

Flora Vista 1942
17172

A.A.P.L. FORM 610-1982

MODEL FORM OPERATING AGREEMENT

OPERATING AGREEMENT

DATED

August 1 , 2004 ,
Year

OPERATOR ENERGEN RESOURCES

CONTRACT AREA Spacing Unit for the Flora Vista 30-11-19#2 located in the

South Half (S/2) Section 19, T30N-R11W

Surface of the ground to the base of the Fruitland Coal Formation

COUNTY OR PARISH OF San Juan STATE OF New Mexico

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AMERICAN ASSOCIATION OF PETROLEUM
LANDMEN, 4100 FOSSIL CREEK BLVD., FORT
WORTH, TEXAS, 76137-2791. APPROVED
FORM. A.A.P.L. NO. 610 - 1982 REVISED

Case No. 15072

April 3, 2014

Energien Exhibit No. 5

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OPERATING AGREEMENT

THIS AGREEMENT, entered into by and between Energex Resources Corporation, 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".

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 ^{coalbed methane gas,} 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 "drill site" 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.
- ☐ 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.

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 1st day of August, (year) 2004.

Paul Rote, CPL, who has prepared and circulated this form for execution, represents and warrants that the form was printed from and with the exception listed below, is identical to the AAPL Form 610-1982 Model Form Operating Agreement, as published in diskette form by Forms On-A-Disk, Inc. No changes, alterations, or modifications, other than those in Articles I, III, IV, VI, VII, VIII, IX, have been made to the form.

OPERATOR

ENERGEN RESOURCES CORPORATION

By: Paul Rote
General Manager - Land

NON-OPERATORS

Norman Gilbreath

Loretta Gilbreath

EXHIBIT "A"

Attached to Joint Operating Agreement Dated August 1, 2004
by and between ENERGEN RESOURCES, as Operator, and NORMAN
GILBREATH, et al, as Non-Operators

Lands Subject to Agreement:

South Half (S/2) Section 19, T30N-R11W, San Juan County, New Mexico

Restrictions As To Depths, Formations:

Limited to those depths from the surface of the ground to the base of the Fruitland
Coal Formation.

Interests of the Parties to this Agreement:

Working Interest Party	Gross Working Interest	Net Revenue Interest
Energen Resources	25.057853%	21.831564%
Norman and Loretta Gilbreath	48.599276%	38.747055%
Robert Bayless	9.637636%	8.3966790%
James Martin	2.810977%	2.447580%
San Juan Basin Operating	6.425091%	5.55597860%
Top Operating	3.614113%	3.150302%
Maralex Resources	3.855054%	3.358716%
Total	100%	83.487878%

Leases Subject To Agreement:

NM601057-00R

Lessor: USA SF 078138

Lessee: Elmer B Elliott

Lease Date 6/1/1949

NM601123-02P

Lessor: Kenneth Dale Simpson

Lessee: Rodney P Calvin

Lease Date 6/1/1973

Book 721, Page 96

NM601121-01P

Lessor: Dorothy May Apperson et al

Lessee: Rodney P Calvin

Lease Date 6/12/1972

Book 705, Page 84

NM601123-03P

Lessor: Myrtle E Schoenberg

Lessee: Rodney P Calvin

Lease Date 8/16/1972

Book 705, Page 233

NM601122-00P

Lessor: Frank A King et al

Lessee: Rodney P Calvin

Lease Date 8/4/1972

Book 714, Page 40

NM601123-04P

Lessor: Opal R Shreve

Lessee: Rodney P Calvin

Lease Date 8/16/1972

Book 705, Page 214

NM601123-01P

Lessor: George Dale Wilson

Lessee: Rodney P Calvin

Lease Date 8/16/1972

Book 705, Page 215

NM601123-05P

Lessor: Shirley Reeder Winther

Lessee: Rodney P Calvin

Lease Date 6/1/1973

Book 721, Page 95

NM601124-00P

Lessor: Jessie Maude Keys

Lessee: David Mills

Lease Date 5/19/1948

Book 130, Page 340

NM601125-01P
Lessor: Laura Kaempf
Lessee: Rodney P Calvin
Lease Date 6/12/1972
Book 705, Page 88

NM601125-02P
Lessor: Mildred A Wright
Lessee: Rodney P Calvin
Lease Date 6/12/1972
Book 705, Page 89

Addresses of Parties:

ENERGEN RESOURCES CORPORATION
605 RICHARD ARRINGTON BLVD N
BIRMINGHAM, AL 35203-2707

JAMES M. MARTIN
RR 1 BOX 321
943 T AVENUE
COUNCIL GROVE, KS 66846-8777

MARALEX RESOURCES, INC.
PO BOX 338
IGNACIO, CO 81137-0338

ROBERT L BAYLESS
PRODUCER
P O BOX 46100
DENVER, CO 80246

SAN JUAN BASIN PROPERTIES
LLC
JERRY MCHUGH JR., MANAGER
1499 BLAKE STREET, #7K
DENVER, CO 80202

TOP OPERATING COMPANY
10881 WEST ASBURY AVE
SUITE 230
LAKEWOOD, CO 80227

NORMAN AND LORETTA
GILBREATH
P.O. BOX 208
AZTEC, NM 87410



EXHIBIT " C "

Attached to and made a part of _____

ACCOUNTING PROCEDURE
JOINT OPERATIONS

I. GENERAL PROVISIONS

1. Definitions

"Joint Property" shall mean the real and personal property subject to the agreement to which this Accounting Procedure is attached.

"Joint Operations" shall mean all operations necessary or proper for the development, operation, protection and maintenance of the Joint Property.

