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STATE OF NEW MEXICO 2016 JAN 14 P 4: 12  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION

**APPLICATION OF MATADOR PRODUCTION COMPANY  
FOR A NON-STANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 15433**

**MOTION TO DISMISS**

Nearburg Exploration Company, L.L.C. and Nearburg Producing Company (together, "Nearburg") move the Division enter its order dismissing the Application for a Non-Standard Spacing and Proration Unit and Compulsory Pooling filed on behalf of Matador Production Company ("Matador") in this matter. In support of its motion, Nearburg states:

By its Application in this matter, Matador asks the Division to, *inter-alia*, enter an order pooling the interests of Nearburg and other interest owners in the W/2 E/2 of Section 32, Township 18 South, Range 33 East, NMPM in Lea County. Matador's Application must be dismissed for the reason that portions of the lands and formation described in the application are subject to a pre-existing Joint Operating Agreement and are not available to be force pooled.

**BACKGROUND FACTS**

Matador seeks an order pooling "all uncommitted mineral interests" in the Bone Spring formation in the W/2 E/2 of Section 32. The interests of Nearburg in all of Section 31 and the S/2 of Section 32, including the Bone Spring formation, are subject to that Operating Agreement dated May 28, 1998 by and between Nearburg Exploration Company, L.L.C. and Harvey E. Yates Company, et al. ("HEYCO"). MRC Delaware Resources, LLC succeeded to the interests of HEYCO in February of 2015. Matador Production Company is the operating affiliate of MRC

Permian Company. The rights of Matador and Nearburg are the subject of that Letter Agreement dated May 28, 1998. (Exhibit 1, attached.) Under the Letter Agreement, Nearburg Exploration Company assigned to HEYCO certain interests in the N/2 and S/2 of Section 31, T18S, R33E. Nearburg received from the HEYCO group an assignment of 66.67% of its operating rights under the S/2 of Section 32, from 4,600' below the surface to the base of the Morrow formation. The Letter Agreement provided that “[a]ll operations conducted in the S/2 of Section 31 and the S/2 of Section 32, T-18-S, R-33-E shall be conducted under the terms of the Operating Agreement attached hereto as Schedule “C”.” (Letter Agreement, ¶ 6.) An excerpted copy of the Operating Agreement also dated May 28, 1998 is attached hereto as Exhibit 2. Under the Operating Agreement, Nearburg Producing Company is designated as operator of the lands in Section 31 and Harvey E. Yates Company is designated as operator in the S/2 of Section 32.

Article XIII. TERM OF AGREEMENT provides under Option No. 1, that the term of the JOA shall last “So long as any of the oil and gas leases subject to this agreement remain or are continued in force as to any part of the Contract Area, whether by production, extension, renewal or otherwise.” A map showing all of the wells drilled under the JOA is attached as Exhibit 3. These wells have produced or continue to produce, maintaining the JOA and the Contract Area oil and gas leases in effect. (See Affidavit of Randy Howard, ¶¶ 8, 10, Exhibit 4, attached.)

**1. The Lands In the S/2 of Section 32 Are Not Available To Be Force Pooled.**

Under the operation of NMSA § 70-2-17(C) and established Division precedent, there is no basis for the exercise of the Division's compulsory pooling authority in this case, and consequently, Matador's Application must be dismissed.

Under the pooling statute, Matador has the burden of affirmatively proving that the owners of mineral interests in a spacing unit “have not agreed to pool their interests...”. Such a

showing is a mandatory pre-condition to the exercise of the Division's authority to pool property interests under § 70-2-17(C). It is a showing that Matador cannot make and therefore the only proper course of action for the Division is the dismissal of Matador's Application.

**I. SECTION 70-2-17 REQUIRES THE DIVISION TO DETERMINE WHETHER OR NOT A VOLUNTARY AGREEMENT EXISTS BEFORE IT CAN FORCE POOL THESE WORKING INTERESTS.**

The Division must necessarily address the voluntary agreement issue before it exercises its powers to consolidate the lease interests under the compulsory pooling statute. Typically, the compulsory pooling orders that the Division issues contain an express finding to the following effect:

"( ) There are interest owners in the subject proration unit  
that have not agreed to pool their interests."

Such a finding have been included in hundreds of compulsory pooling orders for decades now, and the industry has come to rely on the Division's manner of interpreting and exercising its authority under the pooling statute. As such, the Division's consistent interpretation and application of the pooling statute is established as a form of legal precedent.<sup>1</sup> The Division's standard practice of considering evidence of and making a finding on the voluntary agreement issue fulfills the directive under the pooling statute. In other words, the Division does not exercise its authority until it first makes a finding that "[the] owners have not agreed to pool their interests and develop their lands as a unit."<sup>2</sup> *See Sims v. Mechem*, 72 N.M. 186, 382 P.2d 183 (1963): ("Unquestionably, the [Division] is authorized to require pooling of property *when such pooling has not been agreed upon by the parties.*" *Emphasis added.*) Notably, Matador's

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<sup>1</sup> See *Chisolm v. Defense Logistics Agency* 656 F.2d 42,47 (3'd. Cir. 1981).

<sup>2</sup> Section 70-2-17(C) says, in part, "Where, however, such owner or owners have not agreed to pool their interests...the division...shall pool all or any part of such lands or interest or both in the spacing or proration unit as a unit."

October 15, 2015 initial well proposal letter for the Eland State 32-18-33E RN No. 124H well letter expressly recognizes the existing agreement as to the S/2 of Section 32 which it proposed be superseded by a new operating agreement. On October 28, 2015, Matador sent its well proposal for the Eland State 32-18-33-E RN No. 123H, ("Subject Well"). Matador now proposes that the existing operating agreement be substituted by a compulsory pooling order. (Well Proposal Letters, Exhibit 4-A and 4-B, attached.)

Nearburg asks that the Division do nothing more than make a proper finding that its interests are not subject to pooling as they are voluntarily committed under a pre-existing operating agreement. Conversely, a finding that the parties have not agreed to pool their interests would operate as an effective nullification of a private agreement, far exceeding the invocation by Matador of the Divisions authority under § 70-2-17 (C).

Disputes of this nature are not new to the Division. Precedent orders from a number of compulsory pooling cases support the dismissal of Matador's Application in this case. Examples:

**Case No. 8606: Order No. R-8013:** *Application of Doyle Hartman for Simultaneous Dedication and Compulsory Pooling, Lea County, New Mexico.* In 1985, the Applicant, Doyle Hartman sought to force pool lands that were subject to a 1951 Operating Agreement entered into by the parties' predecessors in interest. The compulsory pooling portion of the application was denied due to the Applicant's failure to provide evidence to refute that the operating agreement was not binding.

**Case No. 10658: Order No. R-9841:** *Application of Mewbourne Oil Company for Compulsory Pooling, Eddy County, New Mexico.* In 1993, the Applicant, Mewbourne Oil Company, sought to pool the interests of Devon Energy Corporation. Devon opposed the application on the grounds that the parties were bound to operating agreements entered into by

their predecessors in 1953 and 1958. Mewbourne argued that the compulsory pooling was justified because the terms of the operating agreement were “unfavorable”. Order No. R-9841 dismissing the Application provided as follows: “*FINDING: Since under the “force pooling” statutes (Chapter 70-2-17 of the NMSA 1978) there exists in this matter an agreement between the two parties owning undivided interests in a proposed 320-acre gas spacing and proration unit, an order from the Division pooling said parties is unnecessary.*” The comments of the Division's counsel in the transcript of hearing are notable as it is expressed that, in such cases, the Division makes no determination on the merits of the terms of the operating agreement, but determines only whether the agreement exists.

**Case No. 11960; Order No. R-11009:** *Application of Redstone Oil and Gas Company for Compulsory Pooling and Unorthodox Well Location, Eddy County, New Mexico (Consolidated for hearing with Case No. 11927; Application of Fasken Land & Minerals, Ltd. for Compulsory Pooling, etc.; and Case No. 11877; Application of Fasken Land & Minerals, Ltd. for Compulsory Pooling, etc.)* These 1998 cases involved the efforts of the applicants to force pool lands into 640 and 320 acre spacing and proration units that were covered, in part, by a 1970 operating agreement governing Contract Area lands in the Red Tank Unit and certain adjoining leases. Whether the 1970 agreements were applicable was a threshold issue to be decided before the Division exercised its compulsory pooling authority. Prior to the issuance of the final orders in these cases, the parties were able to negotiate an agreement for the development of the acreage and consequently, the compulsory pooling portions of the cases were dismissed.

Copies of the referenced orders are attached together as Exhibit 5.

Where the evidence clearly supports a finding that the commitment of working interests is governed by an operating agreement, farmout, communitization or other similar agreement, then those interests are not subject to compulsory pooling. In each of the compulsory pooling cases referenced above, the applicant failed to make the showing required by the statute. Each time, the applicant either failed to obtain the compulsory pooling relief sought or the application was denied outright. This case is no different and the Division should not hesitate to deny the forced pooling of the interests involved here.

For the foregoing reasons, Nearburg Producing Company and Nearburg Exploration Company, L.L.C. request that the Division enter its order dismissing and otherwise denying Matador Production Company's Application for a Non-Standard Spacing and Proration Unit and for Compulsory Pooling.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By: J. Scott Hall

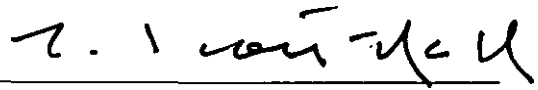
J. Scott Hall  
Post Office Box 2307  
Santa Fe, New Mexico 87504-2307  
(505) 982-3873  
jshall@montand.com

*Attorneys for Nearburg Producing Company  
And Nearburg Exploration Company, L.L.C.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record by electronic mail on January 14, 2016:

Michael H. Feldewert  
Jordan L. Kessler  
Holland & Hart, LLP  
Post Office Box 2208  
Santa Fe, NM 87504-2208  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[jlkessler@hollandhart.com](mailto:jlkessler@hollandhart.com)

  
\_\_\_\_\_  
J. Scott Hall

**Nearburg Exploration Company, L.L.C.**

Exploration and Production  
3300 North "A" Street  
Building 2, Suite 120  
Midland, Texas 79705  
915/686-8235  
Fax 915/686-7806

May 28, 1998

Harvey E. Yates Company  
Spiral, Inc.  
Explorers Petroleum Corporation  
HEYCO Employees, Ltd.  
P. O. Box 1933  
Roswell, New Mexico 88202-1933

James H. Yates, Inc.  
Colkelan Corporation  
906 St. Francis Dr., Suite C  
Santa Fe, New Mexico 87501

ATTN: Mr. Vernon Dyer

Re: T-18-S, R-33-E  
Section 31: All  
Section 32: S/2  
Lea County, New Mexico  
Gazelle Prospect

Gentlemen:

This letter shall evidence our agreement regarding the captioned lands. Nearburg Exploration Company, L.L.C. (NEC) is the owner of operating rights and contractual rights in Section 31, T-18-S, R-33-E, Lea County, New Mexico, described in Schedule "A" attached hereto. Harvey E. Yates Company, Spiral, Inc., Explorers Petroleum Corporation, HEYCO Employees, Ltd., James H. Yates, Inc. and Colkelan Corporation (hereinafter called HEYCO group) are the owners of leasehold, operating rights and contractual rights in the S/2 of Section 32, T-18-S, R-33-E, Lea County, New Mexico, described in Schedule "A-1" attached hereto.

For valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. NEC will assign to the HEYCO group an undivided  $1/3^{\text{rd}}$  of  $8/8^{\text{ths}}$  interest in the N/2 of Section 31, T-18-S, R-33-E in the following percentages:

Harvey E. Yates Company	26.66667%
Spiral, Inc.	1.33333%
Explorers Petroleum Corporation	1.33333%
HEYCO Employees, Ltd.	1.33333%
James H. Yates, Inc.	1.33333%
Colkelan Corporation	1.33333%

2. NEC will assign  $1/3^{\text{rd}}$  of its interest in the S/2 of Section 31, T-18-S, R-33-E to the HEYCO group in the same percentages as set forth in Paragraph 1.

