

**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 D.J. SIMMONS, INC. FOR AN ORDER VACATING THE SPACING ORDERS ENTERED IN CAUSE NOS. 186-14, 186-15, AND 186-15(A) TO ALLOW FOR THE DRILLING OF WELLS UNDER THE STATE-WIDE WELL LOCATION RULE FOR DEVELOPMENT AND PRODUCTION OF OIL, GAS AND ASSOCIATED HYDROCARBONS FROM THE DESERT CREEK FORMATION UNDER THE N½ OF SECTION 10, TOWNSHIP 36 SOUTH, RANGE 26 EAST, SLM, SAN JUAN COUNTY, UTAH.

**Docket No. 2013-015
Cause No. 186-17**

INDEX OF ORDERS

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	7/25/2013	Findings of Fact, Conclusions of Law and Order

FILED

JUL 25 2013

SECRETARY, BOARD OF
OIL, GAS & MINING

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

Docket No. 2013-015

Cause No. 186-17

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, June 26, 2013, at approximately 1:00 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, Chris D. Hansen, Ruland J. Gill, Jr., Kelly L. Payne, Carl F. Kendel and Michael Brown. Board member Susan Davis was unable to attend and participate. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner DJ Simmons, Inc. ("DJ Simmons") were Walter Parks – Senior Landman, and David Clark – Senior Geologist. Walter Parks testified as a fact witness and David Clark was recognized by the Board as an expert in geology for

purposes of this Cause. David P. Bolda, Esq., of and for Beatty & Wozniak, P.C., appeared as attorney for BBC.

The Division of Oil, Gas and Mining (the "Division") did not file a staff memorandum in this Cause but nevertheless participated in the hearing. Cameron Johnson, Esq., Assistant Attorney General, appeared as attorney for, and, with the Board's permission, Dustin Doucet, Petroleum Engineer, asked questions on behalf of, the Division.

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. DJ Simmons is a Delaware corporation in good standing with its principal place of business in Farmington, New Mexico. It 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.

2. This Cause involved DJ Simmons' Request to ") to enter an order vacating the Board's drilling and spacing orders entered in Cause Nos. 186-14, 186-15 and 186-

15(A) to provide for the drilling of wells and development of oil and gas leaseholds under the Board's general location and siting rules in the N $\frac{1}{2}$ of Section 10, Township 36 South, Range 26 East, SLM, San Juan County, Utah (hereinafter the "Subject Lands")

3. The oil and gas underlying the Subject Lands are owned in part by the United States of America (Lot 1 (30.00 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$) and in fee (private ownership) (Lot 2 (30.14 ac) SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$). The interest owned by the United States of America in the Subject Lands is currently unleased. The fee lands are currently leased and DJ Simmons is the sole working interest owner in those lands.

4. By Order entered in Cause No. 186-14 on March 28, 1985 (the "186-14 Order"), the Board established a 300.14-acre drilling unit comprised of the N $\frac{1}{2}$ of subject Section 10 for the production of gas and associated hydrocarbons from the Desert Creek formation and ruled that the Ucolo Well No. 2 shall be the only well for the drilling unit.

5. By Order entered in Cause No. 186-15 on June 24, 1985 (the "186-15 Order"), originally a petition for an order pooling all interests in the drilling and spacing unit established by the 186-14 Order, the parties involved in said Cause stipulated that the size of the drilling and spacing unit should be reduced to 200.14 acres. The 200.14 acre drilling and spacing unit is comprised of a portion of the N $\frac{1}{2}$ of subject Section 10 and more particularly described as Lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

6. Finally, by Order entered in Cause No. 186-15(A) on December 6, 1985 (the "186-15(A) Order"), the Board confirmed the 186-15 Order amending the size of the drilling and spacing unit from 300.14 acres to 200.14 acres. The petitioner in Cause No. 186-15(A) filed a petition for an Order to Show Cause why the 186-15 Order should not be approved.

7. The approved well for the drilling and spacing unit was designated as the Ucolo Well No. 2 which was completed on April 19, 1983. This well ceased to produce from the spaced formation and was plugged and abandoned on August 31, 1993. There currently is no production from within the Desert Creek formation.

8. Based on testimony and evidence, the proper spacing for the Subject Lands is not known at this time.

9. Based on testimony and evidence, vacating the Orders in 186-14, 186-15 and 186-15(A) and allowing future drilling to proceed under the general state-wide well location rule codified at Utah Admin. Code Rule R649-3-2 will promote the public interest, increase ultimate recovery, prevent waste, protect correlative rights of all owners and is just and reasonable.

10. A copy of the Request was mailed, via US Mail, and properly addressed to all production interest and surface owners in the area where spacing is sought to be vacated and to all administrative agencies having jurisdiction over lands in which existing

spacing is to be vacated, to their last addresses disclosed by the relevant Federal, State and San Juan County realty records.

11. 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 June 2, 2013, and in the San Juan Record on June 5, 2013.

12. The vote of the Board members present and participating in the hearing on this Cause was unanimous (6-0) 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), §40-6-6 and Utah Admin. Code Rule R649-3-2.

3. DJ Simmons has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Request as ordered below.

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, as conformed to the testimony, other evidence provided at the hearing is granted.

2. The Orders in 186-14, 186-15 and 186-15(A) are vacated in so far as they apply to the drilling and spacing unit created therein from the Desert Creek formation in the N½ of Section 10, Township 36 South, Range 26 East, SLM, San Juan County, Utah.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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 23RD day of July, 2013.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: Ruland J. Gill, Jr.
Ruland J. Gill, Jr., Acting 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. 2013-015, Cause No. 186-17 to be mailed via E-Mail, and First Class Mail, with postage prepaid, this 25th day of July, 2013, to the following:

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