac{1}{2}$   
Section 7: SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$   
Section 8: All  
Section 9: All  
Section 10: All  
Section 11: All  
Section 12: All  
Section 13: All  
Section 14: All  
Section 15: All  
Section 16: All  
Section 17: E $\frac{1}{2}$ , NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$   
Section 18: E $\frac{1}{2}$ NE $\frac{1}{4}$   
Section 20: NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$   
Section 21: All  
Section 22: All  
Section 23: All  
Section 24: All  
Section 25: All  
Section 26: All  
Section 27: All  
Section 28: All

Township 9 South, Range 23 East, SLM

Section 6: All  
Section 7: All  
Section 18: All  
Section 19: All  
Section 20: All  
Section 21: All  
Section 22: All  
Section 27: All  
Section 28: All  
Section 29: All  
Section 30: All

Section 32: All  
Section 33: All  
Section 34: All

(hereafter collectively the "Unit Areas").

3. The S $\frac{1}{2}$  of Section 4, Township 9 South, Range 22 East, SLM, Uintah County, Utah, lying within the Chapita Wells Unit Area is covered by the well spacing and drilling unit orders for the Wasatch/Mesaverde formations entered by the Board in Cause Nos. 173-1 (providing for 320 acre spacing), 173-2 (providing for 320 acre spacing) and 173-9-S (providing for an optional additional well within the existing 320 acre spacing units). There are no well spacing and drilling unit orders for the Board covering the Stagecoach Unit Area.

4. The Chapita Wells Unit Agreement is dated October 1, 1951. The Stagecoach Unit Agreement is dated March 1, 1960. Both Unit Agreements were approved by the BLM and predate the well spacing and drilling unit orders in Cause Nos. 173-1, 173-2 and 173-9-S.

5. The Chapita Wells Federal Exploratory Unit and the Stagecoach Federal Exploratory Unit cover all geologic formations in their respective Unit Areas, and are administered by the BLM.

6. Generally, the objective of a Federal exploratory unit is to provide for the unified development and operation of an entire geologic prospect or producing reservoir so that exploration, drilling and production can proceed in an efficient and economical manner by one operator. Costs are often reduced because the reservoir can be

produced by utilizing the most efficient well spacing pattern, and there is no requirement to drill unnecessary offset wells. Both of the Unit Agreements expressly require Enron, as the Unit Operator, to produce unitized substances and conduct all operations to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law.

7. Well location and density patterns within the Unit Areas are determined in accordance with the terms of the Unit Agreements and, in particular, the annual plans of Unit development approved by the BLM. Drilling applications are approved by both the BLM and DOGM. Development of oil and gas in accordance with the Unit Agreements and the approved plans of Unit development is designed to be orderly, promote the greatest recovery of unitized substances, prevent waste, and to protect the correlative rights of all affected parties.

8. Until December 8, 1985, when former Board General Rule and Regulation A-3 was replaced by Utah Admin. Code R649-2-3, the Board by general rule suspended some (but not all) of its General Rules as to unit agreements approved by the U.S. Secretary of the Interior, but said suspension was until otherwise ordered by the Board and subject to certain other conditions stated in said Rule A-3.

9. Effective December 2, 1985, the Board's Rule 203 (Utah Admin. Code Rule R649-2-3) entitled "Application of Rules and Regulations to Unit Agreements" required Board approval to suspend the general rules or orders with regard to any unit agreement approved by a duly authorized officer of the appropriate Federal agency.

10. With the concurrence of the BLM and DOGM, since December 2, 1985, Enron has drilled numerous wells within the Unit Areas in accordance with the terms of the respective Unit Agreements and annual plans of Unit development approved by the BLM. Applications for permits to drill were approved by BLM and DOGM. Some of the wells were not drilled in conformance with the location requirements under the Orders entered in Cause Nos. 173-1, 173-2, and 173-9-S, or the general state-wide location rule set forth in Utah Admin. Code R649-3-2.

11. Suspension of the Orders in Cause Nos. 173-1, 173-2, and 173-9-S, and Utah Admin. Code Rule R649-3-2 as to the lands within the Unit Areas is fair, reasonable and justified under the circumstances; provided, however, that no future well may be drilled closer than 460 feet from the boundary of the Unit Areas without administrative approval of DOGM in accordance with Utah Admin. Code Rule R649-3-3.

12. 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 Enron's Request for Agency Action in this matter.

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

14. 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 R649-2-3.

