

JAMES BRUCE
ATTORNEY AT LAW

POST OFFICE BOX 1056
SANTA FE, NEW MEXICO 87504

369 MONTEZUMA, NO. 213
SANTA FE, NEW MEXICO 87501

(505) 982-2043 (PHONE)
(505) 660-6612 (CELL)
(505) 982-2151 (FAX)

jamesbruce@aol.com

March 14, 2004

Via fax

Lori Wrotenbery
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Case No. 13085/Landreth-Devon-Southwestern

Dear Ms. Wrotenbery:

Regarding Landreth's subpoena, enclosed are copies of (a) the subpoena, and (b) the Ruling of the Commission, in Case No. 10211, which is the first (and unreversed) ruling of the Commission that I am aware of on subpoena issues.

Very truly yours,



James Bruce

Attorney for Southwestern
Energy Production Company

cc: Carol Leach (via fax)
W. Thomas Kellahin (via fax)
J. Scott hall (via fax)

BEFORE THE OIL CONSERVATION DIVISION

RECEIVED

JAN 1 1991

IN THE MATTER OF THE APPLICATION OF
SANTA FE ENERGY OPERATING PARTNERS, L.P.
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

OIL CONSERVATION DIVISION

CASE NO. 10211

SUBPOENA DUCES TECUM

TO: Santa Fe Energy Operating Partners, L.P.
c/o James Bruce, Esq.
Hinkle, Cox, Eaton, Coffield & Hensley
500 Marquette, N.W.
Albuquerque, New Mexico 87102

Pursuant to the power vested in this Division, you are commanded to produce at 8:15 A.M., January 10, 1991, to the offices of the Oil Conservation Division, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501 and make available for copying, all the following documents under the possession or control of Santa Fe Energy Operating Partners, L.P.:

For the following well:

Kachina "8" Federal Well No. 1 located in
NE/4NW/4, Section 8, Township 18 South, Range 33 East,
Lea County, New Mexico.

Produce the following data:

1. Any and all pressure data, including but not

limited to bottom hole pressure surveys;

2. Mechanical logs and mud logs, if any;
3. Any and all Gas Oil Ratio Tests;
4. Any and all specific gravity information on the liquids;
5. Any and all production information;
- ⑥. Any and all reserve calculations, including but not limited to volumetric calculations of reserves, including recoverable reserves;
- ⑦. Any and all reservoir studies;
- ⑧. Any and all economic studies including but not limited to estimates of payout and rates of return; and
9. Complete daily drilling and completion reports from inception to the latest available data for each well.
- ⑩. Geologic interpretations by which you justify the well and evaluate its risk.

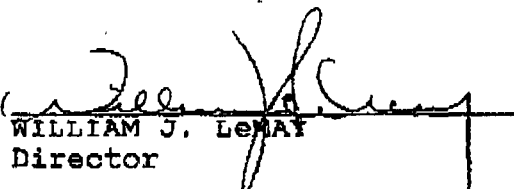
INSTRUCTIONS

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records,

documents, employees, former employees, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When use herein, "you" or "your" refers to the person or entity to whom this Subpoena Duces Tecum is addressed to include all of his or its attorneys, officers, agent, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors.

NEW MEXICO OIL CONSERVATION
DIVISION


WILLIAM J. LEMAY
Director

ISSUED THIS 3rd day of January, 1991, at
Santa Fe, New Mexico.

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

Case 10211

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L. P., FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO, BEING HEARD BY THE
COMMISSION AS AN INTERLOCUTORY APPEAL FROM AN
ORDER OF THE EXAMINER SUSTAINING CERTAIN PORTIONS
OF A SUBPOENA DUCES TECUM.

RULING OF THE COMMISSION

BY THE COMMISSION:

This matter came before the Oil Conservation Commission of New Mexico hereinafter referred to as the "Commission" at 9:00 a.m. on January 17, 1991, at Santa Fe, New Mexico.

NOW, on this 15th day of February, 1991, the Commission, a quorum being present, having considered the argument of counsel and being fully advised in the premises,

FINDS THAT:

(1) The Commission has jurisdiction of this cause and the subject matter thereof, and no additional notice is required for this interlocutory-type hearing.

(2) Santa Fe Energy Operating Partners, L.P. ("Santa Fe") filed an application with the Division seeking to compulsory pool mineral interests, including those of Hanley Petroleum, Inc., in the W/2 NW/4 of Section 8, Township 18 South, Range 3 East, NMPM, Lea County, New Mexico; said proration unit to be dedicated to the Kachina "8" Federal No. 2 to be drilled at an orthodox location in a separate proration unit.

(3) On January 3, 1991, at the request of Hanley Petroleum, Inc. and pursuant to Division Rule 1211, the Director signed a Subpoena (attached hereto as Exhibit A) directing Santa Fe to produce certain documents, as identified in the separate paragraphs, relating to information on the Kachina "8" Federal Well No. 1, a tight hole, located in

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the NE/4 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico.

(4) On January 9, 1991, Santa Fe Energy Operating Partners, L.P. filed a motion to quash the aforementioned Subpoena.

(5) On January 10, 1991, the Examiner heard argument of Counsel on the Motion to Quash the Subpoena in Case No. 10211 and ruled orally that Hanley was not entitled to receive those items requested in the Subpoena which were the result of Santa Fe's interpretation of data or information which was available from other sources, including Oil Conservation Division records. The Examiner therefore quashed the request for item no. 6 reserve calculations, item no. 7 reservoir studies, item no. 8 economic studies, and item no. 10 geologic interpretations. The Examiner further ruled that Hanley was entitled to receive and the Subpoena should stand with respect to requests for raw data which include item 1 pressure data, item 2 mechanical and mud logs, item 3 gas-oil ratio tests, item 4 specific gravity information, item 5 production information, and item 9 daily drilling and completion reports, as those items relate to the Kachina "8" Federal Well No. 1. The Examiner further ordered that these items be produced and made available to Hanley under an order of confidentiality and that Hanley be prohibited from disclosing this information to any other person.

