

Shannon Klunick  
P.O. Box 3789  
Midland, Texas 79702  
432-638-2122

March 10, 2011

RE: All of Section 18, T-15-S, R-31-E,  
Chaves County New Mexico

Robin Birnie  
Richard Birnie  
Allison L. Birnie  
Cameron Birnie  
Olive Bond  
Jason Bond  
Cindi Kochi

Elizabeth:

As you requested I went to Landmark Title in Roswell, New Mexico and searched the records and the general index on the above lands, and the above referenced names, from 1/1/ 2005 to 1/10/2010. (all information after 1997 is computerized)

I then went to the County Clerks Office for Chaves County and again searched the grantor grantee, and general name index for the above names and the above lands from 1/1/2005 to March 8, 2010 5p.m. cst.

Among the documents was an Affidavit of Heirship, for Richard Birnie, Volume 665/Page 461, filed 8/11/2010, and a Communitization Agreement, Volume 662/Page 1431, Cimarex Energy, et al and the Heirs of Ethel Smith, filed 1/22/2010.

Please contact me if you need any other information.

Thank You

*Shannon Klunick*  
Shannon Klunick

Oil Conservation Division  
Case No. 4  
Exhibit No. 4

Answer all questions indicated; if you do not know answer or are uncertain, state "Unknown"

**AFFIDAVIT OF HEIRSHIP**

Robin E Birnie whose address is \_\_\_\_\_  
(Name of Affiant)

14435 Benefit St Sherman Oaks Calif being first duly  
Address Town State

sworn, says that (s) he was well acquainted with RICHARD BIRNIE

during (her) his lifetime and that (s) he died at or near Woodland Hills  
(Town)

California on May 31, 1986  
(State) (Day, Month and Year)

being approximately 60 years of age at the time of death, and was a resident of

Woodland Hills, County of Los Angeles, State of California.

That this affidavit is made in connection with the title to the following lands in \_\_\_\_\_

Chaves County, New Mexico: Unknown

SECTION 18; TOWNSHIP 15 SOUTH, RANGE 31 EAST

\_\_\_\_\_  
N.M.P.M.

The following is a true, correct and complete statement of the family history of said decedent:

1. How many times was the decedent married during (her) his lifetime? 2  
Give the names and marriage dates of each husband or wife of the decedent.

Patricia Jean Dyke April 14, unknown  
(Name) (Date of Marriage)

Vivita Kowalski October 20, 1972

2. If one or more husbands or wives is dead or divorced, state which and when and where such death or divorce occurred.

Patricia Birnie Dead Tarzana, Calif Sept 27, 1971  
(Name) (Dead or Divorced) (Where) (Date)

Vivita Birnie Woodland Hills, CA - unknown

NOTE: When dead, specify whether or not married to decedent involved in this affidavit at time of death.

3. Was the decedent married or single at the time of death? single

4. If married, is such husband or wife now living? \_\_\_\_\_

If now dead, give the date of death and submit separate affidavit of heirship on such person:

\_\_\_\_\_  
(Date of Death)

5. Did decedent ever have any children, either natural or by adoption? yes  
 If so, how many during (her) his entire lifetime? three

6. List names, etc., of ALL children of decedent:

Name of Child	Birthdate	Living or Dead	Date of Death or Address
Cameron S. Birnie		living	1066 Del Robles Pl. Simi, CA 93063
Robin E. Birnie		living	14433 Benefit St. Unit #2 Sherman Oaks, CA 91423
Allison L. Birnie		living	14433 Benefit St. #2 Sherman Oaks, CA

NOTE: If any child is now dead, furnish a separate affidavit of heirship on such child.

7. If decedent was not survived by husband or wife, and was not survived by one or more children, give the name, etc., of the parents of the decedent.

<u>No</u> (Father)	(Living or Dead)	(Date of Death or Address)
<u>No</u> (Mother)	(Living or Dead)	(Date of Death or Address)

NOTE: If it is necessary to answer question 7, furnish a separate affidavit on each now deceased parent of the decedent involved in this affidavit.

8. Did the decedent leave a will? yes

NOTE: If available, furnish copy of will.

9. Was an administration had on the decedent's estate? yes  
 Where and when? Los Angeles, California

STATE OF California )  
 COUNTY OF Los Angeles ) ss.  
Robin E. Birnie  
 Affiant


Subscribed and sworn to, and the foregoing instrument was acknowledged before me this  
9th day of August, 2010, by said affiant.

