

KELLAHIN & KELLAHIN
Attorney at Law

W. THOMAS KELLAHIN
706 GONZALES ROAD
SANTA FE, NEW MEXICO 87501

TELEPHONE 505-982-4285
FACSIMILE 505-982-2047
TKELLAHIN@COMCAST.NET

October 6, 2009

HAND DELIVERED

David Brooks, Esq.
Hearing Examiner
NM Oil Conservation Division
1220 South St Francis Drive
Santa Fe, NM 87505

Re: NMOCD Case 14323: Application of Chesapeake Energy Corporation
For Cancellation of a Permit to Drill issued to COG Operating LLC.
Order R-13154-A [Blackhawk 1-H wellbore]

Dear Mr. Brooks,

On behalf of Chesapeake Energy Corporation ("Chesapeake"), I have received a copy of a letter dated October 2, 2009 to you from Mr. Hall on behalf COG Operating LLC ("COG") further discussing the subject Joint Operating Agreement (AAPL Form 610-1989, dated January 26, 1998, currently operated by Chesapeake.

For your information, on Friday, October 2, 2009, I email to Mr. Hall a legible copy of this JOA.

In support of Chesapeake's position, which I expressed to you at the September 29, 2009 conference, please find enclosed a Motion to Supplement the Record with supporting affidavit, the subject JOA and citations. I believe that you can take administrative notice that a party to a JOA cannot commit properties within the Contract Area to another venture or divest the operator.

Very truly yours,


W. Thomas Kellahin

cc by hand delivery:
J. Scott Hall, Esq.

EXHIBIT E

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

**IN THE MATTER OF THE APPLICATION
OF CHESAPEAKE ENERGY CORPORATION FOR
CANCELLATION OF A PERMIT TO DRILL ("APD")
ISSUED TO COG OPERATING LLC ("COG")
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 14323
Order R-13154-A**

**MOTION TO SUPPLEMENT THE RECORD WITH ADDITIONAL
EVIDENCE INCLUDING A JOINT OPERATING AGREEMENT**

Comes now CHESAPEAKE ENERGY CORPORATION ("Chesapeake") by its attorneys, Kellahin & Kellahin and Modrall, Sperling, Roehl, Harris & Sisk, P.A., and moves that the New Mexico Oil Conservation Division ("Division") allow the record in this case to be supplemented with additional evidence to rebut the issues raised by COG Operating LLC in its letter, dated September 23, 2009, requesting the reinstatement of the cancelled permit to drill ("APD") issued to COG Operating LLC ("COG") for the Blackhawk "11" Federal Com #1H Well, a horizontal wellbore, with a surface location in Unit M and a subsurface location in Unit P of Section 11, T16S, R28E, Eddy County and to be dedicated to a non-standard 160-acre spacing unit consisting of the S/2S/2 of this section.

In support, Chesapeake states:

The Application:

- (1) By Order R-13154-A, dated September 23, 2009, the Division granted Chesapeake's application and cancelled COG's APD for the Blackhawk "11" Federal Com 1-H well finding that COG did not have any oil & gas ownership in two of the 40-acre tracts of the proposed 160-acre non-standard spacing unit.
- (2) In violation of the Division's Rules and Orders, COG filed an APD using a falsely certified Division form C-102 for a horizontal wellbore since COG, at the time of filing, did not have any interest in either (a) the surface location or (b) the first 1,604 feet of the producing interval of this wellbore.

- (3) In compliance with Commission Order R-12343-E, dated March 16, 2007, the Division revised and modified its Form C-102 to require that the Operator certify that:

“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.”

- (4) COG’s C-102 for this wellbore was improperly certified because COG Operating LLC had placed the surface location and approximately 1,604 feet of the production interval within two 40-acre tracts of the spacing unit location in which at the time of filing COG Oil & Gas LP had no interest and had not reached a voluntary agreement with Chesapeake or obtained a Division compulsory pooling order.
- (5) In doing so, COG violated the “operator certification” contained in Division Form C-102 by falsely certifying that it had an interest in each of the tracts to be penetrated by the wellbore.
- (6) This proposed 160-acre non-standard spacing unit consists of four 40-acre tracts with the S/2SE/4 controlled by COG but with the S/2SW/4 subject to a Joint Operating Agreement (“JOA”), dated January 26, 1998, in which Chesapeake is the current operator with 56.18% interest and with non-operators Devon Energy with 43.275% and MacDonald with 0.07%. See COG Exhibit 4 introduced at August 20, 2009 hearing.
- (7) Chesapeake is the current operator of the SW/4 but COG is not a party to this JOA. See COG Exhibit 4 introduced at August 20, 2009 hearing attached herein as Motion Exhibit “A”.

The Hearing on August 20, 2009:

- (8) There was only one witness at testified at the hearing, Jan Spradlin, COG’s expert landman. She was first called by Chesapeake as a witness and then called by COG as its only witness.
- (9) For both parties, Ms. Spradlin testified that COG did not have any interest in the SW/4 of Section 11. See Transcript of August 20, 2009 hearing at page 11, lines 23-25, page 12, lines 1-10 and page 42, lines 1-11.

- (10) Despite having obtained Mr. MacDonald's joinder, Ms. Spradlin, an expert landman, did not express an opinion or reach the conclusion that MacDonald's joinder granted COG the right to drill or access the minerals underlying the S/2SW/4 of Section 11. See Transcript of August 20, 2009 hearing at page 43, line 1-18

Subsequent to the Hearing:

- (11) Subsequent to the examiner's hearing, COG has claimed that it has the right to drill this well at this surface location because it obtained a signed well proposal letter, with AFE, from MacDonald who owned less than a 1% interest in the lands subject to the JOA. See well proposal letter dated August 11, 2009, COG's Exhibit 5.
- (12) By letter dated September 23, 2009, COG claimed that it cured the fraudulent certification by obtaining a signed AFE more than one year after it had used the C-102 for the APD approval process and that this should apply retroactively to fix the flawed certification. However, the fraudulent certification cannot be cured after the fact by securing the signing of an AFE for well by a .07% which violated the rights of parties to the JOA owning 97.3% of the lands at issue.

CHK proposed additional evidence:

- (13) CHK moves to reopen the record to introduce two additional documents:
 - a. The subject JOA (AAPL Form 610-1989) dated January 26, 1998 originally naming Penwell Energy, Inc as the operator of a Contract Area including all of Section 11, T16S, R28E, Eddy County, NM, and by which MacDonald had already committed its interests and right to development; See attached as Motion Exhibit "C" and
 - b. An affidavit of Craig B. Barnard, attesting that Chesapeake is the current operator of a contract area including the SW/4 of Section 11 and that COG has no interest therein. See attached as Motion Exhibit "B"

Chesapeake's Supplemental Argument:

- (14) Based upon this additional evidence, Chesapeake will demonstrate that:
- a. MacDonald did not have the right to sign COG's well proposal letter because he relinquished his executive rights and operating rights which are controlled by Chesapeake as the operator under the JOA.
 - b. Article V of the JOA states "A. Designation and Responsibilities of Operator. Operator **"shall conduct and direct and have full control of all operations on the Contract Area as permitted...."** (Emphasis added)
 - c. The JOA's contract area includes this SW/4 of Section 11 where COG wants to place the surface location for the Blackhawk 1-H wellbore.
 - d. MacDonald no longer had the ability to sign a third-party well proposal for a wellbore to be located within the Contract Area of CHK's JOA. If MacDonald desired for a well to be drilled in the S/2SW/4 within the Contract Area, the JOA mandates specific procedures to be followed by nonoperators for proposing a well, including: (1) delivering written notice of the well proposal; and (2) allowing the other parties 30 days to elect to participate or go nonconsent. See JOA Article VI(B)(1).
 - e. McDonald's has committed his 0.07% interest to be operated by Chesapeake and cannot agree to allow a third-party like COG to be the operator. Even if Chesapeake had elected to not to participate in MacDonald's well proposal, the JOA mandates that Chesapeake still be allowed to operate the well, stating:

If no drilling rig or other equipment is on location, and if Operator is a Non-consenting Party, the Consenting Parties shall either: (i) request Operator to perform the work required such proposed operation for the account of the Consenting Parties; or (ii) designate one the Consenting Parties as Operator to perform such work.
 - f. By executing the JOA, each working interest owner, included McDonald, commits their interest within the Contract Area to joint operations to be operated by CHK as the operator unless CHK relinquished its right to operate the well by electing not to participate in the well.

g. McDonald's signed election to join in the COG wellbore is void because Chesapeake has exclusive control of these rights.

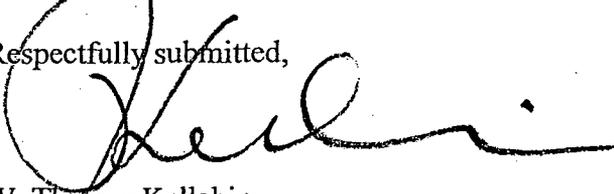
- (15) The Division can take administrative notice of the fact that a joint operating agreement, or JOA, "is the standard contract used in the oil and gas industry to govern the rights and duties between the operator and nonoperator interest owners of oil and gas tracts or leaseholds in the development and operation of mineral properties." Coral Prod. Corp. v. Cent. Res., Inc., 730 N.W.2d 357, 368 (Neb. 2007). A JOA modifies each lessee's right to otherwise "work on the leased property to search, develop, and produce oil and gas, as well as the obligation to pay all costs." Id. at 390, n.1; see e.g., Pasternak v. Lear Petroleum Exploration, Inc., 790 F.2d 828, 834 (10th Cir. 1986) (by virtue of JOA, defendants who individually held rights to work for oil and gas in the area agreed to participate, according to an agreed ratio of interests and for a specified period of time, in all oil and gas produced); Cont'l Res., Inc. v. PXP Gulf Coast, Inc., 2006 U.S. Dist. LEXIS 72870, *55-56 (W.D. Okla. Oct. 5, 2006) (joint operating agreement's terms were interpreted to provide that non-acquiring party was entitled to "participation" only with regard to joint ownership, not control or management of the newly leased properties).
- (16) It is well established that a JOA which designates an operator and provides that the operator shall have "full control of all operations," prohibits non-operators with working interests from acting to assert mutual control of operations. Stable Energy v. Kachina Oil & Gas, 52 S.W.3d 327, 333 (Tex. App. 2001); see also Ayco Dev. Corp. v. G.E.T. Serv. Co., 616 S.W.2d 184, 185 (Tex. 1981); Hamilton v. Texas Oil & Gas Corp., 648 S.W.2d 316, 321 (Tex. App. 1982). Furthermore, "legitimate commencement of [an] AFE must be executed by the duly elected operator. Only the operator has the power to perform such operations on behalf of the owners." Id.; c.f. Sonat Exploration Company v. Mann, 785 F.2d 1232, 1234 (5th Cir. 1986) (commonly used form designated Authorization for Expenditure does not, absent a valid operating agreement, constitute a contractual undertaking which obligates a person to pay for costs associated with improper AFE).
- (17) If parties to a JOA have voluntarily agreed to a term of the JOA that the operator shall have "full control of all operations," then parties that are non-operators with working interests are prohibited from acting to assert mutual control of operations, including participating in the commencement of an AFE without the participation of the duly elected operator, because only the operator has the power to perform such operations on behalf of the owners. See Stable Energy, 52 S.W.3d at 333 (affirming trial court's conclusion that, because working interest owner that was attempting to assert mutual control of operations with the elected

operator and that was bound by a JOA, was not the lawful operator, activities performed by the owner did not constitute a legitimate commencement of the operations proposed by the AFE).

- (18) Under the terms of the JOA, MacDonald had no ability to sign an AFE for a well being proposed within the Contract Area by a stranger to the agreement or agree to any form of development by another operator on acreage committed to the JOA. As operator, Chesapeake has exclusive right to develop all acreage in the Contract Area and cannot be displaced as operator for any well proposed within the Contract Area except in accordance of the JOA, which procedures were clearly not complied with here.
- (19) The AFE signed by MacDonald is clearly invalid and of no force and effect and cannot be relied upon by COG as an *ex post facto* justification for its false certification in its form C-102 filed with the Division. In accordance with the Oil and Gas Act the Division should revoke the APD and assess appropriate penalties for the false statements made to support it. See NMSA 1978, §70-2-31(B)(2).

WHEREFORE, Chesapeake requests that the Division allow it to supplement the record in Case 14323 for the introduction of additional evidence from Chesapeake and then enter a revised order denying COG's attempt to circumvent the requirements of Order R-15145-A and Form C-102.

Respectfully submitted,



W. Thomas Kellahin
KELLAHIN & KELLAHIN
706 Gonzales Road
Santa Fe, NM 87501
505-982-4285

Earl E. DeBrine, Jr.
MODRALL, SPERLING, ROEHL,
HARRIS & SISK, P.A.
P.O. Box 2168
Albuquerque, NM 87103

Attorneys for Chesapeake Energy Corporation

CERTIFICATION OF SERVICE

I hereby certify that a copy of this pleading was served upon the following counsel of record this 6th day of October 2009, by hand delivery.

David K. Brooks, Esq.
Oil Conservation Division
1220 South St. Francis Drive

J. Scott Hall, Esq.
Attorney for COG Operating, Inc.
Montgomery & Andrews
325 Paseo de Peralta
Santa Fe, NM 87501



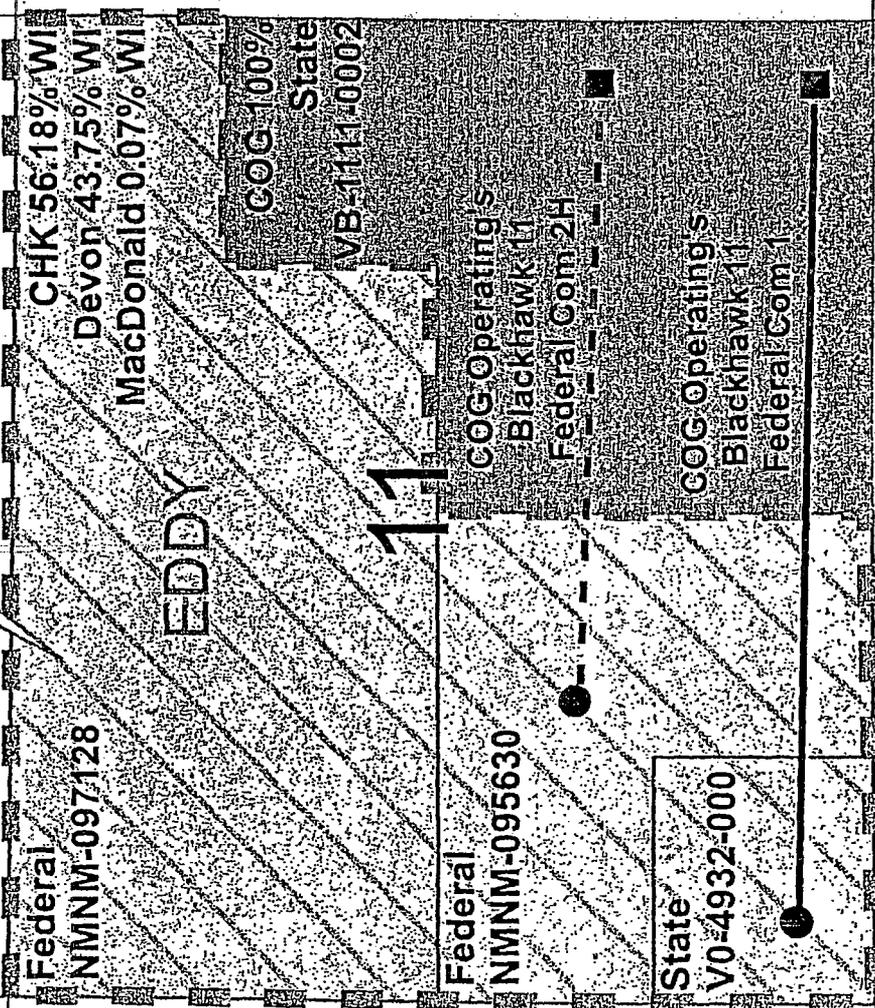
W. Thomas Kellahin

JOA Dated January 26, 1998

Contract Area:

All of Section 11 from surface to base of Morrow
Leases not subject to JOA:

#VB-1111-0002, covering SENE & SE



16S 28E

12

NMOCD Case No. 14323
August 20, 2009
COG Operating LLC Ex. No. 4

Legend

•	BHL
•	SHL
---	APD Approved
----	APD Not Approved
Owner	CHK
Owner	COG
Owner	Devon

Section 11 APDs 11-16S-28E Eddy Co., New Mexico
Scale: 1/4"=100'
Date: 4/22/2009
Projection: GCS North American 1983
Author: Erin Fay

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 PURPOSES OF CONSIDERING:

CASE NO. 14323

APPLICATION OF CHESAPEAKE OPERATING, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

AFFIDAVIT OF CRAIG B. BARNARD

STATE OF OKLAHOMA §
 § ss.
COUNTY OF OKLAHOMA §

Before me, the undersigned authority, personally appeared Craig B. Barnard who being fully sworn stated:

A. My name and qualification as expert are as follows:

Craig B. Barnard

Education: BA University of Oklahoma – 1973
Experience: Practicing Landman for 30 years in Texas, Oklahoma and
 New Mexico,
Certification: Certified Professional Landman #3268

B. I am over the age of majority and competent to make this Affidavit.

I am responsible for and involved in preparing the necessary land and ownership documents for submittal to the New Mexico Oil Conservation Division for this case.

I am personally knowledgeable and familiar with the facts and circumstances of this case and the following factual statements.

- C. My expert opinion are based on the following facts and events:

CHRONOLOGICAL SUMMARY OF SIGNIFICANT EVENTS

1. Chesapeake Operating, Inc. ("Chesapeake") has a working interest ownership in the oil and gas minerals underlying the NW/4, SW/4, N/2NW/4, SW/4NE/4 Section 11, T16S, R28E, Eddy County, New Mexico, being part of the Contact Area for the Joint Operating Agreement ("JOA") identified and described below.
2. Based upon an oil & gas title reports of Thom Hill, Inc, an expert oil and gas title examiner, Chesapeake is the current operator of a Contract Area that includes the mineral interest described in paragraph 1 above, pursuant to a Joint Operating Agreement (AAPL form 610-1989) dated January 26, 1998 that originally designated Penwell Energy, Inc. as the operator. Attached to this affidavit is a true and correct copy of this Joint Operating Agreement (JOA"). Identified as Exhibit "A"
3. At all time relevant to Case 14323, Chesapeake has been the operator with a 56.18% working interest. The non-operators are Devon with a 43.275% working interest and Timothy R. MacDonald with a 0.070312% working interest.
4. Concho aka COG Operating LLC and COG Oil & Gas, LP. do not any mineral interest within the contract area of this JOA and are not parties to this JOA.

EXPERT OPINIONS

- C. I have formed the following opinions based upon my respective expertise and upon the foregoing chronology of events:
- a. MacDonald did not have the right to sign COG's well proposal letter because he relinquished his executive rights which are now controlled by CHK as the operator.
 - b. Article V of the JOA states "A. Designation and Responsibilities of Operator. Operator "shall conduct and direct and have full control of all operations on the Contract Area as permitted...."
 - c. The JOA's contact area includes this SW/4 of Section 11 where COG wants to place the surface location for the Blackhawk 1-H wellbore.
 - d. MacDonald no longer had the ability to sign a third-party well proposal for a wellbore to be located with the contract area of the CHK's JOA.

