

**FILED**

FEB 08 2005

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 CONOCOPHILLIPS )  
COMPANY FOR AN ORDER )  
ESTABLISHING 160 ACRE DRILLING )  
AND SPACING UNITS FOR THE )  
PRODUCTION OF GAS (INCLUDING )  
COALBED METHANE) FROM THE )  
FERRON FORMATION IN PORTIONS OF )  
SECTIONS 20, 27, 28, 29, 33 AND 34 OF )  
TOWNSHIP 14 SOUTH, RANGE 10 EAST, )  
SLM, CARBON COUNTY, UTAH )

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

Docket No. 2005-001

Cause No. 243-09

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, January 26, 2005, at the hour of 10:00 a.m. The following Board members were present and participated at the hearing: Chairman W. Allan Mashburn, J. James Peacock, Stephanie B. Cartwright, Robert J. Bayer, Douglas E. Johnson, Kent R. Petersen and Samuel C. Quigley. Attending and participating on behalf of the Division of Oil, Gas and Mining (the "Division") was Dustin Doucet, Petroleum Engineer. The Board and the Division were represented by Michael Johnson, Esq., and Alison Garner, Esq., Assistant Attorneys General, respectively.

Testifying on behalf of Petitioner ConocoPhillips Company ("ConocoPhillips") were William W. Franklin, Landman, and Marc R. Connolly, Geological and Reservoir Advisor. Relma M. Miller, Esq., Pruitt Gushee, appeared as attorney on behalf of ConocoPhillips.

The Division expressed its support of the Request for Agency Action. The Board was in receipt of correspondence from Mr. Robert Cobb, an interest owner in the subject lands, expressing his concerns. Mr. Cobb made a statement at the hearing, although not in opposition to ConocoPhillips' Request. No other statements were made at the hearing in opposition to 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 and enters the following Findings of Fact, Conclusions of Law, and Order.

### **FINDINGS OF FACT**

1. The following described lands located in Carbon County (hereinafter the "Subject Lands") were, as of the date of the hearing, not subject to any spacing order of the Board:

#### **Township 14 South, Range 10 East, SLM**

Section 20: NW $\frac{1}{4}$   
Section 27: SW $\frac{1}{4}$   
Section 28: S $\frac{1}{2}$   
Section 29: NE $\frac{1}{4}$   
Section 33: SE $\frac{1}{4}$   
Section 34: W $\frac{1}{2}$

2. ConocoPhillips is a Delaware corporation, having its principal place of business in Houston, Texas. ConocoPhillips is duly qualified to conduct business in the State

of Utah, and is fully and appropriately bonded with all relevant Federal and State of Utah agencies.

3. ConocoPhillips is the operator of the Drunkards Wash Federal Exploratory Unit which borders the Subject Lands to the west. In such capacity, ConocoPhillips has drilled and operates over 500 wells which produce coalbed methane from the Ferron formation, defined for purposes of this cause as:

the stratigraphic equivalent of the interval between 1,175 feet and 1,400 feet as shown on the Dual Induction Guard/Gamma Ray and Compensated Density-Neutron/Gamma Ray logs of the Cotner 29-549 well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 29, Township 14 South, Range 10 East, SLM.

4. Data generated from ConocoPhillips' wells suggest one well efficiently and economically drains approximately 160 acres of gas produced from the Ferron formation. ConocoPhillips has, based on that data, generated, submitted and received Bureau of Land Management approval of, with respect to the Drunkards Wash Unit, plans of Unit development in accordance with that well density pattern.

5. The Board, through orders entered in the series of Cause Nos. 137, 241, 243 and 245, has uniformly established 160 acre (or substantial equivalent thereof) drilling and spacing units for gas (including coalbed methane) production from the Ferron formation throughout Carbon and Emery Counties, including lands adjacent to the Subject Lands.

6. Evidence presented established that the coals within the Ferron formation underlying the Subject Lands are of uniform content and rank with those underlying the lands

within the Drunkards Wash Unit; the Ferron formation, including all coal and surrounding sands, generally constitutes one pool for gas in the Subject Lands and correlates with said formation as underlying the lands within the Drunkards Wash Unit and lands which are the subject of the Orders in the series of Cause Nos. 137, 241, 243 and 245; and one well will efficiently and economically drain approximately 160 acres in that pool.

7. The establishment of 160 acre (or substantial equivalent thereof) drilling and spacing units for the Ferron formation underlying the Subject Lands will allow for the orderly development of the Subject Lands, will prevent waste in the drilling of unnecessary wells, will adequately protect the correlative rights of all affected parties, will result in the greatest recovery of the resource and is just and reasonable.

8. Each such unit should be comprised of the governmental quarter section (*e.g.* NE $\frac{1}{4}$ ) or equivalent lots, and the permitted well for each such unit should be drilled no closer than 460 feet from the outer boundary of said unit and no closer than 920 feet from any other well drilling to or capable of producing gas from the Ferron formation as so defined, except as may otherwise be permitted by administrative action for topographic, cultural, archaeological, environmental or geologic reasons or other good cause shown in accordance with Utah Admin. Code Rule R649-3-3.

9. A copy of the Request for Agency Action was mailed to all owners within the Subject Lands as disclosed by the appropriate Federal, State and County realty records.

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

11. The vote of the Board members present and participating in the hearing 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 Division.

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. 160 acre (or substantial equivalent thereof) drilling and spacing units are hereby established for the Subject Lands for the production of gas (including Coalbed Methane) from the Ferron formation as defined herein.

3. Each such unit shall be comprised of the governmental quarter section, *e.g.* NE¼, or lots and quarter-quarter sections substantially comprising the same.

4. The permitted well for each such unit shall be located no closer than 460 feet from the outer boundary of said unit and no closer than 920 feet from any other well drilling to or capable of producing gas from the Ferron formation as so defined, except as may otherwise be permitted by administrative action for topographic, cultural, archaeological, environmental or geologic reasons or other good cause shown 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 Admin 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 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 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 mailed 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 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 that 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 8<sup>th</sup> day of February, 2005.

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

By: W. Allan Mashburn  
W. Allan Mashburn, 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. 2005-001, Cause No. 243-09 to be mailed with postage prepaid, this 8<sup>th</sup> day of February, 2005, to the following:

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