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 Orders entered in Cause Nos. 173-1, 173-2, and 173-9-S, and Utah Admin. Code Rule R649-3-2 are suspended within the Unit Areas. Upon Unit contraction or termination, lands eliminated from each respective Unit Area shall once again become subject to the Board's Orders in Cause Nos. 173-1, 173-2 and 173-9-S, or Utah Admin. Code Rule R649-3-2, as applicable.
3. The locations of all wells currently within the Unit Areas are approved and deemed lawful.

4. No future well may be located closer than 460 feet from the boundary of the respective Unit Areas without administrative approval of DOGM in accordance with Utah Admin. Code Rule R649-3-3.

5. 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.

6. 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.

7. 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 specified grounds upon which relief is requested.

(b) Unless otherwise provide 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 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 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.

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.

ISSUED this 10<sup>th</sup> day of August, 1999.

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

By: \_\_\_\_\_

Dave D. Lauriski, 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. 99-003, Cause No. 179-8 to be mailed, postage prepaid, this 10 day of August, 1999, to the following:

Thomas W. Bachtell  
Michael S. Johnson  
PRUITT, GUSHEE & BACHTELL  
Attorneys for Enron Oil & Gas Company  
1850 Beneficial Life Tower  
Salt Lake City, UT 84111

Patrick J. O'Hara  
Attorney for Division of  
Oil, Gas & Mining  
160 East 300 South, 5th Floor  
P.O. Box 140857  
Salt Lake City, UT 84114-0857

Philip C. Pugsley  
Attorney for Board of Oil, Gas & Mining  
160 East 300 South, 5th Floor  
P.O. Box 140857  
Salt Lake City, UT 84114-0857

John Baza  
Associate Director, Oil & Gas  
Division of Oil, Gas & Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84116  
(Hand Delivered)

Enron Oil and Gas Company  
Attention: Ms. Toni Lei Miller  
600 17th Street, Suite 1100N  
Denver, CO 80202

Anderman Oils Utah, Inc.  
Attention: Mr. James C. Donaldson  
1776 Lincoln St., Suite 500  
Denver, CO 80203

A.G. Andrikopoulos Resources, Inc.  
Attention: Mr. A.G. Andrikopoulos  
P.O. Box 788  
Cheyenne, WY 82003-0788

Coastal Oil & Gas Corporation  
Attention: Mr. Donald H. Spicer  
9 Greenway Plaza  
Houston, TX 77046-0995

DAB Resources  
Attention: Mr. J. Andrew Dunn  
1776 Lincoln St., Suite 1314  
Denver, CO 80203

Princeton Resources, Ltd.  
Attention: Mr. Ronald E. Hornig  
P.O. Box 888  
Littleton, CO 80160-0888

PRODCO, Inc.  
Attention: Mr. Garr R. Roberts  
518 17th St., Suite 1070  
Denver, CO 80202

R & M Oil and Gas, Ltd.  
Attention: Mr. Tim Bradley  
215 Union Blvd., Suite 310  
Lakewood, CO 80228

St. Mary Land & Exploration Company  
Attention: Mr. Donald D. Boone  
1776 Lincoln St., Suite 1100  
Denver, CO 80203

Ralph H. Smith, Trustee for the  
Ralph H. Smith Restated Revocable Trust  
dated August 14, 1997  
Copper Oaks Center  
7060 S. Yale, Suite 800  
Tulsa, OK 74136-5741

Snyder Oil Corporation  
Attention: Mr. Paul Brooke  
1625 Broadway, Suite 2200  
Denver, CO 80202

Star Acquisition III, LLC  
c/o Star Resources Acquisition, LLC  
Attention: Mr. Gerald F. Dickinson  
1125 17th St., Suite 2360  
Denver, CO 80202

State of Utah  
School and Institutional  
Trust Lands Administration  
675 East 500 South, Suite 500  
Salt Lake City, UT 84102-2818

United States Department of the Interior  
Bureau of Land Management  
Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

United State Department of the Interior  
Bureau of Land Management  
Vernal Field Office  
170 South 500 East  
Vernal, UT 84078

United States of America in Trust for  
the Ute Indian Tribe of the Uintah  
and Ouray Reservation  
Bureau of Indian Affairs  
Uintah and Ouray Agency  
P.O. Box 130  
Fort Duchesne, UT 84026

Ute Indian Tribe  
P.O. Box 190  
Fort Duchesne, UT 84026

Mr. Robert P. Vernon  
1525 E. 29th Street, Apt. 1304  
Bryan, TX 77802

  
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