Affidavit of Craig B. Barnard

NMOCD Case 14323

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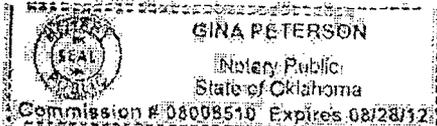
- e. McDonald's has committed his 0.070312% interest to be operated by CHK and cannot commit properties within the Contract Area to another venture allow COG to operate within the Contract Area.
- f. By executing the JOA, each working interest owner, included McDonald, commits their interest within the Contract Area to joint operations to be operated by CHK as the operator.
- g. McDonald's signed election to join in the COG wellbore is void because CHK now has exclusive control of these rights.

FURTHER AFFIANT SAYETH NOT:

Craig B. Barnard
 Craig B. Barnard

STATE OF OKLAHOMA §
 §
 COUNTY OF OKLAHOMA §

SUBSCRIBED AND SWORN TO before me this 5th day of October 2009, by
 Craig B. Barnard



Gina Peterson
 Notary Public

ACKNOWLEDGMENT

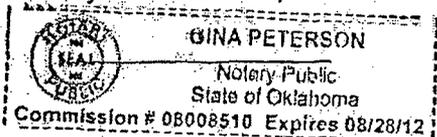
STATE OF OKLAHOMA) SS:
)
 COUNTY OF OKLAHOMA)

BEFORE me, the undersigned, a Notary Public in and for said County and State, on this ___ day of October, 2009, personally appeared Craig B. Barnard to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

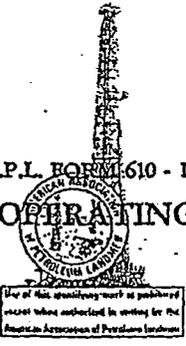
Gina Peterson
 Notary Public

My Commission expires:



Affidavit of Craig B. Barnard
 NMOCD Case 14323

A.A.P.L. FORM 610 - 1989
MODEL FORM OPERATING AGREEMENT



OPERATING AGREEMENT

DATED

JANUARY 26, 19 98

OPERATOR PENWELL ENERGY, INC.

CONTRACT AREA TOWNSHIP 16 SOUTH, RANGE 28 EAST, NMFM

SECTION 10: W/2

SECTION 11: ALL

COUNTY OR PARISH OF EDDY, STATE OF NEW MEXICO

BLACKBIRD PROSPECT (NM 075)

*gowns:
Crowflats
11 Fed #,*

*We did not
purchase
Sec 10
(only sec 11)*

COPYRIGHT 1989 - ALL RIGHTS RESERVED
AMERICAN ASSOCIATION OF PETROLEUM
LANDMEN, 4100 FOSSIL CREEK BLVD.
FORT WORTH, TEXAS, 76137, APPROVED FORM.
A.A.P.L. NO. 610 - 1989

X

*cc to Randy Turner
2-2-99*

W.R.

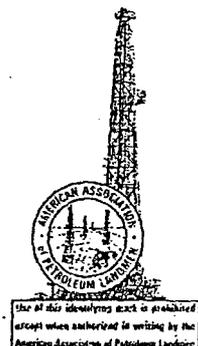
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OPERATING AGREEMENT

THIS AGREEMENT, entered into by and between Perwell Energy, Inc., hereinafter designated and referred to as "Operator," and the signatory party or parties other than Operator, sometimes hereinafter referred to individually 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 "AFE" shall mean an Authority for Expenditure prepared by a party to this agreement for the purpose of estimating the costs to be incurred in conducting an operation hereunder.
 - B. The term "Completion" or "Complete" shall mean a single operation intended to complete a well as a producer of Oil and Gas in one or more Zones, including, but not limited to, the setting of production casing, perforating, well stimulation and production testing conducted in such operation.
 - C. The term "Contract Area" shall mean all of the lands, Oil and Gas Leases and/or Oil and Gas Interests intended to be developed and operated for Oil and Gas purposes under this agreement. Such lands, Oil and Gas Leases and Oil and Gas Interests are described in Exhibit "A."
 - D. The term "Deepen" shall mean a single operation whereby a well is drilled to an objective Zone below the deepest Zone in which the well was previously drilled, or below the Deepest Zone proposed in the associated AFE, whichever is the lesser.
 - E. 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.
 - F. 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 unless fixed by express agreement of the Drilling Parties.
 - G. The term "Drillsite" shall mean the Oil and Gas Lease or Oil and Gas Interest on which a proposed well is to be located.
 - H. The term "Initial Well" shall mean the well required to be drilled by the parties hereto as provided in Article VI.A.
 - I. The term "Non-Consent Well" shall mean a well in which less than all parties have conducted an operation as provided in Article VI.B.2.
 - J. The terms "Non-Drilling Party" and "Non-Consenting Party" shall mean a party who elects not to participate in a proposed operation.
 - K. The term "Oil and Gas" shall mean oil, gas, casinghead gas, gas condensate, and/or 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.
 - L. The term "Oil and Gas Interests" or "Interests" shall mean unleased fee and mineral interests in Oil and Gas in tracts of land lying within the Contract Area which are owned by parties to this agreement.
 - M. The terms "Oil and Gas Lease," "Lease" and "Leasehold" shall mean the oil and gas leases or interests therein covering tracts of land lying within the Contract Area which are owned by the parties to this agreement.
 - N. The term "Plug Back" shall mean a single operation whereby a deeper Zone is abandoned in order to attempt a Completion in a shallower Zone.
 - O. The term "Recompletion" or "Recomplete" shall mean an operation whereby a Completion in one Zone is abandoned in order to attempt a Completion in a different Zone within the existing wellbore.
 - P. The term "Rework" shall mean an operation conducted in the wellbore of a well after it is Completed to secure, restore, or improve production in a Zone which is currently open to production in the wellbore. Such operations include, but are not limited to, well stimulation operations but exclude any routine repair or maintenance work or drilling, Sidetracking, Deepening, Completing, Recompleting, or Plugging Back of a well.
 - Q. The term "Sidetrack" shall mean the directional control and intentional deviation of a well from vertical so as to change the bottom hole location unless done to straighten the hole or to drill around junk in the hole to overcome other mechanical difficulties.
 - R. The term "Zone" shall mean a stratum of earth containing or thought to contain a common accumulation of Oil and Gas separately producible from any other common accumulation of Oil and Gas.
- Unless the context otherwise clearly indicates, words used in the singular include the plural, the word "person" includes natural and artificial persons, the plural includes the singular, and any gender includes the masculine, feminine, and neuter.

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) 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.
- 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.
- H. Other: Nearburg Exploration Company, L.L.C. Well Information Requirements



I. Exhibit "I," Notice of Joint Operating Agreement, Lien, Security Interests and Financing Statement.

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

ARTICLE III.

INTERESTS OF PARTIES

A. Oil and Gas Interests:

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

B. Interests of Parties in Costs and Production:

10 Unless changed by other provisions, all costs and liabilities incurred in operations under this agreement shall be borne
11 and paid, and all equipment and materials acquired in operations on the Contract Area shall be owned, by the parties as their
12 interests are set forth in Exhibit "A." In the same manner, the parties shall also own all production of Oil and Gas from the
13 Contract Area subject, however, to the payment of royalties and other burdens on production as described hereafter.

14 Regardless of which party has contributed any Oil and Gas Lease or Oil and Gas Interest on which royalty or other
15 burdens may be payable and except as otherwise expressly provided in this agreement, each party shall pay or deliver, or
16 cause to be paid or delivered, all burdens on its share of the production from the Contract Area up to, but not in excess of,
17 the royalty burdens on each lease and shall indemnify, defend and hold the other parties free from any liability therefor.

18 Except as otherwise expressly provided in this agreement, if any party has contributed hereto any Lease or Interest which is
19 burdened with any royalty, overriding royalty, production payment or other burden on production in excess of the amounts
20 stipulated above, such party so burdened shall assume and alone bear all such excess obligations and shall indemnify, defend
21 and hold the other parties hereto harmless from any and all claims attributable to such excess burden. However, so long as
22 the Drilling Unit for the productive Zone(s) is identical with the Contract Area, each party shall pay or deliver, or cause to
23 be paid or delivered, all burdens on production from the Contract Area due under the terms of the Oil and Gas Lease(s)
24 which such party has contributed to this agreement, and shall indemnify, defend and hold the other parties free from any
25 liability therefor.

26 No party shall ever be responsible, on a price basis higher than the price received by such party, to any other party's
27 lessor or royalty owner, and if such other party's lessor or royalty owner should demand and receive settlement on a higher
28 price basis, the party contributing the affected Lease shall bear the additional royalty burden attributable to such higher price.

29 Nothing contained in this Article III.B. shall be deemed an assignment or cross-assignment of interests covered hereby,
30 and in the event two or more parties contribute to this agreement jointly owned Leases, the parties' undivided interests in
31 said Leaseholds shall be deemed separate leasehold interests for the purposes of this agreement.

C. Subsequently Created Interests:

33 If any party has contributed hereto a Lease or Interest that is burdened with an assignment of production given as security
34 for the payment of money, or if, after the date of this agreement, any party creates an overriding royalty, production
35 payment, net profits interest, assignment of production or other burden payable out of production attributable to its working
36 interest hereunder, such burden shall be deemed a "Subsequently Created Interest." Further, if any party has contributed
37 hereto a Lease or Interest burdened with an overriding royalty, production payment, net profits interest, or other burden
38 payable out of production created prior to the date of this agreement, and such burden is not shown on Exhibit "A," such
39 burden also shall be deemed a Subsequently Created Interest to the extent such burden causes the burdens on such party's
40 Lease or Interest to exceed the amount stipulated in Article III.B. above.

41 The party whose interest is burdened with the Subsequently Created Interest (the "Burdened Party") shall assume and
42 alone bear, pay and discharge the Subsequently Created Interest and shall indemnify, defend and hold harmless the other
43 parties from and against any liability therefor. Further, if the Burdened Party fails to pay, when due, its share of expenses
44 chargeable hereunder, all provisions of Article VII.B. shall be enforceable against the Subsequently Created Interest in the
45 same manner as they are enforceable against the working interest of the Burdened Party. If the Burdened Party is required
46 under this agreement to assign or relinquish to any other party, or parties, all or a portion of its working interest and/or
47 the production attributable thereto, said other party, or parties, shall receive said assignment and/or production free and clear of
48 said Subsequently Created Interest, and the Burdened Party shall indemnify, defend and hold harmless said other party, or
49 parties, from any and all claims and demands for payment asserted by owners of the Subsequently Created Interest.

ARTICLE IV.

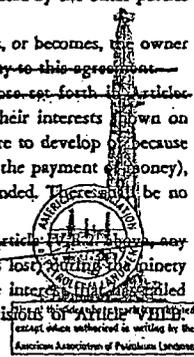
TITLES

A. Title Examination:

53 Title examination shall be made on the Drillsite of any proposed well prior to commencement of drilling operations and,
54 if a majority in interest of the Drilling Parties so request or Operator so elects, title examination shall be made on the entire
55 Drilling Unit, or maximum anticipated Drilling Unit, of the well. The opinion will include the ownership of the working
56 interest, minerals, royalty, overriding royalty and production payments under the applicable Leases. Each party contributing
57 Leases and/or Oil and Gas Interests to be included in the Drillsite or Drilling Unit, if appropriate, shall furnish to Operator
58 all abstracts (including federal lease status reports), title opinions, title papers and curative material in its possession free of
59 charge. All such information not in the possession of or made available to Operator by the parties, but necessary for the
60 examination of the title, shall be obtained by Operator. Operator shall cause title to be examined by attorneys on its staff or
61 by outside attorneys. Copies of all title opinions shall be furnished to each Drilling Party. Costs incurred by Operator in
62 procuring abstracts, fees paid outside attorneys for title examination (including preliminary, supplemental, short-royalty
63 opinions and division order title opinions) and other direct charges as provided in Exhibit "C" shall be borne by the Drilling
64 Parties in the proportion that the interest of each Drilling Party bears to the total interest of all Drilling Parties. Such
65 interests appear in Exhibit "A." Operator shall make no charge for services rendered by its staff attorneys or other personnel
66 in the performance of the above functions.

67 Operator shall be responsible for securing curative matter and pooling amendments or agreements required in
68 connection with Leases or Oil and Gas Interests contributed by each party. Operator shall be responsible for the preparation
69 and recording of pooling designations or declarations and communitization agreements as well as the conduct of hearings
70 before governmental agencies for the securing of spacing or pooling orders or any other orders necessary or appropriate to
71 the conduct of operations hereunder. This shall not prevent any party from appearing on its own behalf at such hearings.
72 Costs incurred by Operator, including fees paid to outside attorneys, which are associated with hearings before governmental
73 agencies, and which costs are necessary and proper for the activities contemplated under this agreement shall be borne
74 charges to the joint account and shall not be covered by the administrative overhead charges as provided in Exhibit

1 Operator shall make no charge for services rendered by its staff attorneys or other personnel in the performance of the above
 2 functions.
 3 No well shall be drilled on the Contract Area until after (1) the title to the Drillsite or Drilling Unit, if appropriate, has
 4 been examined as above provided, and (2) the title has been approved by the examining attorney or title has been accepted by
 5 all of the Drilling Parties in such well.
 6 **B. Loss or Failure of Title:**
 7 ~~1. Failure of Title: Should any Oil and Gas Interest or Oil and Gas Lease be lost through failure of title, which results in a~~
 8 ~~reduction of interest from that shown on Exhibit "A," the party credited with contributing the affected Lease or Interest~~
 9 ~~(including, if applicable, a successor in interest to such party) shall have ninety (90) days from final determination of title~~
 10 ~~failure to acquire a new lease or other instrument curing the entirety of the title failure, which acquisition will not be subject~~
 11 ~~to Article VIII.B., and failing to do so, this agreement, nevertheless, shall continue in force as to all remaining Oil and Gas~~
 12 ~~Leases and Interests; and,~~
 13 (a) The party credited with contributing the Oil and Gas Lease or Interest affected by the title failure (including, if
 14 applicable, a successor in interest to such party) shall bear alone the entire loss and it shall not be entitled to recover from
 15 Operator or the other parties any development or operating costs which it may have previously paid or incurred, but there
 16 shall be no additional liability on its part to the other parties hereto by reason of such title failure;
 17 (b) There shall be no retroactive adjustment of expenses incurred or revenues received from the operation of the
 18 Lease or Interest which has failed, but the interests of the parties contained on Exhibit "A" shall be revised on an acreage
 19 basis, as of the time it is determined finally that title failure has occurred, so that the interest of the party whose Lease or
 20 Interest is affected by the title failure will thereafter be reduced in the Contract Area by the amount of the Lease or Interest failed;
 21 (c) If the proportionate interest of the other parties hereto in any producing well previously drilled on the Contract
 22 Area is increased by reason of the title failure, the party who bore the costs incurred in connection with such well attributable
 23 to the Lease or Interest which has failed shall receive the proceeds attributable to the increase in such interest (less costs and
 24 burdens attributable thereto) until it has been reimbursed for unrecovered costs paid by it in connection with such well
 25 attributable to such failed Lease or Interest;
 26 (d) Should any person not a party to this agreement, who is determined to be the owner of any Lease or Interest
 27 which has failed, pay in any manner any part of the cost of operation, development, or equipment, such amount shall be paid
 28 to the party or parties who bore the costs which are so refunded;
 29 (e) Any liability to account to a person not a party to this agreement for prior production of Oil and Gas which arises
 30 by reason of title failure shall be borne severally by each party (including a predecessor to a current party) who received
 31 production for which such accounting is required based on the amount of such production received, and each such party shall
 32 severally indemnify, defend and hold harmless all other parties hereto for any such liability to account;
 33 (f) No charge shall be made to the joint account for legal expenses, fees or salaries in connection with the defense of
 34 the Lease or Interest claimed to have failed, but if the party contributing such Lease or Interest hereto elects to defend its title
 35 it shall bear all expenses in connection therewith; and
 36 (g) If any party is given credit on Exhibit "A" to a Lease or Interest which is limited solely to ownership of an
 37 interest in the wellbore of any well or wells and the production therefrom, such party's absence of interest in the remainder
 38 of the Contract Area shall be considered a Failure of Title as to such remaining Contract Area unless that absence of interest
 39 is reflected on Exhibit "A."
 40 ~~2. Loss by Non-Payment or Erroneous Payment of Amount Due: If, through mistake or oversight, any rental, shut-in well~~
 41 ~~payment, minimum royalty or royalty payment, or other payment necessary to maintain all or a portion of an Oil and Gas~~
 42 ~~Lease or Interest is not paid or is erroneously paid, and as a result a Lease or Interest terminates, there shall be no monetary~~
 43 ~~liability against the party who failed to make such payment. Unless the party who failed to make the required payment~~
 44 ~~acquires a new Lease or Interest covering the same interest within ninety (90) days from the discovery of the failure to make~~
 45 ~~proper payment, which acquisition will not be subject to Article VIII.B., the interests of the parties reflected on Exhibit "A"~~
 46 ~~shall be revised on an acreage basis, effective as of the date of termination of the Lease or Interest involved, and the party~~
 47 ~~who failed to make proper payment will no longer be credited with an interest in the Contract Area on account of ownership~~
 48 ~~of the Lease or Interest which has terminated. If the party who failed to make the required payment shall not have been fully~~
 49 ~~reimbursed, at the time of the loss, from the proceeds of the sale of Oil and Gas attributable to the lost Lease or Interest,~~
 50 ~~calculated on an acreage basis, for the development and operating costs previously paid on account of such Lease or Interest,~~
 51 ~~it shall be reimbursed for unrecovered actual costs previously paid by it (but not for its share of the cost of any dry hole~~
 52 ~~previously drilled or wells previously abandoned) from so much of the following as is necessary to effect reimbursement:~~
 53 (a) Proceeds of Oil and Gas produced prior to termination of the Lease or Interest, less operating expenses and lease
 54 burdens chargeable hereunder to the person who failed to make payment, previously accrued to the credit of the lost Lease or
 55 Interest, on an acreage basis, up to the amount of unrecovered costs;
 56 (b) Proceeds of Oil and Gas, less operating expenses and lease burdens chargeable hereunder to the person who failed
 57 to make payment, up to the amount of unrecovered costs attributable to that portion of Oil and Gas thereafter produced and
 58 marketed (excluding production from any wells thereafter drilled) which, in the absence of such Lease or Interest termination,
 59 would be attributable to the lost Lease or Interest on an acreage basis and which as a result of such Lease or Interest
 60 termination is credited to other parties, the proceeds of said portion of the Oil and Gas to be contributed by the other parties
 61 in proportion to their respective interests reflected on Exhibit "A"; and,
 62 (c) Any monies, up to the amount of unrecovered costs, that may be paid by any party who is, or becomes, the owner
 63 ~~of the Lease or Interest lost, for the privilege of participating in the Contract Area or becoming a party to this agreement.~~
 64 ~~3. Other Losses: All losses of Leases or Interests committed to this agreement, other than those set forth in Articles~~
 65 ~~IV.B.1. and IV.B.2. above, shall be joint losses and shall be borne by all parties in proportion to their interests shown on~~
 66 ~~Exhibit "A." This shall include but not be limited to the loss of any Lease or Interest through failure to develop because~~
 67 ~~express or implied covenants have not been performed (other than performance which requires only the payment of money),~~
 68 ~~and the loss of any Lease by expiration at the end of its primary term if it is not renewed or extended. There shall be no~~
 69 ~~readjustment of interests in the remaining portion of the Contract Area on account of any joint loss.~~
 70 ~~4. Curing Title: In the event of a Failure of Title under Article IV.B.1. or a loss of title under Article IV.B.2., the party~~
 71 ~~whose interest has failed or was lost shall have ninety (90) days from the date of such determination of title to acquire a new lease or other instrument curing the entirety of the title failure, which acquisition will not be subject~~
 72 ~~to Article VIII.B., and failing to do so, this agreement, nevertheless, shall continue in force as to all remaining Oil and Gas~~
 73 ~~Leases and Interests; and,~~
 74 ~~shall not apply to such acquisition.~~



ARTICLE V.
OPERATOR

A. Designation and Responsibilities of Operator:

Periwell Energy, Inc.

shall be the Operator of 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. In its performance of services hereunder for the Non-Operators, Operator shall be an independent contractor not subject to the control or direction of the Non-Operators except as to the type of operation to be undertaken in accordance with the election procedures contained in this agreement. Operator shall not be deemed, or hold itself out as, the agent of the Non-Operators with authority to bind them to any obligation or liability assumed or incurred by Operator as to any third party. Operator shall conduct its activities under this agreement as a reasonable prudent operator, in a good and workmanlike manner, with due diligence and dispatch, in accordance with good oilfield practice, and in compliance with applicable law and regulation, but in no event shall it have any 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 only for good cause by the affirmative vote of Non-Operators owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of Operator; such vote shall not be deemed effective until a written notice has been delivered to the Operator by a Non-Operator detailing the alleged default and Operator has failed to cure the default within thirty (30) days from its receipt of the notice or, if the default concerns an operation then being conducted, within forty-eight (48) hours of its receipt of the notice. For purposes hereof, "good cause" shall mean not only gross negligence or willful misconduct but also the material breach of or inability to meet the standards of operation contained in Article V.A. or material failure or inability to perform its obligations under this agreement.

