

SUPREME COURT OF UTAH

Hegarty v. Bd. of Oil, Gas & Mining, DNR, 2002 UT 82

57 P.3d 1042 (Utah 2002) · No. No. 20000917 · Decided August 13, 2002

SUMMARY

The Utah Supreme Court reviewed a Board of Oil, Gas, and Mining order concerning well spacing, pooling, and a 225% nonconsent penalty involving coalbed methane wells in the Drunkards Wash Federal Exploratory Unit. The court held that the statutory nonconsent penalty required specific written notice concerning each well and reversed the penalty because that notice was not shown. The court also addressed the denial of retroactive pooling under Utah's Oil and Gas Conservation Act.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Howe, Justice; Durham, Chief Justice; Durrant, Associate Chief Justice; Russon, Justice; Wilkins, Justice
JURISDICTION	Utah
DECIDED	August 13, 2002
DOCKET	No. 20000917
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioner sought review of a final order of the Utah Board of Oil, Gas, and Mining that granted state spacing and pooling but denied retroactive pooling and imposed a 225% nonconsent penalty.
STANDARD OF REVIEW	The court reviewed statutory construction under a correction-of-error standard without deference to the Board. It upheld factual findings if supported by substantial evidence under Utah Code section 63-46b-16(4).
PRECEDENTIAL VALUE	published and precedential Utah Supreme Court opinion
PARTIES	Patrick Hegarty v. Board of Oil, Gas, and Mining, Department of Natural Resources, State of Utah, River Gas Corporation, Texaco Exploration and Production, Inc., Dominion Reserves-Utah, Inc.

TOPICS

- oil and gas
- mineral rights
- administrative law
- judicial review of agency action
- statutory interpretation

PRACTICE AREAS

administrative law

oil and gas law

mineral rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the landowners qualified as statutory nonconsenting owners subject to the Utah Oil and Gas Conservation Act's nonconsent penalty despite the absence of specific written notice concerning the individual wells.
2. Whether the Board was required or authorized to order retroactive pooling to the dates of first production in order to protect the landowners' correlative rights.

HOLDINGS

1. The landowners were not statutory nonconsenting owners because they did not receive the specific written notice required by Utah Code section 40-6-2(11) concerning the drilling and operation of either well. The 225% nonconsent penalty therefore did not apply.
2. The Board properly denied retroactive pooling. An owner who had sufficient information and opportunity to seek state spacing and pooling but voluntarily failed to act could not obtain retroactive production rights at the expense of owners who had relied on the existing federal unit agreements and prior production arrangements.

KEY QUOTATIONS

“Only actual, detailed, specific, written notice of a well can satisfy the Utah Act.” (57 P.3d at 1049)

“By neglecting to protect their rights in the interim, Landowners made a passive choice to allow their land to be drained until they took action.” (57 P.3d at 1052)

FACTUAL BACKGROUND

The Drunkards Wash Federal Exploratory Unit covered extensive federal and nonfederal acreage and was developed for coalbed methane production under federal unit agreements. Landowners holding mineral interests in 128 acres did not join the federal unit, and the operator later drilled two wells that drained portions of their tract without providing specific written notice of the wells or an opportunity to participate on an individual-well basis. After discovering the wells and receiving no production proceeds, Hegarty sought state spacing and pooling, including retroactive pooling and relief from a 225% nonconsent penalty.

PROCEDURAL HISTORY

Hegarty leased mineral interests owned by a group of landowners whose uncommitted acreage was within a federal exploratory unit producing coalbed methane. He sought state spacing and pooling orders from the Board, requesting retroactive application to the dates of first production. The Board granted spacing and pooling effective prospectively, denied retroactive pooling, and imposed a 225% nonconsent penalty. The Utah Supreme Court reversed the penalty determination, affirmed the denial of retroactive pooling, and remanded for removal of the penalty and recalculation of production costs.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Utah Board of Oil, Gas, and Mining to strike the nonconsent penalty and deduct from Hegarty's post-pooling share of production only his fair and reasonable share of costs under Utah Code section 40-6-6.5, excluding provisions applicable to a nonconsenting owner.

CASES CITED

- WWC Holding Co. v. Pub. Serv. Comm'n of Utah, 2001 UT 23, ¶¶ 7-8, 44 P.3d 714
- Cowling v. Bd. of Oil, Gas & Mining, 830 P.2d 220, 224, 225, 228 (Utah 1991)
- Harken Southwest Corp. v. Bd. of Oil, Gas & Mining, 920 P.2d 1176, 1180 (Utah 1996)
- Matter of SAM Oil, Inc., 817 P.2d 299, 305 (Utah 1991)
- Sears v. Southworth, 563 P.2d 192, 194 (Utah 1977)
- Longley v. Leucadia, 2000 UT 69, ¶ 22, 9 P.3d 762
- Bennion v. ANR Production Co., 819 P.2d 343, 351 & nn.11-12 (Utah 1991)
- Adkins v. Bd. of Oil, Gas & Mining, 926 P.2d 880, 884 (Utah 1996)