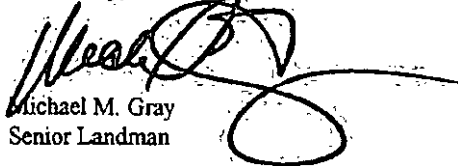


Harvey E. Yates, et al.  
May 28, 1998  
Page Two

3. The HEYCO group shall participate as to the percentages set forth in Paragraph 1, in the drilling of the Gazelle "31" Federal #1 well located 1,980' FNL and 1,650' FEL of Section 31, T-18-S, R-33-E. Said well will be drilled to a depth of 13,600' or a depth sufficient in NEC's opinion to penetrate and test the Morrow formation.
4. The HEYCO group's participation in the drilling of the initial well shall be subject to that certain Operating Agreement dated January 4, 1998, covering the N/2 of Section 31, T-18-S, R-33-E, between Nearburg Producing Company, as operator and Edward R. Hudson Trust #1, et al, as non-operators. Said operating agreement is attached hereto as Schedule "B".
5. The HEYCO group shall assign to NEC an undivided 66.67% of its operating rights in and to the S/2 of Section 31, T-18-S, R-33-E, from 4,660' below the surface to the base of the Morrow formation, reserving an overriding royalty interest equal to the difference between lease burdens and 75%, proportionately reduced to the interest assigned.
6. All operations conducted in the S/2 of Section 31 and the S/2 of Section 32, T-18-S, R-33-E shall be conducted under the terms of the Operating Agreement attached hereto as Schedule "C".

If this agreement meets with your approval, please execute and return, within ten (10) days from the date hereof, this agreement along with the enclosed Authority for Expenditure for the Gazelle "31" Federal #1 well, evidencing your agreement to participate in the drilling of said well under the terms of this agreement and the operating agreement attached hereto as Exhibit "B".

Yours truly,

  
Michael M. Gray  
Senior Landman

MMG/dw  
encl.

Harvey E. Yates, et al  
May 28, 1998  
Page Three

AGREED THIS 22 day of JUNE, 1998.

HARVEY E. YATES COMPANY

By: B. E. M. Yates  
Its: V.P.

AGREED THIS 22 day of JUNE, 1998.

SPIRAL, INC.

By: B. E. M. Yates  
Its: V.P.

AGREED THIS 22 day of JUNE, 1998.

EXPLORERS PETROLEUM CORPORATION

By: B. E. M. Yates  
Its: V.P.

AGREED THIS 22 day of JUNE, 1998.

HEYCO EMPLOYEES, LTD.

By: B. E. M. Yates  
Its: V.P. HEYCO, Gen. Manager

AGREED THIS 22 day of JUNE, 1998.

JAMES H. YATES, INC.

By: B. E. M. Yates  
Its: V.P.

AGREED THIS 22 day of JUNE, 1998.

COLKELAN CORPORATION

By: B. E. M. Yates  
Its: V.P.

Schedule A

to Letter Agreement dated May 28, 1998  
between Nearburg Exploration Company, L. L. C. and  
Harvey E. Yates Company, et al

Oil and Gas Lease

Serial No.: LC 069276  
Date: July 1, 1949  
Recorded: Book 495, Page 361, Lea Co. NM  
Lessor: United States of America  
Lessee: Siegfried James Iverson, et al  
Description: Insofar as said lease covers Section 31, T-18-S, R-33-E, Lea Co. NM

Term Assignments

Assignor: Nations Bank of Texas, NA, Trustee, et al  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: August 28, 1997, effective September 1, 1997  
Recorded: Book 823, Page 707, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500' or below the base of the Penrose formation, whichever is greater

Assignor: Hanagan Properties  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: December 4, 1997  
Recorded: Book 848, Page 66, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500'

Assignor: Hugh E. Hanagan, et ux  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: December 4, 1997  
Recorded: Book 848, Page 58, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500'

Assignor: Roy G. Barton, Jr., Trustee & Opal Barton Revocable Trust  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: December 4, 1997  
Recorded: Book 853, Page 108, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500'

Assignor: Robert J. Leanord, Trustee  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: December 4, 1997  
Recorded: Book 848, Page 50, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500'

Assignor: New Tex Oil Co.  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: December 4, 1997  
Recorded: Book 848, Page 42, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500'.

Assignor: Mary T. Ard, Trustee  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: February 10, 1998  
Recorded: Book 856, Page 183, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below the base of the Penrose formation

Assignor: J. Hiram Moore, et al, Trustees  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: October 3, 1997  
Recorded: Book 834, Page 258, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers all of Section 31-T18-S, R-33-E, Lea Co. NM, below 4,500' or below the base of the Penrose formation, whichever is greater.

Assignor: Matador Petroleum Corporation  
Assignee: Nearburg Exploration Company, L. L. C.  
Date: April 1 1998  
Recorded: Book 874, Page 571, Lea Co. NM  
Description: The above described Oil & Gas Lease insofar as it covers the N/2 of Section 31-T18-S, R-33-E, Lea Co. NM

Farmout Agreement

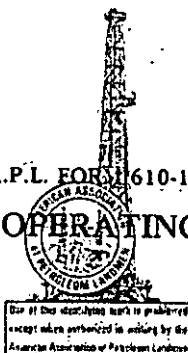
Farmer: Lindy's Living Trust and Delmar Hudson Lewis  
Farnee: Nearburg Exploration Company, L.L.C.  
Date: March 19, 1998  
Description: The above described Oil & Gas Lease insofar as it covers the N/2 of Section 31-T18-S, R-33-E, Lea Co. NM

**Exhibit A-1**  
to Letter Agreement dated May 28, 1998  
between Nearburg Exploration Company, L. L. C. and  
Harvey E. Yates Company, et al

**Oil and Gas Lease**

Serial No.: VB 0097  
Date: May 1, 1987  
Recorded: Book 411, Page 187, Lea Co. NM  
Lessor: State of New Mexico  
Lessee: Harvey E. Yates Company  
Description: Insofar as said lease covers the S/2 of Section 32, T-18-S, R-33-E, Lea Co. NM, from  
4660' below the surface to the base of the Morrow formation.

A.A.P.L. FORM 610-1982  
**MODEL FORM OPERATING AGREEMENT**



**SCHEDULE "C"**

Attached to and made a part of that certain  
Letter Agreement dated May 28, 1998, by and  
between Nearburg Exploration Company, L.L.C.  
and Harvey E. Yates Company, et al

**GAZELLE PROSPECT**

**OPERATING AGREEMENT**

**DATED**

May 28, 19 98

**OPERATOR** Tract 1: Nearburg Producing Company  
Tract 2: Harvey E. Yates Company

**CONTRACT AREA** Tract 1: Lots 3, 4, E/2SW/4, SE/4 of Section 31,

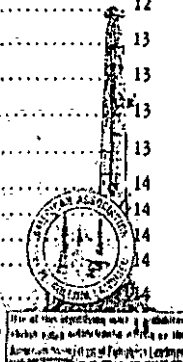
T-18-S, R-33-E; Tract 2: S/2 of Section 32, T-18-S, R-33-E,

**COUNTY OR PARISH OF** LEA **STATE OF** NEW MEXICO

COPYRIGHT 1982 — ALL RIGHTS RESERVED  
AMERICAN ASSOCIATION OF PETROLEUM  
LANDMEN, 2408 CONTINENTAL LIFE BUILDING,  
FORT WORTH, TEXAS, 76102, APPROVED FORM:  
A.A.P.L. NO. 610 - 1982 REVISED

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## OPERATING AGREEMENT

THIS AGREEMENT, entered into by and between Nearburg Producing Company, hereinafter designated and referred to as "Operator" of Tract 1 described\*, ~~hereinafter designated and referred to as "Operator"~~, and the signatory party or parties other than Operator, sometimes hereinafter referred to individually herein as "Non-Operator", and collectively as "Non-Operators". \*in Exhibit "A" and Harvey E. Yates Company, hereinafter designated and referred to as "Operator of Tract 2 described in Exhibit "A"

WITNESSETH:

WHEREAS, the parties to this agreement are owners of oil and gas leases and/or oil and gas interests in the land identified in Exhibit "A", and the parties hereto have reached an agreement to explore and develop these leases and/or oil and gas interests for the production of oil and gas to the extent and as hereinafter provided,

NOW, THEREFORE, it is agreed as follows:

ARTICLE I.  
DEFINITIONS

As used in this agreement, the following words and terms shall have the meanings here ascribed to them:

A. The term "oil and gas" shall mean oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons and other marketable substances produced therewith, unless an intent to limit the inclusiveness of this term is specifically stated.

B. The terms "oil and gas lease", "lease" and "leasehold" shall mean the oil and gas leases covering tracts of land lying within the Contract Area which are owned by the parties to this agreement.

C. The term "oil and gas interests" shall mean unleased fee and mineral interests in tracts of land lying within the Contract Area which are owned by parties to this agreement.

D. The term "Contract Area" shall mean all of the lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated for oil and gas purposes under this agreement. Such lands, oil and gas leasehold interests and oil and gas interests are described in Exhibit "A".

E. The term "drilling unit" shall mean the area fixed for the drilling of one well by order or rule of any state or federal body having authority. If a drilling unit is not fixed by any such rule or order, a drilling unit shall be the drilling unit as established by the pattern of drilling in the Contract Area or as fixed by express agreement of the Drilling Parties.

F. The term "drillsite" shall mean the oil and gas lease or interest on which a proposed well is to be located.

G. The terms "Drilling Party" and "Consenting Party" shall mean a party who agrees to join in and pay its share of the cost of any operation conducted under the provisions of this agreement.

H. The terms "Non-Drilling Party" and "Non-Consenting Party" shall mean a party who elects not to participate in a proposed operation.

Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

ARTICLE II.  
EXHIBITS

The following exhibits, as indicated below and attached hereto, are incorporated in and made a part hereof:

☒ A. Exhibit "A", shall include the following information:

- (1) Identification of lands subject to this agreement,
- (2) Restrictions, if any, as to depths, formations, or substances,
- (3) Percentages or fractional interests of parties to this agreement,
- (4) Oil and gas leases and/or oil and gas interests subject to this agreement,
- (5) Addresses of parties for notice purposes.

☒ B. Exhibit "B", Form of Lease.

☒ C. Exhibit "C", Accounting Procedure.

☒ D. Exhibit "D", Insurance.

☒ E. Exhibit "E", Gas Balancing Agreement.

☒ F. Exhibit "F", ~~Non-Discrimination and Certification of Non-Segregated Facilities~~. Notice of Joint Operating Agreement

☐ G. Exhibit "G", Tax Partnership.

If any provision of any exhibit, except Exhibits "E" and "G", is inconsistent with any provision contained in the body of this agreement, the provisions in the body of this agreement shall prevail.



Use of this identifying mark is prohibited except when authorized in writing by the American Association of Petroleum Landmen.



### ARTICLE III. INTERESTS OF PARTIES

#### A. Oil and Gas Interests:

If any party owns an oil and gas interest in the Contract Area, that interest shall be treated for all purposes of this agreement and during the term hereof as if it were covered by the form of oil and gas lease attached hereto as Exhibit "B", and the owner thereof shall be deemed to own both the royalty interest reserved in such lease and the interest of the lessee thereunder.

#### B. Interests of Parties in Costs and Production:

Unless changed by other provisions, all costs and liabilities incurred in operations under this agreement shall be borne and paid, and all equipment and materials acquired in operations on the Contract Area shall be owned, by the parties as their interests are set forth in Exhibit "A". In the same manner, the parties shall also own all production of oil and gas from the Contract Area subject to the payment of royalties ~~to the extent of~~ due on each party's share of which shall be borne as hereinafter set forth.

#### production

Regardless of which party has contributed the lease(s) and/or oil and gas interest(s) hereto on which royalty is due and payable, each party entitled to receive a share of production of oil and gas from the Contract Area shall bear and shall pay or deliver, or cause to be paid or delivered, to the extent of its interest in such production, the royalty amount stipulated hereinabove and shall hold the other parties free from any liability therefor. No party shall ever be responsible, however, on a price basis higher than the price received by such party, to any other party's lessor or royalty owner, and if any such other party's lessor or royalty owner should demand and receive settlement on a higher price basis, the party contributing the affected lease shall bear the additional royalty burden attributable to such higher price.