Subject to Article VII.D.1., 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 under any provision of this agreement, 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 or is deemed to have resigned fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of the party or 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 or resigned. The former Operator shall promptly deliver to the successor Operator all records and data relating to the operations conducted by the former Operator to the extent such records and data are not already in the possession of the successor operator. Any cost of obtaining or copying the former Operator's records and data shall be charged to the joint account.

3. Effect of Bankruptcy: If Operator becomes insolvent, bankrupt or is placed in receivership, it shall be deemed to have resigned without any action by Non-Operators, except the selection of a successor. If a petition for relief under the federal bankruptcy laws is filed by or against Operator, and the removal of Operator is prevented by the federal bankruptcy court, all Non-Operators and Operator shall comprise an interim operating committee to serve until Operator has elected to reject or assume this agreement pursuant to the Bankruptcy Code, and an election to reject this agreement by Operator as a debtor in possession, or by a trustee in bankruptcy, shall be deemed a resignation as Operator without any action by Non-Operators, except the selection of a successor. During the period of time the operating committee controls operations, all actions shall require the approval of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A." In the event there are only two (2) parties to this agreement, during the period of time the operating committee controls operations, a third party acceptable to Operator, Non-Operator and the federal bankruptcy court shall be selected as a member of the operating committee, and all actions shall require the approval of two (2) members of the operating committee without regard for their interest in the Contract Area based on Exhibit "A."

C. Employees and Contractors:

The number of employees or contractors 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 or contractors shall be the employees or contractors of Operator.

D. Rights and Duties of Operator:

1. Competitive Rates and Use of Affiliates: 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. All work performed or materials supplied by affiliates or related parties of Operator shall be performed or supplied at competitive rates, pursuant to written agreement, and in accordance with customs and standards prevailing in the industry.

2. Discharge of Joint Account Obligations: Except as herein otherwise specifically provided, Operator shall promptly pay and discharge expenses incurred in the development and operation of the Contract Area pursuant to this agreement and shall charge each of the parties hereto with their respective proportionate shares upon the expense basis provided in Exhibit "C." Operator shall keep an accurate record of the joint account hereunder, showing expenses incurred and charges and credits made and received.

3. Protection from Liens: Operator shall pay, or cause to be paid, as and when they become due and payable, the obligations of contractors and suppliers and wages and salaries for services rendered or performed, and for materials furnished or used in respect of the Contract Area or any operations for the joint account thereof, and shall keep the Contract Area free and

* exclusive of Saturdays, Sundays and legal holidays

1 liens and encumbrances resulting therefrom except for those resulting from a bona fide dispute as to services rendered or
2 materials supplied.

3 4. Custody of Funds: Operator shall hold for the account of the Non-Operators any funds of the Non-Operators advanced
4 or paid to the Operator, either for the conduct of operations hereunder or as a result of the sale of production from the
5 Contract Area, and such funds shall remain the funds of the Non-Operators on whose account they are advanced or paid until
6 used for their intended purpose or otherwise delivered to the Non-Operators or applied toward the payment of debts as
7 provided in Article VII.B. Nothing in this paragraph shall be construed to establish a fiduciary relationship between Operator
8 and Non-Operators for any purpose other than to account for Non-Operator funds as herein specifically provided. Nothing in
9 this paragraph shall require the maintenance by Operator of separate accounts for the funds of Non-Operators unless the
10 parties otherwise specifically agree.

11 5. Access to Contract Area and Records: Operator shall, except as otherwise provided herein, permit each Non-Operator
12 or its duly authorized representative, at the Non-Operator's sole risk and cost, full and free access at all reasonable times to
13 all operations of every kind and character being conducted for the joint account on the Contract Area and to the records of
14 operations conducted thereon or production therefrom, including Operator's books and records relating thereto. Such access
15 rights shall not be exercised in a manner interfering with Operator's conduct of an operation hereunder and shall not obligate
16 Operator to furnish any geologic or geophysical data of an interpretive nature unless the cost of preparation of such
17 interpretive data was charged to the joint account. Operator will furnish to each Non-Operator upon request copies of any
18 and all reports and information obtained by Operator in connection with production and related items, including, without
19 limitation, meter and chart reports, production purchaser statements, run tickets and monthly gauge reports, but excluding
20 purchase contracts and pricing information to the extent not applicable to the production of the Non-Operator seeking the
21 information. Any audit of Operator's records relating to amounts expended and the appropriateness of such expenditures
22 shall be conducted in accordance with the audit protocol specified in Exhibit "C."

23 6. Filing and Furnishing Governmental Reports: Operator will file, and upon written request promptly furnish copies to
24 each requesting Non-Operator not in default of its payment obligations, all operational notices, reports or applications
25 required to be filed by local, State, Federal or Indian agencies or authorities having jurisdiction over operations hereunder.
26 Each Non-Operator shall provide to Operator on a timely basis all information necessary to Operator to make such filings.

27 7. Drilling and Testing Operations: The following provisions shall apply to each well drilled hereunder, including but not
28 limited to the Initial Well:

29 (a) Operator will promptly advise Non-Operators of the date on which the well is spudded, or the date on which
30 drilling operations are commenced.

31 (b) Operator will send to Non-Operators such reports, test results and notices regarding the progress of operations on the well
32 as the Non-Operators shall reasonably request, including, but not limited to, daily drilling reports, completion reports, and well logs.

33 (c) Operator shall adequately test all Zones encountered which may reasonably be expected to be capable of producing
34 Oil and Gas in paying quantities as a result of examination of the electric log or any other logs or cores or tests conducted
35 hereunder.

36 8. Cost Estimates. Upon request of any Consenting Party, Operator shall furnish estimates of current and cumulative costs
37 incurred for the joint account at reasonable intervals during the conduct of any operation pursuant to this agreement.
38 Operator shall not be held liable for errors in such estimates so long as the estimates are made in good faith.

39 9. Insurance: At all times while operations are conducted hereunder, Operator shall comply with the workers
40 compensation law of the state where the operations are being conducted; provided, however, that Operator may be a self-
41 insurer for liability under said compensation laws in which event the only charge that shall be made to the joint account shall
42 be as provided in Exhibit "C." Operator shall also carry or provide insurance for the benefit of the joint account of the parties
43 as outlined in Exhibit "D" attached hereto and made a part hereof. Operator shall require all contractors engaged in work on
44 or for the Contract Area to comply with the workers compensation law of the state where the operations are being conducted
45 and to maintain such other insurance as Operator may require.

46 In the event automobile liability insurance is specified in said Exhibit "D," or subsequently receives the approval of the
47 parties, no direct charge shall be made by Operator for premiums paid for such insurance for Operator's automotive
48 equipment.

49 **ARTICLE VI**
50 **DRILLING AND DEVELOPMENT**

51 **A. Initial Well:**

52 On or before the _____ day of _____, 19 _____, Operator shall commence the drilling of the Initial
53 Well at the following location:

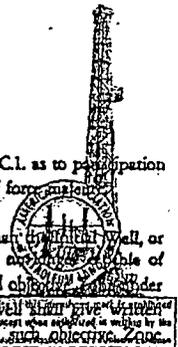
54
55
56 **TO BE DETERMINED.**
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60 and shall thereafter continue the drilling of the well with due diligence to

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67 The drilling of the Initial Well and the participation therein by all parties is obligatory, subject to Article VII.C.1. as to participation
68 in Completion operations and Article VII.F. as to termination of operations and Article XI as to occurrence of force majeure.

69 **B. Subsequent Operations:**

70 1. Proposed Operations: If any party hereto should desire to drill any well on the Contract Area other than the Initial Well, or
71 if any party should desire to Rework, Sidetrack, Deepen, Recomplete or Plug Back a dry hole or a well not producing in paying quantities or
72 producing in paying quantities in which such party has not otherwise relinquished its interest in the proposed operation, then, prior to the
73 this agreement, the party desiring to drill, Rework, Sidetrack, Deepen, Recomplete or Plug Back such a well shall give written
74 notice of the proposed operation to the parties who have not otherwise relinquished their interest in such operations and



1 under this agreement and to all other parties in the case of a proposal for Sidetracking or Deepening, specifying the work to be
 2 performed, the location, proposed depth, objective Zone and the estimated cost of the operation. The parties to whom such a
 3 notice is delivered shall have thirty (30) days after receipt of the notice within which to notify the party proposing to do the work
 4 whether they elect to participate in the cost of the proposed operation. If a drilling rig is on location, notice of a proposal to
 5 Rework, Sidetrack, Recomplete, Plug Back or Deepen may be given by telephone and the response period shall be limited to forty-
 6 eight (48) hours, exclusive of Saturday, Sunday and legal holidays. Failure of a party to whom such notice is delivered to reply
 7 within the period above fixed shall constitute an election by that party not to participate in the cost of the proposed operation.
 8 Any proposal by a party to conduct an operation conflicting with the operation initially proposed shall be delivered to all parties
 9 within the time and in the manner provided in Article VLB.6.

10 If all parties to whom such notice is delivered elect to participate in such a proposed operation, the parties shall be
 11 contractually committed to participate therein provided such operations are commenced within the time period hereafter set
 12 forth, and Operator shall, no later than ninety (90) days after expiration of the notice period of thirty (30) days (or as
 13 promptly as practicable after the expiration of the forty-eight (48) hour period when a drilling rig is on location, as the case
 14 may be), actually commence the proposed operation and thereafter complete it with due diligence at the risk and expense of
 15 the parties participating therein; provided, however, said commencement date may be extended upon written notice of same
 16 by Operator to the other parties, for a period of up to thirty (30) additional days if, in the sole opinion of Operator, such
 17 additional time is reasonably necessary to obtain permits from governmental authorities, surface rights (including rights-of-
 18 way) or appropriate drilling equipment, or to complete title examination or curative matter required for title approval or
 19 acceptance. If the actual operation has not been commenced within the time provided (including any extension thereof as
 20 specifically permitted herein or in the force majeure provisions of Article XI) and if any party hereto still desires to conduct
 21 said operation, written notice proposing same must be resubmitted to the other parties in accordance herewith as if no prior
 22 proposal had been made. Those parties that did not participate in the drilling of a well for which a proposal to Deepen or
 23 Sidetrack is made hereunder shall, if such parties desire to participate in the proposed Deepening or Sidetracking operation,
 24 reimburse the Drilling Parties in accordance with Article VLB.4. in the event of a Deepening operation and in accordance
 25 with Article VLB.5. in the event of a Sidetracking operation.

26 **2. Operations by Less Than All Parties:**

27 (a) Determination of Participation. If any party to whom such notice is delivered as provided in Article VLB.1. or
 28 VLB.1. (Option No: 2) elects not to participate in the proposed operation, then, in order to be entitled to the benefits of this
 29 Article, the party or parties giving the notice and such other parties as shall elect to participate in the operation shall, no
 30 later than ninety (90) days after the expiration of the notice period of thirty (30) days (or as promptly as practicable after the
 31 expiration of the forty-eight (48) hour period when a drilling rig is on location, as the case may be) actually commence the
 32 proposed operation and complete it with due diligence. Operator shall perform all work for the account of the Consenting
 33 Parties; provided, however, if no drilling rig or other equipment is on location, and if Operator is a Non-Consenting Party,
 34 the Consenting Parties shall either: (i) request Operator to perform the work required by such proposed operation for the
 35 account of the Consenting Parties, or (ii) designate one of the Consenting Parties as Operator to perform such work. The
 36 rights and duties granted to and imposed upon the Operator under this agreement are granted to and imposed upon the party
 37 designated as Operator for an operation in which the original Operator is a Non-Consenting Party. Consenting Parties, when
 38 conducting operations on the Contract Area pursuant to this Article VLB.2., shall comply with all terms and conditions of this
 39 agreement.

40 If less than all parties approve any proposed operation, the proposing party, immediately after the expiration of the
 41 applicable notice period, shall advise all Parties of the total interest of the parties approving such operation and its
 42 recommendation as to whether the Consenting Parties should proceed with the operation as proposed. Each Consenting Party,
 43 within forty-eight (48) hours (exclusive of Saturday, Sunday and legal holidays) after delivery of such notice, shall advise the
 44 proposing party of its desire to (i) limit participation to such party's interest as shown on Exhibit "A" or (ii) carry only its
 45 proportionate part (determined by dividing such party's interest in the Contract Area by the interests of all Consenting Parties in
 46 the Contract Area) of Non-Consenting Parties' interests, or (iii) carry its proportionate part (determined as provided in (ii)) of
 47 Non-Consenting Parties' interests together with all or a portion of its proportionate part of any Non-Consenting Parties'
 48 interests that any Consenting Party did not elect to take. Any interest of Non-Consenting Parties that is not carried by a
 49 Consenting Party shall be deemed to be carried by the party proposing the operation if such party does not withdraw its
 50 proposal. Failure to advise the proposing party within the time required shall be deemed an election under (i). In the event a
 51 drilling rig is on location, notice may be given by telephone, and the time permitted for such a response shall not exceed a
 52 total of forty-eight (48) hours (exclusive of Saturday, Sunday and legal holidays). The proposing party, at its election, may
 53 withdraw such proposal if there is less than 100% participation and shall notify all parties of such decision within ten (10)
 54 days, or within twenty-four (24) hours if a drilling rig is on location, following expiration of the applicable response period.
 55 If 100% subscription to the proposed operation is obtained, the proposing party shall promptly notify the Consenting Parties
 56 of their proportionate interests in the operation and the party serving as Operator shall commence such operation within the
 57 period provided in Article VLB.1., subject to the same extension right as provided therein.

58 (b) Relinquishment of Interest for Non-Participation. The entire cost and risk of conducting such operations shall be
 59 borne by the Consenting Parties in the proportions they have elected to bear same under the terms of the preceding
 60 paragraph. Consenting Parties shall keep the leasehold estates involved in such operations free and clear of all liens and
 61 encumbrances of every kind created by or arising from the operations of the Consenting Parties. If such an operation results
 62 in a dry hole, then subject to Articles VLB.6. and VLB.3., the Consenting Parties shall plug and abandon the well and restore
 63 the surface location at their sole cost, risk and expense; provided, however, that those Non-Consenting Parties that
 64 participated in the drilling, Deepening or Sidetracking of the well shall remain liable for, and shall pay, their proportionate
 65 shares of the cost of plugging and abandoning the well and restoring the surface location insofar only as those costs were not
 66 increased by the subsequent operations of the Consenting Parties. If any well drilled, Reworked, Sidetracked, Deepened,
 67 Recompleted or Plugged Back under the provisions of this Article results in a well capable of producing Oil and Gas in
 68 paying quantities, the Consenting Parties shall complete and equip the well to produce at their sole cost and risk and the
 69 well shall then be turned over to Operator (if the Operator did not conduct the operation) and shall be operated by at the
 70 expense and for the account of the Consenting Parties. Upon commencement of operations for the drilling, reworking,
 71 Sidetracking, Recompleting, Deepening or Plugging Back of any such well by Consenting Parties in accordance with the
 72 provisions of this Article, each Non-Consenting Party shall be deemed to have relinquished to Consenting Parties all the
 73 Consenting Parties shall own and be entitled to receive, in proportion to their respective interests, all the rights and
 74 Consenting Party's interest in the well and share of production therefrom or, in the case of a Reworked, Sidetracked or
 * telegram, telex, telecopier, or other form of facsimile

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1 Deepening, ReCompleting or Plugging Back, or a Completion pursuant to Article VI.C.1. Option No. 2, all of such Non-
 2 Consenting Party's interest in the production obtained from the operation in which the Non-Consenting Party did not elect
 3 to participate. Such relinquishment shall be effective until the proceeds of the sale of such share, calculated at the well, or
 4 market value thereof if such share is not sold (after deducting applicable ad valorem, production, severance, and excise taxes,
 5 royalty, overriding royalty and other interests not excepted by Article III.C. payable out of or measured by the production
 6 from such well accruing with respect to such interest until it reverts), shall equal the total of the following:

7 (i) 100 % of each such Non-Consenting Party's share of the cost of any newly acquired surface equipment
 8 beyond the wellhead connections (including but not limited to stock tanks, separators, treaters, pumping equipment and
 9 piping), plus 100% of each such Non-Consenting Party's share of the cost of operation of the well commencing with first
 10 production and continuing until each such Non-Consenting Party's relinquished interest shall revert to it under other
 11 provisions of this Article, it being agreed that each Non-Consenting Party's share of such costs and equipment will be that
 12 interest which would have been chargeable to such Non-Consenting Party had it participated in the well from the beginning
 13 of the operations; and

14 (ii) 400 % of (a) that portion of the costs and expenses of drilling, Sidetracking, Deepening,
 15 Plugging Back, testing, Completing, and ReCompleting, after deducting any cash contributions received under Article VIII.C.,
 16 and of (b) that portion of the cost of newly acquired equipment in the well (to and including the wellhead connections),
 17 which would have been chargeable to such Non-Consenting Party if it had participated therein.