Betty Patterson  
 Notary Public

My Commission Expires:

June 9, 2013



ATTORNEY OR PARTY WITHOUT ATTORNEY Name and Address KENNETH W. NEBEL KENNETH W. NEBEL, INC. 8665 Wilshire Blvd., Ste 312, Beverly Hills, CA. 90211		TELEPHONE NO. (213) 655-9560	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, California 90012 BRANCH NAME:			
ESTATE OF DECEASED: RICHARD M. BIRNIE		DECEDENT	
LETTERS <input checked="" type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED		<input type="checkbox"/> OF ADMINISTRATION <input type="checkbox"/> OF SPECIAL ADMINISTRATION	
		CASE NUMBER: P 708076	

## LETTERS

1. ☒ The last will of the decedent named above having been proved, the court appoints inasmuch:

OLIVE F. BOND

- a. ☒ Executor  
 b. ☐ Administrator with will annexed

2. ☐ The court appoints (name):

- a. ☐ Administrator of the decedent's estate  
 b. ☐ Special administrator of decedent's estate  
     (1) ☐ with the special powers specified in the Order for Probate  
     (2) ☐ with the powers of a general administrator

3. ☒ The personal representative is authorized to administer the estate under The Independent Administration of Estates Act  
☒ with full authority ☐ without authority to sell or exchange real property or to grant an option to purchase real property

WITNESS, clerk of the court, with seal of the court affixed.

Date: JUL 30 1986

Clerk by J. Sonnenburg, Deputy

## AFFIRMATION

I solemnly affirm that I will perform the duties of personal representative according to law.

Executed on (date): July 2, 1986  
 at (place): Beverly Hills, California.

Olive F. Bond  
 PERSONAL REPRESENTATIVE  
 OLIVE F. BOND

## CERTIFICATION

I certify that this document is a correct copy of the original on file in my office and that the letters issued the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

Date:

Clerk, by \_\_\_\_\_, Deputy

(SEAL)

THE DOCUMENT TO WHICH THIS CERTIFICATE IS  
ATTACHED IS A FULL, TRUE, AND CORRECT COPY  
OF THE ORIGINAL ON FILE AND OF RECORD IN  
MY OFFICE.

AUG 05 2010

ATTEST \_\_\_\_\_

JOHN A. CLARKE, CLERK

Executive Clerk of the Superior  
Court of California, County of Los Angeles.

By \_\_\_\_\_ Deputy

B. JONES



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NO.	FOR COURT USE ONLY
Kenneth W. Nebel, Inc. 8665 Wilshire Blvd. Beverly Hills, Calif. 90211		(213) 655-9560	<b>FILED</b>  JUN 9 1986 FRANK S. ZOLIN, County Clerk <i>[Signature]</i> D. BARRAGAN, DEPUTY
ATTORNEY FOR (Name)		Petitioner	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles			
STREET ADDRESS: 111 N. Hill Street			
MAILING ADDRESS:			
CITY AND ZIP CODE: Los Angeles, California 90012			
BRANCH NAME:			
ESTATE OF (NAME):		DECEDENT	
RICHARD M. BIRNIE			
<input checked="" type="checkbox"/> Probate of Will and for Letters Testamentary <input type="checkbox"/> Probate of Will and for Letters of Administration with Will Annexed <input type="checkbox"/> Letters of Administration <input type="checkbox"/> Letters of Special Administration <input checked="" type="checkbox"/> Authorization to Administer Under The Independent Administration of Estates Act <input type="checkbox"/> with limited authority		CASE NUMBER	P708076
PETITION FOR ORDER Dying after December 31, 1984		HEARING DATE:	July 2
		DEPT:	9/15

