

**LAW OFFICES OF TED J. TRUJILLO**

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# Fax Cover

**DATE:** June 16, 2008

**TIME:** 6:25 am

**Send To:** Oil Conservation Division

**Attention:** Division Clerk

**Fax Number:** 505 476-3462

**From:** Ted J. Trujillo 

**Phone Number:** 505 753-5150

**Number of Pages, Including Cover:** 13

☐ Urgent ☐ Reply ASAP ☐ Please Contact ☐ Please Review ☐ For Your Information

**Comments:**

Please file the enclosed Reply to Motion for Continuance. Originals mailed same date.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the address above via the U.S. Postal Service. Thank You.

TJT

P.O. Box 2185 Española, NM 87532

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**FAX TRANSMITTAL MEMORANDUM**

TO: Division Clerk  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

DATE: June 16, 2008

FILED BY FAX ON JUNE 16, 2008/Two Originals, One Copy Mailed same date

RE: Case Nos. 14134, 14141

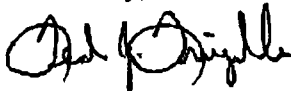
ENCLOSED ARE THE FOLLOWING DOCUMENTS:

(1) County's Reply to Motion for Continuance

PLEASE:

<u>  x  </u>	File	<u>  x  </u>	Self-addressed, stamped envelope enclosed
<u>      </u>	Record	<u>      </u>	Please bill me for proper remittance
<u>  x  </u>	Approve, sign and return	<u>      </u>	Per your request
<u>  x  </u>	Return endorsed recorded copy	<u>      </u>	For your information
<u>      </u>	Check for \$ <u>      </u> enclosed for proper fee	<u>      </u>	Other: <u>                                </u>

Sincerely,



Ted J. Trujillo

TJT

P.O. Box 2185 Española, NM 87532

AET

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

**IN THE MATTER OF THE APPLICATION OF THE BOARD  
OF COUNTY COMMISSIONERS OF RIO ARriba COUNTY  
FOR CANCELLATION OR SUSPENSION OF APPLICATIONS  
FOR PERMITS TO DRILL (APD'S) FILED BY APPROACH  
OPERATING, LLC, RIO ARriba COUNTY, NEW MEXICO**

**IN THE MATTER OF THE APPLICATION OF APPROACH OPERATING, LLC  
FOR APPROVAL OF SIX APPLICATIONS FOR PERMITS TO DRILL,  
RIO ARriba COUNTY, NEW MEXICO**

**CASES 14134, 14141**

**COUNTY'S REPLY TO RESPONSE TO  
MOTION FOR CONTINUANCE**

COMES NOW, the Board of County Commissioners of Rio Arriba County, ("County"), by and through the undersigned attorneys, and for its Reply to Approach Operating, LLC's ("Approach") Response to Motion for Continuance of the above-referenced matters, states as follows:

Approach fails to respond to the County's Motion, providing instead a description of its corporate structure in its own defense. Approach's corporate structure and its status as an assignee are not at issue in this matter.

As stated in its Motion, the County has raised a threshold legal issue with the federal district court of New Mexico "regarding the ownership of the mineral estate in certain, if not all, of the 10 applications submitted by Approach." See paragraph 3 of Motion. The County further stated that "based on its preliminary research findings, the County . . . has denied [in the federal lawsuit] that Approach is the owner of the mineral estate to the extent alleged." See paragraph 4 of Motion.

Finally, the County stated that it "is seeking an extension of time from the OCD to run concurrently with the due date of July 1, 2008 of its Response in federal court so that it may fully develop its position as to the ownership of the mineral estate with regard to the pending applications before the OCD".

The purpose of the extension of time would be to accomplish its due diligence before filing a dispositive motion with the OCD and the federal district court on the threshold issue of the ownership of the mineral estate.

Ownership of the mineral estate is a dispositive threshold issue in both the County's application before the OCD and the federal lawsuit. In the interest of judicial economy, the OCD should allow the County to file its dispositive motion with the OCD at the same time such a motion is filed with the federal court, before engaging in a potentially lengthy evidentiary hearing on the statutory grounds. If such a motion is filed only in federal court, and granted, but not heard at the OCD, then the County would have to raise the matter a second time at OCD.