18 Notwithstanding anything to the contrary in this Article VLB., if the well does not reach the deepest objective Zone
 19 described in the notice proposing the well for reasons other than the encountering of granite or practically impenetrable
 20 substance or other condition in the hole rendering further operations impracticable, Operator shall give notice thereof to each
 21 Non-Consenting Party who submitted or voted for an alternative proposal under Article VLB.6. to drill the well to a
 22 shallower Zone than the deepest objective Zone proposed in the notice under which the well was drilled, and each such Non-
 23 Consenting Party shall have the option to participate in the initial proposed Completion of the well by paying its share of the
 24 cost of drilling the well to its actual depth, calculated in the manner provided in Article VLB.A. (a). If any such Non-
 25 Consenting Party does not elect to participate in the first Completion proposed for such well, the relinquishment provisions
 26 of this Article VLB.2. (b) shall apply to such party's interest.

27 (c) Reworking, ReCompleting or Plugging Back. An election not to participate in the drilling, Sidetracking or
 28 Deepening of a well shall be deemed an election not to participate in any Reworking or Plugging Back operation proposed in
 29 such a well, or portion thereof, to which the initial non-consent election applied that is conducted at any time prior to full
 30 recovery by the Consenting Parties of the Non-Consenting Party's recoupment amount. Similarly, an election not to
 31 participate in the Completing or ReCompleting of a well shall be deemed an election not to participate in any Reworking
 32 operation proposed in such a well, or portion thereof, to which the initial non-consent election applied that is conducted at
 33 any time prior to full recovery by the Consenting Parties of the Non-Consenting Party's recoupment amount. Any such
 34 Reworking, ReCompleting or Plugging Back operation conducted during the recoupment period shall be deemed part of the
 35 cost of operation of said well and there shall be added to the sums to be recouped by the Consenting Parties 400 % of
 36 that portion of the costs of the Reworking, ReCompleting or Plugging Back operation which would have been chargeable to
 37 such Non-Consenting Party had it participated therein. If such a Reworking, ReCompleting or Plugging Back operation is
 38 proposed during such recoupment period, the provisions of this Article VLB. shall be applicable as between said Consenting
 39 Parties in said well.

40 (d) Recoupment Matters. During the period of time Consenting Parties are entitled to receive Non-Consenting Party's
 41 share of production, or the proceeds therefrom, Consenting Parties shall be responsible for the payment of all ad valorem,
 42 production, severance, excise, gathering and other taxes, and all royalty, overriding royalty and other burdens applicable to
 43 Non-Consenting Party's share of production not excepted by Article III.C.

44 In the case of any Reworking, Sidetracking, Plugging Back, ReCompleting or Deepening operation, the Consenting
 45 Parties shall be permitted to use, free of cost, all casing, tubing and other equipment in the well, but the ownership of all
 46 such equipment shall remain unchanged; and upon abandonment of a well after such Reworking, Sidetracking, Plugging Back,
 47 ReCompleting or Deepening, the Consenting Parties shall account for all such equipment to the owners thereof, with each
 48 party receiving its proportionate part in kind or in value, less cost of salvage.

49 Within ninety (90) days after the completion of any operation under this Article, the party conducting the operations
 50 for the Consenting Parties shall furnish each Non-Consenting Party with an inventory of the equipment in and connected to
 51 the well, and an itemized statement of the cost of drilling, Sidetracking, Deepening, Plugging Back, testing, Completing,
 52 ReCompleting, and equipping the well for production; or, at its option, the operating party, in lieu of an itemized statement
 53 of such costs of operation, may submit a detailed statement of monthly billings. Each month thereafter, during the time the
 54 Consenting Parties are being reimbursed as provided above, the party conducting the operations for the Consenting Parties
 55 shall furnish the Non-Consenting Parties with an itemized statement of all costs and liabilities incurred in the operation of
 56 the well, together with a statement of the quantity of Oil and Gas produced from it and the amount of proceeds realized from
 57 the sale of the well's working interest production during the preceding month. In determining the quantity of Oil and Gas
 58 produced during any month, Consenting Parties shall use industry accepted methods such as but not limited to metering or
 59 periodic well tests. Any amount realized from the sale or other disposition of equipment newly acquired in connection with
 60 any such operation which would have been owned by a Non-Consenting Party had it participated therein shall be credited
 61 against the total unrecovered costs of the work done and of the equipment purchased in determining when the interest of such
 62 Non-Consenting Party shall revert to it as above provided; and if there is a credit balance, it shall be paid to such Non-
 63 Consenting Party.

64 If and when the Consenting Parties recover from a Non-Consenting Party's relinquished interest the amount provided
 65 for above, the relinquished interests of such Non-Consenting Party shall automatically revert to it as of 7:00 a.m. of the day
 66 following the day on which such recoupment occurs, and, from and after such reversion, such Non-Consenting Party shall
 67 own the same interest in such well, the material and equipment in or pertaining thereto, and the production therefrom as
 68 such Non-Consenting Party would have been entitled to had it participated in the drilling, Sidetracking, Reworking,
 69 Deepening, ReCompleting or Plugging Back of said well. Thereafter, such Non-Consenting Party shall be reimbursed with and
 70 shall pay its proportionate part of the further costs of the operation of said well in accordance with the terms of this
 71 agreement and Exhibit "C" attached hereto.

72 3. Stand-By Costs: When a well which has been drilled or Deepened has reached its authorized depth, and the parties have
 73 been completed and the results thereof furnished to the parties, or when operations on the well have been terminated pursuant to Article VI.F., stand-by costs incurred pending response to a party's notice proposing a reworking,
 74

1 Sidetracking, Deepening, Re-completing, Plugging Back or Completing operation in such a well (including the period required
 2 under Article VLB.6. to resolve competing proposals) shall be charged and borne as part of the drilling or Deepening
 3 operation just completed. Stand-by costs subsequent to all parties responding, or expiration of the response time permitted,
 4 whichever first occurs, and prior to agreement as to the participating interests of all Consenting Parties pursuant to the terms
 5 of the second grammatical paragraph of Article VLB.2. (a), shall be charged to and borne as part of the proposed operation,
 6 but if the proposal is subsequently withdrawn because of insufficient participation, such stand-by costs shall be allocated
 7 between the Consenting Parties in the proportion each Consenting Party's interest as shown on Exhibit "A" bears to the total
 8 interest as shown on Exhibit "A" of all Consenting Parties.

9 In the event that notice for a Sidetracking operation is given while the drilling rig to be utilized is on location, any party
 10 may request and receive up to five (5) additional days after expiration of the forty-eight hour response period specified in
 11 Article VLB.1. within which to respond by paying for all stand-by costs and other costs incurred during such extended
 12 response period; Operator may require such party to pay the estimated stand-by time in advance as a condition to extending
 13 the response period. If more than one party elects to take such additional time to respond to the notice, standby costs shall be
 14 allocated between the parties taking additional time to respond on a day-to-day basis in the proportion each electing party's
 15 interest as shown on Exhibit "A" bears to the total interest as shown on Exhibit "A" of all the electing parties.

16 4. Deepening: If less than all the parties elect to participate in a drilling, Sidetracking, or Deepening operation proposed
 17 pursuant to Article VLB.1., the interest relinquished by the Non-Consenting Parties to the Consenting Parties under Article
 18 VLB.2. shall relate only and be limited to the lesser of (i) the total depth actually drilled or (ii) the objective depth or Zone
 19 of which the parties were given notice under Article VLB.1. ("Initial Objective"). Such well shall not be Deepened beyond the
 20 Initial Objective without first complying with this Article to afford the Non-Consenting Parties the opportunity to participate
 21 in the Deepening operation.

22 In the event any Consenting Party desires to drill or Deepen a Non-Consent Well to a depth below the Initial Objective,
 23 such party shall give notice thereof, complying with the requirements of Article VLB.1., to all parties (including Non-
 24 Consenting Parties). Thereupon, Articles VLB.1. and 2. shall apply and all parties receiving such notice shall have the right to
 25 participate or not participate in the Deepening of such well pursuant to said Articles VLB.1. and 2. If a Deepening operation
 26 is approved pursuant to such provisions, and if any Non-Consenting Party elects to participate in the Deepening operation,
 27 such Non-Consenting party shall pay or make reimbursement (as the case may be) of the following costs and expenses:

28 (a) If the proposal to Deepen is made prior to the Completion of such well as a well capable of producing in paying
 29 quantities, such Non-Consenting Party shall pay (or reimburse Consenting Parties for, as the case may be) that share of costs
 30 and expenses incurred in connection with the drilling of said well from the surface to the Initial Objective which Non-
 31 Consenting Party would have paid had such Non-Consenting Party agreed to participate therein, plus the Non-Consenting
 32 Party's share of the cost of Deepening and of participating in any further operations on the well in accordance with the other
 33 provisions of this Agreement; provided, however, all costs for testing and Completion or attempted Completion of the well
 34 incurred by Consenting Parties prior to the point of actual operations to Deepen beyond the Initial Objective shall be for the
 35 sole account of Consenting Parties.

36 (b) If the proposal is made for a Non-Consent Well that has been previously Completed as a well capable of producing
 37 in paying quantities, but is no longer capable of producing in paying quantities, such Non-Consenting Party shall pay (or
 38 reimburse Consenting Parties for, as the case may be) its proportionate share of all costs of drilling, Completing, and
 39 equipping said well from the surface to the Initial Objective, calculated in the manner provided in paragraph (a) above, less
 40 those costs recouped by the Consenting Parties from the sale of production from the well. The Non-Consenting Party shall
 41 also pay its proportionate share of all costs of re-entering said well. The Non-Consenting Parties' proportionate part (based
 42 on the percentage of such well Non-Consenting Party would have owned had it previously participated in such Non-Consent
 43 Well) of the costs of salvable materials and equipment remaining in the hole and salvable surface equipment used in
 44 connection with such well shall be determined in accordance with Exhibit "C." If the Consenting Parties have recouped the
 45 cost of drilling, Completing, and equipping the well at the time such Deepening operation is conducted, then a Non-
 46 Consenting Party may participate in the Deepening of the well with no payment for costs incurred prior to re-entering the
 47 well for Deepening.

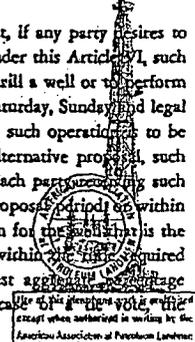
48 The foregoing shall not imply a right of any Consenting Party to propose any Deepening for a Non-Consent Well prior
 49 to the drilling of such well to its Initial Objective without the consent of the other Consenting Parties as provided in Article
 50 VLB.

51 5. Sidetracking: Any party having the right to participate in a proposed Sidetracking operation that does not own an
 52 interest in the affected wellbore at the time of the notice shall, upon electing to participate, tender to the wellbore owners its
 53 proportionate share (equal to its interest in the Sidetracking operation) of the value of that portion of the existing wellbore
 54 to be utilized as follows:

55 (a) If the proposal is for Sidetracking an existing dry hole, reimbursement shall be on the basis of the actual costs
 56 incurred in the initial drilling of the well down to the depth at which the Sidetracking operation is initiated.

57 (b) If the proposal is for Sidetracking a well which has previously produced, reimbursement shall be on the basis of
 58 such party's proportionate share of drilling and equipping costs incurred in the initial drilling of the well down to the depth
 59 at which the Sidetracking operation is conducted, calculated in the manner described in Article VLB.4(b) above. Such party's
 60 proportionate share of the cost of the well's salvable materials and equipment down to the depth at which the Sidetracking
 61 operation is initiated shall be determined in accordance with the provisions of Exhibit "C."

62 6. Order of Preference of Operations. Except as otherwise specifically provided in this agreement, if any party desires to
 63 propose the conduct of an operation that conflicts with a proposal that has been made by a party under this Article VLB, such
 64 party shall have fifteen (15) days from delivery of the initial proposal, in the case of a proposal to drill a well or to perform
 65 an operation on a well where no drilling rig is on location, or twenty-four (24) hours, exclusive of Saturday, Sunday and legal
 66 holidays, from delivery of the initial proposal, if a drilling rig is on location for the well on which such operation is to be
 67 conducted, to deliver to all parties entitled to participate in the proposed operation such party's alternative proposal. Such
 68 alternate proposal to contain the same information required to be included in the initial proposal. Each party submitting such
 69 proposals shall elect by delivery of notice to Operator within five (5) days after expiration of the proposal period within
 70 twenty-four (24) hours (exclusive of Saturday, Sunday and legal holidays) if a drilling rig is on location for the well which is the
 71 subject of the proposals, to participate in one of the competing proposals. Any party not electing within the time required
 72 shall be deemed not to have voted. The proposal receiving the vote of parties owning the largest aggregate percentage
 73 interest of the parties voting shall have priority over all other competing proposals; in the case of a tie, the vote of the
 * or deepening



1 Initial proposal shall prevail. Operator shall deliver notice of such result to all parties entitled to participate in the operation
2 within five (5) days after expiration of the election period (or within twenty-four (24) hours, exclusive of Saturday, Sunday
3 and legal holidays, if a drilling rig is on location). Each party shall then have two (2) days (or twenty-four (24) hours if a rig
4 is on location) from receipt of such notice to elect by delivery of notice to Operator to participate in such operation or to
5 relinquish interest in the affected well pursuant to the provisions of Article VLB.2.; failure by a party to deliver notice within
6 such period shall be deemed an election not to participate in the prevailing proposal.

7 7. Conformity to Spacing Pattern. Notwithstanding the provisions of this Article VLB.2., it is agreed that no wells shall be
8 proposed to be drilled to or Completed in or produced from a Zone from which a well located elsewhere on the Contract
9 Area is producing, unless such well conforms to the then-existing well spacing pattern for such Zone.

10 8. Paying Wells. No party shall conduct any Reworking, Deepening, Plugging Back, Completion, Recompletion, or
11 Sidetracking operation under this agreement with respect to any well then capable of producing in paying quantities except
12 with the consent of all parties that have not relinquished interests in the well at the time of such operation.

13 C. Completion of Wells; Reworking and Plugging Back;

14 1. Completion: Without the consent of all parties, no well shall be drilled, Deepened or Sidetracked, except any well
15 drilled, Deepened or Sidetracked pursuant to the provisions of Article VLB.2. of this agreement. Consent to the drilling,
16 Deepening or Sidetracking shall include:

17 Option No. 1: All necessary expenditures for the drilling, Deepening or Sidetracking, testing, Completing and
18 equipping of the well, including necessary tankage and/or surface facilities.

19 Option No. 2: All necessary expenditures for the drilling, Deepening or Sidetracking and testing of the well. When
20 such well has reached its authorized depth, and all logs, cores and other tests have been completed, and the results
21 thereof furnished to the parties, Operator shall give immediate notice to the Non-Operators having the right to
22 participate in a Completion attempt whether or not Operator recommends attempting to Complete the well,
23 together with Operator's AFE for Completion costs if not previously provided. The parties receiving such notice
24 shall have forty-eight (48) hours (exclusive of Saturday, Sunday and legal holidays) in which to elect by delivery of
25 notice to Operator to participate in a recommended Completion attempt or to make a Completion proposal with an
26 accompanying AFE. Operator shall deliver any such Completion proposal, or any Completion proposal conflicting
27 with Operator's proposal, to the other parties entitled to participate in such Completion in accordance with the
28 procedures specified in Article VLB.6. Election to participate in a Completion attempt shall include consent to all
29 necessary expenditures for the Completing and equipping of such well, including necessary tankage and/or surface
30 facilities but excluding any stimulation operation not contained on the Completion AFE. Failure of any party
31 receiving such notice to reply within the period above fixed shall constitute an election by that party not to
32 participate in the cost of the Completion attempt; provided, that Article VLB.6. shall control in the case of
33 conflicting Completion proposals. If one or more, but less than all of the parties, elect to attempt a Completion, the
34 provisions of Article VLB.2. hereof (the phrase "Reworking, Sidetracking, Deepening, Recompleting or Plugging
35 Back" as contained in Article VLB.2. shall be deemed to include "Completing") shall apply to the operations
36 thereafter conducted by less than all parties; provided, however, that Article VLB.2. shall apply separately to each
37 separate Completion or Recompletion attempt undertaken hereunder, and an election to become a Non-Consenting
38 Party as to one Completion or Recompletion attempt shall not prevent a party from becoming a Consenting Party
39 in subsequent Completion or Recompletion attempts regardless whether the Consenting Parties as to earlier
40 Completions or Recompletions have recouped their costs pursuant to Article VLB.2.; provided further, that any
41 recoupment of costs by a Consenting Party shall be made solely from the production attributable to the Zone in
42 which the Completion attempt is made. Election by a previous Non-Consenting Party to participate in a subsequent
43 Completion or Recompletion attempt shall require such party to pay its proportionate share of the cost of salvable
44 materials and equipment installed in the well pursuant to the previous Completion or Recompletion attempt,
45 insofar and only insofar as such materials and equipment benefit the Zone in which such party participates in a
46 Completion attempt.

47 2. Rework, Recomplete or Plug Back: No well shall be Reworked, Recompleted or Plugged Back except a well Reworked,
48 Recompleted, or Plugged Back pursuant to the provisions of Article VLB.2. of this agreement. Consent to the Reworking,
49 Recompleting or Plugging Back of a well shall include all necessary expenditures in conducting such operations and
50 Completing and equipping of said well, including necessary tankage and/or surface facilities.

51 D. Other Operations:

52 Operator shall not undertake any single project reasonably estimated to require an expenditure in excess of _____
53 Thirty Thousand Dollars (\$ 30,000.00) except in connection with the
54 drilling, Sidetracking, Reworking, Deepening, Completing, Recompleting or Plugging Back of a well that has been previously
55 authorized by or pursuant to this agreement; provided, however, that, in case of explosion, fire, flood or other sudden
56 emergency, whether of the same or different nature, Operator may take such steps and incur such expenses as in its opinion
57 are required to deal with the emergency to safeguard life and property but Operator, as promptly as possible, shall report the
58 emergency to the other parties. If Operator prepares an AFE for its own use, Operator shall furnish any Non-Operator so
59 requesting an information copy thereof for any single project costing in excess of Twenty five Thousand Dollars
60 (\$ 25,000.00). Any party who has not relinquished its interest in a well shall have the right to propose that
61 Operator perform repair work or undertake the installation of artificial lift equipment or ancillary production facilities such as
62 salt water disposal wells or to conduct additional work with respect to a well drilled hereunder or other similar project (but
63 not including the installation of gathering lines or other transportation or marketing facilities, the installation of which shall
64 be governed by separate agreement between the parties) reasonably estimated to require an expenditure in excess of the
65 amount first set forth above in this Article VLD. (except in connection with an operation required to be proposed under
66 Articles VLB.1. or VLB.2. Option No. 2, which shall be governed exclusively by those Articles). Operator shall deliver such
67 proposal to all parties entitled to participate therein. If within thirty (30) days thereof Operator secures the written consent
68 of any party or parties owning at least 60 % of the interests of the parties entitled to participate in such operation,
69 each party having the right to participate in such project shall be bound by the terms of such proposal and shall be obligated
70 to pay its proportionate share of the costs of the proposed project as if it had consented to such project pursuant to the terms
71 of the proposal.