Nothing contained in this Article III.B. shall be deemed an assignment or cross-assignment of interests covered hereby.

#### C. Excess Royalties, Overriding Royalties and Other Payments:

Unless changed by other provisions, if the interest of any party in any lease covered hereby is subject to any royalty, overriding royalty, production payment or other burden on production in excess of the amount stipulated in Article III.B., such party so burdened shall assume and alone bear all such excess obligations and shall indemnify and hold the other parties hereto harmless from any and all claims and demands for payment asserted by owners of such excess burden.

#### D. Subsequently Created Interests:

If any party should hereafter create an overriding royalty, production payment or other burden payable out of production attributable to its working interest hereunder, or if such a burden existed prior to this agreement and is not set forth in Exhibit "A", or was not disclosed in writing to all other parties prior to the execution of this agreement by all parties, or is not a jointly acknowledged and accepted obligation of all parties (any such interest being hereinafter referred to as "subsequently created interest" irrespective of the timing of its creation and the party out of whose working interest the subsequently created interest is derived being hereinafter referred to as "burdened party"), and:

1. If the burdened party is required under this agreement to assign or relinquish to any other party, or parties, all or a portion of its working interest and/or the production attributable thereto, said other party, or parties, shall receive said assignment and/or production free and clear of said subsequently created interest and the burdened party shall indemnify and save said other party, or parties, harmless from any and all claims and demands for payment asserted by owners of the subsequently created interest; and,
2. If the burdened party fails to pay, when due, its share of expenses chargeable hereunder, all provisions of Article VII.B. shall be enforceable against the subsequently created interest in the same manner as they are enforceable against the working interest of the burdened party.

### ARTICLE IV. TITLES

#### A. Title Examination:

Title examination shall be made on the drillsite of any proposed well prior to commencement of drilling operations or, if the Drilling Parties so request, title examination shall be made on the leases and/or oil and gas interests included, or planned to be included, in the drilling unit around such well. The opinion will include the ownership of the working interest, minerals, royalty, overriding royalty and production payments under the applicable leases. At the time a well is proposed, each party contributing leases and/or oil and gas interests to the drillsite, or to be included in such drilling unit, shall furnish to Operator all abstracts (including federal lease status reports), title opinions, title papers and curative material in its possession free of charge. All such information not in the possession of or made available to Operator by the parties, but necessary for the examination of the title, shall be obtained by Operator. Operator shall cause title to be examined by attorneys on its staff or by outside attorneys. Copies of all title opinions shall be furnished to each party hereto. The cost incurred by Operator in this title program shall be borne as follows:

☒ ~~Option No. 1: Costs incurred by Operator in procuring abstracts and title examination (including preliminary title opinions, overriding royalty opinions and division order title opinions) shall be a part of the administrative overhead on production and shall not be a direct charge, whether performed by Operator's staff attorneys or by outside attorneys.~~

## ARTICLE IV

continued

1 ☒ Option No. 2: Costs incurred by Operator in procuring abstracts and fees paid outside attorneys for title examination  
 2 (including preliminary, supplemental, shut-in gas royalty opinions and division order title opinions) shall be borne by the Drilling Parties  
 3 in the proportion that the interest of each Drilling Party bears to the total interest of all Drilling Parties as such interests appear in Ex-  
 4 hibit "A". Operator shall make no charge for services rendered by its staff attorneys or other personnel in the performance of the above  
 5 functions.

7 Each party shall be responsible for securing curative matter and pooling amendments or agreements required in connection  
 8 with leases or oil and gas interests contributed by such party. Operator shall be responsible for the preparation and recording of pooling  
 9 designations or declarations as well as the conduct of hearings before governmental agencies for the securing of spacing or pooling orders.  
 10 This shall not prevent any party from appearing on its own behalf at any such hearing.

12 No well shall be drilled on the Contract Area until after (1) the title to the drillsite or drilling unit has been examined as above  
 13 provided, and (2) the title has been approved by the examining attorney or title has been accepted by all of the parties who are to par-  
 14 ticipate in the drilling of the well.

## B. Loss of Title:

18 1. Failure of Title: Should any oil and gas interest or lease, or interest therein, be lost through failure of title, which loss results in a  
 19 reduction of interest from that shown on Exhibit "A", the party contributing the affected lease or interest shall have ninety (90) days  
 20 from final determination of title failure to acquire a new lease or other instrument curing the entirety of the title failure, which acqui-  
 21 sition will not be subject to Article VIII.B., and failing to do so, this agreement, nevertheless, shall continue in force as to all remaining oil  
 22 and gas leases and interests; and,

24 (a) The party whose oil and gas lease or interest is affected by the title failure shall bear alone the entire loss and it shall not be  
 25 entitled to recover from Operator or the other parties any development or operating costs which it may have theretofore paid or incurred,  
 26 but there shall be no additional liability on its part to the other parties hereto by reason of such title failure;

28 (b) There shall be no retroactive adjustment of expenses incurred or revenues received from the operation of the interest which has  
 29 been lost, but the interests of the parties shall be revised on an acreage basis, as of the time it is determined finally that title failure has oc-  
 30 curred, so that the interest of the party whose lease or interest is affected by the title failure will thereafter be reduced in the Contract  
 31 Area by the amount of the interest lost;

33 (c) If the proportionate interest of the other parties hereto in any producing well theretofore drilled on the Contract Area is  
 34 increased by reason of the title failure, the party whose title has failed shall receive the proceeds attributable to the increase in such in-  
 35 terest (less costs and burdens attributable thereto) until it has been reimbursed for unrecovered costs paid by it in connection with such  
 36 well;

38 (d) Should any person not a party to this agreement, who is determined to be the owner of any interest in the title which has  
 39 failed, pay in any manner any part of the cost of operation, development, or equipment, such amount shall be paid to the party or parties  
 40 who bore the costs which are so refunded;

42 (e) Any liability to account to a third party for prior production of oil and gas which arises by reason of title failure shall be  
 43 borne by the party or parties whose title failed in the same proportions in which they shared in such prior production; and,

45 (f) No charge shall be made to the joint account for legal expenses, fees or salaries, in connection with the defense of the interest  
 46 claimed by any party hereto, it being the intention of the parties hereto that each shall defend title to its interest and bear all expenses in  
 47 connection therewith.

49 2. Loss by Non-Payment or Erroneous Payment of Amount Due: If, through mistake or oversight, any rental, shut-in well  
 50 payment, minimum royalty or royalty payment, is not paid or is erroneously paid, and as a result a lease or interest therein terminates,  
 51 there shall be no monetary liability against the party who failed to make such payment. Unless the party who failed to make the required  
 52 payment secures a new lease covering the same interest within ninety (90) days from the discovery of the failure to make proper payment,  
 53 which acquisition will not be subject to Article VIII.B., the interests of the parties shall be revised on an acreage basis, effective as of the  
 54 date of termination of the lease involved, and the party who failed to make proper payment will no longer be credited with an interest in  
 55 the Contract Area on account of ownership of the lease or interest which has terminated. In the event the party who failed to make the  
 56 required payment shall not have been fully reimbursed, at the time of the loss, from the proceeds of the sale of oil and gas attributable to  
 57 the lost interest, calculated on an acreage basis, for the development and operating costs theretofore paid on account of such interest, it  
 58 shall be reimbursed for unrecovered actual costs theretofore paid by it (but not for its share of the cost of any dry hole previously drilled  
 59 or wells previously abandoned) from so much of the following as is necessary to effect reimbursement:

61 (a) Proceeds of oil and gas, less operating expenses, theretofore accrued to the credit of the lost interest, on an acreage basis,  
 62 up to the amount of unrecovered costs;

64 (b) Proceeds, less operating expenses, thereafter accrued attributable to the lost interest on an acreage basis, of that portion of  
 65 oil and gas thereafter produced and marketed (excluding production from any wells thereafter drilled) which, in the absence of such lease  
 66 termination, would be attributable to the lost interest on an acreage basis, up to the amount of unrecovered costs, the proceeds of said  
 67 portion of the oil and gas to be contributed by the other parties in proportion to their respective interests; and,

69 (c) Any monies, up to the amount of unrecovered costs, that may be paid by any party who is, or becomes, the owner of the interest  
 70 lost, for the privilege of participating in the Contract Area or becoming a party to this agreement.

72 3. Other Losses: All losses incurred, other than those set forth in Articles IV.B.1. and IV.B.2. above, shall be joint losses  
 73 and shall be borne by all parties in proportion to their interests. There shall be no readjustment of interests in the remaining portion of  
 74 the Contract Area.



ARTICLE V.  
OPERATOR

A. Designation and Responsibilities of Operator:

Nearburg Producing Company and Harvey E. Yates Company shall be the Operators of Tracts 1 and 2 respectively in the Contract Area, and shall conduct and direct and have full control of all operations on the Contract Area as permitted and required by, and within the limits of this agreement. It shall conduct all such operations in a good and workmanlike manner, but it shall have no liability as Operator to the other parties for losses sustained or liabilities incurred, except such as may result from gross negligence or willful misconduct.

B. Resignation or Removal of Operator and Selection of Successor:

1. Resignation or Removal of Operator: Operator may resign at any time by giving written notice thereof to Non-Operators. If Operator terminates its legal existence, no longer owns an interest hereunder in the Contract Area, or is no longer capable of serving as Operator, Operator shall be deemed to have resigned without any action by Non-Operators, except the selection of a successor. Operator may be removed if it fails or refuses to carry out its duties hereunder, or becomes insolvent, bankrupt or is placed in receivership, by the affirmative vote of two (2) or more Non-Operators owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of Operator. Such resignation or removal shall not become effective until 7:00 o'clock A.M. on the first day of the calendar month following the expiration of ninety (90) days after the giving of notice of resignation by Operator or action by the Non-Operators to remove Operator, unless a successor Operator has been selected and assumes the duties of Operator at an earlier date. Operator, after effective date of resignation or removal, shall be bound by the terms hereof as a Non-Operator. A change of a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary, parent or successor corporation shall not be the basis for removal of Operator.

2. Selection of Successor Operator: Upon the resignation or removal of Operator, a successor Operator shall be selected by the parties. The successor Operator shall be selected from the parties owning an interest in the Contract Area at the time such successor Operator is selected. The successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A"; provided, however, if an Operator which has been removed fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of the Operator that was removed.

C. Employees:

The number of employees used by Operator in conducting operations hereunder, their selection, and the hours of labor and the compensation for services performed shall be determined by Operator, and all such employees shall be the employees of Operator.

D. Drilling Contracts:

All wells drilled on the Contract Area shall be drilled on a competitive contract basis at the usual rates prevailing in the area. If it so desires, Operator may employ its own tools and equipment in the drilling of wells, but its charges therefor shall not exceed the prevailing rates in the area and the rate of such charges shall be agreed upon by the parties in writing before drilling operations are commenced, and such work shall be performed by Operator under the same terms and conditions as are customary and usual in the area in contracts of independent contractors who are doing work of a similar nature.

ARTICLE VI.  
DRILLING AND DEVELOPMENT

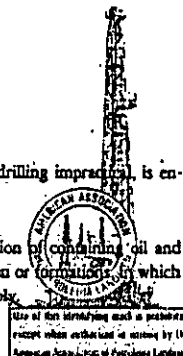
~~1. Initial Well:~~

~~On or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, Operator shall be authorized to commence the drilling of a well for oil and gas at the following location:~~

~~and shall thereafter continue the drilling of the well with due diligence to~~

~~unless granite or other practically impenetrable substance or condition in the hole, which renders further drilling impractical, is encountered at a lesser depth, or unless all parties agree to complete or abandon the well at a lesser depth.~~

~~Operator shall make reasonable tests of all formations encountered during drilling which give indication of containing oil and gas in quantities sufficient to test, unless this agreement shall be limited in its application to a specific formation or formations in which event Operator shall be required to test only the formation or formations to which this agreement may apply.~~



ARTICLE X.  
CLAIMS AND LAWSUITS

Operator may settle any single uninsured third party damage claim or suit arising from operations hereunder if the expenditure does not exceed Fifteen Thousand Dollars (\$ 15,000 ) and if the payment is in complete settlement of such claim or suit. If the amount required for settlement exceeds the above amount, the parties hereto shall assume and take over the further handling of the claim or suit, unless such authority is delegated to Operator. All costs and expenses of handling, settling, or otherwise discharging such claim or suit shall be at the joint expense of the parties participating in the operation from which the claim or suit arises. If a claim is made against any party or if any party is sued on account of any matter arising from operations hereunder over which such individual has no control because of the rights given Operator by this agreement, such party shall immediately notify all other parties, and the claim or suit shall be treated as any other claim or suit involving operations hereunder.