Approach fails to respond to or rebut the County's reference to the *Force Majeure* clause of its lease which extends its time for performance. See paragraph 9 of Motion. In its Response, Approach failed to attach the portion of its lease that specifically provides that if adequate notice is given to its lessors, Approach's performance obligations under the lease terms are extended until the cause of the delay is removed. See Exhibit A, "Addendum A", Paragraph 12. As evidenced by Exhibit A to the County's motion, Approach has complied with this *Force Majeure* clause, and its performance obligations under the lease have been extended until the County's regulatory


actions and the federal litigation have concluded, and Approach is not prejudiced by a continuance of this matter.

Finally, Approach states that it "strenuously opposes any further delays which will interfere with the exercise and maintenance of its property rights." The ownership of the very "property rights" Approach claims is being challenged, and that threshold issue is best raised and disposed of prior to an evidentiary hearing on statutory grounds.

Wherefore, the County respectfully requests that its Motion should be granted. with a continuance of the above-referenced matter to the following dates: on or by July 1, 2008 the County files its Motion to Dismiss or other dispositive motion; on or by July 16 Approach files its Answer to the Motion to Dismiss or other dispositive motion; on or by July 26, the County files its reply, and a hearing on the motion is heard by OCD at its next regularly scheduled docket.

Respectfully submitted,

LAW OFFICES OF TED J. TRUJILLO

  
Ted J. Trujillo  
Adan E. Trujillo  
P.O. Box 2185  
Española, NM 87532  
(505) 753-5150

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 16<sup>th</sup> day of June, 2008 to J. Scott Hall, Montgomery & Andrews, P.A., P.O. Box 2307, Santa Fe, New Mexico 87504-2307.

  
Ted J. Trujillo

## ADDENDUM "A"

Attached to and made a part of that certain oil and gas lease dated 27 February 2007 by and between Robert B. Rowling, et al. as Lessor, and Lynx Production Company, Inc., as Lessee.

## ADDITIONAL PROVISIONS OF LEASE

Notwithstanding any provisions to the contrary contained elsewhere in this lease, in the event of a conflict or inconsistency between the printed portion of this lease and this Addendum, the terms, provisions, covenants, limitations, exceptions, reservations and conditions of this Addendum shall govern and prevail over the terms, provisions, covenants, limitations, exceptions, reservations and conditions of the printed portion of this lease (and any insertions therein or deletions thereto). Notwithstanding anything to the contrary in the foregoing portion of this lease, this lease is executed and delivered by Lessor and is accepted by Lessee subject to the following provisions:

1. The royalties to be paid or delivered by Lessee to Lessor and which are hereby expressly reserved by Lessor shall be 16.25% of all minerals produced, saved and sold from said land, and whenever the fractions 1/8 appear herein, the fraction 16.25% shall be substituted in lieu thereof.
2. It is also understood and agreed that any shut in royalty shall not be due during the primary term or during the time Lessee is continuously drilling as described in item 8.c. below. When payable, it shall be paid as to each unit containing a well as defined in item 8. below rather than as to all land originally covered by this lease. After that time, Lessee's right to maintain this lease in force after the later of the expiration of the primary term hereof or the end of any continuous development by payment of shut-in gas royalty under paragraph 3. shall be limited to recurring periods not to exceed three (3) years in the aggregate. In the event that the cause of shutting in is a lack of infrastructure for marketing of gas or oil, such as pipelines or other facilities necessary for the transportation, compression or marketing of production, but Lessee or parties to whom Lessee will sell production are in the process of actually constructing such lines or facilities, that period of time during which construction is taking place shall not be counted in calculating the three year aggregate limit for shutting in.
3. Lessor shall have the right at all reasonable times, personally or by representative, to inspect the accounts, records, and data of Lessee pertaining to the development and production of the oil, gas and associated minerals from the leased premises. Lessee agrees to provide Lessor with any well information, such as logs, etc., within a reasonable time following receipt of same.
4. It is hereby agreed between Lessor and Lessee that this lease covers only oil, gas and all other hydrocarbons and/or substances, whether elements, mixtures or compounds in liquid, gaseous or vaporous forms or states, which can or may be produced through the bore of a well producing oil or gas, including, but not limited to, crude oil, condensate, natural gas, coal gas or coal bed methane.
5. No assignment by Lessee, or any successor to Lessee, shall be valid and binding upon Lessor until furnished with a copy of such assignment or assignments as filed in the Rio Arriba County records. Each assignee of this Lease expressly assumes the obligation to furnish to Lessor copies of its assignment, but upon its failure to do so, it shall be

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conclusively presumed that such assignee has appointed the last party in its chain of title who has given such notice to Lessor, as that assignee's agent and attorney-in-fact as to all matters pertaining to this Lease, including the service, receipt, and acceptance of citation in any suit filed by Lessor with respect to this lease.