72 E. Abandonment of Wells:

73 1. Abandonment of Dry Holes: Except for any well drilled or Deepened pursuant to Article VLB.2. of this agreement and a well which has
74 been drilled or Deepened under the terms of this agreement and is proposed to be completed as a dry hole, shall not be
* or such well has been approved as an exception to the existing spacing
pattern for such zone by the appropriate regulatory agency.

1 plugged and abandoned without the consent of all parties. Should Operator, after diligent effort, be unable to contact any
 2 party, or should any party fail to reply within forty-eight (48) hours (exclusive of Saturday, Sunday and legal holidays) after
 3 delivery of notice of the proposal to plug and abandon such well, such party shall be deemed to have consented to the
 4 proposed abandonment. All such wells shall be plugged and abandoned in accordance with applicable regulations and at the
 5 cost, risk and expense of the parties who participated in the cost of drilling or Deepening such well. Any party who objects to
 6 plugging and abandoning such well by notice delivered to Operator within forty-eight (48) hours (exclusive of Saturday,
 7 Sunday and legal holidays) after delivery of notice of the proposed plugging shall take over the well as of the end of such
 8 forty-eight (48) hour notice period and conduct further operations in search of Oil and/or Gas subject to the provisions of
 9 Article VI.B.; failure of such party to provide proof reasonably satisfactory to Operator of its financial capability to conduct
 10 such operations or to take over the well within such period or thereafter to conduct operations on such well or plug and
 11 abandon such well shall entitle Operator to retain or take possession of the well and plug and abandon the well. The party
 12 taking over the well shall indemnify Operator (if Operator is an abandoning party) and the other abandoning parties against
 13 liability for any further operations conducted on such well except for the costs of plugging and abandoning the well and
 14 restoring the surface, for which the abandoning parties shall remain proportionately liable.

15 2. Abandonment of Wells That Have Produced: Except for any well in which a Non-Consent operation has been
 16 conducted hereunder for which the Consenting Parties have not been fully reimbursed as herein provided, any well which has
 17 been completed as a producer shall not be plugged and abandoned without the consent of all parties. If all parties consent to
 18 such abandonment, the well shall be plugged and abandoned in accordance with applicable regulations and at the cost, risk
 19 and expense of all the parties hereto. Failure of a party to reply within sixty (60) days of delivery of notice of proposed
 20 abandonment shall be deemed an election to consent to the proposal. If, within sixty (60) days after delivery of notice of the
 21 proposed abandonment of any well, all parties do not agree to the abandonment of such well, those wishing to continue its
 22 operation from the Zone then open to production shall be obligated to take over the well as of the expiration of the
 23 applicable notice period and shall indemnify Operator (if Operator is an abandoning party) and the other abandoning parties
 24 against liability for any further operations on the well conducted by such parties. Failure of such party or parties to provide
 25 proof reasonably satisfactory to Operator of their financial capability to conduct such operations or to take over the well
 26 within the required period or thereafter to conduct operations on such well shall entitle Operator to retain or take possession
 27 of such well and plug and abandon the well.

28 Parties taking over a well as provided herein shall tender to each of the other parties its proportionate share of the value of
 29 the well's salvable material and equipment, determined in accordance with the provisions of Exhibit "C," less the estimated cost
 30 of salvaging and the estimated cost of plugging and abandoning and restoring the surface; provided, however, that in the event
 31 the estimated plugging and abandoning and surface restoration costs and the estimated cost of salvaging are higher than the
 32 value of the well's salvable material and equipment, each of the abandoning parties shall tender to the parties continuing
 33 operations their proportionate shares of the estimated excess cost. Each abandoning party shall assign to the non-abandoning
 34 parties, without warranty, express or implied, as to title or as to quantity, or fitness for use of the equipment and material, all
 35 of its interest in the wellbore of the well and related equipment, together with its interest in the Leasehold insofar and only
 36 insofar as such Leasehold covers the right to obtain production from that wellbore in the Zone then open to production. If the
 37 interest of the abandoning party is or includes an Oil and Gas Interest, such party shall execute and deliver to the non-
 38 abandoning party or parties an oil and gas lease, limited to the wellbore and the Zone then open to production, for a term of
 39 one (1) year and so long thereafter as Oil and/or Gas is produced from the Zone covered thereby, such lease to be on the form
 40 attached as Exhibit "B." The assignments or leases so limited shall encompass the Drilling Unit upon which the well is located.
 41 The payments by, and the assignments or leases to, the assignees shall be in a ratio based upon the relationship of their
 42 respective percentage of participation in the Contract Area to the aggregate of the percentages of participation in the Contract
 43 Area of all assignees. There shall be no readjustment of interests in the remaining portions of the Contract Area.

44 Thereafter, abandoning parties shall have no further responsibility, liability, or interest in the operation of or production
 45 from the well in the Zone then open other than the royalties retained in any lease made under the terms of this Article. Upon
 46 request, Operator shall continue to operate the assigned well for the account of the non-abandoning parties at the rates and
 47 charges contemplated by this agreement, plus any additional cost and charges which may arise as the result of the separate
 48 ownership of the assigned well. Upon proposed abandonment of the producing Zone assigned or leased, the assignor or lessor
 49 shall then have the option to repurchase its prior interest in the well (using the same valuation formula) and participate in
 50 further operations therein subject to the provisions hereto.

51 3. Abandonment of Non-Consent Operations: The provisions of Article VI.B.1. or VI.B.2. above shall be applicable as
 52 between Consenting Parties in the event of the proposed abandonment of any well excepted from said Articles; provided,
 53 however, no well shall be permanently plugged and abandoned unless and until all parties having the right to conduct further
 54 operations therein have been notified of the proposed abandonment and afforded the opportunity to elect to take over the well
 55 in accordance with the provisions of this Article VI.B.; and provided further, that Non-Consenting Parties who own an interest
 56 in a portion of the well shall pay their proportionate shares of abandonment and surface restoration costs for such well as
 57 provided in Article VI.B.2.(b).

58 **F. Termination of Operations:**

59 Upon the commencement of an operation for the drilling, Reworking, Sidetracking, Plugging Back, Deepening, testing,
 60 Completion or plugging of a well, including but not limited to the Initial Well, such operation shall not be terminated without
 61 consent of parties bearing 85 % of the costs of such operation; provided, however, that in the event granted for other
 62 practically impenetrable substance or condition in the hole is encountered which renders further operations impractical,
 63 Operator may discontinue operations and give notice of such condition in the manner provided in Article VI.B.1. and the
 64 provisions of Article VI.B. or VI.B. shall thereafter apply to such operation, as appropriate.

65 **G. Taking Production in Kind:**

66 **X1 Option No. 1: Gas Balancing Agreement Attached**

67 Each party shall take in kind or separately dispose of its proportionate share of all Oil and Gas produced from the
 68 Contract Area, exclusive of production which may be used in development and producing operations and in plugging and
 69 treating Oil and Gas for marketing purposes and production unavoidably lost. Any extra expenditure incurred in the taking
 70 in kind or separate disposition by any party of its proportionate share of the production shall be borne by such party. Any
 71 party taking its share of production in kind shall be required to pay for only its proportionate share of the cost of
 72 Operator's surface facilities which it uses.

73 Each party shall execute such division orders and contracts as may be necessary for the sale of its interest in
 74 production from the Contract Area, and, except as provided in Article VI.B., shall be entitled to receive payment

1 directly from the purchaser thereof for its share of all production.

2 If any party fails to make the arrangements necessary to take in kind or separately dispose of its proportionate
 3 share of the Oil produced from the Contract Area, Operator shall have the right, subject to the revocation at will by
 4 the party owning it, but not the obligation, to purchase such Oil or sell it to others at any time and from time to
 5 time, for the account of the non-taking party. Any such purchase or sale by Operator may be terminated by
 6 Operator upon at least ten (10) days written notice to the owner of said production and shall be subject always to
 7 the right of the owner of the production upon at least ten (10) days written notice to Operator to exercise at any
 8 time its right to take in kind, or separately dispose of, its share of all Oil not previously delivered to a purchaser.
 9 Any purchase or sale by Operator of any other party's share of Oil shall be only for such reasonable periods of time
 10 as are consistent with the minimum needs of the industry under the particular circumstances, but in no event for a
 11 period in excess of one (1) year.

12 Any such sale by Operator shall be in a manner commercially reasonable under the circumstances but Operator
 13 shall have no duty to share any existing market or to obtain a price equal to that received under any existing
 14 market. The sale or delivery by Operator of a non-taking party's share of Oil under the terms of any existing
 15 contract of Operator shall not give the non-taking party any interest in or make the non-taking party a party to said
 16 contract. No purchase shall be made by Operator without first giving the non-taking party at least ten (10) days
 17 written notice of such intended purchase and the price to be paid or the pricing basis to be used.

18 All parties shall give timely written notice to Operator of their Gas marketing arrangements for the following
 19 month, excluding price, and shall notify Operator immediately in the event of a change in such arrangements.
 20 Operator shall maintain records of all marketing arrangements, and of volumes actually sold or transported, which
 21 records shall be made available to Non-Operators upon reasonable request.

22 In the event one or more parties' separate disposition of its share of the Gas causes split-stream deliveries to separate
 23 pipelines and/or deliveries which on a day-to-day basis for any reason are not exactly equal to a party's respective proportion-
 24 ate share of total Gas sales to be allocated to it, the balancing or accounting between the parties shall be in accordance with
 25 any Gas balancing agreement between the parties herein, whether such an agreement is attached as Exhibit "E" or is a
 26 separate agreement. Operator shall give notice to all parties of the first sales of Gas from any well under this agreement.

27 **Option No. 2: No Gas Balancing Agreement:**

28 Each party shall take in kind or separately dispose of its proportionate share of all Oil and Gas produced from
 29 the Contract Area, exclusive of production which may be used in development and producing operations and in
 30 preparing and treating Oil and Gas for marketing purposes and production unavoidably lost. Any extra expenditure
 31 incurred in the taking in kind or separate disposition by any party of its proportionate share of the production shall
 32 be borne by such party. Any party taking its share of production in kind shall be required to pay for only its
 33 proportionate share of such part of Operator's surface facilities which it uses.

34 Each party shall execute such division orders and contracts as may be necessary for the sale of its interest in
 35 production from the Contract Area, and, except as provided in Article VII.B., shall be entitled to receive payment
 36 directly from the purchaser thereof for its share of all production.

37 If any party fails to make the arrangements necessary to take in kind or separately dispose of its proportionate
 38 share of the Oil and/or Gas produced from the Contract Area, Operator shall have the right, subject to the
 39 revocation at will by the party owning it, but not the obligation, to purchase such Oil and/or Gas or sell it to others
 40 at any time and from time to time, for the account of the non-taking party. Any such purchase or sale by Operator
 41 may be terminated by Operator upon at least ten (10) days written notice to the owner of said production and shall
 42 be subject always to the right of the owner of the production upon at least ten (10) days written notice to Operator
 43 to exercise its right to take in kind, or separately dispose of, its share of all Oil and/or Gas not previously delivered
 44 to a purchaser; provided, however, that the effective date of any such revocation may be deferred at Operator's
 45 election for a period not to exceed ninety (90) days if Operator has committed such production to a purchase
 46 contract having a term extending beyond such ten (10) -day period. Any purchase or sale by Operator of any other
 47 party's share of Oil and/or Gas shall be only for such reasonable periods of time as are consistent with the
 48 minimum needs of the industry under the particular circumstances, but in no event for a period in excess of one (1)
 49 year.

50 Any such sale by Operator shall be in a manner commercially reasonable under the circumstances, but Operator
 51 shall have no duty to share any existing market or transportation arrangement or to obtain a price or transportation
 52 fee equal to that received under any existing market or transportation arrangement. The sale or delivery by
 53 Operator of a non-taking party's share of production under the terms of any existing contract of Operator shall not
 54 give the non-taking party any interest in or make the non-taking party a party to said contract. No purchase of Oil
 55 and Gas and no sale of Gas shall be made by Operator without first giving the non-taking party ten days written
 56 notice of such intended purchase or sale and the price to be paid or the pricing basis to be used. Operator shall give
 57 notice to all parties of the first sale of Gas from any well under this Agreement.

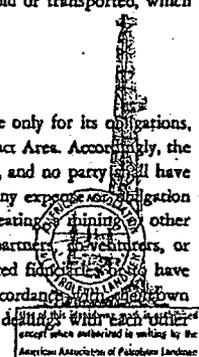
58 All parties shall give timely written notice to Operator of their Gas marketing arrangements for the following
 59 month, excluding price, and shall notify Operator immediately in the event of a change in such arrangements.
 60 Operator shall maintain records of all marketing arrangements, and of volumes actually sold or transported, which
 61 records shall be made available to Non-Operators upon reasonable request.

62 **ARTICLE VII.**

63 **EXPENDITURES AND LIABILITY OF PARTIES**

64 **A. Liability of Parties:**

65 The liability of the parties shall be several, not joint or collective. Each party shall be responsible only for its obligations,
 66 and shall be liable only for its proportionate share of the costs of developing and operating the Contract Area. Accordingly, the
 67 liens granted among the parties in Article VII.B. are given to secure only the debts of each severally, and no party shall have
 68 any liability to third parties hereunder to satisfy the default of any other party in the payment of any expenses or obligations
 69 hereunder. It is not the intention of the parties to create, nor shall this agreement be construed as creating, (including) other
 70 partnership, joint venture, agency relationship or association, or to render the parties liable as partners, joint venturers, or
 71 principals. In their relations with each other under this agreement, the parties shall not be considered firm partners, joint
 72 established a confidential relationship but rather shall be free to act on an arm's-length basis in accordance with their own
 73 respective self-interest, subject, however, to the obligation of the parties to act in good faith in their dealings with each other
 74 with respect to activities hereunder.



1 **B. Liens and Security Interests:**

2 Each party grants to the other parties hereto a lien upon any interest it now owns or hereafter acquires in Oil and Gas
 3 Leases and Oil and Gas Interests in the Contract Area, and a security interest and/or purchase money security interest in any
 4 interest it now owns or hereafter acquires in the personal property and fixtures on or used or obtained for use in connection
 5 therewith, to secure performance of all of its obligations under this agreement including but not limited to payment of expense,
 6 interest and fees, the proper disbursement of all monies paid hereunder, the assignment or relinquishment of interest in Oil
 7 and Gas Leases as required hereunder, and the proper performance of operations hereunder. Such lien and security interest
 8 granted by each party hereto shall include such party's leasehold interests, working interests, operating rights, and royalty and
 9 overriding royalty interests in the Contract Area now owned or hereafter acquired and in lands pooled or unitized therewith or
 10 otherwise becoming subject to this agreement, the Oil and Gas when extracted therefrom and equipment situated thereon or
 11 used or obtained for use in connection therewith (including, without limitation, all wells, tools, and tubular goods), and accounts
 12 (including, without limitation, accounts arising from gas imbalances or from the sale of Oil and/or Gas at the wellhead),
 13 contract rights, inventory and general intangibles relating thereto or arising therefrom, and all proceeds and products of the
 14 foregoing.

15 To perfect the lien and security agreement provided herein, each party hereto shall execute and acknowledge the recording
 16 supplement and/or any financing statement prepared and submitted by any party hereto in conjunction herewith or at any time
 17 following execution hereof, and Operator is authorized to file this agreement or the recording supplement executed herewith as
 18 a lien or mortgage in the applicable real estate records and as a financing statement with the proper officer under the Uniform
 19 Commercial Code in the state in which the Contract Area is situated and such other states as Operator shall deem appropriate
 20 to perfect the security interest granted hereunder. Any party may file this agreement, the recording supplement executed
 21 herewith, or such other documents as it deems necessary as a lien or mortgage in the applicable real estate records and/or a
 22 financing statement with the proper officer under the Uniform Commercial Code.

23 Each party represents and warrants to the other parties hereto that the lien and security interest granted by such party to
 24 the other parties shall be a first and prior lien, and each party hereby agrees to maintain the priority of said lien and security
 25 interest against all persons acquiring an interest in Oil and Gas Leases and Interests covered by this agreement by, through or
 26 under such party. All parties acquiring an interest in Oil and Gas Leases and Oil and Gas Interests covered by this agreement,
 27 whether by assignment, merger, mortgage, operation of law, or otherwise, shall be deemed to have taken subject
 28 to the lien and security interest granted by this Article VII.B. as to all obligations attributable to such interest hereunder
 29 whether or not such obligations arise before or after such interest is acquired.

30 To the extent that parties have a security interest under the Uniform Commercial Code of the state in which the
 31 Contract Area is situated, they shall be entitled to exercise the rights and remedies of a secured party under the Code.
 32 The bringing of a suit and the obtaining of judgment by a party for the secured indebtedness shall not be deemed an
 33 election of remedies or otherwise affect the lien rights or security interest as security for the payment thereof. In
 34 addition, upon default by any party in the payment of its share of expenses, interests or fees, or upon the improper use
 35 of funds by the Operator, the other parties shall have the right, without prejudice to other rights or remedies, to collect
 36 from the purchaser the proceeds from the sale of such defaulting party's share of Oil and Gas until the amount owed by
 37 such party, plus interest as provided in "Exhibit C," has been received, and shall have the right to offset the amount
 38 owed against the proceeds from the sale of such defaulting party's share of Oil and Gas. All purchasers of production
 39 may rely on a notification of default from the non-defaulting party or parties stating the amount due as a result of the
 40 default, and all parties waive any recourse available against purchasers for releasing production proceeds as provided in
 41 this paragraph.

42 If any party fails to pay its share of cost within one hundred twenty (120) days after rendition of a statement therefor by
 43 Operator, the non-defaulting parties, including Operator, shall, upon request by Operator, pay the unpaid amount in the
 44 proportion that the interest of each such party bears to the interest of all such parties. The amount paid by each party so
 45 paying its share of the unpaid amount shall be secured by the liens and security rights described in Article VII.B., and each
 46 paying party may independently pursue any remedy available hereunder or otherwise.

47 If any party does not perform all of its obligations hereunder, and the failure to perform subjects such party to foreclosure
 48 or execution proceedings pursuant to the provisions of this agreement, to the extent allowed by governing law, the defaulting
 49 party waives any available right of redemption from and after the date of judgment, any required valuation or appraisalment
 50 of the mortgaged or secured property prior to sale, any available right to stay execution or to require a marshalling of assets
 51 and any required bond in the event a receiver is appointed. In addition, to the extent permitted by applicable law, each party
 52 hereby grants to the other parties a security of sale as to any property that is subject to the lien and security rights granted
 53 hereunder, such power to be exercised in the manner provided by applicable law or otherwise in a commercially reasonable
 54 manner and upon reasonable notice.

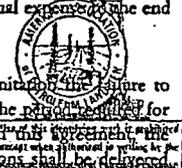
55 Each party agrees that the other parties shall be entitled to utilize the provisions of Oil and Gas lien law or other lien
 56 law of any state in which the Contract Area is situated to enforce the obligations of each party hereunder. Without limiting
 57 the generality of the foregoing, to the extent permitted by applicable law, Non-Operators agree that Operator may invoke or
 58 utilize the mechanics' or materialmen's lien law of the state in which the Contract Area is situated in order to secure the
 59 payment to Operator of any sum due hereunder for services performed or materials supplied by Operator.

