



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive, P.O. Box 36800

Billings, Montana 59107-6800

<http://www.mt.blm.gov/>

IN REPLY TO

Ashfield Unit  
MTM68634X (922.WL)

January 23, 2001

CERTIFIED-RETURN RECEIPT REQUESTED

### DECISION

Mr. Richard F. Gallagher  
Church, Harris,  
Johnson & Williams, P.C.  
P.O. Box 1645  
Great Falls, Montana 59403-1645

SDR No 922-01-03

### AFFIRMED

Mr. Robert A. Smith requests a State Director Review (SDR) (Enclosure 1) of the information contained in a letter to Mr. Smith from the Chief, Branch of Fluid Minerals (Chief) dated September 29, 2000 (Enclosure 2). The letter addressed the commitment status of certain lands to the Ashfield Unit located in Phillips County, Montana. Through additional correspondence, Mr. Smith was notified of his SDR rights by letter dated December 8, 2000. The SDR request was considered timely filed on January 9, and assigned number SDR 922-01-03.

Mr. Smith owns mineral interest in certain private lands within the Ashfield Unit boundary. The Ashfield Unit became effective May 1, 1973. Samedan Oil Corporation (Samedan) is the current operator of the Unit. Mr. Smith, along with his four siblings, acquired their interest upon the death of their mother, Daisy B. Smith.

Mr. Smith's concerns involve four parcels of land identified as tracts 117B, 117C, 117D(3), and 117D(4) in the Exhibit "B" of the Ashfield Unit Agreement. The legal descriptions of each tract are as follows:

117B - T. 31 N., R. 32 E., Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$   
117C - T. 31 N., R. 32 E., Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$   
117D(3) - T. 31 N. R. 32 E., Sec. 34, NE $\frac{1}{2}$ S $\frac{1}{2}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$   
117D(4) - T. 31 N. R. 32 E., Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$

Daisy B. Smith owned a 4.16667 percent interest in each of these tracts. Daisy B. Smith's interest in tracts 117D(3) and 117D(4) was leased to Midlands Gas Corporation (Midlands). Daisy B. Smith's interest in tracts 117D(3) and 117D(4) are considered committed to the unit agreement. These interests were committed to the unit by Midland through a pooling provision in the lease. Daisy B. Smith's interest in Tracts 117B and 117C were unleased. The commitment status of these tracts has been questioned by Mr. Smith.

The Chief and his staff had numerous meetings and phone conversations with Mr. Smith regarding the commitment status of these tracts. Numerous letters were exchanged between Mr. Smith and the Chief. Additional correspondence was sent to and received from Samedan as well as Lone Wolf Energy, Inc., which does consulting work for Samedan. On September 29, 2000, the Chief sent a letter to Mr. Smith addressing the commitment status of the two tracts. After detailed analysis of all the unit documents contained in the Bureau of Land Management (BLM) files and those provided by Mr. Smith and Samedan, the Chief concluded that Daisy Smith's interest in Tracts 117B and 117C was not considered committed to the Ashfield Unit.

Following are the arguments raised in the SDR request and our response

Argument 1: "The Ashfield Unit was set up as a Voluntary unit, and Midland Gas committed these lands to the Unit Agreement and, to the Unit Operating Agreement, effective December 11, 1973. That unit-operating agreement contains Article 19, and Midland Gas Co., is the "party" agreeing to the unleased lands they committed, being treated in the manner set forth in article 19. Exhibit 6 being a lease, which would make Midland Gas Co., responsible for the cost of drilling and operations."

Response to Argument 1: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. Therefore, we affirm the conclusion in the Chief's letter that Article 19 of the unit operating agreement does not automatically commit any interest to the unit agreement.

Argument 2: "See certified copy of the ratification and joinder from the Phillips County Court House."

Response to Argument 2: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. The ratification and joinder show that Midlands committed lands to the unit. The ratification and joinder was executed by Midlands as the lessee of these leased tracts. Since Mr. Smith's interest is unleased, this document has no bearing on his unleased lands.