6. Lessor appoints Michael T. Popejoy as its agent for service of any notice to be made to Lessor and notice shall be made via certified mail with return receipt requested, or personal delivery, facsimile with confirmation or email with confirmation to:

Michael T. Popejoy  
600 East Las Colinas Blvd; Suite 1900  
Irving, Texas 75039-5601  
Phone: 214-283-8617  
Fax: 214-283-8515  
Email: mpopejoy@trtholdings.com

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7. No pooling of the leased premises is allowed or permitted without the prior written consent of Lessor.
8. This lease, if not sooner terminated in whole or in part, shall terminate at the end of the primary term, subject to any extension or continuous drilling program which may occur in accordance with provisions found later in this addendum, as to all of said land except the following units of earned or retained acreage:
- (i) 80 acres around each oil well then producing in paying quantities, or capable of producing in paying quantities and shut-in, or being re-worked, or
  - (ii) 160 acres around each gas well then producing, or capable of producing, in paying quantities, or capable of producing in paying quantities and shut-in, or being re-worked, from depths at or above 8,000 feet beneath the surface, or
  - (iii) 320 acres around each gas well then producing, or capable of producing, in paying quantities, or capable of producing in paying quantities and shut-in, or being re-worked, from depths below 8,000 feet beneath the surface
  - (iv) In the event any governmental authority or jurisdiction prescribes or permits the allocation of a larger unit to any well in order to obtain the maximum production allowable, then this lease shall continue in force and effect as to the amount of acreage to be so allocated.

In the event Lessee desires to hold and retain more acres than that described above for a producing unit, it may do so subject to the following terms and conditions:

- A. No producing unit shall exceed 640 acres
- B. Lessee shall timely and properly designate said producing unit as set forth in 8.b. below
- C. On an annual basis, using the effective date of the designated unit as the starting date, Lessee shall pay to Lessor, a minimum annual royalty, the difference

between the royalties and shut ins actually received during this annual period and the sum of seventy five dollars (\$75) for each net acre held by said unit or units. Should Lessor consider that Lessee is not in compliance with respect to the payment of such minimum royalty payment, lessor shall notify Lessee in writing via certified mail of the facts relied upon as constituting a breach hereof, and Lessee, if in default, shall have 60 days after receipt of said notice in which to make said payments, if due.

In addition, three (3) years after the later of the end of the primary term or the end of continuous development as described in item c. below, this lease shall terminate as to all depths below 100 feet beneath the base of the deepest formation (or its stratigraphic equivalent) producing or capable of producing in each unit.

Partial termination shall be subject to the following conditions:

- a. The overlapping of one unit of earned acreage with another unit of earned acreage shall not entitle Lessee to retain any acreage not in either unit.
- b. Lessee shall file of record in the appropriated governmental office an instrument releasing said lease as to acreage not held in accordance with the terms of this provision. The retained tracts shall be in as near the form of a square as is practicable, but conforming as nearly as practicable with lease lines, with the well(s) located therein being a sufficient distance from boundary lines of such tracts to comply with regulatory requirements. Such a filing shall be made by Lessee within 60 days after the later of (i) the end of the primary term or any extension thereof; or (ii) the end of continuous development as described later in these special provisions. If Lessee fails or refuses to execute and file such a release or releases as described, Lessee shall be liable to Lessor for any and all costs and expenses, including attorney's fees, incurred by Lessor in attempting to secure such releases.
- c. If at the expiration of the primary term or any extensions of the primary term, Lessee is then engaged in the actual drilling of a well in search of oil or gas on the covered land or land pooled therewith, or has drilled a producing well or a dry hole thereon during the primary term, or any extensions to the primary term, then the lease termination provisions of this paragraph 8 shall be postponed so long as Lessee continuously drills on the covered land or land pooled therewith with no more than one hundred eighty (180) days elapsing between the completion of a well as a producer or a dry hole and the commencement of actual drilling of the next succeeding well.
- d. In the event of a partial termination of this lease as contemplated in this special provision, it is agreed that Lessee shall have and retain such easements of ingress and egress over the covered land as shall be necessary to enable Lessee to explore (including seismic operations), develop, operate and produce and transport products from or on portions of this Lease then in effect. Further, it shall not be necessary for Lessee to remove or relocate any roads, pipelines, surface facilities, tank batteries or other installations from any portions of this lease which may have terminated for so long as they are used for the development and operation of such portions of this lease which continue in force and effect.