"Joint Account" shall mean the account showing the charges paid and credits received in the conduct of the Joint Operations and which are to be shared by the Parties.

"Operator" shall mean the party designated to conduct the Joint Operations.

"Non-Operators" shall mean the Parties to this agreement other than the Operator.

"Parties" shall mean Operator and Non-Operators.

"First Level Supervisors" shall mean those employees whose primary function in Joint Operations is the direct supervision of other employees and/or contract labor directly employed on the Joint Property in a field operating capacity.

"Technical Employees" shall mean those employees having special and specific engineering, geological or other professional skills, and whose primary function in Joint Operations is the handling of specific operating conditions and problems for the benefit of the Joint Property.

"Personal Expenses" shall mean travel and other reasonable reimbursable expenses of Operator's employees.

"Material" shall mean personal property, equipment or supplies acquired or held for use on the Joint Property.

"Controllable Material" shall mean Material which at the time is so classified in the Material Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies.

2. Statement and Billings

Operator shall bill Non-Operators on or before the last day of each month for their proportionate share of the Joint Account for the preceding month. Such bills will be accompanied by statements which identify the authority for expenditure, lease or facility, and all charges and credits summarized by appropriate classifications of investment and expense except that items of Controllable Material and unusual charges and credits shall be separately identified and fully described in detail.

3. Advances and Payments by Non-Operators

A. Unless otherwise provided for in the agreement, the Operator may require the Non-Operators to advance their share of estimated cash outlay for the succeeding month's operation within fifteen (15) days after receipt of the billing or by the first day of the month for which the advance is required, whichever is later. Operator shall adjust each monthly billing to reflect advances received from the Non-Operators.

B. Each Non-Operator shall pay its proportion of all bills within fifteen (15) days after receipt. If payment is not made within such time, the unpaid balance shall bear interest monthly at the prime rate in effect at Chase
Manhattan Bank, N.A. on the first day of the month in which delinquency occurs plus 1% or the maximum contract rate permitted by the applicable usury laws in the state in which the Joint Property is located, whichever is the lesser, plus attorney's fees, court costs, and other costs in connection with the collection of unpaid amounts.

4. Adjustments

Payment of any such bills shall not prejudice the right of any Non-Operator to protest or question the correctness thereof; provided, however, all bills and statements rendered to Non-Operators by Operator during any calendar year shall conclusively be presumed to be true and correct after twenty-four (24) months following the end of any such calendar year, unless within the said twenty-four (24) month period a Non-Operator takes written exception thereto and makes claim on Operator for adjustment. No adjustment favorable to Operator shall be made unless it is made within the same prescribed period. The provisions of this paragraph shall not prevent adjustments resulting from a physical inventory of Controllable Material as provided for in Section V.

12. Insurance

Net premiums paid for insurance required to be carried for the Joint Operations for the protection of the Parties. In the event Joint Operations are conducted in a state in which Operator may act as self-insurer for Worker's Compensation and/or Employers Liability under the respective state's laws, Operator may, at its election, include the risk under its self-insurance program and in that event, Operator shall include a charge at Operator's cost not to exceed manual rates.

13. Abandonment and Reclamation

Costs incurred for abandonment of the Joint Property, including costs required by governmental or other regulatory authority.

14. Communications

Cost of acquiring, leasing, installing, operating, repairing and maintaining communication systems, including radio and microwave facilities directly serving the Joint Property. In the event communication facilities/systems serving the Joint Property are Operator owned, charges to the Joint Account shall be made as provided in Paragraph 8 of this Section II.

15. Other Expenditures

Any other expenditure not covered or dealt with in the foregoing provisions of this Section II, or in Section III and which is of direct benefit to the Joint Property and is incurred by the Operator in the necessary and proper conduct of the Joint Operations.

III. OVERHEAD

1. Overhead - Drilling and Producing Operations

- i. As compensation for administrative, supervision, office services and warehousing costs, Operator shall charge drilling and producing operations on either:

(XX) Fixed Rate Basis, Paragraph 1A, or
() Percentage Basis, Paragraph 1B

Unless otherwise agreed to by the Parties, such charge shall be in lieu of costs and expenses of all offices and salaries or wages plus applicable burdens and expenses of all personnel, except those directly chargeable under Paragraph 3A, Section II. The cost and expense of services from outside sources in connection with matters of taxation, traffic, accounting or matters before or involving governmental agencies shall be considered as included in the overhead rates provided for in the above selected Paragraph of this Section III unless such cost and expense are agreed to by the Parties as a direct charge to the Joint Account.

- ii. The salaries, wages and Personal Expenses of Technical Employees and/or the cost of professional consultant services and contract services of technical personnel directly employed on the Joint Property:

() shall be covered by the overhead rates, or
(XX) shall not be covered by the overhead rates.

- iii. The salaries, wages and Personal Expenses of Technical Employees and/or costs of professional consultant services and contract services of technical personnel either temporarily or permanently assigned to and directly employed in the operation of the Joint Property:

(XX) shall be covered by the overhead rates, or
() shall not be covered by the overhead rates.

A. Overhead - Fixed Rate Basis

- (1) Operator shall charge the Joint Account at the following rates per well per month:

Drilling Well Rate \$ 4,384.00
(Prorated for less than a full month)

Producing Well Rate \$ 609.00

- (2) Application of Overhead - Fixed Rate Basis shall be as follows:

(a) Drilling Well Rate

- (1) Charges for drilling wells shall begin on the date the well is spudded and terminate on the date the drilling rig, completion rig, or other units used in completion of the well is released, whichever