ARTICLE XI.  
FORCE MAJEURE

If any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this agreement, other than the obligation to make money payments, that party shall give to all other parties prompt written notice of the force majeure with reasonably full particulars concerning it; thereupon, the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected party shall use all reasonable diligence to remove the force majeure situation as quickly as practicable.

The requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts, or other labor difficulty by the party involved, contrary to its wishes; how all such difficulties shall be handled shall be entirely within the discretion of the party concerned.

The term "force majeure", as here employed, shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood, explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the party claiming suspension.

ARTICLE XII.  
NOTICES

All notices authorized or required between the parties and required by any of the provisions of this agreement, unless otherwise specifically provided, shall be given in writing by mail or telegram, postage or charges prepaid, or by telex or telecopier and addressed to the parties to whom the notice is given at the addresses listed on Exhibit "A". The originating notice given under any provision hereof shall be deemed given only when received by the party to whom such notice is directed, and the time for such party to give any notice in response thereto shall run from the date the originating notice is received. The second or any responsive notice shall be deemed given when deposited in the mail or with the telegraph company, with postage or charges prepaid, or sent by telex or telecopier. Each party shall have the right to change its address at any time, and from time to time, by giving written notice thereof to all other parties.

ARTICLE XIII.  
TERM OF AGREEMENT

This agreement shall remain in full force and effect as to the oil and gas leases and/or oil and gas interests subject hereto for the period of time selected below; provided, however, no party hereto shall ever be construed as having any right, title or interest in or to any lease or oil and gas interest contributed by any other party beyond the term of this agreement.

☒ Option No. 1: So long as any of the oil and gas leases subject to this agreement remain or are continued in force as to any part of the Contract Area, whether by production, extension, renewal or otherwise.

☐ Option No. 2: In the event the well described in Article VI.A., or any subsequent well drilled under any provision of this agreement, results in production of oil and/or gas in paying quantities, this agreement shall continue in force so long as any such well or wells produce, or are capable of production, and for an additional period of \_\_\_\_\_ days from cessation of all production; provided, however, if, prior to the expiration of such additional period, one or more of the parties hereto are engaged in drilling, reworking, deepening, plugging back, testing or attempting to complete a well or wells hereunder, this agreement shall continue in force until such operations have been completed and if production results therefrom, this agreement shall continue in force as provided herein. In the event the well described in Article VI.A., or any subsequent well drilled hereunder, results in a dry hole, and no other well is producing, or capable of producing oil and/or gas from the Contract Area, this agreement shall terminate unless drilling, deepening, plugging back or reworking operations are commenced within \_\_\_\_\_ days from the date of abandonment of said well.

It is agreed, however, that the termination of this agreement shall not relieve any party hereto from any liability which has accrued or attached prior to the date of such termination.



Use of this document shall be prohibited  
except when authorized in writing by the  
American Association of Petroleum Landmen

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1982

ARTICLE XVI  
MISCELLANEOUS

This agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, devisees, legal representatives, successors and assigns.

This instrument may be executed in any number of counterparts, each of which shall be considered an original for all purposes.

IN WITNESS WHEREOF, this agreement shall be effective as of the 28th day of May, 1998.

OPERATORS

ATTEST OR WITNESS

NEARBURG PRODUCING COMPANY

By: Bob Shelton ✓  
Bob Shelton  
Type or Print Name  
Title Land Manager  
Date May 28, 1998  
Tax ID or SS No. 74-1666262

ATTEST OR WITNESS

HARVEY E. YATES COMPANY

By: Steven M. Yates ✓  
Steven M. Yates  
Type or Print Name  
Title Vice President  
Date June 19, 1998  
Tax ID or SS No.

ATTEST OR WITNESS

NEARBURG EXPLORATION COMPANY, L.L.C.

By: Robert G. Shelton ✓  
Robert G. Shelton  
Type or Print Name  
Title Attorney-in-Fact  
Date May 28, 1998  
Tax ID or SS No. 75-2626152

ATTEST OR WITNESS

SPIRAL, INC.

By: Steven M. Yates ✓  
Steven M. Yates  
Type or Print Name  
Title Vice President  
Date June 19, 1998  
Tax ID or SS No.

ATTEST OR WITNESS

EXPLORERS PETROLEUM CORPORATION

By: Steven M. Yates ✓  
Steven M. Yates  
Type or Print Name  
Title Vice President  
Date June 19, 1998  
Tax ID or SS No.

ATTEST OR WITNESS

HEYCO EMPLOYEES, LTD.

By: Steven M. Yates ✓  
Steven M. Yates  
Type or Print Name  
Title Vice President of Heyco Gen. Partner  
Date June 19, 1998  
Tax ID or SS No.

ATTEST OR WITNESS

Carlton M. Jarm  
Assistant Secretary

JAMES H. YATES, INC.

By: St. M. Yates VAL  
Type or Print Name Steven M. Yates  
Title Vice President  
Date June 19, 1998  
Tax ID or SS No. 85-0250327

ATTEST OR WITNESS

Carlton M. Jarm  
Assistant Secretary

COLKELAN CORPORATION

By: St. M. Yates VAL  
Type or Print Name Steven M. Yates  
Title Vice President  
Date June 19, 1998  
Tax ID or SS No. 98-0042568

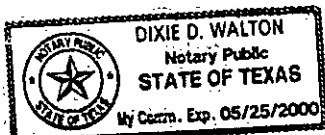
ACKNOWLEDGMENTS

STATE OF TEXAS §  
COUNTY OF MIDLAND §

The foregoing instrument was acknowledged before me on this the 28th day of May, 1998, by Bob Shelton, as Land Manager of Nearburg Producing Company, a Texas corporation, on behalf of said corporation.

Dixie D. Walton  
Notary Public, State of Texas

My Commission Expires:  
5-25-2000

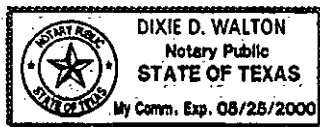


STATE OF TEXAS §  
COUNTY OF MIDLAND §

The foregoing instrument was acknowledged before me on this the 28th day of May, 1998, by Robert G. Shelton, as Attorney-in-Fact of Nearburg Exploration Company, L. L. C., a Texas limited liability company, on behalf of said company.

Dixie D. Walton  
Notary Public, State of Texas

My Commission Expires:  
5-25-2000



STATE OF NEW MEXICO §  
COUNTY OF CHAVES §

The foregoing instrument was acknowledged before me on this 19th day of June, 1998, by Steven M. Yates, as Vice-President of Harvey E. Yates Company, a New Mexico corporation, on behalf of said corporation.

Diane L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:  
12/3/2000

STATE OF NEW MEXICO §  
COUNTY OF CHAVES §

The foregoing instrument was acknowledged before me on this 19th day of June, 1998, by Steven M. Yates, as Vice-President of Spiral, Inc., a New Mexico corporation, on behalf of said corporation.

Clarence L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:  
12/3/2000

STATE OF NEW MEXICO §  
COUNTY OF CHAVES §

The foregoing instrument was acknowledged before me on this 19th day of June, 1998, by Steven M. Yates, as Vice-President of Explorers Petroleum Corporation, a New Mexico corporation, on behalf of said corporation.

Clarence L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:  
12/3/2000

STATE OF NEW MEXICO §  
COUNTY OF CHAVES §

The foregoing instrument was acknowledged before me on this 19th day of June, 1998, by Steven M. Yates, as V.P. of HEYCO Partners of HEYCO Employees, Ltd., a New Mexico limited partnership, on behalf of said partnership.

Clarence L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:  
12/3/2000

STATE OF NEW MEXICO §  
COUNTY OF SANTA FE §

The foregoing instrument was acknowledged before me on this 19th day of June, 1998, by Steven M. Yates, as Vice-President of James H. Yates, Inc., a New Mexico corporation, on behalf of said corporation.

Clarence L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:  
12/3/2000

STATE OF NEW MEXICO §

§

COUNTY OF SANTA FE §

The foregoing instrument was acknowledged before me on this 19th day of June, 1999, by Steven M. Yates, as Vice-President of Colkelan Corporation, Inc., a New Mexico corporation, on behalf of said corporation.

Kevin L. Marshall  
Notary Public, State of New Mexico

My Commission Expires:

12/3/2000



EXHIBIT "A"

ATTACHED TO AND MADE A PART OF THAT CERTAIN OPERATING AGREEMENT DATED THE 28TH DAY OF MAY, 1998, BETWEEN NEARBURG PRODUCING COMPANY AND HARVEY E. YATES COMPANY, AS OPERATORS, AND NEARBURG EXPLORATION COMPANY, L.L.C., ET AL, AS NON-OPERATORS

I. Identification of Lands Subject to this Agreement:

Tract 1: Lots 3, 4, E/2SW/4 and SE/4 of Section 31, T-18-S, R-33-E, Lea County, New Mexico, from the surface to the base of the Morrow formation;

Tract 2: S/2 of Section 32, T-18-S, R-33-E, Lea County, New Mexico, from 4,660' below the surface to the base of the Morrow formation.

II. Restrictions as to Depths or Formations:

See Item I above.

III. Percentages of Parties to this Agreement:

Tract 1, Nearburg Producing Company, as Operator:

Nearburg Exploration Company, L.L.C.	66.66667%
Harvey E. Yates Company	26.66667%
Spiral, Inc.	1.33333%
Explorers Petroleum Corporation	1.33333%
HEYCO Employees, Ltd.	1.33333%
James H. Yates, Inc.	1.33333%
Colkelan Corporation	1.33334%
	100.00000%

Tract 2, Harvey E. Yates Company, as Operator:

Nearburg Exploration Company, L.L.C.	66.66667%
Harvey E. Yates Company	26.66667%
Spiral, Inc.	1.33333%
Explorers Petroleum Corporation	1.33333%
HEYCO Employees, Ltd.	1.33333%
James H. Yates, Inc.	1.33333%
Colkelan Corporation	1.33334%
	100.00000%

V. Oil and Gas Leases Subject to this Agreement:

See Exhibit "A-1"

V. Addresses of Parties to this Agreement:

Nearburg Producing Company  
Nearburg Exploration Company, L.L.C.  
3300 North "A" Street, Bldg. 2, Suite 120  
Midland, Texas 79705

Harvey E. Yates Company  
Spiral, Inc.  
Explorers Petroleum Corporation  
HEYCO Employees, Ltd.  
P. O. Box 1933  
Roswell, New Mexico 88202

James H. Yates, Inc.  
Colkelan Corporation  
Suite C  
906 S. St. Francis Drive  
Santa Fe, New Mexico 87501

EXHIBIT "A-1"