60 **C. Advances:**

61 Operator, at its election, shall have the right from time to time to demand and receive from one or more of the other
 62 parties payment in advance of their respective shares of the estimated amount of the expense to be incurred in operations
 63 hereunder during the next succeeding month, which right may be exercised only by submission to each such party of an
 64 itemized statement of such estimated expense, together with an invoice for its share thereof. Each such statement and invoice
 65 for the payment in advance of estimated expense shall be submitted on or before the 20th day of the next preceding month.
 66 Each party shall pay to Operator its proportionate share of such estimate within fifteen (15) days after such estimate and
 67 invoice is received. If any party fails to pay its share of said estimate within said time, the amount due shall bear interest as
 68 provided in Exhibit "C" until paid. Proper adjustment shall be made monthly between advances and actual expenses at the end
 69 that each party shall bear and pay its proportionate share of actual expenses incurred, and no more.

70 **D. Defaults and Remedies:**

71 If any party fails to discharge any financial obligation under this agreement, including without limitation the obligation to
 72 make any advance under the preceding Article VII.C. or any other provision of this agreement, within the period specified for
 73 such payment hereunder, then in addition to the remedies provided in Article VII.B. or elsewhere in this agreement, the
 74 remedies specified below shall be applicable. For purposes of this Article VII.D., all notices and elections shall be delivered



1 only by Operator, except that Operator shall deliver any such notice and election requested by a non-defaulting Non-Operator,
 2 and when Operator is the party in default, the applicable notices and elections can be delivered by any Non-Operator.
 3 Election of any one or more of the following remedies shall not preclude the subsequent use of any other remedy specified
 4 below or otherwise available to a non-defaulting party.

5 1. Suspension of Rights: Any party may deliver to the party in default a Notice of Default, which shall specify the default,
 6 specify the action to be taken to cure the default, and specify that failure to take such action will result in the exercise of one
 7 or more of the remedies provided in this Article. If the default is not cured within thirty (30) days of the delivery of such
 8 Notice of Default, all of the rights of the defaulting party granted by this agreement may upon notice be suspended until the
 9 default is cured, without prejudice to the right of the non-defaulting party or parties to continue to enforce the obligations of
 10 the defaulting party previously accrued or thereafter accruing under this agreement. If Operator is the party in default, the
 11 Non-Operators shall have in addition the right, by vote of Non-Operators owning a majority in interest in the Contract Area
 12 after excluding the voting interest of Operator, to appoint a new Operator effective immediately. The rights of a defaulting
 13 party that may be suspended hereunder at the election of the non-defaulting parties shall include, without limitation, the right
 14 to receive information as to any operation conducted hereunder during the period of such default, the right to elect to
 15 participate in an operation proposed under Article VLB. of this agreement, the right to participate in an operation being
 16 conducted under this agreement even if the party has previously elected to participate in such operation, and the right to
 17 receive proceeds of production from any well subject to this agreement.

18 2. Suit for Damages: Non-defaulting parties or Operator for the benefit of non-defaulting parties may sue (at joint
 19 account expense) to collect the amounts in default, plus interest accruing on the amounts recovered from the date of default
 20 until the date of collection at the rate specified in Exhibit "C" attached hereto. Nothing herein shall prevent any party from
 21 suing any defaulting party to collect consequential damages accruing to such party as a result of the default.

22 3. Deemed Non-Consent: The non-defaulting party may deliver a written Notice of Non-Consent Election to the
 23 defaulting party at any time after the expiration of the thirty-day cure period following delivery of the Notice of Default, in
 24 which event if the billing is for the drilling of a new well or the Plugging Back, Sidetracking, Reworking or Deepening of a
 25 well which is to be or has been plugged as a dry hole, or for the Completion or Recompletion of any well, the defaulting
 26 party will be conclusively deemed to have elected not to participate in the operation and to be a Non-Consenting Party with
 27 respect thereto under Article VLB. or VLC., as the case may be, to the extent of the costs unpaid by such party,
 28 notwithstanding any election to participate theretofore made. If election is made to proceed under this provision, then the
 29 non-defaulting parties may not elect to sue for the unpaid amount pursuant to Article VILD.2.

30 Until the delivery of such Notice of Non-Consent Election to the defaulting party, such party shall have the right to cure
 31 its default by paying its unpaid share of costs plus interest at the rate set forth in Exhibit "C," provided, however, such
 32 payment shall not prejudice the rights of the non-defaulting parties to pursue remedies for damages incurred by the non-
 33 defaulting parties as a result of the default. Any interest relinquished pursuant to this Article VILD.3. shall be offered to the
 34 non-defaulting parties in proportion to their interests, and the non-defaulting parties electing to participate in the ownership
 35 of such interest shall be required to contribute their shares of the defaulted amount upon their election to participate therein.

36 4. Advance Payment: If a default is not cured within thirty (30) days of the delivery of a Notice of Default, Operator, or
 37 Non-Operators if Operator is the defaulting party, may thereafter require advance payment from the defaulting
 38 party of such defaulting party's anticipated share of any item of expense for which Operator, or Non-Operators, as the case may
 39 be, would be entitled to reimbursement under any provision of this agreement, whether or not such expense was the subject of
 40 the previous default. Such right includes, but is not limited to, the right to require advance payment for the estimated costs of
 41 drilling a well or Completion of a well as to which an election to participate in drilling or Completion has been made. If the
 42 defaulting party fails to pay the required advance payment, the non-defaulting parties may pursue any of the remedies provided
 43 in this Article VILD. or any other default remedy provided elsewhere in this agreement. Any excess of funds advanced remaining
 44 when the operation is completed and all costs have been paid shall be promptly returned to the advancing party.

45 5. Costs and Attorneys' Fees. In the event any party is required to bring legal proceedings to enforce any financial
 46 obligation of a party hereunder, the prevailing party in such action shall be entitled to recover all court costs, costs of
 47 collection, and a reasonable attorney's fee, which the lien provided for herein shall also secure.

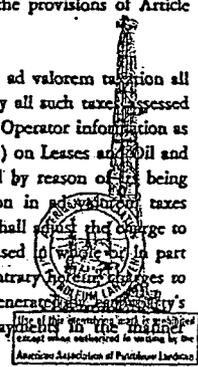
48 **E. Rentals, Shut-in Well Payments and Minimum Royalties:**

49 Rentals, shut-in well payments and minimum royalties which may be required under the terms of any lease shall be paid
 50 by Operator and charged to the joint account or its or their expense. In the event two or more parties
 51 own and have contributed interests in the same lease to this agreement, such parties may designate one of such parties to
 52 make said payments for and on behalf of all such parties. Any party may request, and shall be entitled to receive, proper
 53 evidence of all such payments. In the event of failure to make proper payment of any rental, shut-in well payment or
 54 minimum royalty through mistake or oversight where such payment is required to continue the lease in force, any loss which
 55 results from such non-payment shall be borne in accordance with the provisions of Article IV.B.2.

56 Operator shall notify Non-Operators of the anticipated completion of a shut-in well, or the shutting in or return to
 57 production of a producing well, at least five (5) days (excluding Saturday, Sunday and legal holidays) prior to taking such
 58 action, or at the earliest opportunity permitted by circumstances, but assumes no liability for failure to do so. In the event of
 59 failure by Operator to so notify Non-Operators, the loss of any lease contributed hereto by Non-Operators for failure to make
 60 timely payments of any shut-in well payment shall be borne jointly by the parties hereto under the provisions of Article
 61 IV.B.3.

62 **F. Taxes:**

63 Beginning with the first calendar year after the effective date hereof, Operator shall render for ad valorem taxation all
 64 property subject to this agreement which by law should be rendered for such taxes, and it shall pay all such taxes assessed
 65 thereon before they become delinquent. Prior to the rendition date, each Non-Operator shall furnish Operator information as
 66 to burdens (to include, but not be limited to, royalties, overriding royalties and production payments) on Leases and Oil and
 67 Gas Interests contributed by such Non-Operator. If the assessed valuation of any Lease is reduced by reason of being
 68 subject to outstanding excess royalties, overriding royalties or production payments, the reduction in ad valorem taxes
 69 resulting therefrom shall inure to the benefit of the owner or owners of such Lease, and Operator shall adjust the charge to
 70 such owner or owners so as to reflect the benefit of such reduction. If the ad valorem taxes are based in whole or in part
 71 upon separate valuations of each party's working interest, then notwithstanding anything to the contrary in any lease to
 72 the joint account shall be made and paid by the parties hereto in accordance with the tax value generated by each party's
 73 working interest. Operator shall bill the other parties for their proportionate shares of all tax payments in the manner
 74 provided in Exhibit "C."



1 If Operator considers any tax assessment improper, Operator may, at its discretion, protest within the time and manner
2 prescribed by law, and prosecute the protest to a final determination, unless all parties agree to abandon the protest prior to final
3 determination. During the pendency of administrative or judicial proceedings, Operator may elect to pay, under protest, all such taxes
4 and any interest and penalty. When any such protested assessment shall have been finally determined, Operator shall pay the tax for
5 the joint account, together with any interest and penalty accrued, and the total cost shall then be assessed against the parties, and be
6 paid by them, as provided in Exhibit "C."

7 Each party shall pay or cause to be paid all production, severance, excise, gathering and other taxes imposed upon or with respect
8 to the production or handling of such party's share of Oil and Gas produced under the terms of this agreement.

9 ARTICLE VIII.

10 ACQUISITION, MAINTENANCE OR TRANSFER OF INTEREST

11 A. Surrender of Leases:

12 The Leases covered by this agreement, insofar as they embrace acreage in the Contract Area, shall not be surrendered in whole
13 or in part unless all parties consent thereto.

14 However, should any party desire to surrender its interest in any Lease or in any portion thereof, such party shall give written
15 notice of the proposed surrender to all parties, and the parties to whom such notice is delivered shall have thirty (30) days after
16 delivery of the notice within which to notify the party proposing the surrender whether they elect to consent thereto. Failure of a
17 party to whom such notice is delivered to reply within said 30-day period shall constitute a consent to the surrender of the Leases
18 described in the notice. If all parties do not agree or consent thereto, the party desiring to surrender shall assign, without express or
19 implied warranty of title, all of its interest in such Lease, or portion thereof, and any well, material and equipment which may be
20 located thereon and any rights in production thereafter secured, to the parties not consenting to such surrender. If the interest of the
21 assigning party is or includes an Oil and Gas Interest, the assigning party shall execute and deliver to the party or parties not
22 consenting to such surrender an oil and gas lease covering such Oil and Gas Interest for a term of one (1) year and so long
23 thereafter as Oil and/or Gas is produced from the land covered thereby, such lease to be on the form attached hereto as Exhibit "B."
24 Upon such assignment or lease, the assigning party shall be relieved from all obligations thereafter accruing, but not theretofore
25 accrued, with respect to the interest assigned or leased and the operation of any well attributable thereto, and the assigning party
26 shall have no further interest in the assigned or leased premises and its equipment and production other than the royalties retained
27 in any lease made under the terms of this Article. The party assignee or lessee shall pay to the party assignor or lessor the
28 reasonable salvage value of the latter's interest in any well's salvable materials and equipment attributable to the assigned or leased
29 acreage. The value of all salvable materials and equipment shall be determined in accordance with the provisions of Exhibit "C," less
30 the estimated cost of salvaging and the estimated cost of plugging and abandoning and restoring the surface. If such value is less
31 than such costs, then the party assignor or lessor shall pay to the party assignee or lessee the amount of such deficit. If the
32 assignment or lease is in favor of more than one party, the interest shall be shared by such parties in the proportions that the
33 interest of each bears to the total interest of all such parties. If the interest of the parties to whom the assignment is to be made
34 varies according to depth, then the interest assigned shall similarly reflect such variances.

35 Any assignment, lease or surrender made under this provision shall not reduce or change the assignor's, lessor's or surrendering
36 party's interest as it was immediately before the assignment, lease or surrender in the balance of the Contract Area; and the acreage
37 assigned, leased or surrendered, and subsequent operations thereon, shall not thereafter be subject to the terms and provisions of this
38 agreement but shall be deemed subject to an Operating Agreement in the form of this agreement.

39 B. Renewal or Extension of Leases:

40 If any party secures a renewal or replacement of an Oil and Gas Lease or Interest subject to this agreement, then all other parties
41 shall be notified promptly upon such acquisition or, in the case of a replacement Lease taken before expiration of an existing Lease,
42 promptly upon expiration of the existing Lease. The parties notified shall have the right for a period of thirty (30) days following
43 delivery of such notice in which to elect to participate in the ownership of the renewal or replacement Lease, insofar as such Lease
44 affects lands within the Contract Area, by paying to the party who acquired its proportionate share of the acquisition cost
45 allocated to that part of such Lease within the Contract Area, which shall be in proportion to the interests held at that time by the
46 parties in the Contract Area. Each party who participates in the purchase of a renewal or replacement Lease shall be given an
47 assignment of its proportionate interest therein by the acquiring party.

48 If some, but less than all, of the parties elect to participate in the purchase of a renewal or replacement Lease, it shall be owned
49 by the parties who elect to participate therein, in a ratio based upon the relationship of their respective percentage of participation in
50 the Contract Area to the aggregate of the percentages of participation in the Contract Area of all parties participating in the
51 purchase of such renewal or replacement Lease. The acquisition of a renewal or replacement Lease by any or all of the parties hereto
52 shall not cause a readjustment of the interests of the parties stated in Exhibit "A," but any renewal or replacement Lease in which
53 less than all parties elect to participate shall not be subject to this agreement but shall be deemed subject to a separate Operating
54 Agreement in the form of this agreement.

55 If the interests of the parties in the Contract Area vary according to depth, then their right to participate proportionately in
56 renewal or replacement Leases and their right to receive an assignment of interest shall also reflect such depth variances.

57 The provisions of this Article shall apply to renewal or replacement Leases whether they are for the entire interest covered by
58 the expiring Lease or cover only a portion of its area or an interest therein. Any renewal or replacement Lease taken before the
59 expiration of its predecessor Lease, or taken or contracted for or becoming effective within six (6) months after the expiration of the
60 existing Lease, shall be subject to this provision so long as this agreement is in effect at the time of such acquisition or at the time
61 the renewal or replacement Lease becomes effective; but any Lease taken or contracted for more than six (6) months after the
62 expiration of an existing Lease shall not be deemed a renewal or replacement Lease and shall not be subject to the provisions of this
63 agreement.

64 The provisions in this Article shall also be applicable to extensions of Oil and Gas Leases.

65 C. Acreage or Cash Contributions:

66 While this agreement is in force, if any party contracts for a contribution of cash towards the drilling of a well or any other
67 operation on the Contract Area, such contribution shall be paid to the party who conducted the drilling or other operation and shall
68 be applied by it against the cost of such drilling or other operation. If the contribution be in the form of acreage, the party to whom
69 the contribution is made shall promptly tender an assignment of the acreage, without warranty of title, to the Drilling Parties in the
70 proportions said Drilling Parties shared the cost of drilling the well. Such acreage shall become a separate Contract Area and to the
71 extent possible, be governed by provisions identical to this agreement. Each party shall promptly notify all other parties of any
72 acreage or cash contributions it may obtain in support of any well or any other operation on the Contract Area. Above
73 provisions shall also be applicable to optional rights to earn acreage outside the Contract Area which are in support of well activities
74 inside the Contract Area.

Use of this document with amended
provisions authorized in writing by the
American Association of Petroleum Landmen

1 If any party contracts for any consideration relating to disposition of such party's share of substances produced hereunder,
 2 such consideration shall not be deemed a contribution as contemplated in this Article VIII.C.

3 **D. Assignment; Maintenance of Uniform Interest;**

4 For the purpose of maintaining uniformity of ownership in the Contract Area in the Oil and Gas Leases, Oil and Gas
 5 Interests, wells, equipment and production covered by this agreement no party shall sell, encumber, transfer or make other
 6 disposition of its interest in the Oil and Gas Leases and Oil and Gas Interests embraced within the Contract Area or in wells,
 7 equipment and production unless such disposition covers either:

- 8 1. the entire interest of the party in all Oil and Gas Leases, Oil and Gas Interests, wells, equipment and production; or
- 9 2. an equal undivided percent of the party's present interest in all Oil and Gas Leases, Oil and Gas Interests, wells,
 10 equipment and production in the Contract Area.

11 Every sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement
 12 and shall be made without prejudice to the right of the other parties, and any transferee of an ownership interest in any Oil and
 13 Gas Lease or Interest shall be deemed a party to this agreement as to the interest conveyed from and after the effective date of
 14 the transfer of ownership; provided, however, that the other parties shall not be required to recognize any such sale,
 15 encumbrance, transfer or other disposition for any purpose hereunder until thirty (30) days after they have received a copy of the
 16 instrument of transfer or other satisfactory evidence thereof in writing from the transferor or transferee. No assignment or other
 17 disposition of interest by a party shall relieve such party of obligations previously incurred by such party hereunder with respect
 18 to the interest transferred, including without limitation the obligation of a party to pay all costs attributable to an operation
 19 conducted hereunder in which such party has agreed to participate prior to making such assignment, and the lien and security
 20 interest granted by Article VII.B. shall continue to burden the interest transferred to secure payment of any such obligations.

21 If, at any time the interest of any party is divided among and owned by four or more co-owners, Operator, at its discretion,
 22 may require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures,
 23 receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to
 24 bind, the co-owners of such party's interest within the scope of the operations embraced in this agreement; however, all such co-
 25 owners shall have the right to enter into and execute all contracts or agreements for the disposition of their respective shares of
 26 the Oil and Gas produced from the Contract Area and they shall have the right to receive, separately, payment of the sale
 27 proceeds thereof.

28 **E. Waiver of Rights to Partition;**

29 If permitted by the laws of the state or states in which the property covered hereby is located, each party hereto owning an
 30 undivided interest in the Contract Area waives any and all rights it may have to partition and have set aside to it in severalty its
 31 undivided interest therein.

32 **F. Preferential Right to Purchase;**

33 (Optional; Check if applicable.)

34 Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Contract
 35 Area, it shall promptly give written notice to the other parties, with full information concerning its proposed disposition, which
 36 shall include the name and address of the prospective transferee (who must be ready, willing and able to purchase), the purchase
 37 price, a legal description sufficient to identify the property, and all other terms of the offer. The other parties shall then have an
 38 optional prior right, for a period of ten (10) days after the notice is delivered, to purchase for the stated consideration on the
 39 same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the
 40 purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all
 41 purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage
 42 its interests, or to transfer title to its interests to its mortgagee in lieu of or pursuant to foreclosure of a mortgage of its interests,
 43 or to dispose of its interests by merger, reorganization, consolidation, or by sale of all or substantially all of its Oil and Gas assets
 44 to any party, or by transfer of its interests to a subsidiary or parent company or to a subsidiary of a parent company, or to any
 45 company in which such party owns a majority of the stock.