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9. Lessee shall protect the oil and gas in and under the leased premises from drainage by wells on adjoining or adjacent land or leases in a manner of a reasonable, prudent operator.
10. Prior to the commencement of any operations on the leased premises, Lessee shall give Lessor notice of Lessee's intention to commence operations, and the approximate date and location of them. Except in cases of emergency, this notice to Lessor shall be given within a reasonable time prior to the commencement of operations. Lessor shall have the right, personally or by representative, at Lessor's sole risk, to have access to the derrick floor with the right to observe all operations on all wells including the right to inspect and take samples of all cores and cuttings, and the right to witness the taking of logs and drill stem tests, and Lessee agrees to promptly furnish Lessor with copies of all logs and surveys within sixty (60) days of receipt of Lessor's written request therefor. Lessee agrees to share with Lessor true and correct information as requested by Lessor for each well, the production therefrom and such technical information as Lessee may acquire and which is readily available with respect to the sands and formations encountered. Lessor shall have the right to be present when wells and/or tanks are gauged and production metered and shall have the right to examine all run tickets and to have full information as to production and runs. In addition, Lessee shall furnish to Lessor, upon Lessor's written request, true copies of all applications, reports, and test made by Lessee to any governmental authority. Nothing in this provision shall be interpreted as dictating which operations or tests shall be conducted by Lessee. All operations and tests shall be conducted at Lessee's sole discretion.
11. Lessor hereby binds Lessor and Lessor's heirs, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the leased premises unto Lessee and Lessee's heirs, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Lessor, but not otherwise. Lessor agrees that Lessee, at Lessee's option, may discharge any tax, mortgage, or other line or lines upon any interest or interests leased hereby, and in the event Lessee does so, Lessee shall be subrogated to such lien with the right to enforce the same and apply royalties, shut-in gas well royalties, minimum royalties and other payments accruing hereunder to the interest or interests against which any such line applies, toward satisfying the same. It is agreed that if this lease covers a less interest in the oil and gas in all or any part of the leased premises than the entire undivided fee simple estate, then royalties, delay rentals, shut-in royalties, minimum royalties and other monies accruing from any part as to which this lease covers less than such full interest shall be paid only in the proportion which the interest therein covered by this lease bears to the whole and undivided fee simple estate therein.
12. If, at any time while this lease is in force Lessee's drilling operations are delayed or prevented by reason of Lessee's inability to obtain fuel for operations or Lessee's inability to obtain the service of a drilling rig or completion rig, or Lessee is delayed by mechanical failure in the drilling or completion of a well or Lessee is delayed by virtue of any litigation, injunction or restraining order, governmental or regulatory order or regulation or by failure to obtain permits, then all the provisions and covenants contained in this lease concerning the operations during the primary term or after the expiration of the primary term of this lease, in whole or in part, shall be extended until 60 days after the removal of such delaying cause; delaying cause; provided, that Lessee must give written notice to Lessor of the existence and cause of such delay with appropriate

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supporting evidence within 15 days thereafter, therein identifying the portion or portions of the leased premises reasonably affected by such circumstances. The provisions of this item 13 excusing timely performance by Lessee will be applicable only to the portion or portions of the leased premises identified in Lessee's written notice to Lessor as being reasonably affected by the existence and cause of the delay. The provisions of this item 13 will not be applicable to any and all portions of the leased premises not identified in Lessee's written notice to Lessor. In no event shall this provision allow an extension of this lease or its term, in whole or in part, past a four (4) year period of time or recurring periods not to exceed four (4) years in the aggregate if the delay is caused by litigation, injunction, restraining order, governmental or regulatory order or by failure to obtain permits, and past a two (2) year period of time or recurring periods not to exceed two (2) years in the aggregate for all other causes.

