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FACSIMILE TRANSMISSION COVER SHEET

DATE: January 11, 2005

TO:

David Catanach	476-3462
Gail MacQuesten	476-3462
Thomas Kellahin	982-2047

FROM: Scott Hall OPERATOR: Ginny

MESSAGE: Please see attached.

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January 11, 2005

VIA FACSIMILE
Mr. David Catanach
New Mexico Oil Conservation Division
1220 South St. Francis Dr.
Santa Fe, New Mexico 87504

Re: NMOCD Case No. 13391; Application of San Juan Resources of Colorado, Inc. to Amend Division Order R-11926 to Include Subsequent Operations and Optional Infill Gas Well Provision (Tecumseh Well No. 1E), San Juan County, New Mexico

Dear Mr. Catanach:

I have reviewed a copy of the draft order prepared by counsel for San Juan Resources of Colorado, Inc. in the above-referenced matter and offer the following comments:

My clients, the Mosley siblings, generally support the Applicant's proposal to amend the previous compulsory pooling order to allow for the drilling of the Tecumseh 1-E infill well. I believe the order makes sufficiently clear that all of the working interest owners and mineral interests owners who were force-pooled for the first well will be allowed to participate in the drilling of the infill well and avoid the assessment of risk penalties by tendering in advance their proportionate share of estimated well costs. In this regard, paragraph 9e of the draft order indicates the September 21, 2004 AFE will be utilized.

Paragraph 9a should refer to Article VI of a standard JOA, not Article IV. It is noted, however, that the draft order falls far short of incorporating all the provisions of Article VI and would not operate in the same manner in all respects.

Paragraph 9b would prevent non-consenting working interest owners from participating in any "subsequent operation" involving the initial well. It was my impression from the testimony at the hearing that no such restriction would apply. Neither is such a restriction set forth in the Application.

Paragraph 9f indicates San Juan Resources has "correctly and accurately" accounted to the Mosley group for their shares of the costs and production from the parent well. This is far beyond the scope of the Application, notice and advertisement in the case and the inclusion of the paragraph is not necessary for purposes of the relief requested by the Applicant. Further, it is perhaps beyond the province of the Division to adjudicate such matters in such an exclusive and preemptory manner. On behalf of the Mosleys, we object to the inclusion of such language and we waive no rights to an accounting for the costs of, or production from the initial well.

Paragraph 11c need make no reference to gas balancing and gas marketing. The relief accorded by the order should not exceed the scope of the relief set forth in the Application, notice and advertisement in the case and these matters were not included.

Paragraph 13 should not refer to the restriction on the right to propose subsequent operations as a "penalty". It is questionable whether the Division has the authority to impose such a penalty under the pooling statute.

The reasons for the proposal set forth in Decretal paragraph 3 to have the order operate retroactively has not been explained and there is no evidentiary basis for it.

The provision of Decretal paragraph 6(g)a that allows only the proposing party, in this case, San Juan Resources, to carry the interests of the non-consenting parties is a departure from the standard terms of Article VI of an operating agreement.

Decretal paragraphs 6(g)b and c are confusing. They would seem to allow two different operators in the same proration unit in the event San Juan were to go non-consent on the very infill well which it has already proposed.

The relief accorded under Deretal paragraph 6(g)d is, to my knowledge, unprecedented. No order of the Division or Commission that I am aware of has ever provided that pooled mineral interest or working interest owners, consenting or otherwise, must be compelled to "plug and abandon a well and restore the surface location at their sole cost, risk and expense." Historically, under the pooling statute, the cost recovery provisions of the agency's orders have been limited to "the drilling, completing and equipping" the subject well. NMSA 1978 Section 70-2-17 does not address plugging and abandonment and the costs for such are not included within the definition of "Well Costs" set forth at Rule 35 of the Divisions rules and regulations.

Decretal paragraph 8 appears unnecessary and would appear to predetermine the reasonableness of actual well costs which are at this point unknown.

At decretal paragraph 18, following the word "production", the word "proportionately" should be inserted.

Decretal paragraph 19 proposes that the Division, through the automatic operation of the pooling order, pre-adjudicate the reasonableness of operating costs and further limit the ability of any pooled party to challenge such costs, regardless of whether they are participating or non-consenting working interest owners. Again, to our knowledge, such a proposal has no precedent among the Division's compulsory pooling orders. Further, a 90 day limitation on a non-operator's ability to challenge cost items under the joint account is inconsistent with generally accepted standards in the industry.

Should you require further elaboration on any of the foregoing matters, please do not hesitate to contact me.

Very truly yours,

MILLER STRATVERT P.A.

J. Scott Hall

JSH/glb
cc: Gail Macquesten, Esq. (via facsimile)
W. Thomas Kellahin, Esq. (via facsimile)
Mr. Bob Mosley

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