1. Publication will be in (specify name of newspaper): Los Angeles Daily Journal
- a. ☒ Publication requested.  
 b. ☐ Publication to be arranged.
2. Petitioner (name of each): Olive F. Bond requests that
- a. ☒ decedent's will and codicils, if any, be admitted to probate.  
 b. ☒ (name): Olive F. Bond be appointed (1) ☒ executor (3) ☐ administrator  
 (2) ☐ administrator with will annexed (4) ☐ special administrator and Letters issue upon qualification
- c. ☒ authority be granted to administer under The Independent Administration of Estates Act ☒ with full authority under the act ☐ without authority to sell, exchange, or grant an option to purchase real property (limited authority):
- d. ☒ bond not be required for the reasons stated in item 3d.  
☐ \$ bond be fixed. It will be furnished by an authorized surety company or as otherwise provided by law (specify reasons if the amount is different from the minimum required by Probate Code, §541.)  
☐ \$ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location):
3. a. Decedent died on (date): 5/31/86 at (place): Kaiser Hospital  
☒ a resident of the county named above. Woodland Hills, Calif.  
☐ a nonresident of California and left an estate in the county named above located at (specify location permitting publication in the newspaper named in item 1):
- b. Street address, city, and county of decedent's residence at time of death:  
 4780 Del Moreno Dr., Woodland Hills, Calif. 91364
- c. Character and estimated value of the property of the estate  
 Personal property: \$ 300,000.  
 Annual gross income from  
☒ real property: \$ -0-  
☒ personal property: \$ 25,000.  
 Total: \$ 325,000.  
 Real property \$ 350,000.
- d. ☒ Will waives bond. ☐ Special administrator is the named executor and the will waives bond  
☐ All beneficiaries are adults and have waived bond, and the will does not require a bond (affix Waiver as attachment 3d)  
☐ All heirs at law are adults and have waived bond (affix waiver as attachment 3d)  
☐ Sole personal representative is a corporate fiduciary

(Continued on reverse)

205A

PETITION FOR PROBATE

16P102- RP064 1 88

## Appointment of personal representative (Form PB-100) (Rev. 1-72)

A person who is appointed as personal representative of an estate must be at least 18 years of age and a resident of the State of California.

The person appointed must be a person who is qualified to serve as a personal representative under the laws of the State of California.

The person appointed must be a person who is qualified to serve as a personal representative under the laws of the State of California.

The person appointed must be a person who is qualified to serve as a personal representative under the laws of the State of California. (Letters of nomination as attachment 31(1))  
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The person appointed must be a person who is qualified to serve as a personal representative under the laws of the State of California. (Letters of nomination as attachment 31(1))

## 2. Appointment of administrator

The person appointed as administrator must be a person who is qualified to serve as an administrator under the laws of the State of California. (Letters of nomination as attachment 31(2))

The person appointed as administrator must be a person who is qualified to serve as an administrator under the laws of the State of California. (Letters of nomination as attachment 31(2))

The person appointed as administrator must be a person who is qualified to serve as an administrator under the laws of the State of California.

## 3. Appointment of special administrator (complete, specify grounds and requested powers in attachment 31(3))

4. Personal representative is a ☒ resident of California ☐ nonresident of California (fill in statement of permanent address in attachment 31(1)) ☒ resident of the United States ☐ nonresident of the United States.

5. ☒ Decedent is a person who died testate under the Independent Administration of Estates Act.

6. ☒ Complete - all assets. The decedent is survived by:

1. ☒ spouse ☐ no spouse

2. ☒ child as follows: ☒ natural or adopted ☐ natural adopted by a third party ☐ step ☐ foster

3. ☐ issue of a predeceased child

4. ☐ issue of a predeceased child

5. ☒ Petitioner ☐ has no ☐ has actual knowledge of facts reasonably giving rise to a parent-child relationship under Probate Code section 6400(b).

6. ☒ All surviving children and issue of predeceased children have been listed in item 8.

7. ☒ Complete if decedent was survived by a spouse but no issue (see 8 or 9 apply), or (2) no spouse or issue. Check the first box that applies:

- a. ☐ The decedent is survived by a parent or parents who are listed in item 8.

- b. ☐ The decedent is survived by issue of deceased parents, all of whom are listed in item 8.

- c. ☐ The decedent is survived by a grandparent or grandparents who are listed in item 8.

- d. ☐ The decedent is survived by issue of grandparents, all of whom are listed in item 8.

- e. ☐ The decedent is survived by issue of a predeceased spouse, all of whom are listed in item 8.

- f. ☐ The decedent is survived by next of kin, all of whom are listed in item 8.

- g. ☐ The decedent is survived by parents of a predeceased spouse or issue of those parents, if both are predeceased, all of whom are listed in item 8.

8. ☐ Complete only if no spouse or issue survived the decedent:

The decedent had a predeceased spouse who died not more than 15 years before the decedent and who died owning an interest in real property. (Check only the first box that applies.)