46 **ARTICLE IX.**

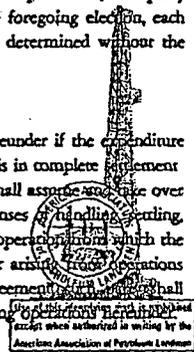
47 **INTERNAL REVENUE CODE ELECTION**

48 If, for federal income tax purposes, this agreement and the operations hereunder are regarded as a partnership, and if the
 49 parties have not otherwise agreed to form a tax partnership pursuant to Exhibit "G" or other agreement between them, each
 50 party hereby affected elects to be excluded from the application of all of the provisions of Subchapter "K," Chapter 1, Subtitle
 51 "A," of the Internal Revenue Code of 1986, as amended ("Code"), as permitted and authorized by Section 761 of the Code and
 52 the regulations promulgated thereunder. Operator is authorized and directed to execute on behalf of each party hereby affected
 53 such evidence of this election as may be required by the Secretary of the Treasury of the United States or the Federal Internal
 54 Revenue Service, including specifically, but not by way of limitation, all of the returns, statements, and the data required by
 55 Treasury Regulations §1.761. Should there be any requirement that each party hereby affected give further evidence of this
 56 election, each such party shall execute such documents and furnish such other evidence as may be required by the Federal Internal
 57 Revenue Service or as may be necessary to evidence this election. No such party shall give any notices or take any other action
 58 inconsistent with the election made hereby. If any present or future income tax laws of the state or states in which the Contract
 59 Area is located or any future income tax laws of the United States contain provisions similar to those in Subchapter "K," Chapter
 60 1, Subtitle "A," of the Code, under which an election similar to that provided by Section 761 of the Code is permitted, each party
 61 hereby affected shall make such election as may be permitted or required by such laws. In making the foregoing election, each
 62 such party states that the income derived by such party from operations hereunder can be adequately determined without the
 63 computation of partnership taxable income.

64 **ARTICLE X.**

65 **CLAIMS AND LAWSUITS**

66 Operator may settle any single uninsured third party damage claim or suit arising from operations hereunder if the expenditure
 67 does not exceed Ten thousand Dollars (\$ 10,000.00) and if the payment is in complete settlement
 68 of such claim or suit. If the amount required for settlement exceeds the above amount, the parties hereto shall assume and take over
 69 the further handling of the claim or suit, unless such authority is delegated to Operator. All costs and expenses incident to settling,
 70 or otherwise discharging such claim or suit shall be at the joint expense of the parties participating in the operations in which the
 71 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
 72 hereunder over which such individual has no control because of the rights given Operator by this agreement, such party shall
 73 immediately notify all other parties, and the claim or suite 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 indemnify or make money payments or furnish security, 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 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 or other act of nature, explosion, governmental action, governmental delay, restraint or injunction, 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. 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.

ARTICLE XII. NOTICES

All notices authorized or required between the parties by any of the provisions of this agreement, unless otherwise specifically provided, shall be in writing and delivered in person or by United States mail, courier service, telegram, telex, telecopier or any other form of facsimile, postage or charges prepaid, and addressed to such parties at the addresses listed on Exhibit "A." All telephone or oral notices permitted by this agreement shall be confirmed immediately thereafter by written notice. The originating notice given under any provision hereof shall be deemed delivered only when received by the party to whom such notice is directed, and the time for such party to deliver any notice in response thereto shall run from the date the originating notice is received. "Receipt" for purposes of this agreement with respect to written notice delivered hereunder shall be actual delivery of the notice to the address of the party to be notified specified in accordance with this agreement, or to the telecopy, facsimile or telex machine of such party. The second or any responsive notice shall be deemed delivered when deposited in the United States mail or at the office of the courier or telegraph service, or upon transmittal by telex, telecopy or facsimile, or when personally delivered to the party to be notified, provided, that when response is required within 24 or 48 hours, such response shall be given orally or by telephone, telex, telecopy or other facsimile within such period. 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. If a party is not available to receive notice orally or by telephone when a party attempts to deliver a notice required to be delivered within 24 or 48 hours, the notice may be delivered in writing by any other method specified herein and shall be deemed delivered in the same manner provided above for any responsive notice.

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.

[X] 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 the Completion of a well as a well capable of production of Oil and/or Gas in paying quantities, this agreement shall continue in force so long as any such well is capable of production, and for an additional period of _____ days thereafter; provided, however, if, prior to the expiration of such additional period, one or more of the parties hereto are engaged in drilling, Reworking, Deepening, Sidetracking, Plugging Back, testing or attempting to Complete or Re-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 capable of producing Oil and/or Gas from the Contract Area, this agreement shall terminate unless drilling, Deepening, Sidetracking, Completing, Re-completing, Plugging Back or Reworking operations are commenced within _____ days from the date of abandonment of said well. "Abandonment" for such purposes shall mean either (i) a decision by all parties not to conduct any further operations on the well or (ii) the elapse of 180 days from the conduct of any operations on the well, whichever first occurs.

The termination of this agreement shall not relieve any party hereto from any expense, liability or other obligation or any remedy therefor which has accrued or attached prior to the date of such termination.

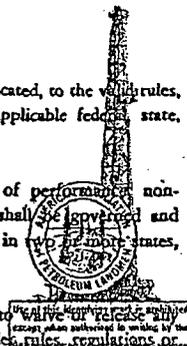
Upon termination of this agreement and the satisfaction of all obligations hereunder, in the event a memorandum of this Operating Agreement has been filed of record, Operator is authorized to file of record in all necessary recording offices a notice of termination, and each party hereto agrees to execute such a notice of termination as to Operator's interest, upon request of Operator, if Operator has satisfied all its financial obligations.

ARTICLE XIV. COMPLIANCE WITH LAWS AND REGULATIONS

A. Laws, Regulations and Orders: This agreement shall be subject to the applicable laws of the state in which the Contract Area is located, to the well rules, regulations, and orders of any duly constituted regulatory body of said state; and to all other applicable federal, state, and local laws, ordinances, rules, regulations and orders.

B. Governing Law: This agreement and all matters pertaining hereto, including but not limited to matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the law of the state in which the Contract Area is located. If the Contract Area is in two or more states, the law of the state of _____ shall govern.

C. Regulatory Agencies: Nothing herein contained shall grant, or be construed to grant, Operator the right or authority to exercise or release any rights, privileges, or obligations which Non-Operators may have under federal or state laws or under well rules, regulations, or orders.



1 orders promulgated under such laws in reference to oil, gas and mineral operations, including the location, operation, or
 2 production of wells, on tracts offsetting or adjacent to the Contract Area.
 3 With respect to the operations hereunder, Non-Operators agree to release Operator from any and all losses, damages,
 4 injuries, claims and causes of action arising out of, incident to or resulting directly or indirectly from Operator's interpretation
 5 or application of rules, rulings, regulations or orders of the Department of Energy or Federal Energy Regulatory Commission
 6 or predecessor or successor agencies to the extent such interpretation or application was made in good faith and does not
 7 constitute gross negligence. Each Non-Operator further agrees to reimburse Operator for such Non-Operator's share of
 8 production or any refund, fine, levy or other governmental sanction that Operator may be required to pay as a result of such
 9 an incorrect interpretation or application, together with interest and penalties thereon owing by Operator as a result of such
 10 incorrect interpretation or application.

11 **ARTICLE XV.**
 12 **MISCELLANEOUS**

13 **A. Execution:**

14 This agreement shall be binding upon each Non-Operator when this agreement or a counterpart thereof has been
 15 executed by such Non-Operator and Operator notwithstanding that this agreement is not then or thereafter executed by all of
 16 the parties to which it is tendered or which are listed on Exhibit "A" as owning an interest in the Contract Area or which
 17 own, in fact, an interest in the Contract Area. Operator may, however, by written notice to all Non-Operators who have
 18 become bound by this agreement as aforesaid, given at any time prior to the actual spud date of the Initial Well but in no
 19 event later than five days prior to the date specified in Article VI.A. for commencement of the Initial Well, terminate this
 20 agreement if Operator in its sole discretion determines that there is insufficient participation to justify commencement of
 21 drilling operations. In the event of such a termination by Operator, all further obligations of the parties hereunder shall cease
 22 as of such termination. In the event any Non-Operator has advanced or prepaid any share of drilling or other costs
 23 hereunder, all sums so advanced shall be returned to such Non-Operator without interest. In the event Operator proceeds
 24 with drilling operations for the Initial Well without the execution hereof by all persons listed on Exhibit "A" as having a
 25 current working interest in such well, Operator shall indemnify Non-Operators with respect to all costs incurred for the
 26 Initial Well which would have been charged to such person under this agreement if such person had executed the same and
 27 Operator shall receive all revenues which would have been received by such person under this agreement if such person had
 28 executed the same.

29 **B. Successors and Assigns:**

30 This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs,
 31 devisees, legal representatives, successors and assigns, and the terms hereof shall be deemed to run with the Leases or
 32 Interests included within the Contract Area.

33 **C. Counterparts:**

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

36 **D. Severability:**

37 For the purposes of assuming or rejecting this agreement as an executory contract pursuant to federal bankruptcy laws,
 38 this agreement shall not be severable, but rather must be assumed or rejected in its entirety, and the failure of any party to
 39 this agreement to comply with all of its financial obligations provided herein shall be a material default.

40 **ARTICLE XVI.**
 41 **OTHER PROVISIONS**

42 **A. SEISMIC OPERATIONS**

43 ~~Should the Operator or Non-Operators hereunder wish to propose seismic operations~~
 44 ~~on the Joint property, the party proposing the operation shall contact the other parties under this~~
 45 ~~Agreement in writing. The proposing party shall provide each party with the location and estimated~~
 46 ~~cost of the seismic line or lines, and shall request an election by each party either for or against the~~
 47 ~~operation. Should two or more parties to this Agreement which own a majority interest, based upon~~
 48 ~~ownership as set out in Exhibit "A" hereto, and inclusive of the proposing party, elect "for" the~~
 49 ~~proposed seismic operation, all parties shall be obligated to bear their proportionate share of the cost~~
 50 ~~of the seismic. Failure of any party to respond to a seismic proposal within 15 days from receipt~~
 51 ~~thereof shall be construed as a vote "for" the proposed operation.~~

52 **B. DESIGNATION OF BURDENS AGAINST WORKING INTEREST**

53 If any party hereto hereinafter should create an overriding royalty, production payment, or
 54 other burdens against its working interest production and if any other party or parties should conduct
 55 non-consent operations pursuant to any provisions of this agreement, and, as a result, become
 56 entitled to receive the working interest production otherwise belonging to the non-participating party,
 57 the party or parties entitled to receive the working interest production of the non-participating party
 58 shall receive such production free and clear of burdens against such production which may have
 59 been created subsequent to this agreement, and the non-participating party creating such
 60 subsequent burdens shall save the participating party or parties harmless with respect to this receipt
 61 of such working interest production.
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C. PRIORITY OF AND LIMITATIONS ON OPERATIONS

When a well which has been authorized under the terms of this Agreement as a vertical well shall have been drilled to the objective authorized in the AFE ("authorized depth"), and all test have been completed and the results thereof furnished to the participating parties, and after Operator has attempted in good faith to reach a mutual agreement with Non-Operator(s) regarding further operations but such parties cannot agree upon the sequence and timing of further operations regarding said well, the following proposals shall control in the order enumerated hereafter: (1) a proposal to do additional logging, sidewall coring, or testing; (2) a proposal to attempt to complete the well at the authorized depth in the manner set forth in the AFE (i.e., in accordance with the casing, stimulation and other completion programs set forth in the AFE); (3) a proposal to attempt to complete the well at the authorized depth in a manner different than as set forth in the AFE; (4) a proposal to plug back and attempt to complete the well at a depth shallower than the authorized depth, with priority given to objectives in ascending order up the hole; (5) a proposal to drill the well to a depth below the authorized depth, with priority given to objectives in descending order; (6) a proposal to sidetrack the well to a new target objective for a vertical or deviated hole, with priority given first in ascending order to targets above the authorized depth; and then in descending order to targets below the authorized depth; and (7) a proposal to drill a first to a lateral drain hole at the authorized depth, and then to objectives in ascending order above the authorized depth, and then to objectives in descending order below the authorized depth.

If at the time the parties are considering a proposed operation, the well is in such condition, in the Operator's judgement, that a reasonably prudent operator would not conduct such operation for fear of mechanical difficulties, placing the hole, equipment or personnel in danger of loss or injury, or fear of loss of the well for any reason without being able to attempt a completion at the authorized depth, then the proposal shall be given no priority to any proposed operation except for plugging and abandoning the well.

D. SUBSEQUENTLY CREATED INTEREST

If any party has created an overriding royalty, production payment, net profits interest, assignment of production or other burden out of production attributable to its working interest hereunder in favor of an employee of such party at the time such burden was created, such burden shall be deemed a "Subsequently Created Interest" for the purposes of Article III.C. hereunder notwithstanding the fact that such burden is shown on Exhibit "A" or was divulged to the other parties hereto by other means.

E. INSURANCE ELECTION

Non-Operator may be excluded from Operator's coverage described in Exhibit "D" only after furnishing:

- A. Express written election to be excluded; and
- B. Insurance Certificate reflecting current and adequate coverage for its participation interest or notice of its self-insurance program for those portions of the coverages not reflected on the Certificate of Insurance.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1989

1 IN WITNESS WHEREOF, this agreement shall be effective as of the 26th day of January, 1998.

3 ATTEST OR WITNESS:

OPERATOR

4 PENWELL ENERGY, INC.

5 By [Signature] m

6 Steven R. Foy
7 Type or print name

8 Title Vice President

9 Date February 16, 1998

10 Tax ID or S.S. No. 75-2223190

11

12 NON-OPERATORS

13

14 NEARBURG EXPLORATION COMPANY, L.L.C.

15 By [Signature]

16 Robert G. Shelton
17 Type or print name

18 Title Attorney-in-Fact

19 Date

20 Tax ID or S.S. No. 75-2626152

21

22

23 By

24 Type or print name

26 Title

27 Date

28 Tax ID or S.S. No.

29

30 By

31 Type or print name

33 Title

34 Date

35 Tax ID or S.S. No.

36

37



ACKNOWLEDGMENTS

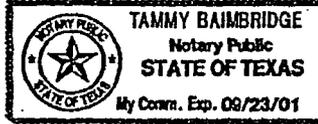
THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

The foregoing instrument was acknowledged before me on this 16th day of February, 1998, by Steven R. Foy, as Vice President of Penwell Energy, Inc., a Texas corporation, on behalf of said corporation.

Tammy Baimbridge

Notary Public, State of Texas

My Commission Expires:
9/23/01



THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

The foregoing instrument was acknowledged before me on this the 26th day of January, 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.

Kaye H. Gassie

Notary Public, State of Texas

My Commission Expires:

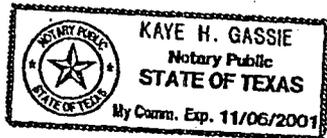


EXHIBIT "A"

ATTACHED TO AND MADE A PART OF THAT CERTAIN OPERATING AGREEMENT DATED THE 26TH DAY OF JANUARY, 1998, BY AND BETWEEN PENWELL ENERGY, INC., AS OPERATOR, AND NEARBURG EXPLORATION COMPANY, L.L.C., AS NON-OPERATOR

I. Identification of Lands Subject to this Agreement:

W/2 of Section 10 and all of Section 11, T-16-S, R-28-E, Eddy County, New Mexico

II. Restrictions as to Depths or Formations:

This Agreement is limited in depth from the surface of the earth to the base of the Morrow formation.

III. Percentages of Parties to this Agreement:

Penwell Energy, Inc.	43.75%
Nearburg Exploration Company, L.L.C.	<u>56.25%</u>
	100.00%

IV. Oil and Gas Leases Subject to this Agreement:

- 1) Lease Name: NM 97128
Lessor: United States of America
Original Lessee: Penwell Energy, Inc.
Lease Date: 09/01/96
Description: Insofar and only insofar as lease covers the SW/4 of Section 10 and NE/4NE/4, W/2NE/4, and NW/4 of Section 11, T-16-S, R-28-E, Eddy County, New Mexico
- 2) Lease Name: VO-5148
Lessor: The State of New Mexico
Original Lessee: Penwell Energy, Inc.
Lease Date: 09/01/97
Description: SE/4NE/4 and SE/4 of Section 11, T-16-S, R-28-E, Eddy County, New Mexico
- 3) Lease Name: NM 95630
Lessor: United States of America
Original Lessee: Doug Schutz
Lease Date: 08/01/95
Description: Insofar and only insofar as lease covers the N/2SW/4 and SE/4SW/4 of Section 11, and the NW/4 of Section 10, T-16-S, R-28-E, Eddy County, New Mexico

V. Addresses of Parties to this Agreement:

Penwell Energy, Inc.
600 North Marienfeld, Suite 1100
Midland, Texas 79701

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

NO EXHIBIT "B"

EXHIBIT " C "

1 Attached to and made a part of that certain Joint Operating Agreement dated January 26, 1998, by
2 and between PENWELL ENERGY, INC., as Operator, and NEARBURG EXPLORATION COMPANY, L.L.C.,
3 as Non-Operator

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8 ACCOUNTING PROCEDURE
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10 JOINT OPERATIONS

11 I. GENERAL PROVISIONS

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14 1. Definitions

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

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

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

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

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

23 "Parties" shall mean Operator and Non-Operators.

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

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

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

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

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

34
35
36 2. Statement and Billings

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

42
43
44 3. Advances and Payments by Non-Operators

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

49 B. Each Non-Operator shall pay its proportion of all bills within fifteen (15) days after receipt. If payment is not made
50 within such time, the unpaid balance shall bear interest monthly at the prime rate in effect at _____
51 _____
52 _____
53 _____ on the first day of the month in which delinquency occurs plus 2% or the
54 maximum contract rate permitted by the applicable usury laws in the state in which the Joint Property is located,
55 whichever is the lesser, plus attorney's fees, court costs, and other costs in connection with the collection of unpaid
56 amounts.

57
58 4. Adjustments

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

5. Audits

- A. A Non-Operator, upon notice in writing to Operator and all other Non-Operators, shall have the right to audit Operator's accounts and records relating to the Joint Account for any calendar year within the twenty-four (24) month period following the end of such calendar year; provided, however, the making of an audit shall not extend the time for the taking of written exception to and the adjustments of accounts as provided for in Paragraph 4 of this Section I. Where there are two or more Non-Operators, the Non-Operators shall make every reasonable effort to conduct a joint audit in a manner which will result in a minimum of inconvenience to the Operator. Operator shall bear no portion of the Non-Operators' audit cost incurred under this paragraph unless agreed to by the Operator. The audits shall not be conducted more than once each year without prior approval of Operator, except upon the resignation or removal of the Operator, and shall be made at the expense of those Non-Operators approving such audit.
- B. The Operator shall reply in writing to an audit report within 180 days after receipt of such report.

6. Approval By Non-Operators

Where an approval or other agreement of the Parties or Non-Operators is expressly required under other sections of this Accounting Procedure and if the agreement to which this Accounting Procedure is attached contains no contrary provisions in regard thereto, Operator shall notify all Non-Operators of the Operator's proposal, and the agreement or approval of a majority in interest of the Non-Operators shall be controlling on all Non-Operators.

II. DIRECT CHARGES

Operator shall charge the Joint Account with the following items:

1. Ecological and Environmental

Costs incurred for the benefit of the Joint Property as a result of governmental or regulatory requirements to satisfy environmental considerations applicable to the Joint Operations. Such costs may include surveys of an ecological or archaeological nature and pollution control procedures as required by applicable laws and regulations.

2. Rentals and Royalties

Lease rentals and royalties paid by Operator for the Joint Operations.

