

**FILED**

**FEB 22 2006**

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 SLATE RIVER )  
RESOURCES, LLC AND MUSTANG FUEL )  
CORPORATION FOR AN ORDER VACATING )  
SPACING ORDER 207-1 FOR THE WASATCH )  
AND MESAVERDE FORMATIONS )  
UNDERLYING PORTIONS OF LAND IN )  
TOWNSHIP 12 AND 13 SOUTH, RANGE 20 )  
AND 21 EAST, UNITAH COUNTY, UTAH )

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

Docket No. 2005-017

Cause No. 207-02

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This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, January 25, 2006, at approximately the hour of 11:45 a.m. The following Board members were present and participated at the hearing: J. James Peacock, Chairman; Samuel Quigley; Kent Petersen; Robert Bayer; and Jean Semborski. Attending and participating on behalf of the Utah Division of Oil, Gas and Mining ("DOG M") was Gil Hunt, Associate Director – Oil and Gas. The Board and DOGM were represented by Michael Johnson and Steven Alder, respectively.

Testifying on behalf of Petitioners Slate River Resources, LLC ("Slate River") and Mustang Fuel Corporation (collectively "Petitioners") were Bruce E. Johnston, Vice President Land for Slate River, Robert Davis, Chief Geologist with Slate River and Gary D. Davis, President and COO of Slate River and a certified geologist (Utah and Wyoming). Jack R. Luellen, Esq., of Beatty & Wozniak, P.C., appeared as attorney for Petitioners.

The DOGM, through the testimony of Mr. Hunt, expressed its support for Petitioners' Request for Agency Action. No statements were made at the hearing in opposition to

Petitioners' 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. Petitioners are the owners of all surface, mineral and leasehold interests in and to acreage in Uintah County, Utah covering a total of 19,199.80 acres, which acreage is described as follows (collectively, the "Subject Lands"):

**TOWNSHIP 12 SOUTH, RANGE 20 EAST, S.L.M.**

Section 21: All  
Section 22: All  
Section 23: All  
Section 24: W/2  
Section 25: W/2  
Section 26: All  
Section 27: All  
Section 28: All  
Section 29: All  
Section 35: All

**TOWNSHIP 12 SOUTH, RANGE 21 EAST, S.L.M.**

Section 31: Lots 3, 4, E/2SW/4 (SW/4)

**TOWNSHIP 13 SOUTH, RANGE 20 EAST, S.L.M.**

Section 1: Lots 1,2,3,4, S/2N/2, S/2 (All)  
Section 3: Lots 1,2,3,4, S/2N/2, S/2 (All)  
Section 4: Lots 1,2,3,4, S/2N/2, S/2 (All)  
Section 5: Lots 1,2,3,4, S/2N/2, S/2 (All)  
Section 6: Lots 1,2,3,8,10,11,13, S/2 NE/4,  
SE/4NW/4, E/2SW/4, SE/4  
Section 7: Lots 2,3,4,5, E/2W/2, E/2 (All)  
Section 8: All (640 acres)  
Section 9: All (640 acres)  
Section 10: All (640 acres)  
Section 11: All (640 acres)  
Section 12: All (640 acres)

Section 13	All	(640 acres)
Section 14:	All	(640 acres)
Section 15:	E/2	(320 acres)
Section 22:	E/2	(320 acres)
Section 23:	All	(640 acres)
Section 24:	All	(640 acres)
Section 25:	All	(640 acres)
Section 26:	All	(640 acres)
Section 27:	NE/4	(160 acres)

TOWNSHIP 13 SOUTH, RANGE 21 EAST, S.L.M.

Section 6:	Lots 3,4,5,6,7, SE/4NW/4, E/2SW/4 (W/2)	
Section 7:	Lots 1,2,3,4, E/2W/2 (W/2)	
Section 18:	Lots 1,2,3,4, E/2W/2 (W/2)	
Section 19:	Lots 1,2,3,4, E/2W/2 (W/2)	
Section 30:	Lots 1,2,3,4, E/2W/2 (W/2)	
Section 31:	Lots 1,2, E/2NW/4 (NW/4)	

2. The Subject Lands contains all the lands included in the Order issued by the Board on August 25, 1983 in Cause No. 207-1 ("Spacing Order 207-1"), which established and provided for one well per vertical 320-acre drilling and spacing units for the Wasatch and Mesaverde formations, with the wells located in the NW/4 and SE/4 of each section and no closer than 600 feet to the exterior boundary of each such quarter section.

3. Petitioners' Request for Agency Action sought an Order from this Board vacating Spacing Order 207-1.

4. The topography of the Subject Lands makes drilling in the pattern prescribed by Spacing Order 207-1 impractical.

5. Commingling of the Wasatch, Mesaverde and Black Hawk formations is necessary for efficient drilling operations on the Subject Lands.

6. Substantial evidence regarding the drainage patterns in the acreage surrounding the Subject Lands has been obtained since the issuance of Spacing Order 207-1.

7. The acreage surrounding the Subject Lands is almost uniformly subject to 40-acre spacing. Some of the surrounding acreage was developed on 40-acre drilling and spacing units, and much of the acreage was subject to downspacing either to 40-acre spacing or to the state-wide well siting Rule, R. 649-3-2, as more information on the production and drainage patterns of the acreage was developed.