- a. ☐ The decedent is survived by issue of a predeceased spouse, all of whom are listed in item 8.

- b. ☐ The decedent is survived by a parent or parents of the predeceased spouse who are listed in item 8.

- c. ☐ The decedent is survived by issue of a parent of the predeceased spouse, all of whom are listed in item 8.

- d. ☐ The decedent is survived by next of kin of the decedent, all of whom are listed in item 8.

- e. ☐ The decedent is survived by next of kin of the predeceased spouse, all of whom are listed in item 8.

9. ☐ Listed in attachment 8 are the names, relationships, ages, and residence or mailing addresses of all persons mentioned in decedent's will and codicils, whether living or deceased, and of persons checked in items 5, 6, and 7, so far as known to petitioner, including stepchild and foster child, issue, devisees, and legatees to whom notice is to be given under Probate Code section 1201.

10. ☒ Number of pages attached:

Date: June 5, 1986

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 5, 1986

Olivia F. Bond

(Type or print name)

\*All persons named in the petition must sign the declaration. Only one need sign the declaration.

PD-111 (Rev. January 7, 1986)

PETITION FOR PROBATE

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ATTACHMENT 9

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>AGES</u>	<u>RESIDENCE</u>
ANITA E. BIRNIE	Daughter	31	10607 1/2 Woodbridge Toluca Lake, Ca. 91602
CARLOS S. BIRNIE	Son	33	1079 CASA Grande Rd. Simi Valley, Ca. 93063
ALLISON L. Birnie	Daughter	23	5421 Sylmar Ave. Van Nuys, Ca. 91401
TERITA L. BIRNIE	Friend (Former Spouse)	50	22661 MARLIN PL CANOGA PARK, CA. 91307



# Last Will and Testament

OF

RICHARD M. BIRNIE

I, RICHARD M. BIRNIE, of the County of Los Angeles, State of California, being of lawful age and of sound and disposing mind and memory, and not acting under duress, menace, fraud or the undue influence of any person whomsoever, do hereby make, publish and declare this my Last Will and Testament, and do hereby expressly revoke all former Wills and Codicils to Wills by me made, in the manner following:

## ARTICLE I

I hereby declare that I am married and that my spouse is VERITA L. BIRNIE. I declare that my said spouse is sometimes hereinafter referred to as my "spouse", and that I have the following children from a previous marriage, to wit:

CAMERON S. BIRNIE  
ROBIN E. BIRNIE  
ALLISON L. BIRNIE

I hereby declare that I have no children from my marriage to VERITA L. BIRNIE.

## ARTICLE II

I give and bequeath to my spouse all articles of household use, including furniture, books, pictures, silverware and linen. If she shall predecease me, then such gifts shall lapse and fall into the residue.

## ARTICLE III

I give, devise and bequeath all of the rest, residue and remainder of my estate, real and personal, wherever situated to my children then living, share and share alike.

ARTICLE IV

All estate inheritance, succession or other death taxes or duties imposed upon or in relation to any property required by any tax law to be included in my gross Estate shall be paid out of the residue of my Estate, without proration or any charge therefor against any bequest or devise hereunder or against any property not included in my probate Estate.

ARTICLE V

I have intentionally made no provision in this my Will for any of my heirs or relatives who are not herein mentioned or designated, and I hereby generally and specifically disinherit every person whomsoever claiming to be or who may be determined to be my heir-at-law, excepting as otherwise mentioned in this Will, and if any such person shall become lawfully entitled to any part of my Estate, I hereby give and bequeath to such person, and to each such person, the sum of Ten Dollars (\$10.00) and no more, in lieu of any other share or interest in my Estate to which such person is or might be entitled as heir-at-law or otherwise.

ARTICLE VI

As Executrix of this, my Last Will and Testament, I hereby nominate and appoint OLIVE F. BOND.

Upon the death, resignation, refusal or inability of such person to act as Executrix then, and in any such event, as succeeding Executor to fill such vacancy, I hereby nominate and appoint Bank of America, National Trust and Savings Association. No bond shall be required of any Executrix or Executor.

My Executor may sell, lease, mortgage, or encumber by Deed of Trust, or otherwise, the whole or any part of my Estate at either public or private sale, with or without notice. My said Executor may, at its option and in its sole discretion, continue to

hold, manage and operate any property, business or enterprise that I may hold and own at the time of my death, the profits or losses, if any therefrom, to inure or be chargeable respectively to my Estate and not to my Executor.