Argument 3: "Our interests were committed as unleased by Midland Gas Co., and were pooled by the Board of Oil and Gas Conservation of the State of Montana, July 30, 1982, thus making our interests subject to the unit agreement and the unit operating agreement."

Response to Argument 3: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. The pooling order has no affect on the unit agreement.

Argument 4: "The administrative and accounting responsibility were transferred to Samedan Oil Company effective October 1, 1993."

Response to Argument 4: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. Samedan Oil Company was approved as operator of the Ashfield Unit effective January 27, 1994.

Argument 5: "I have copies of division orders containing ratifications and joinders that are signed by Daisy Smith, which are her file copies, two signed and dated copies of each of these division orders where sent to addresses supplied, and should be in their files."

Response to Argument 5: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. Division orders are not approved by the BLM and are not used to determine commitment status.

Argument 6: "Samedan has a copy of the ratification and joinder signed and dated in 1980, which, they say was not approved by the parties, and yet in 1982 ratification and joinders' were still being included in division orders. In as much as the unit is a voluntary unit, how could the intent of the parties to consent all of a sudden be denied? What was the purpose of the ratification and joinder being included in the division orders, if not to comply with the voluntary unit provisions"

Response to Argument 6: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. Samedan's records do not show that the required approval of the parties as defined in the Unit Agreement and Unit Operating Agreement were ever obtained. No record of a Subsequent Ratification and Joinder executed by Daisy B. Smith exists in the BLM files.

Argument 7: "Southland Royalty Company signed a Ratification and Joinder in 1975, which was approved and recorded at the Phillips County Court House three years later in 1978. If the intent of the Unit Operating Agreement were to allow only owners of mineral interest ratifying and joining prior to 1973, Southland Royalty company would not have been approved."

Response to Argument 7: There is no discussion proving Mr. Smith's interest is committed to the unit agreement. A Ratification and Joinder signed by any other party has no bearing on the commitment status of Daisy B. Smith's interest.

Argument 8: "The Supervisor of the unit was to have been furnished copies of signed unit ratification and joinders, and, furnished signed copies of parties refusing to ratify or join. The BLM does not have copies of refusals on the part of Daisy Smith, however, the BLM is aware of the copy of a ratification and joinder in the files of Samedan Oil and Gas Company, that had never been filed by the responsible party. I believe this is sufficient to the intent of Daisy Smith."

Response to Argument 8: As the request states, the BLM does not have copies of refusals on the part of Daisy Smith. This does not, however, commit the interest of Daisy Smith to the unit agreement. As was described in the Chief's letter, a specific procedure is used to determine commitment status.

Final Arguments: The options, as outlined in the Chief's letter, are not in Mr. Smith's best interest. Also, various royalty calculations are shown.

Response to Final Arguments: The options and the royalty calculations included in the Chief's letter were for informational purposes only.

After reviewing the arguments included in the SDR request, it has been determined that no new arguments were put forth in the SDR request, and nothing in the request shows an error or misinterpretation in the Chief's letter. Therefore, the conclusion contained in the Chief's letter of September 29, 2000, is affirmed.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 3). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in the Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

/s/ Thomas P. Lonnie

Thomas P. Lonnie  
Deputy State Director,  
Division of Resources

3 Enclosures

- 1-Robert A. Smith SDR Request Dated January 8, 2001 (3 pp)
- 2-Letter from Chief Dated September 29, 2000 (7 pp)
- 3-Form 1842-1 (1 p)

cc:(w/o encls)

WO(310), LS, Rm. 406

All BLM State Offices

Great Falls Oil and Gas Field Station

Miles City Field Office

North Dakota Field Office

Trent Sizemore, Lonewolf Energy, Inc., P.O. Box 3111, Billings, MT 59103

922:WLambert:jf:1/22/01:x5328:SDR-01-03-2