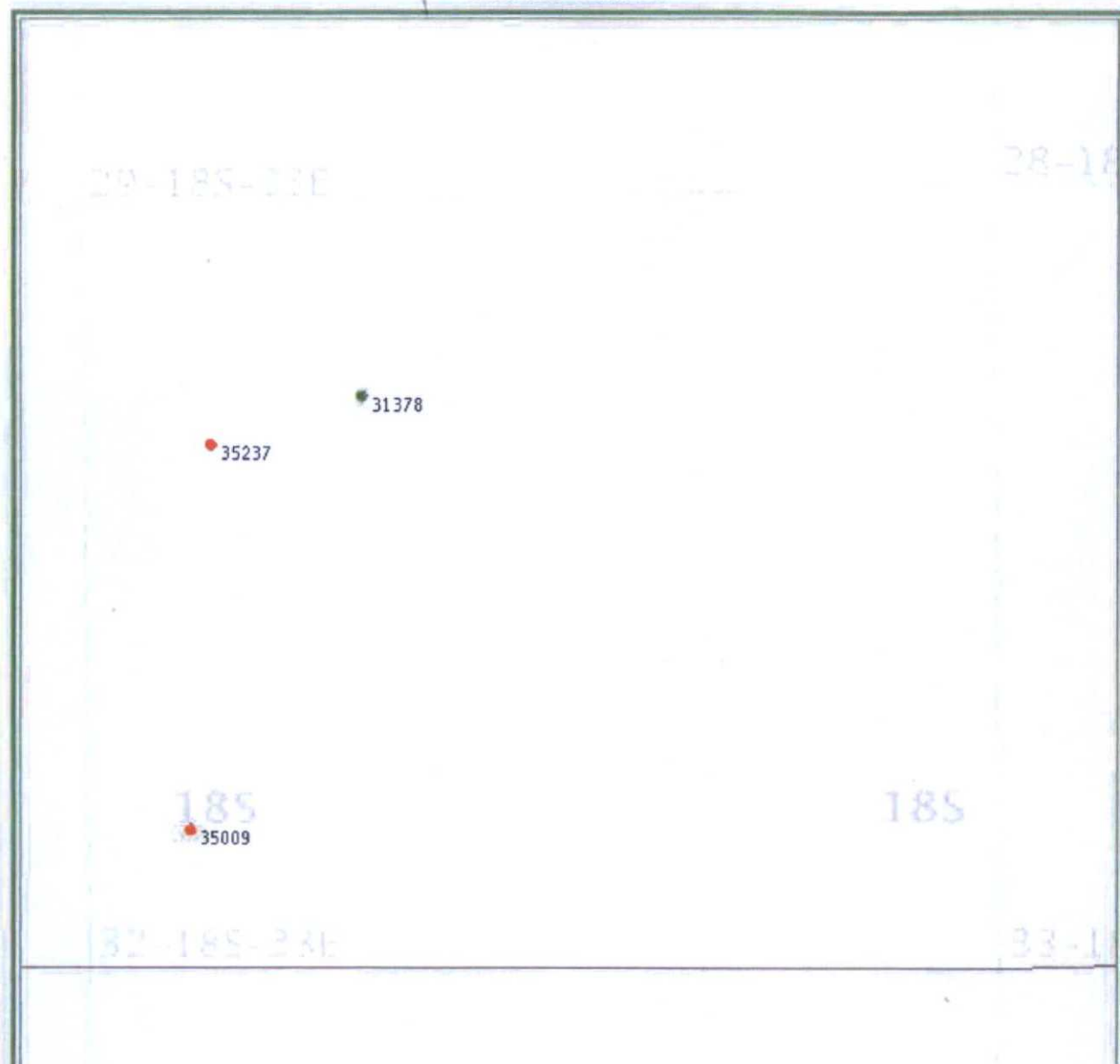
Tract 1:

1.	Lease Serial Number:	LC 069276
	Date:	July 1, 1949
	Recorded:	Book 495, Page 361, Lea County Records
	Lessor:	United States of America
	Original Lessee:	Siegfried James Iverson, et al
	Description:	Insofar as said lease covers Lots 3, 4, E/2SW/4 and SE/4 of Section 31, T-18-S, R-33-E, Lea County, New Mexico

Tract 2:

2.	Lease Serial Number:	VB 0097
	Date:	May 1, 1987
	Recorded:	Book 411, Page 87, Lea County Records
	Lessor:	State of New Mexico
	Original Lessee:	Harvey E. Yates Company
	Description:	Insofar as said lease covers the S/2 of Section 31, T-18-S, R-33-E, Lea County, New Mexico

## Untitled Search



## Untitled Search

API#	Operator	Lease	Well#	County	Legal	Reservoir Name	Well Status	Prac. IP (BO/D)	Prac. IP (MCF/D)	First Prod.	Avg. (BO/D)	Avg. (MCF/D)	Last Prod.	Cumulative Oil	Cumulative Gas	Cumulative Water
30-025-31378	MATADOR PRODUCTION COMPANY	ATLANTIC 32 STATE	004	LEA	S:32, T:185, R:33E	QUEEN	Active	58.23	28.13	Oct 1991	0.55		Jul 2015	43,422	33,813	22,642
30-025-35237	MATADOR PRODUCTION COMPANY	ATLANTIC 32 STATE	007	LEA	S:32, T:185, R:33E	MORROW, SOUTH (GAS)	Active	11.52	826.55	Dec 2001	0.77	80.53	Sep 2015	7,977	755,164	445
30-025-35009	MATADOR PRODUCTION COMPANY	GAZELLE 32 STATE	001	LEA	S:32, T:185, R:33E	MORROW, SOUTH (GAS)	Active	111.00	2,345.03	Jul 2000	1.03	171.27	Sep 2015	75,911	5,516,636	7,985

**AFFIDAVIT OF RANDY HOWARD**

STATE OF TEXAS            )  
                                      ) ss:  
COUNTY OF MIDLAND    )

Randy Howard, being duly sworn, states:

1.     My name is Randy Howard. I am over the age of eighteen and have personal knowledge of the matters stated in this affidavit.

2.     I am Land Manager for Nearburg Exploration Company, L.L.C., ("NEX"), in the Company's Midland, Texas office.

3.     I have been a landman for 38 years. I am a member of the American Association of Petroleum Landmen and the Permian Basin Landmen's Association.

4.     In my position as Land Manager with NEX, I am responsible for the management of certain of the Company's property and contractual interests, including those located in Lea County, New Mexico.

5.     On October 16, 2015 I received a well proposal letter via certified mail dated October 15, 2015 from Jeff Lierly, landman for MRC Permian Company ("MRC") for the Matador Production Company Eland State 32-18S-33E RN #124H Well. MRC proposed to drill a horizontal well to the Bone Spring formation in Section 32, Township 18 South, Range 33 East in Lea County. A copy of MRC's well proposal letter is attached hereto as Exhibit 4-A.

6.     On October 28, 2015 I received a well proposal letter via e-mail dated October 28, 2015 from Jeff Lierly, landman for MRC Permian Company ("MRC") for the Matador Production Company Eland State 32-18S-33E RN #123H Well. MRC proposed to drill a horizontal well to the Bone Spring formation in the W/2 E/2 of Section 32, Township 18 South,

Range 33 East in Lea County. A copy of MRC's well proposal letter is attached hereto as Exhibit 4-B.

7. I became aware that MRC planned to file an application for compulsory pooling for the Eland State 32-18S-33E RN #123H Well when NEX received notice of MRC's Application for Compulsory Pooling on December 28, 2015. All of Section 31 and the S/2 of Section 32 in Township 18 South, Range 33 East, NMPM, comprises the Contract Area committed to that Operating Agreement dated May 28, 1998. The Operating Agreement arose from that Letter Agreement between Harvey E. Yates Company, et al. ("HEYCO") and Nearburg Exploration Company, L.L.C.


8. Nearburg Producing Company was the original Designated Operator for Section 31 and Harvey E. Yates Company ("HEYCO") is designated operator for the S/2 of Section 32 under the May 28, 1998 Operating Agreement. MRC Permian Company succeeded to the interests of HEYCO under the 1998 JOA. MRC Permian Company's operating affiliate is Matador Production Company. In 2000, pursuant to the JOA, HEYCO drilled and placed on production the Gazelle 32 State Well #1 (API No. 30-025-35009) in the S/2 of Section 32, T-18-S, R-33-E on the JOA Contract Area. The location of the well is shown on the attached Exhibit 4-C. The well was successfully completed in the Morrow formation and a 320 acre spacing unit comprised of the S/2 of Section 32 was dedicated to the well. The well continues to produce gas.

9. In March 1, 2015 Matador Production Company became Successor Operator to HEYCO under the 1998 JOA.

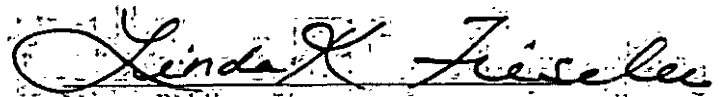
10. On review of relevant well and land records, I have determined that the lease upon which the Gazelle 32 State Well #1 is located within the JOA Contract Area has been and continues to be maintained in good standing by continuous production, payment of shut-in royalties or work-over operations during all relevant times. Under the JOA, Article XIII TERM

OF AGREEMENT provides in part as follows: *"This agreement shall remain in full force and effect as to the oil and gas leases and/or oil and gas interests subject hereto for the period of time selected below;...Option No. 1: So long as any of the oil and gas leases subject to this agreement remain or are continued in force as to any part of the Contract Area, whether by production, extension, renewal or otherwise."* Therefore, the 1998 JOA continues to apply to the S/2 of Section 32 and all of the working interest owners continue to own contractual interests throughout the Contract Area.

FURTHER AFFIANT SAYETH NOT.

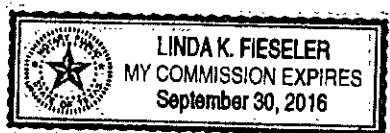
  
Randy Howard

14th The foregoing Affidavit of Randy Howard was subscribed and sworn to before me on this day of January, 2016 by Randy Howard.

  
Notary Public

My Commission Expires:

9-30-16



# MRC Permian Company

One Lincoln Centre • 5400 LBJ Freeway • Suite 1500 • Dallas, Texas 75240  
Voice 972.371.5242 • Fax 214.866.4883  
[jlierly@matadorresources.com](mailto:jlierly@matadorresources.com)

Jeff Lierly, CPL  
Senior Landman

October 15, 2015

VIA CERTIFIED RETURN RECEIPT MAIL

Nearburg Exploration Co., L.L.C.  
3300 N. A Street, Bld. 2, Suite 120  
Midland, Texas, 79705

Re: Eland State 32-18S-33E RN #124H Participation Proposal  
Section 32, Township 18 South, Range 33 East  
Lea County, New Mexico

Nearburg Exploration Co., L.L.C.:

MRC Permian Company and its operating company Matador Production Company (collectively "MRC") propose the drilling of the Eland State 32-18S-33E RN #124H well (the "Well"), located in Section 32, Township 18 South, Range 33 East, Lea County, New Mexico, to test the Bone Spring formation. The estimated cost of drilling, testing, completing, and equipping the Well is \$6,172,296.00, as itemized on the enclosed Authority for Expenditure ("AFE") dated September 29, 2015.

The Well will be drilled to a total vertical depth of 9,379' and a total measured depth of 14,383', producing a treatable lateral of approximately 4,604' within the Bone Spring formation to be completed with 12 stages.

MRC is proposing to drill the Well under the terms of the modified 1989 AAPL form of Operating Agreement ("OA") which is enclosed herein for your review and approval. The Operating Agreement will cover all of Section 32, Township 18 South, Range 33 East, Lea County, New Mexico from the surface to the base of the Bone Spring formation ("Contract Area") pursuant to the following terms:

- 100/300/300 Non-consent penalty
- \$7,000/\$700 Drilling and Producing overhead rate

Please note that this OA will supersede two existing Operating Agreements currently in place, one of which governs the N½ of Section 32, and the other that governs the S½ of Section 32, for all future wells within the Contract Area as to the specified depths. By entering into the new OA that will blend the contractual interests in the existing Operating Agreements, MRC and all working interest parties will benefit from having one agreement govern operations for future horizontal development.

MRC requests that you indicate your election to participate in the drilling and completion of the Well in the space provided below, sign and return one (1) copy of this letter along with your geological well requirements, the AFE, and the OA to the undersigned.

Nearburg Exploration Co., L.L.C. will own approximately 33.333333% working interest in the Well, subject to title verification.

If your election is to participate in the drilling and completion of the Well, please sign and return a copy of the enclosed AFE within thirty (30) days of receipt of this notice. Please be aware that the enclosed AFE is only an estimate of costs to be incurred and by electing to participate in the Well, each working interest owner shall be responsible for its proportionate share of all costs incurred.

Please contact me if you have any questions.

Sincerely,



Jeff Lierly, CPL

Enclosures

Please elect one of the following and return to sender.

\_\_\_\_\_ Party hereby elects to participate for its proportionate share of the costs detailed in the enclosed AFE associated with the Eland State 32-18S-33E RN #124H.

