

**BEFORE THE BOARD OF OIL AND GAS CONSERVATION
OF THE STATE OF MONTANA**

**IN THE MATTER OF THE APPLICATION
OF DENBURY ONSHORE, LLC FOR AN
ORDER CREATING AN ENHANCED
RECOVERY UNIT FOR OIL AND GAS
WITHIN THE RED RIVER FORMATION
UNDERLYING CERTAIN LANDS IN
FALLON COUNTY, MONTANA, TO BE
KNOWN AS THE MYSTERY CREEK (RED
RIVER) UNIT AREA.**

PETITION FOR REHEARING

DOCKET NO. 73-2018

ORDER NO. 89-2018

Pursuant to Section 82-11-143, Montana Code Annotated, Chaco Energy Company, P.O. Box 1587, Denver, Colorado 80201-1587 (“Chaco”), petitions the Board for a rehearing of the Application of Denbury Onshore LLC (“Denbury”), Docket No. 73-2018, Order No. 89-2018, dated and effective December 13, 2018, for the following reasons:

1. Chaco is the owner of an oil and gas leasehold interest in, to and under the N½ of Section 11, Township 9 North, Range 58 East, Fallon County (the “Subject Lands”), which lands lie within the Mystery Creek (Red River) Unit Area as established and delineated by this Board pursuant to Order No. 89-2018 referred to above (the “Unit”).
2. Prior to establishment of the Unit Chaco was the Operator of the BN #31-11 well located within and upon the Subject Lands (the “Well”), which upon information and belief is productive of oil from both the Red River and Interlake (Silurian) Formations.
3. At the hearing on the Application of Denbury to establish and delineate the Unit held before this Board on December 13, 2018, Clayton Breckenridge, Denbury Landman, testified that the Interlake Formation relating to the Well was to be “squeezed off” so that only the Red River Formation would produce.
4. Mr. Breckenridge, in a December 4, 2018, email to Kurt T. Nelson, President of Chaco, stated that the historical production from the Well is/was approximately sixty percent (60%) from the Red River Formation and if so forty percent (40%) of production therefrom would be from the Interlake.
5. The Well currently produces approximately thirteen (13) barrels of oil per day and forty percent (40%) thereof would be approximately five (5) barrels per day which Chaco will be deprived of when the Interlake Formation is squeezed off by Denbury. Five (5) barrels of Interlake production per day multiplied by three hundred sixty-five (365) days multiplied by Thirty-five Dollars (\$35.00) per barrel represents an annual loss to Chaco of approximately Sixty-three Thousand Eight Hundred Seventy-five Dollars (\$63,875.00), less royalties and operating expenses. Production from the Interlake Formation could be more or less than five (5) barrels per day but will not be conclusively known if Denbury is allowed to squeeze off the Interlake Formation without first determining the actual current production from the Interlake Formation.

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6. Squeezing off the Interlake Formation deprives Chaco of production therefrom and corresponding revenue attributable thereto, therefore constituting a taking of such production without just compensation therefore, all of which is not addressed in Order No. 89-2018.
7. When questioned about the loss of Chaco's Interlake production, Mr. Breckenridge testified that at the end of secondary recovery operations the Well would be given back to Chaco so that it could then produce the Interlake Formation. Best guess is that this would be at least twenty (20) years following commencement of secondary recovery operations.
8. Board Order No. 89-2018 recites therein "11. The evidence indicates that granting of the application will serve to protect correlative rights and be in the best interest of conservation of oil and gas in the State of Montana." For the reasons discussed above, Chaco disputes this Finding of Fact and alleges that the correlative rights of Chaco are in fact being violated by depriving it of Interlake production from the Well without compensation therefore.

Additionally, as to being in the "best interest of conservation of oil and gas", such a statement is clearly erroneous when "squeezing off" the Interlake Formation and essentially shutting in production therefrom constitutes waste.

9. Section 82-11-206, Montana Code Annotated (Terms And Conditions Of Plan For Unit Operations), provides therein "The order under **82-11-205** must be upon terms and conditions that are just and reasonable and must prescribe a plan for unit operations that includes: . . . (9) additional provisions that are found to be appropriate for carrying on unit operations **and for the protection and adjustment of correlative rights** (emphasis added)." Chaco submits Board Order No. 89-2018 does not comport with Section 82-11-206(9).

WHEREFORE, Chaco requests the following relief:

1. That the Board grant a rehearing of Docket No. 73-2018, Order No. 89-2018, in order to address and correct the foregoing infringement of the correlative rights of Chaco; and
2. For such other or additional relief as this Board may deem appropriate.

Dated December 28, 2018.

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