13. Lessee agrees to defend, indemnify and hold harmless Lessor, their heirs, successors, representatives, agents and assigns, from and against any and all claims, demands and causes of action, including, without limitation, claims for injury (including death) or damage to persons or property arising out of, incidental to or resulting from the operations of or for Lessee, its servants, agents, employees, guests, licensees, invitees or independent contractors, and from and against all costs and expenses incurred by Lessor by reason of any such claim or claims, including attorneys' and expert witnesses' fees; and each assignee of this lease, or an interest therein, agrees to defend, indemnify and hold harmless Lessor in the same manner provided above. Such indemnity shall apply to any claim arising out of operations conducted under or pursuant to this lease, howsoever caused, INCLUDING, BUT NOT BY WAY OF LIMITATION, ANY NEGLIGENT ACT OR OMISSION OF LESSOR EXCEPTING ONLY LESSOR'S GROSS NEGLIGENCE AND WILLFUL MISCONDUCT. LESSOR'S REPRESENTATIVES, AGENTS OR EMPLOYEES, LESSEE, LESSEE'S AGENTS, SERVANTS, EMPLOYEES OR INDEPENDENT CONTRACTORS, LESSEE'S OBLIGATION TO DEFEND AND INDEMNIFY LESSOR SHALL APPLY WHETHER OR NOT LESSOR MAY BE GUILTY OF ANY NEGLIGENT ACT OR OMISSION WHICH RESULTED IN OR CONTRIBUTED TO THE COST, EXPENSE OR LIABILITY AGAINST WHICH LESSEE IS OBLIGATED TO INDEMNIFY LESSOR HEREUNDER, AND WHETHER OR NOT LESSOR'S LIABILITY IS IMPOSED BY ANY STATUTORY OR COMMON-LAW THEORY OR STRICT LIABILITY.
14. Lessor owns minerals only. The surface estate is owned according to the records of Rio Arriba County, New Mexico. Lessee agrees that to the extent legally required to do so, Lessee shall make reasonable commercial efforts to obtain appropriate agreement with surface owners prior to conducting operations.
15. In the event Lessee conducts, or causes to be conducted, seismic operations, Lessee shall furnish Lessor with a shot point map and one full scale (5 inches per second) paper record of all seismic sections. Such sections shall contain processed data (including final normal move-out corrections, static corrections stacking, and any other deconvolution or processing utilized by Lessee) of normal polarity, shall identify the traces by shot point, and shall contain a label which includes general line details, recording and field data, a spread diagram, processing information, and display parameters. If a migrated section is available, then, in addition to the un-migrated section, Lessor shall be provided with a copy of the migrated section which conforms to the requirements listed above. Each such seismic section shall include all data within one mile beyond the exterior boundaries of the leased premises if shot in that way. If such line shall run from (i) the leased premises,

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(ii) other lands for which Lessee owns a lease from Lessor, or (iii) any lands pooled therewith onto other such lands, then Lessee shall furnish the entire length of such connecting line. For 3-D seismic operations, Lessee shall furnish Lessor with both a final post plot of the source and receiver positions and a final post plot of all 3-D bins over the leased premises. Lessee shall furnish Lessor with a SEG-Y format tape (or comparable format output) compatible with industry-available PC-based or workstation-based 3-D interpretation packages, in a format acceptable to Lessor. The SEG-Y format output will contain processed full record length, binned data of all 3-D data resulting from seismic processing of acquired data which cover the leased premises and the area within one mile of the boundaries of the leased premises. If more than one SEG-Y format output of the processed 3-D binned data is generated by Lessee or by the contractor for Lessee, Lessee shall furnish Lessor with that portion of that additional processed 3-D binned data which covers the leased premises. Lessor shall have access to and the right to review and examine all interpretations of seismic data utilized by Lessee in Lessee's development of the leased premises. Lessee agrees to allow, for a period not to exceed 15 business days, a geoscientist representing Lessor to examine. Nothing in this provision shall be interpreted as dictating if or which seismic operations, processing or interpretation are conducted by Lessee nor which processes are utilized or reports generated. Any seismic operations, if undertaken, shall be conducted at the sole discretion of Lessee.