\_\_\_\_\_ Party hereby elects not to participate for its proportionate share of the costs detailed in the enclosed AFE associated with the Eland State 32-18S-33E RN #124H.

\_\_\_\_\_ I / We are interested in selling our interest in the Contract Area, please contact us to discuss.

Nearburg Exploration Co., L.L.C.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**MODEL FORM OPERATING AGREEMENT**

**Eland State 32 Working Interest Unit**

OPERATING AGREEMENT

DATED

October 15 , 2015 ,  
year

OPERATOR Matador Production Company

CONTRACT AREA Township 18 South, Range 33 East, N.M.P.M.

Section 32: All, see Exhibit A for depth and other limitations

COUNTY OF Lea , STATE OF New Mexico

COPYRIGHT 1989 - ALL RIGHTS RESERVED  
AMERICAN ASSOCIATION OF PETROLEUM  
LANDMEN, 4100 FOSSIL CREEK BLVD.  
FORT WORTH, TEXAS, 76137, APPROVED FORM.

ARTICLE II.

EXHIBITS

The following exhibits, as indicated below and attached hereto, are incorporated in and made a part hereof:

- X   A. Exhibit "A," shall include the following information:
- (1) Description of lands subject to this agreement,
  - (2) Restrictions, if any, as to depths, formations, or substances,
  - (3) Parties to agreement with addresses and telephone numbers for notice purposes,
  - (4) Percentages or fractional interests of parties to this agreement,
  - (5) Oil and Gas Leases and/or Oil and Gas Interests subject to this agreement,
  - (6) Burdens on production.
- B. ~~Exhibit "B," Form of Lease.~~
- X   C. Exhibit "C," Accounting Procedure.
- X   D. Exhibit "D," Insurance.
- X   E. Exhibit "E," Gas Balancing Agreement.
- X   F. Exhibit "F," Non-Discrimination and Certification of Non-Segregated Facilities.
- G. ~~Exhibit "G," Tax Partnership.~~
- X   H. Other: Model Form Recording Statement to Operating Agreement and Financing Statement

## EXHIBIT "A"

Attached to and made a part of that certain Operating Agreement dated October 15, 2015, by and among Matador Production Company, as Operator, and MRC Delaware Resources, LLC et al, as Non-Operators (this "Agreement")

### I. CONTRACT AREA:

Township 18 South, Range 33 East, N.M.P.M.  
Section 32: All  
Containing 640 acres, more or less  
Lea County, New Mexico

Save and except the following wellbores:

- Atlantic 32 State #2 (API #30-025-31222) located 1980' FNL & 990' FWL of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.
- Atlantic 32 State #4 (API #30-025-31378) located 1650' FNL & 1650' FWL of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.
- Atlantic 32 State #7 (API #30-025-35237) located 1980' FNL & 780' FWL of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.
- Gazelle 32 State #1 (API #30-025-35009) located 660' FSL & 660' FWL of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.

**This Operating Agreement shall replace and supersede all existing Operating Agreements between all or any portion of the parties hereto but only insofar as to the depth limitations from 4,600' to the base of the Bone Spring formation, as defined below, within the Contract Area described in this Operating Agreement.**

### II. DEPTH RESTRICTIONS:

This Agreement covers all depths from 4,600' subsurface to the base of the Bone Spring formation. As used in this Agreement, the term "base of the Bone Spring formation" shall mean the stratigraphic equivalent of the geologic interval having a subsurface depth ending at a total vertical depth of approximately 10,672', as identified on the LEK 28 Federal #1 (API #30-025-31590) Halliburton Dual Laterolog, located 810' FSL & 660' FWL of Section 28, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.

### III. ADDRESS OF THE PARTIES:

Matador Production Company  
MRC Delaware Resources, LLC  
One Lincoln Centre  
5400 LBJ Freeway, Suite 1500  
Dallas, Texas 75240  
Attn: David E. Lancaster, Executive Vice President  
Phone: (972) 371-5200  
Fax: (972) 371-5201  
Email:

MRC Spiral Resources Company, LLC  
One Lincoln Centre  
5400 LBJ Freeway, Suite 1500  
Dallas, Texas 75240  
Attn:  
Phone:  
Fax:  
Email:

MRC Explorers Resources Company, LLC  
One Lincoln Centre  
5400 LBJ Freeway, Suite 1500  
Dallas, Texas 75240  
Attn:  
Phone:  
Fax:  
Email:

Nearburg Exploration Co., L.L.C.  
3300 N. A Street, Bld.2, Suite 120  
Midland, Texas 79705  
Attn: Randy Howard, Land Manager  
Phone: (432) 818-2914  
Fax:  
Email: [rhoward@nearburg.com](mailto:rhoward@nearburg.com)

Colkelan Corporation  
903 S. St. Francis Drive, Suite C  
Santa Fe, New Mexico 87501  
Attn:  
Phone:  
Fax:  
Email:

Nadel and Gussman Capitan LLC  
15 East 5<sup>th</sup> Street, Suite 3200  
Tulsa, Oklahoma 74103  
Attn:  
Phone:  
Fax:  
Email:

Sybel Blackman Carney, as her separate property  
21 Trovita  
Irvine, California 92720-1952  
Phone:  
Fax:  
Email:

Dr. Robert B. Cahan and Bernice A. Cahan, husband and wife  
2340 Sutter Street  
San Francisco, California 94115  
Phone:  
Fax:  
Email:

Lauralind Corporation  
P.O. Box 2143  
Roswell, New Mexico 88201  
Attn:  
Phone:  
Fax:  
Email:

Yvonne Maday Crandell  
174 S. Mansfield  
Los Angeles, California 90036  
Phone:  
Fax:  
Email:

Rohoel, Inc.  
1600 Broadway, Suite 1050  
Denver, Colorado 80202  
Attn:  
Phone: (303) 894-9576  
Fax:  
Email:

IV. PERCENTAGES OF THE PARTIES:

	<u>Initial, Substitute and Subsequent Wells</u>
MRC Delaware Resources, LLC	57.675459%
MRC Spiral Resources Company, LLC	2.625426%
MRC Explorers Resources Company, LLC	2.375426%
Nearburg Exploration Co., L.L.C.	33.333333%
Colkelan Corporation	0.666666%
Nadel and Gussman Capitan LLC	2.625426%
Sybel Blackman Carney, as her separate property	0.118669%
Dr. Robert B. Cahan and Bernice A. Cahan, husband and wife	0.015823%
Lauralind Corporation	0.250000%
Yvonne Maday Crandell	0.015823%
<u>Rohoel, Inc.</u>	<u>0.297949%</u>
TOTAL	100.00000%

V. Oil and Gas Leases subject to this Agreement:

Oil and Gas Lease K0-1860

Date: October 17, 1961

Lessor: State of New Mexico

Lessee: The Atlantic Refining Company

Recorded: Not recorded

Lands Covered: insofar and only insofar as said lease covers the N½ of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico

Oil and Gas Lease VB-0097

Date: May 1, 1987

Lessor: State of New Mexico

Lessee: Harvey E. Yates Company

Recorded: Not recorded

Lands Covered: insofar and only insofar as said lease covers the S½ of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico

VI. Burdens on Production:

Burdens of record as of the effective date of this Agreement. All parties are still subject to their own respective leasehold burdens derived from existing contracts entered into prior to the effective date of this Agreement. The contractual interests of the parties outlined herein are derived from the following Joint Operating Agreements:

- 1) South Corbin Bone Spring Prospect Atlantic "32" State #1 Operating Agreement, dated July 28, 1989, between Harvey E. Yates Company, as Operator, and Spiral, Inc. et al, as Non-Operators, covering the N/2 of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico.
- 2) Gazelle Prospect Operating Agreement, dated May 28, 1998, between Harvey E. Yates Company, as Operator, and Nearburg Exploration Company, L.L.C. et al, as Non-Operators, covering the S/2 of Section 32, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico. ✓

End of Exhibit "A"

# MRC Permian Company

One Lincoln Centre • 5400 LBJ Freeway • Suite 1500 • Dallas, Texas 75240

Voice 972.371.5242 • Fax 214.866.4883

[jlierly@matadorresources.com](mailto:jlierly@matadorresources.com)

**Jeff Lierly, CPL**  
**Senior Landman**

October 28, 2015

VIA CERTIFIED RETURN RECEIPT MAIL

Nearburg Exploration Co., L.L.C.  
3300 N. A Street, Bld. 2, Suite 120  
Midland, Texas, 79705

Re: Eland State 32-18S-33E RN #123H Participation Proposal  
SHL: 154' FNL & 1859' FEL; BHL: 240' FSL & 1870' FEL  
Section 32, Township 18 South, Range 33 East  
Lea County, New Mexico

Nearburg Exploration Co., L.L.C.:

MRC Permian Company and its operating company Matador Production Company (collectively "MRC") propose the drilling of the Eland State 32-18S-33E RN #124H well (the "Well"), located in the W/2E/2 of Section 32, Township 18 South, Range 33 East, Lea County, New Mexico, to test the Bone Spring formation. The estimated cost of drilling, testing, completing, and equipping the Well is \$6,185,429, as itemized on the enclosed Authority for Expenditure ("AFE") dated October 27, 2015.

The Well will be drilled to a total vertical depth of 9,750' and a total measured depth of 14,850', producing a treatable lateral of approximately 4,604' within the Bone Spring formation to be completed with 12 stages.

MRC is proposing to drill the Well under the terms of the modified 1989 AAPL form of Operating Agreement ("OA") which was previously furnished for your review and approval. The Operating Agreement will cover all of Section 32, Township 18 South, Range 33 East, Lea County, New Mexico from the surface to the base of the Bone Spring formation ("Contract Area") pursuant to the following terms:

- 100/300/300% Non-consent penalty
- \$7,000/\$700 Drilling and Producing overhead rate

Please note that this well proposal will replace the Eland State 32-18S-33E RN #124H proposal as the Initial Test Well for the OA that will supersede two existing Operating Agreements currently in place, one of which governs the N½ of Section 32, and the other that governs the S½ of Section 32, for all future wells within the Contract Area as to the specified depths. By entering into the new OA that will blend the contractual interests in the existing Operating Agreements, MRC and all

working interest parties will benefit from having one agreement govern operations for future horizontal development.

MRC requests that you indicate your election to participate in the drilling and completion of the Well in the space provided below, sign and return one (1) copy of this letter along with your geological well requirements, the AFE, and the OA to the undersigned.

Nearburg Exploration Co., L.L.C. will own approximately 33.333333% working interest in the Well, subject to title verification.

If your election is to participate in the drilling and completion of the Well, please sign and return a copy of the enclosed AFE within thirty (30) days of receipt of this notice. Please be aware that the enclosed AFE is only an estimate of costs to be incurred and by electing to participate in the Well, each working interest owner shall be responsible for its proportionate share of all costs incurred.

Please contact me if you have any questions.

Sincerely,



Jeff Lierly, CPL

Enclosures

Please elect one of the following and return to sender.

\_\_\_\_\_ Party hereby elects to participate for its proportionate share of the costs detailed in the enclosed AFE associated with the Eland State 32-18S-33E RN #123H.

\_\_\_\_\_ Party hereby elects not to participate for its proportionate share of the costs detailed in the enclosed AFE associated with the Eland State 32-18S-33E RN #123H.

\_\_\_\_\_ I / We are interested in selling our interest in the Contract Area, please contact us to discuss.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

District I  
1625 N. French Dr., Hobbs, NM 88240  
Phone: (575) 393-6161 Fax: (575) 393-0720  
District II  
811 S. First St., Artesia, NM 88210  
Phone: (575) 748-1283 Fax: (575) 748-9720  
District III  
1000 Rio Brazos Road, Aztec, NM 87410  
Phone: (505) 334-6178 Fax: (505) 334-6170  
District IV  
1220 S. St. Francis Dr., Santa Fe, NM 87505  
Phone: (505) 476-3460 Fax: (505) 476-3462

State of New Mexico  
Energy, Minerals & Natural Resources  
Department  
OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, NM 87505

FORM C-102  
Revised August 1, 2011  
Submit one copy to appropriate  
District Office  
☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

1 API Number		2 Pool Code		3 Pool Name	
4 Property Code		5 Property Name ELAND STATE 32-18S-33E RN			6 Well Number #123H
7 OCRIID No.		8 Operator Name MATADOR PRODUCTION COMPANY			9 Elevation 3754'

10 Surface Location									
UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
B	32	18-S	33-E		154'	NORTH	1859'	EAST	LEA

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
0	32	18-S	33-E	-	240'	SOUTH	1870'	EAST	LEA

11 Dedicated Acres 160	12 Joint or Infill	13 Consolidation Code	14 Order No.
---------------------------	--------------------	-----------------------	--------------

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.