(6) On January 14, 1991, Santa Fe requested from the Division, that the Commission consider an appeal of the Examiner's decision, reverse the Examiner and quash the Subpoena in toto. All parties involved concurred with the request for an appeal to the Commission to consider the matter.

(7) There are no expiring leases in Section 8 requiring a well to be drilled expeditiously.

(8) The Division recognizes that it has been industry practice to honor and to hold confidential information which a party has acquired by drilling a well and to allow that party spending their money to acquire that information the opportunity to use it for their competitive advantage.

(9) Rule 1212 of the Rules and Regulations of the Oil Conservation Division states that the rules of evidence normally applicable in court proceedings can be relaxed where the ends of justice can be better served, and the Commission has implemented this concept by limiting the discovery principal in its application to very explicit areas involving waste and correlative rights.

(10) Santa Fe argues that because it has offered to make the information requested available to Hanley if Hanley will commit beforehand to either farm-out or to join in the drilling of the well, that it should not

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be required to disclose the information prior to Hanley making that commitment.

(11) Hanley was unwilling to commit its interest to the well in any manner without receiving the information from Santa Fe and Santa Fe therefore filed this forced pooling application pursuant to the Oil & Gas Act asking the Division to use the police powers of the State to force a private property interest to be committed to this drilling venture. As a result, Hanley is forced to decide between accepting Santa Fe's farm-out offer, joining in the drilling of the well by paying its proportionate share of costs in advance or being force pooled and allowing Santa Fe to recover out of production Hanley's proportionate share of drilling and completing and equipping the well, plus a risk penalty established by the Division, without having access to information about a direct offset well operated by Santa Fe which information is now available only to Santa Fe.

(12) When a party asks the Division to use the police power of the State to impose a burden upon a private property interest, minimum due process requires a departure from usual industry practice with respect to the disclosure of the information, and Hanley should be allowed access to the raw data information from the offsetting Kachina "8" Federal No. 1 well which is not otherwise available from public sources, but it should not be allowed to compel Santa Fe to produce Santa Fe's interpretations of this data, whether or not those interpretations are based on information from just this well or from all of the available information.

(13) Rule 1105 of the Rules and Regulations of the Oil Conservation Division requires the filing of Form C-105 which includes all special tests conducted on the well (item 1, 3, 4, and 5 of the Subpoena), one copy of all electrical and radio-activity logs run on the well (part of item 2 of the Subpoena), which information becomes of public record immediately, or if so requested by the operator of the well, after being held confidential for 90 days. Daily drilling and completion reports (item 9 of the Subpoena) could be public record if they contain testing information. Rule 1105 further provides that the data may be introduced in public hearing regardless of the request that it be held confidential.

(14) Santa Fe could keep all information on the Kachina "8" Federal No. 1 well confidential for 90 days from completion if it dismisses the pending application and does not seek to involve the police powers of the State to force pool Hanley.

(15) In order to comply with minimum due process requirements implicated by State action and to protect the correlative rights of Hanley, Santa Fe should be required to provide sufficient information for Hanley to make an informed decision as to which of the alternatives set forth above it elects to follow by having access to data which normally

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accompanies Form C-105 but none of the interpretative information from the Kachina "8" Federal No. 1 well which is in the possession of Santa Fe and not normally a part of the public record. The information should be disclosed only to Hanley and subject to prohibition against Hanley revealing that information to any other person, provided however, that such data may be introduced at the hearing and become part of the public hearing record.

(16) The disclosure of information required by this order should only be available to parties to a case where property rights are immediately and directly affected by the imposition of police power on those rights.

IT IS THEREFORE ORDERED THAT:

(1) The order of the Examiner quashing the Subpoena with respect to items 6, 7, 8 and 10 is hereby upheld and the Subpoena is hereby quashed with respect to those items.

(2) The order of the Examiner holding the Subpoena and requiring the documents identified in paragraph (1), (3), (4) and (5) is upheld in its entirety.

(3) The order of the Examiner requiring the production with respect to items no. 2 and no. 9 is modified and Santa Fe must produce these documents requested in those paragraphs as follows:

(a) mechanical logs (all electrical and radio-activity logs); and

(b) any testing information contained in daily drilling and completion reports from inception to the latest available data.

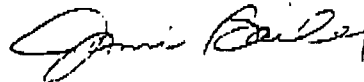
(4) Santa Fe is hereby directed and required to produce to the Division within ten days from the date of this order for the use of Hanley Petroleum those documents identified in ordering paragraphs (2) and (3).

(5) This production and discovery shall be for the exclusive use of Hanley Petroleum, Inc. and Hanley shall not reveal any information produced in accordance with this order to any other person for any reason so long as such information is confidential pursuant to the Rules and Regulations of the Division.

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(6) Done at Santa Fe, New Mexico, on the day and year
hereinabove designated.

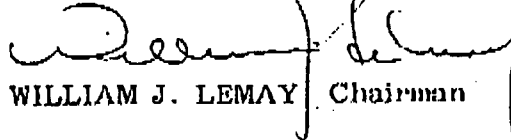
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



JAMI BAILEY, Member



WILLIAM W. WEISS, Member



WILLIAM J. LEMAY, Chairman

S E A L

dr/