8. The Subject Lands have substantial and significant geologic similarity in both the Mesaverde and Wasatch formations to those surrounding lands that currently are subject to 40-acre spacing. Vacating Spacing Order 207-1 would allow the Subject Lands to be subject to drilling patterns consistent with the surrounding acreage, and the remainder of the Uinta Basin.

9. Available evidence indicates that the continuity and discontinuity of the Wasatch and Mesaverde formations in the Subject Lands evidences that drainage on the 320-acre drilling and spacing units prescribed by Spacing Order 207-1 would be too sparse to effectively and efficiently develop the resources on the Subject Lands, and such spacing would result in waste.

10. The reservoirs in the Wasatch and Mesaverde formations in the Subject Lands are highly variable and discontinuous in nature and these factors support vacating Spacing Order 207.1 until such time as production and drainage evidence allows appropriate site-specific spacing to be determined.

11. Vacation of Spacing Order 207-1 is fair, reasonable and justified under the circumstances.

12. A copy of Petitioners' Request for Agency Action was mailed to any companies, persons and governmental agencies known to own or administer legally protected interest which could be affected by the 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 herein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. § 40-6-5(3)(b).

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

4. Vacation of Spacing Order 207-1 will promote the public interest, increase ultimate recovery, prevent waste, and protect the correlative rights of all owners.

### **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. 207-1 is vacated in its entirety and Petitioners and the Subject Lands shall be subject to statewide siting rule, Utah Admin. Code Rule R649-3-2.

3. The wells drilled or permitted on the Subject Lands under Spacing Order No. 207-1 are approved and accepted by the Board as either conforming or exceptions to the state-wide siting rule R649-3-2. Those wells are identified as follows:

Well Name	API#	Spot	S-T-R	Status	Exc. Loc Rule 649-3-2
Mustang #1320-1I	43-047-36384	NESE	1-13S-20E	Drilled	
Mustang #1321-7F	43-047-36371	SENE	7-13S-21E	Drilled	Exc Loc
Mustang #1320-12A	43-047-36369	NENE	12-13S-20E	Drilled	
Mustang #1321-6C	43-047-36383	NENW	6-13S-21E	Drilled	
Mustang #1220-35I	43-047-37287	NESE	35-12S-20E	Drilled	
Mustang #1320-3O	43-047-37294	SWSE	3-13S-20E	Drilling	
Mustang #1320-10I	43-047-37291	NESE	10-13S-20E	Permitted	Exc Loc
Mustang #1320-11H	43-047-37295	SENE	11-13S-20E	Permitted	Exc Loc
Mustang #1320-24E	43-047-37298	SWNW	24-13S-20E	Permitted	
Mustang #1320-14P	43-047-37288	SESE	14-13S-20E	Permitted	
Mustang #1320-13D	43-047-37289	NWNW	13-13S-20E	Permitted	
Mustang #1320-14D	43-047-32796	NWNW	14-13S-20E	Permitted	

4. The Petitioners shall, in a prompt and timely manner six (6) months after the first production from wells located on the Subject Lands, meet with the DOGM staff to discuss the production and drainage patterns on the Subject Lands, and any appropriate well spacing patterns

5. Petitioners have drilled or permitted twelve (12) wells on the Subject Lands, certain of which were exception locations under Spacing Order 207.1, and certain of which would be exception locations under the state-wide siting rule R649-3-2.

6. 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.

7. The 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 Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Admin. Code Rule R641-109.

8. 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 that 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 by 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 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 for 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.

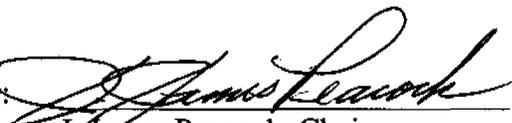
9. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this Order by the Utah Supreme Court.

10. 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 22<sup>nd</sup> day of February, 2006.

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

By:

  
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. 2005-017, Cause No. 207-02 to be mailed with postage prepaid, this 27<sup>th</sup> day of February, 2006, to the following:

Jack R. Luellen, Utah Bar No. 10880  
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AND 21 EAST, UINTAH COUNTY, UTAH )

**ORDER FOR  
CONTINUANCE OF HEARING**

Docket No. 2005-017

Cause No. 207-02

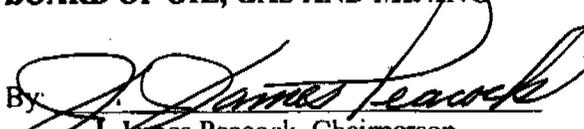
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Base on the foregoing Motion for Continuance of Hearing, and good cause appearing  
therefore, IT IS HEREBY ORDERED:

That the hearing currently set in this matter for December 7, 2005 shall be and the same  
is hereby continued until the Board of Oil, Gas and Mining's next regularly scheduled hearing  
date set for JANUARY 25, 2006.

DATED this 4<sup>th</sup> day of November 2005.

**BOARD OF OIL, GAS AND MINING**

By:   
J. James Peacock, Chairperson

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing "Order for Continuance of Hearing" for Docket No. 2005-017, Cause No. 207-02 to be mailed with postage prepaid, this 10<sup>th</sup> day of November, 2005, to the following:

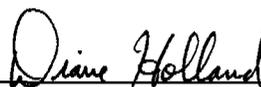
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