<p><b>SURFACE LOCATION</b> NEW MEXICO EAST NAD 1927 X=700293 Y=622867 LAT.: N 32.7106679 LONG.: W 103.6821492</p> <p><b>FIRST PERFORATION POINT</b> NEW MEXICO EAST NAD 1927 X=700283 Y=6228691 LAT.: N 32.7101848 LONG.: W 103.6821860</p> <p><b>LAST PERFORATION POINT</b> NEW MEXICO EAST NAD 1927 X=700315 Y=618070 LAT.: N 32.6974829 LONG.: W 103.6821750</p> <p><b>BOTTOM HOLE LOCATION</b> NEW MEXICO EAST NAD 1927 X=700315 Y=617980 LAT.: N 32.6972355 LONG.: W 103.6821748</p>		<p><b>17 OPERATOR CERTIFICATION</b> I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.</p> <p>Signature _____ Date _____</p> <p>Printed Name _____</p> <p>E-mail Address _____</p>
	<p><b>18 SURVEYOR CERTIFICATION</b> I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true to the best of my belief.</p> <p>Date of Survey _____ Signature of Surveyor _____</p> <p><b>10/14/2015</b> <b>NEW MEXICO</b> <b>PROFESSIONAL SURVEYOR</b> <b>18329</b></p> <p>Certificate Number _____</p>	
	<p>19 SURVEY/MATADOR_RESOURCES/ELAND_STATE_32-18S-33E_RN_123H/FINAL_PRODUCT/ELAND_STATE_32-18S-33E_RN_123H.DWG 10/22/2015 2:17:48 PM jgtr</p>	
	<p>20</p>	



# MATADOR PRODUCTION COMPANY

ONE LINCOLN CENTRE • 5400 LBJ FREEWAY • SUITE 1500 • DALLAS, TEXAS 75240

Phone (972) 371-5200 • Fax (972) 371-5201

## ESTIMATE OF COSTS AND AUTHORIZATION FOR EXPENDITURE

DATE:	Oct 27, 2015	AFE NO.:	0
WELL NAME:	Eland State 32-18S-33E RN #123H	FIELD:	Bone Spring
LOCATION:		MD/TVD:	14850/9750
COUNTY/STATE:	Lea	LATERAL LENGTH:	4,604
MRC WI:	57.68%	DRILLING DAYS:	22.5
GEOLOGIC TARGET:	2nd BS	COMPLETION DAYS:	7
REMARKS:	Drill a horizontal well and complete with 12 stages, BS Gen 2 frac design.		

	DRILLING COSTS	COMPLETION COSTS	PRODUCTION COSTS	TOTAL COSTS
<b>INTANGIBLE COSTS</b>				
01 Land / Legal / Regulatory	\$ 36,700			\$ 36,700
02 Location, Surveys & Damages	111,500	137,500	4,000	253,000
10 Drilling	817,500			817,500
16 Cementing & Float Equip	185,000			185,000
20 Logging / Formation Evaluation		6,000		6,000
21 Mud Logging	25,000			25,000
23 Mud Circulation System	44,080			44,080
24 Mud & Chemicals	50,000	18,000		68,000
25 Mud / Wastewater Disposal	155,000			155,000
26 Freight / Transportation	38,000	12,000		50,000
28 Rig Supervision / Engineering	97,200	45,750	18,000	160,950
31 Drill Bits	115,000			115,000
32 Fuel & Power	120,000			120,000
33 Water	27,500	305,200		332,700
34 Drig & Completion Overhead	13,500	12,000		25,500
36 Plugging & Abandonment				
38 Directional Drilling, Surveys	178,000			178,000
40 Completion Unit, Swab, CTU		55,000	28,000	83,000
44 Perforating, Wireline, Stickline		55,500	20,000	75,500
45 High Pressure Pump Truck		30,000		30,000
46 Stimulation		1,140,000		1,140,000
47 Stimulation Flowback & Disp		41,500		41,500
48 Insurance	27,000			27,000
50 Labor	119,000	19,500	5,000	144,500
51 Rental - Surface Equipment	79,300	148,650	12,000	237,950
52 Rental - Downhole Equipment	26,000	26,500		51,500
53 Rental - Living Quarters	52,025	21,160	10,000	83,185
54 Contingency	231,431	207,226	9,800	448,457
<b>TOTAL INTANGIBLES &gt;</b>	<b>2,545,736</b>	<b>2,279,488</b>	<b>107,800</b>	<b>4,933,022</b>
<b>TANGIBLE COSTS</b>				
41 Surface Casing	\$ 62,150			\$ 62,150
42 Intermediate Casing	155,200			155,200
43 Drilling Liner				
44 Production Casing	372,628			372,628
45 Production Liner				
46 Tubing			48,750	48,750
47 Wellhead	55,000		60,000	115,000
48 Packers, Liner Hangers		20,900	15,000	35,900
49 Tanks				
50 Production Vessels			74,000	74,000
51 Flow Lines			50,000	50,000
52 Rod string			38,280	38,280
53 Artificial Lift Equipment			115,000	115,000
54 Compressor				
55 Installation Costs			102,000	102,000
56 Surface Pumps			5,000	5,000
58 Non-controllable Surface			41,000	41,000
59 Non-controllable Downhole				
61 Downhole Pumps			15,000	15,000
63 Measurement & Meter Installation			12,500	12,500
64 Gas Conditioning / Dehydration				
65 Interconnecting Facility Piping				
66 Gathering / Bulk Lines				
67 Valves, Dumps, Controllers				
68 Tank / Facility Containment				
69 Flare Stack				
70 Electrical / Grounding				
71 Communications / SCADA			10,000	10,000
72 Instrumentation / Safety				
<b>TOTAL TANGIBLES &gt;</b>	<b>844,978</b>	<b>20,900</b>	<b>586,530</b>	<b>1,252,408</b>
<b>TOTAL COSTS &gt;</b>	<b>3,390,713</b>	<b>2,300,388</b>	<b>694,330</b>	<b>6,185,429</b>

### PREPARED BY MATADOR PRODUCTION COMPANY:

Drilling Engineer: Patrick Walsh	Team Lead - WTXNM	KTS
Completions Engineer: Cliff Humphreys		KTS
Production Engineer: Trent Goodwin		

### MATADOR RESOURCES COMPANY APPROVAL:

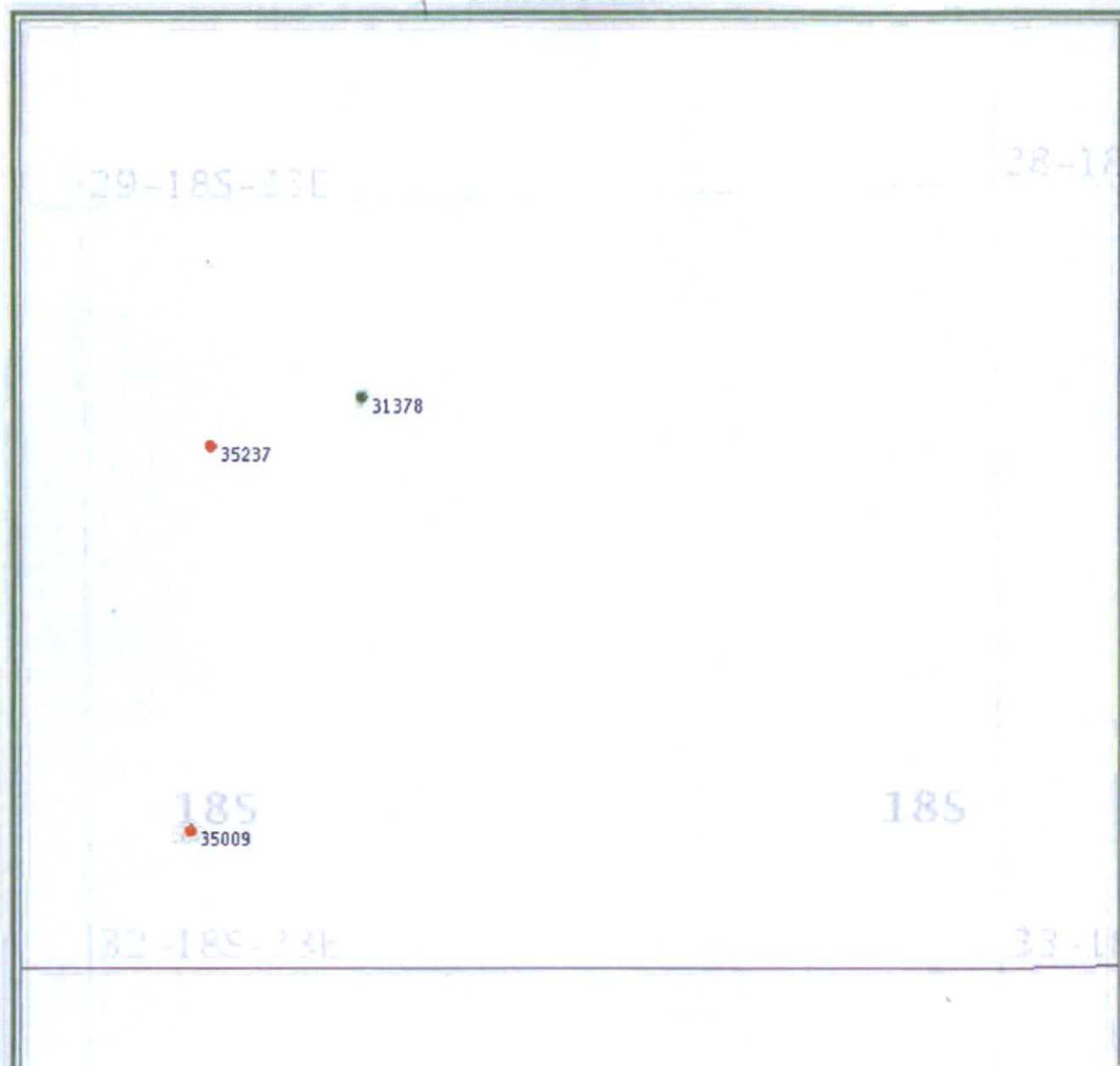
Executive VP, COO/CFO	VP - Res Engineering	VP - Drilling
OEL	BMH	BG
Executive VP, Legal	Exec Dir - Exploration	VP - Production
CA		TG
President	VP & General Manager	
MVH		

### NON OPERATING PARTNER APPROVAL:

Company Name:	Working Interest (%):	Tax ID:
Signed by:	Date:	
Title:	Approval: Yes No (mark one)	

The costs on this AFE are estimated only and may not be accurate as costs up on any estimate item at the time cost at the project. Telling installation approved under the AFE may be delayed up to a year after the well has been completed. In executing this AFE, the Participant agrees to pay its proportionate share of actual costs incurred including rig, surface, regulatory, insurance and well costs under the terms of the applicable well operating agreement, regulatory order or other agreements covering the well. Participants shall be covered by well field insurance unless participants provide Operator a certificate evidencing its own insurance or an amount adequate to the Operator by the date of sign.