My Executor is authorized to invest and reinvest any surplus moneys of my Estate in common or preferred stocks, which are listed or unlisted, bonds, or first trust deed notes, the profits or losses, if any therefrom, to inure or be chargeable to my Estate and not to my Executor.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 15<sup>th</sup> day of October, 1941.

Richard M. Birnie  
RICHARD M. BIRNIE

The foregoing instrument was signed in our presence by RICHARD M. BIRNIE on the date which it bears. At that time he declared to us that it was his Last Will. We sign as Witnesses at his request and in his presence and in the presence of each other. At the time he signed this Will, said Testator appeared to be of sound and disposing mind and memory and to not be acting under duress, menace, fraud or the undue influence of any person whomsoever.

Leo Weyman residing at 104 W. GILMAN

THOMAS GARY, CALIF 91360

Wilhelmina J. Alton residing at 9432 Gregory Way  
Beavly Hills, Calif 90212



THE DOCUMENT TO WHICH THIS CERTIFICATE IS  
ATTACHED IS A FULL, TRUE, AND CORRECT COPY  
OF THE ORIGINAL ON FILE AND OF RECORD IN  
MY OFFICE

AUG 05 2010

ATTEST \_\_\_\_\_

JOHN A. CLARKE, CLERK

Executive Officer, Clerk of the Superior  
Court of California, County of Los Angeles.

By \_\_\_\_\_ Deputy

B. JONES

THIS PAGE ILLEGIBLE  
FOR REPRODUCTION

BK 665 PG 472

RECEIVED CENTRAL FEB 16 1968

FILED

FEB 18 1968

FRANK E. BOLD COUNTY CLERK  
H. D. Miller

NAME, ADDRESS, AND TELEPHONE NUMBER  
OF ATTORNEY(S)

KENNETH W. NEBEL  
KENNETH W. NEBEL, INC. (213) 655-9560  
8665 Wilshire Blvd., Ste 1312  
Beverly Hills, Calif. 90211

ATTORNEY(S) FOR

ESTATE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

ESTATE OF

RICHARD M. BIRNIE

CASE NUMBER

P 708076

AFFIDAVIT OR DECLARATION FOR  
FINAL DISCHARGE AND ORDER

DECEASED

The undersigned, as Executrix of the above entitled estate states that: distribution has been made of all the property and assets of said estate in accordance with the decree therefor made;

- ☒ That all money, stocks, bonds and other personal property have been delivered to the distributees as ordered by said decree; that receipts of the respective distributees therefor are now on file.
- ☐ That Affiant is sole distributee;
- ☐ That there is no personal property on hand for distribution;

That all lawfully required acts as such Executrix have been performed.

Executed 1/28/68 at Los Angeles, California.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Olive F. Bond  
OLIVE F. BOND

ORDER OF FINAL DISCHARGE

It appearing that all acts of OLIVE F. BOND as Executrix were performed as required by law;

IT IS ORDERED, ADJUDGED AND DECREED:

That OLIVE F. BOND as Executrix be discharged as such and sureties are hereby released from liability for all acts subsequent hereto.

Dated FEB 18 1968

Court Commissioner



Richard C. Hubbell  
RICHARD C. HUBBELL

THE DOCUMENT TO WHICH THIS CERTIFICATE IS  
ATTACHED IS A FULL, TRUE AND CORRECT  
OF THE ORIGINAL ON FILE AND OF RECORD IN  
MY OFFICE. I further certify the said  
letters were in full force and effect up to

FFB 18 1988 at which time said  
EXECUTRIX was duly discharged.

ATTEST AUG 05 2010

JOHN A. CLARKE, CLERK

Executive Officer/Clerk of the Superior  
Court of California, County of Los Angeles.

By B. Jones Deputy  
B. JONES



STATE OF NEW MEXICO, COUNTY OF CHAVES  
FILE FOR RECORD AUG 11, 2010 AT 12:34 O CLOCK PM  
Receipt Number: 330459 Fee: \$33.00  
Book 00665 Page 00461 Pages 13  
To Whom Returned: ROLLA R HINKLE III  
PO BOX 2292  
ROSWELL, NM 88202

Rhoda C. Coakley, County Clerk

By Francis Porter Deputy