16. Lessee commits to drill eight (8) wells on the lands covered and subject to this oil and gas lease during the primary term (on or before April 2, 2009). Each will be drilled to a depth and at a location of Lessee's sole choice, except that one of the eight wells shall be drilled to a depth of 8,500 feet beneath the surface or to the basement (granite), whichever is shallower. Lessee may offset the commitment to drill up to three (3) wells by shooting seismic of a type and at a location of its choosing. If seismic is shot, the offset to the drilling obligation shall apply dollar for dollar by matching the amount spent by Lessee for the seismic program(s) with Lessee's good faith estimate for the completed well costs for the three wells. If the seismic costs (including shooting, permits, surface damages, processing, interpretation and related costs) exceed the estimate costs for the three wells to be offset, no additional offset credit will be given. A maximum of three wells may be offset. The only penalty for Lessor's failure to drill the commitment wells and/or shoot seismic shall be the termination of this oil and gas lease at the end of its primary term as to all lands not theretofore earned by Lessee, and Lessee agrees to promptly release of record to Lessor any and all rights to this oil and gas lease as to all unearned lands. In the event of Lessee's retention of earned lands due to partial fulfillment of this drilling commitment, Lessee shall retain as to each well which it has earned the applicable retained acreage specified in Paragraph 8 (i) through (iv), except that any potential enlargement of the retained acreage shall be limited to that amount of acreage required or prescribed in order to obtain maximum production, and not merely permitted. If Lessee has drilled all but the last commitment well which it is obligated to drill under this provision, and is conducting drilling operations on the last commitment well, and if within thirty (30) days of the expiration of the primary term, Lessee encounters impenetrable substances or other conditions beyond its control making further drilling of said well impracticable by generally accepted industry standards, Lessee may, at its option, commence drilling operations of a substitute well at a legal location on the leased premises within sixty (60) days of drilling rig release from the abandoned well (but in no event beyond June 2, 2009). If the substitute well is drilled in full compliance with all of the terms and provisions of this paragraph, the substitute well shall be treated, for all purposes, as the well for which it is substituted; and the time within which Lessee is obligated to drill the commitment wells shall be extended for so long as such drilling

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operations were conducted with reasonable diligence and in a good and workmanlike manner until said substitute well is completed or plugged and abandoned.

17. If Lessee fulfills its drilling commitment as described in 16 above, Lessee may at its election and option extend the primary term of this lease, or if after the primary term delay the continuous development of this lease, for a period of one (1) year in exchange for the payment of fifteen dollars (\$15.00) per net mineral acre for the amount of acres to be extended. This option may be exercised two (2) times, such that acreage could eventually be extended for two (2) years in exchange for the payment of thirty dollars (\$30.00) per net mineral acre.

18. Lessor and Lessee acknowledge and agree that this oil and gas lease replaces and supersedes the following oil and gas leases previously entered into:

Oil and Gas Lease dated January 1, 2006, between Rowling, as Lessor, and Lynx, as Lessee, covering 68,847.64 acres of land, more or less, situated in Rio Arriba County, New Mexico, recorded in Book 529 at Page 2150 of the records of Rio Arriba County, New Mexico; and

Oil and Gas Lease dated April 1, 2006, between Rowling, as Lessor, and Lynx, as Lessee, covering 21,401.00 acres of land, more or less, situated in Rio Arriba County, New Mexico, recorded in Book 529 at Page 4585 of the records of Rio Arriba County, New Mexico.

Lessee agrees at its cost to promptly execute and record a release of the superseded leases to further evidence that this lease has replaced and superseded such leases.

19. If this Lease now or hereafter covers separate tracts, no pooling, communization or unitization of royalty interests as between or among any such separate tracts is intended or shall be implied from the inclusion of such separate tracts within this lease, it being intended to expressly negate any presumption that this lease creates a community lease. As used in this paragraph, the words "separate tract" shall mean any tract with royalty or non-executive interests or ownership differing, now or hereafter, either as to parties or amounts, from that as to any other part of the leased premises. Further, the execution hereof shall not amount to an offer to any owner of an executive or non-executive interest or royalty interest to effect such a pooling or communization by execution or ratification of this instrument. In the absence of pooling in accordance with the other provisions of this lease, royalties will be paid exclusively to the applicable royalty owners within the individual well unit or spacing unit upon which a well is situated and from which a well is situated and from which a well is producing, to the total exclusion of the royalty owners of all other separate tracts covered by this lease.

20. With respect to the information which Lessee provides Lessor in accordance with the provisions of paragraphs 3, 10 and 15 of this Addendum, Lessor agrees to keep confidential all such information. This confidentiality provision shall not apply to (a) any information of public record; (b) disclosures by Lessor to its agents, servants, employees or attorneys provided such third parties agree in writing in advance to keep such information confidential in accordance with this paragraph; (c) disclosure to proper taxing authorities for purposes of determining the value of the properties for ad valorem taxes or other taxes assessed by virtue of ownership of the minerals and/or royalties; or (d) if Lessor brings legal action for the enforcing of the provisions of this lease.

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21. This instrument may be executed in multiple counterparts with each counterpart being considered an original for all purposes herein and binding upon the party executing same provided this instrument or a counterpart thereof is executed by all parties hereto, and the signature and acknowledgment pages of the various counterparts hereto may be combined into one instrument for the purposes of recording this instrument in the property records of the County Clerk's office.

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