## Untitled Search



## Untitled Search

API#	Operator	Lease	Well#	County	Legal	Reservoir Name	Well Status	Prac. IP (BO/D)	Prac. IP (MCF/D)	First Prod.	Avg. (BO/D)	Avg. (MCF/D)	Last Prod.	Cumulative Oil	Cumulative Gas	Cumulative Water
30-025-31378	MATADOR PRODUCTION COMPANY	ATLANTIC 32 STATE	004	LEA	S:32, T:16S, R:33E	QUEEN	Active	58.23	28.13	Oct 1991	0.55		Jul 2015	43,422	33,813	22,642
30-025-35237	MATADOR PRODUCTION COMPANY	ATLANTIC 32 STATE	007	LEA	S:32, T:16S, R:33E	MORROW, SOUTH (GAS)	Active	11.52	626.55	Dec 2001	0.77	90.53	Sep 2015	7,977	755,164	445
30-025-35009	MATADOR PRODUCTION COMPANY	GAZELLE 32 STATE	001	LEA	S:32, T:16S, R:33E	MORROW, SOUTH (GAS)	Active	111.00	2,345.03	Jul 2000	1.03	171.27	Sep 2015	75,911	5,516,636	7,985

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 8606  
Order No. R-8013

APPLICATION OF DOYLE HARTMAN FOR  
SIMULTANEOUS DEDICATION AND  
COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8 a.m. on July 2, 1985, at Santa Fe, New Mexico, before Examiner Gilbert P. Quintana.

NOW, on this 20th day of August, 1985, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) The applicant, Doyle Hartman, seeks an order pooling all mineral interests from the surface to the base of the Jalmat Gas Pool underlying the NW/4 of Section 8, Township 24 South, Range 37 East, NMPM, Lea County, New Mexico, forming a previously approved 160-acre non-standard spacing and proration unit in the Jalmat Gas Pool.
- (3) The applicant proposes to simultaneously dedicate said gas proration unit to his existing E. E. Jack Well No. 1 located 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8 and his proposed E. E. Jack Well No. 5 to be drilled at a standard location within said unit.
- (4) Marilyn A. Tarlton, interest owner in the subject proration unit and trustee of the surviving trustor's trust of the Lortscher Family Trust, dated November 26, 1980, has not agreed to the drilling of said E. E. Jack Well No. 5.

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Case No. 8606  
Order No. R-8013

(5) Evidence was presented showing that an operating agreement entitled, "Operating Agreement", dated January 16, 1951, covering the subject unit area, was entered into by and between Howard Hogan, operator, and Charles T. Scott, Harold S. Russell, Herbert J. Schmitz, and F. D. Lortscher, non-operators.

(6) Said operating agreement was modified December 15, 1954, by an agreement entitled, "Modification of Operating Agreement" and was entered into by and between R. Olsen, operator, and the same non-operators in Finding No. (5) above.

(7) The applicant, Doyle Hartman, controls 66.667 percent of the subject proration unit, including the titles of Howard Hogan, R. Olsen, Herbert J. Schmitz, and Charles T. Scott, Jr.

(8) Marilyn A. Tarlton controls the title of F. D. Lortscher, which is 20 percent of the subject proration unit.

(9) Ms. Tarlton contends that the applicant, other interest owners, and herself are governed by the operating agreements in Findings Nos. (5) and (6) above, hereafter referred to as the "Agreements."

(10) The "Agreements" have provisions for the drilling of additional wells on the subject proration unit, including provisions for non-consent drilling risk penalties, drilling supervision charges, and production supervision charges.

(11) The applicant failed to provide evidence to refute that the "Agreements" are not binding and do not govern the operation of the subject proration unit. ✓

(12) Because of a lack of evidence to the contrary, it appears that the "Agreements" are current binding operating agreements for the subject proration unit, having provisions governing those issues to be addressed in compulsory pooling cases obviating the need for such a hearing in this case.

(13) The compulsory pooling portion of this application should be denied.

(14) The simultaneous dedication portion of this application should be approved, provided the proposed new well is drilled under the provisions of the "Agreements."

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Case No. 8606  
Order No. R-8013

IT IS THEREFORE ORDERED THAT:

(1) The portion of the application of Doyle Hartman seeking an order pooling all mineral interests from the surface to the base of the Jalmat Gas Pool underlying the NW/4 of Section 8, Township 24 South, Range 37 East, NMPM, Lea County, New Mexico, is hereby denied.

(2) The previously approved 160-acre non-standard gas proration unit, comprising the NW/4 of said Section 8, shall be simultaneously dedicated to the proposed E. E. Jack Well No. 5 and the applicant's E. E. Jack Well No. 1 located in Unit E of said Section 8 provided the E. E. Jack Well No. 5 is drilled under the terms of the "Agreements."

(3) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



R. L. STAMETS  
Director

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

*CASE NO. 10658  
ORDER NO. R-9841*

**APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 21, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 3rd day of February, 1993, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Mewbourne Oil Company, seeks an order pooling all mineral interests from the base of the Abo formation to the base of the Morrow formation, underlying the following described acreage in Section 35, Township 17 South, Range 27 East, NMPM, Eddy County, New Mexico, and in the following manner:

the W/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to, the Undesignated Scoggin Draw-Atoka Gas Pool, Undesignated North Illinois Camp-Morrow Gas Pool, Undesignated Scoggin-Morrow Gas Pool and Undesignated Logan Draw-Morrow Gas Pool;

the NW/4 forming a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes only the Undesignated Logan Draw-Wolfcamp Gas Pool; and,

the E/2 NW/4 forming a standard 80-acre oil spacing and proration unit for any pools developed on 80-acre spacing within said vertical extent, of which there are currently none.

(3) Said units are to be dedicated to the applicant's Chalk Bluff "35" Federal Well No. 2, to be drilled at an orthodox gas well location within the SE/4 NW/4 (Unit F) of said Section 35.

(4) Devon Energy Corporation (Devon), successor owner of Malco Refineries, Inc.'s interest in the NW/4 and NW/4 SW/4 of said Section 35, appeared at the hearing through counsel and opposed the application on the basis that its interest is governed by an operating agreement with Mewbourne Oil Company, who is the successor owner of the Stanolind Oil and Gas Company underlying the same acreage.

(5) Devon claims its interest is bound under the agreements reached by Malco Refineries, Inc. and Stanolind Oil and Gas Company in July, 1953 and April, 1958, being Devon's Exhibit "A" and "B" in this case. ✓

Mewbourne, also represented by counsel, contends that a supplemental agreement is necessary where acreage outside the "contract lands" are included in a spacing unit, being the NE/4 SW/4 and S/2 SW/4 of said Section 35, which is 100% Mewbourne-contracted properties. Since both parties have not agreed to a "supplemental agreement", Mewbourne contends that the original agreement is invalid and seeks to force-pool Devon's interest into the W/2 spacing unit. ✓

*FINDING:* Since under the "force-pooling" statutes (Chapter 70-2-17 of the NMSA 1978) there exists in this matter an agreement between the two parties owning undivided interests in a proposed 320-acre gas spacing and proration unit, an order from the Division pooling said parties is unnecessary. ✓

(6) This case should therefore be dismissed.

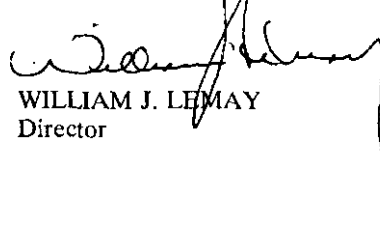
IT IS THEREFORE ORDERED THAT:

(1) Case No. 10658 is hereby dismissed.

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY  
Director

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

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

**CASE NO. 11960  
Order No. R-11009**

**APPLICATION OF REDSTONE OIL & GAS  
COMPANY FOR COMPULSORY POOLING  
AND AN UNORTHODOX GAS WELL  
LOCATION, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on April 2, 1998, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 28<sup>th</sup> day of July, 1998, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given and, the Division has jurisdiction of this case and its subject matter.

(2) At the request of the applicant, the record, evidence and testimony presented in Case No. 11927, heard by the Division on February 5<sup>th</sup> and March 5<sup>th</sup>, 1998, were incorporated in this case.

(3) The applicant, Redstone Oil & Gas Company (Redstone), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described area in Section 12, Township 23 South, Range 24 East, NMPM, Eddy County, in the following manner:

all of Section 12 thereby forming a standard 640-acre gas spacing and proration unit for any formations and/or pools spaced on 640 acres within that vertical extent, which presently include but are not necessarily limited to the Rock Tank-Lower Morrow and Rock Tank-Upper Morrow Gas Pools; and,

the N/2 of Section 12 thereby forming a standard 320-acre gas spacing and proration unit for any formations and/or pools spaced on 320 acres within that vertical extent.

These units are proposed to be dedicated to a well to be drilled at an unorthodox gas well location 500 feet from the North line and 2515 feet from the East line (Unit B) of Section 12.

(4) This case was heard in conjunction with Case No. 11877, a competing force pooling application filed by Fasken Land and Minerals, Ltd. (Fasken), which was heard by the Division on February 5<sup>th</sup> and March 5<sup>th</sup>, 1998.

(5) By letter dated June 23, 1998, Redstone advised the Division that it has reached a voluntary agreement with Fasken with regards to the development of the subject acreage, and requested that the force pooling portion of this case be dismissed.

(6) Redstone's request to dismiss the force pooling portion of this case should be granted.

(7) The evidence and testimony presented in this case indicates that:

- a) the proposed well is located within both the Rock Tank-Upper Morrow and Rock Tank-Lower Morrow Gas Pools, both of which are governed by special rules and regulations promulgated by Division Order No. R-3428, which require standard 640-acre spacing and proration units with wells to be located no closer than 1650 feet from the outer boundary of the section nor closer than 330 feet from any governmental quarter-quarter section line or subdivision inner boundary;
- b) the proposed well is located within one mile of the Rock Tank-Upper Pennsylvanian Pool, which is currently governed by Rule 104.C. of the Division Rules and Regulations, which requires standard 320-acre gas spacing and proration units with wells to be located no closer than 1650 feet from the nearest end boundary nor closer than 660 feet from the nearest side boundary of the spacing unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary; and,

- c) applicant's geologic evidence and testimony demonstrate that a well drilled at the proposed location will best enable the applicant to recover the remaining gas reserves within the Upper Morrow "A" Sand interval underlying Section 12.

(8) Excluding Fasken, which has effectively withdrawn its objections in this case, no other offset operator and/or interest owner appeared at the hearing in opposition to the proposed unorthodox gas well location.

(9) Approval of the proposed unorthodox gas well location will provide the applicant the opportunity to produce its just and equitable share of the gas underlying the proposed proration unit(s), and will not violate correlative rights.

**IT IS THEREFORE ORDERED THAT:**

(1) The application of Redstone Oil & Gas Company for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying all of Section 12, Township 23 South, Range 24 East, NMPM, Eddy County, New Mexico, thereby forming a standard 640-acre gas spacing and proration unit, and the N/2 of Section 12 thereby forming a standard 320-acre gas spacing and proration unit, these units to be dedicated to a well to be drilled at an unorthodox gas well location 500 feet from the North line and 2515 feet from the East line (Unit B) of Section 12, is hereby dismissed.

(2) The applicant, Redstone Oil & Gas Company, is hereby authorized to drill a well at an unorthodox gas well location 500 feet from the North line and 2515 feet from the East line (Unit B) of Section 12, Township 23 South, Range 24 East, NMPM, Eddy County, New Mexico, to test the Rock Tank-Upper Morrow Gas Pool, Rock Tank-Lower Morrow Gas Pool and Rock Tank-Upper Pennsylvanian Gas Pool.

(3) All of Section 12 shall be dedicated to the well forming a standard 640-acre gas spacing and proration unit in the Rock Tank-Upper and Rock Tank-Lower Morrow Gas Pools, and the N/2 of Section 12 shall be dedicated to the well forming a standard 320-acre gas spacing and proration unit in the Rock Tank-Upper Pennsylvanian Gas Pool.

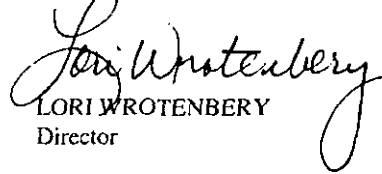
(4) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

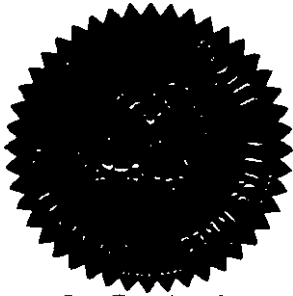
CASE NO. 11960  
Order No. R-11009  
Page -4-

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DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
LORI WROTENBERY  
Director



S E A L