3. Labor

- A. (1) Salaries and wages of Operator's field employees directly employed on the Joint Property in the conduct of Joint Operations.
- (2) Salaries of First Level Supervisors in the field.
- (3) Salaries and wages of Technical Employees directly employed on the Joint Property if such charges are excluded from the overhead rates.
- (4) Salaries and wages of Technical Employees either temporarily or permanently assigned to and directly employed in the operation of the Joint Property if such charges are excluded from the overhead rates.
- B. Operator's cost of holiday, vacation, sickness and disability benefits and other customary allowances paid to employees whose salaries and wages are chargeable to the Joint Account under Paragraph 3A of this Section II. Such costs under this Paragraph 3B may be charged on a "when and as paid basis" or by "percentage assessment" on the amount of salaries and wages chargeable to the Joint Account under Paragraph 3A of this Section II. If percentage assessment is used, the rate shall be based on the Operator's cost experience.
- C. Expenditures or contributions made pursuant to assessments imposed by governmental authority which are applicable to Operator's costs chargeable to the Joint Account under Paragraphs 3A and 3B of this Section II.
- D. Personal Expenses of these employees whose salaries and wages are chargeable to the Joint Account under Paragraph 3A of this Section II, excluding moving or relocation expenses.

4. Employee Benefits

Operator's current costs of established plans for employees' group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonus, and other benefit plans of a like nature, applicable to Operator's labor cost chargeable to the Joint Account under Paragraphs 3A and 3B of this Section II shall be Operator's actual cost not to exceed the percent most recently recommended by the Council of Petroleum Accountants Societies.

5. Material

Material purchased or furnished by Operator for use on the Joint Property as provided under Section IV. Only such Material shall be purchased for or transferred to the Joint Property as may be required for immediate use and is reasonably practical and consistent with efficient and economical operations. The accumulation of surplus stocks shall be avoided.

6. Transportation

Transportation of employees and Material necessary for the Joint Operations but subject to the following limitations:

- A. If Material is moved to the Joint Property from the Operator's warehouse or other properties, no charge shall be made to the Joint Account for a distance greater than the distance from the nearest reliable supply store where like material is normally available or railway receiving point nearest the Joint Property unless agreed to by the Parties.

- B. If surplus Material is moved to Operator's warehouse or other storage point, no charge shall be made to the Joint Account for a distance greater than the distance to the nearest reliable supply store where like material is normally available, or railway receiving point nearest the Joint Property unless agreed to by the Parties. No charge shall be made to the Joint Account for moving Material to other properties belonging to Operator, unless agreed to by the Parties.
- C. In the application of subparagraphs A and B above, the option to equalize or charge actual trucking cost is available when the actual charge is \$400 or less excluding accessorial charges. The \$400 will be adjusted to the amount most recently recommended by the Council of Petroleum Accountants Societies.

7. Services

The cost of contract services, equipment and utilities provided by outside sources, except services excluded by Paragraph 10 of Section II and Paragraph i, ii, and iii, of Section III. The cost of professional consultant services and contract services of technical personnel directly engaged on the Joint Property if such charges are excluded from the overhead rates. The cost of professional consultant services or contract services of technical personnel not directly engaged on the Joint Property shall not be charged to the Joint Account unless previously agreed to by the Parties.

8. Equipment and Facilities Furnished By Operator

- A. Operator shall charge the Joint Account for use of Operator owned equipment and facilities at rates commensurate with costs of ownership and operation. Such rates shall include costs of maintenance, repairs, other operating expense, insurance, taxes, depreciation, and interest on gross investment less accumulated depreciation not to exceed twelve percent (12%) per annum. Such rates shall not exceed average commercial rates currently prevailing in the immediate area of the Joint Property.
- B. In lieu of charges in paragraph 8A above, Operator may elect to use average commercial rates prevailing in the immediate area of the Joint Property less 20%. For automotive equipment, Operator may elect to use rates published by the Petroleum Motor Transport Association.

9. Damages and Losses to Joint Property

All costs or expenses necessary for the repair or replacement of Joint Property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other cause, except those resulting from Operator's gross negligence or willful misconduct. Operator shall furnish Non-Operator written notice of damages or losses incurred as soon as practicable after a report thereof has been received by Operator.

10. Legal Expense

Expense of handling, investigating and settling litigation or claims, discharging of liens, payment of judgements and amounts paid for settlement of claims incurred in or resulting from operations under the agreement or necessary to protect or recover the Joint Property, except that no charge for services of Operator's legal staff or fees or expense of outside attorneys shall be made unless previously agreed to by the Parties. All other legal expense is considered to be covered by the overhead provisions of Section III unless otherwise agreed to by the Parties, except as provided in Section I, Paragraph 3.

11. Taxes

All taxes of every kind and nature assessed or levied upon or in connection with the Joint Property, the operation thereof, or the production therefrom, and which taxes have been paid by the Operator for the benefit of the Parties. If the ad valorem taxes are based in whole or in part upon separate valuations of each party's working interest, then notwithstanding anything to the contrary herein, charges to the Joint Account shall be made and paid by the Parties hereto in accordance with the tax value generated by each party's working interest.

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:

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
 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:

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 \$ 4,530.00
(Prorated for less than a full month)

Producing Well Rate \$ 480.00

- (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 is later, except that no charge shall be made during suspension of drilling or completion operations for fifteen (15) or more consecutive calendar days.

(2) Charges for wells undergoing any type of workover or recompletion for a period of five (5) consecutive work days or more shall be made at the drilling well rate. Such charges shall be applied for the period from date workover operations, with rig or other units used in workover, commence through date of rig or other unit release, except that no charge shall be made during suspension of operations for fifteen (15) or more consecutive calendar days.

(b) Producing Well Rates

(1) An active well either produced or injected into for any portion of the month shall be considered as a one-well charge for the entire month.

(2) Each active completion in a multi-completed well in which production is not commingled down hole shall be considered as a one-well charge providing each completion is considered a separate well by the governing regulatory authority.

(3) An inactive gas well shut in because of overproduction or failure of purchaser to take the production shall be considered as a one-well charge providing the gas well is directly connected to a permanent sales outlet.

(4) A one-well charge shall be made for the month in which plugging and abandonment operations are completed on any well. This one-well charge shall be made whether or not the well has produced except when drilling well rate applies.

(5) All other inactive wells (including but not limited to inactive wells covered by unit allowable, lease allowable, transferred allowable, etc.) shall not qualify for an overhead charge.

- (3) The well rates shall be adjusted as of the first day of April each year following the effective date of the agreement to which this Accounting Procedure is attached. The adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the calendar year preceding as shown by the index of average weekly earnings of Crude Petroleum and Gas Production Workers as published by the United States Department of Labor, Bureau of Labor Statistics, or the equivalent Canadian index as published by Statistics Canada, as applicable. The adjusted rates shall be the rates currently in use, plus or minus the computed adjustment.

~~B. Overhead - Percentage Basis~~

- ~~(1) Operator shall charge the Joint Account at the following rates:~~

~~(a) Development~~

~~_____ Percent (_____ %) of the cost of development of the Joint Property exclusive of costs provided under Paragraph 10 of Section II and all salvage credits.~~

~~(b) Operating~~

~~_____ Percent (_____ %) of the cost of operating the Joint Property exclusive of costs provided under Paragraphs 2 and 10 of Section II, all salvage credits, the value of injected substances purchased for secondary recovery and all taxes and assessments which are levied, assessed and paid upon the mineral interest in and to the Joint Property.~~

~~(2) Application of Overhead - Percentage Basis shall be as follows:~~

~~For the purpose of determining charges on a percentage basis under Paragraph 15 of this Section III, development shall include all costs in connection with drilling, re-drilling, deepening, or any remedial operations on any or all wells involving the use of drilling rig and crew capable of drilling to the producing interval on the Joint Property; also, preliminary expenditures necessary in preparation for drilling and expenditures incurred in abandoning when the well is not completed as a producer, and original cost of construction or installation of fixed assets, the expansion of fixed assets and any other project clearly discernible as a fixed asset, except Major Construction as defined in Paragraph 3 of this Section III. All other costs shall be considered as operating.~~

2. Overhead - Major Construction

To compensate Operator for overhead costs incurred in the construction and installation of fixed assets, the expansion of fixed assets, and any other project clearly discernible as a fixed asset required for the development and operation of the Joint Property, Operator shall either negotiate a rate prior to the beginning of construction, or shall charge the Joint Account for overhead based on the following rates for any Major Construction project in excess of \$25,000.00:

- A. 5 % of first \$100,000 or total cost if less, plus
- B. 3 % of costs in excess of \$100,000 but less than \$1,000,000, plus
- C. 2 % of costs in excess of \$1,000,000.

Total cost shall mean the gross cost of any one project. For the purpose of this paragraph, the component parts of a single project shall not be treated separately and the cost of drilling and workover wells and artificial lift equipment shall be excluded.

3. Catastrophe Overhead

To compensate Operator for overhead costs incurred in the event of expenditures resulting from a single occurrence due to oil spill, blowout, explosion, fire, storm, hurricane, or other catastrophes as agreed to by the Parties, which are necessary to restore the Joint Property to the equivalent condition that existed prior to the event causing the expenditures, Operator shall either negotiate a rate prior to charging the Joint Account or shall charge the Joint Account for overhead based on the following rates:

- A. _____ % of total costs through \$100,000 plus
- B. _____ % of total costs in excess of \$100,000 but less than \$1,000,000; plus
- C. _____ % of total costs in excess of \$1,000,000.

Expenditures subject to the overheads above will not be reduced by insurance recoveries, and no other overhead provisions of this Section III shall apply.

4. Amendment of Rates

The overhead rates provided for in this Section III may be amended from time to time only by mutual agreement between the Parties hereto if, in practice, the rates are found to be insufficient or excessive.

IV. PRICING OF JOINT ACCOUNT MATERIAL PURCHASES, TRANSFERS AND DISPOSITIONS

Operator is responsible for Joint Account Material and shall make proper and timely charges and credits for all Material movements affecting the Joint Property. Operator shall provide all Material for use on the Joint Property; however, at Operator's option, such Material may be supplied by the Non-Operator. Operator shall make timely disposition of idle and/or surplus Material, such disposal being made either through sale to Operator or Non-Operator, division in kind, or sale to outsiders. Operator may purchase, but shall be under no obligation to purchase, interest of Non-Operators in surplus condition A or B Material. The disposal of surplus Controllable Material not purchased by the Operator shall be agreed to by the Parties.

1. Purchases

Material purchased shall be charged at the price paid by Operator after deduction of all discounts received. In case of Material found to be defective or returned to vendor for any other reasons, credit shall be passed to the Joint Account when adjustment has been received by the Operator.

however Operator shall not be required to take discounts

2. Transfers and Dispositions

Material furnished to the Joint Property and Material transferred from the Joint Property or disposed of by the Operator, unless otherwise agreed to by the Parties, shall be priced on the following basis exclusive of cash discounts:

A. New Material (Condition A)

~~(1) Tubular Goods Other than Line Pipe~~

- ~~(a) Tubular goods, sized 2 1/4 inches OD and larger, except line pipe, shall be priced at Eastern mill published carload base prices effective as of date of movement plus transportation cost using the 80,000 pound carload weight basis to the railway receiving point nearest the Joint Property for which published rail rates for tubular goods exist. If the 80,000 pound rail rate is not offered, the 70,000 pound or 90,000 pound rail rate may be used. Freight charges for tubing will be calculated from Lorain, Ohio and casing from Youngstown, Ohio.~~
- ~~(b) For grades which are special to one mill only, prices shall be computed at the mill base of that mill plus transportation cost from that mill to the railway receiving point nearest the Joint Property as provided above in Paragraph 2.A.(1)(a). For transportation cost from points other than Eastern mills, the 30,000 pound Oil Field Haulers Association Interstate truck rate shall be used.~~
- ~~(c) Special and finish tubular goods shall be priced at the lowest published out-of-stock price, f.o.b. Houston, Texas, plus transportation cost, using Oil Field Haulers Association Interstate 30,000 pound truck rate, to the railway receiving point nearest the Joint Property.~~
- ~~(d) Macaroni tubing (size less than 2 1/4 inch OD) shall be priced at the lowest published out-of-stock prices f.o.b. the supplier plus transportation costs, using the Oil Field Haulers Association Interstate truck rate per weight of tubing transferred, to the railway receiving point nearest the Joint Property.~~

(2) Line Pipe

- (a) Line pipe movements (except size 24 inch OD and larger with walls 3/4 inch and over) 80,000 pounds or more shall be priced under provisions of tubular goods pricing in Paragraph A.(1)(a) as provided above. Freight charges shall be calculated from Lorain, Ohio.
 - (b) Line pipe movements (except size 24 inch OD and larger with walls 3/4 inch and over) less than 30,000 pounds shall be priced at Eastern mill published carload base prices effective as of date of shipment, plus 20 percent, plus transportation costs based on freight rates as set forth under provisions of tubular goods pricing in Paragraph A.(1)(a) as provided above. Freight charges shall be calculated from Lorain, Ohio.
 - (c) Line pipe 24 inch OD and over and 3/4 inch wall and larger shall be priced f.o.b. the point of manufacture at current new published prices plus transportation cost to the railway receiving point nearest the Joint Property.
 - (d) Line pipe, including fabricated line pipe, drive pipe and conduit not listed on published price lists shall be priced at quoted prices plus freight to the railway receiving point nearest the Joint Property or at prices agreed to by the Parties.
- (3) Other Material shall be priced at the current new price, in effect at date of movement, as listed by a reliable supply store nearest the Joint Property, or point of manufacture, plus transportation costs, if applicable, to the railway receiving point nearest the Joint Property.
- (4) Unused new Material, ^{including} except tubular goods, moved from the Joint Property shall be priced at the current new price, in effect on date of movement, as listed by a reliable supply store nearest the Joint Property, or point of manufacture, plus transportation costs, if applicable, to the railway receiving point nearest the Joint Property. ~~Unused new tubulars will be priced as provided above in Paragraph 2.A.(1) and (2).~~

B. Good Used Material (Condition B)

Material in sound and serviceable condition and suitable for reuse without reconditioning:

(1) Material moved to the Joint Property

At seventy-five percent (75%) of current new price, as determined by Paragraph A.

(2) Material used on and moved from the Joint Property

(a) At seventy-five percent (75%) of current new price, as determined by Paragraph A, if Material was originally charged to the Joint Account as new Material or

(b) At sixty-five percent (65%) of current new price, as determined by Paragraph A, if Material was originally charged to the Joint Account as used Material.

(3) Material not used on and moved from the Joint Property

At seventy-five percent (75%) of current new price as determined by Paragraph A.

The cost of reconditioning, if any, shall be absorbed by the transferring property.

C. Other Used Material

(1) Condition C

Material which is not in sound and serviceable condition and not suitable for its original function until after reconditioning shall be priced at fifty percent (50%) of current new price as determined by Paragraph A. The cost of reconditioning shall be charged to the receiving property, provided Condition C value plus cost of reconditioning does not exceed Condition B value.



(2) Condition D

Material, excluding junk, no longer suitable for its original purpose, but usable for some other purpose shall be priced on a basis commensurate with its use. Operator may dispose of Condition D Material under procedures normally used by Operator without prior approval of Non-Operators.

- (a) Casing, tubing, or drill pipe used as line pipe shall be priced as Grade A and B seamless line pipe of comparable size and weight. Used casing, tubing or drill pipe utilized as line pipe shall be priced at used line pipe prices.
- (b) Casing, tubing or drill pipe used as higher pressure service lines than standard line pipe, e.g. power oil lines, shall be priced under normal pricing procedures for casing, tubing, or drill pipe. Upset tubular goods shall be priced on a non upset basis.

(3) Condition E

Junk shall be priced at prevailing prices. Operator may dispose of Condition E Material under procedures normally utilized by Operator without prior approval of Non-Operators.

D. Obsolete Material

Material which is serviceable and usable for its original function but condition and/or value of such Material is not equivalent to that which would justify a price as provided above may be specially priced as agreed to by the Parties. Such price should result in the Joint Account being charged with the value of the service rendered by such Material.

E. Pricing Conditions

- (1) Loading or unloading costs may be charged to the Joint Account at the rate of ~~twenty five cents (25¢) per hundred weight~~ ^{Operators actual cost} on all tubular goods movements, in lieu of actual loading or unloading costs sustained at the stocking point. The above rate shall be adjusted as of the first day of April each year following January 1, 1985 by the same percentage increase or decrease used to adjust overhead rates in Section III, Paragraph 1.A(3). Each year, the rate calculated shall be rounded to the nearest cent and shall be the rate in effect until the first day of April next year. ~~Such rate shall be published each year by the Council of Petroleum Accountants Societies.~~
- (2) Material involving erection costs shall be charged at applicable percentage of the current knocked-down price of new Material.

3. Premium Prices

Whenever Material is not readily obtainable at published or listed prices because of national emergencies, strikes or other unusual causes over which the Operator has no control, the Operator may charge the Joint Account for the required Material at the Operator's actual cost incurred in providing such Material, in making it suitable for use, and in moving it to the Joint Property; provided notice in writing is furnished to Non-Operators of the proposed charge prior to billing Non-Operators for such Material. Each Non-Operator shall have the right, by so electing and notifying Operator within ten days after receiving notice from Operator, to furnish in kind all or part of his share of such Material suitable for use and acceptable to Operator.

4. Warranty of Material Furnished By Operator

Operator does not warrant the Material furnished. In case of defective Material, credit shall not be passed to the Joint Account until adjustment has been received by Operator from the manufacturers or their agents.

V. INVENTORIES

The Operator shall maintain detailed records of Controllable Material.

1. Periodic Inventories, Notice and Representation

At reasonable intervals, inventories shall be taken by Operator of the Joint Account Controllable Material. Written notice of intention to take inventory shall be given by Operator at least thirty (30) days before any inventory is to begin so that Non-Operators may be represented when any inventory is taken. Failure of Non-Operators to be represented at an inventory shall bind Non-Operators to accept the inventory taken by Operator.

2. Reconciliation and Adjustment of Inventories

Adjustments to the Joint Account resulting from the reconciliation of a physical inventory shall be made within six months following the taking of the inventory. Inventory adjustments shall be made by Operator to the Joint Account for overages and shortages, but, Operator shall be held accountable only for shortages due to lack of reasonable diligence.

3. Special Inventories

Special inventories may be taken whenever there is any sale, change of interest, or change of Operator in the Joint Property. It shall be the duty of the party selling to notify all other Parties as quickly as possible after the transfer of interest takes place. In such cases, both the seller and the purchaser shall be governed by such inventory. In cases involving a change of Operator, all Parties shall be governed by such inventory.

4. Expense of Conducting Inventories

- A. The expense of conducting periodic inventories shall not be charged to the Joint Account unless agreed to by the Parties.
- B. The expense of conducting special inventories shall be charged to the Parties requesting such inventories, except inventories required due to change of Operator shall be charged to the Joint Account.

Exhibit "E"

ATTACHED TO THAT CERTAIN OPERATING AGREEMENT
DATED JANUARY 26, 1998 BY AND BETWEEN
PENWELL ENERGY, INC., AS OPERATOR, AND
NEARBURG EXPLORATION COMPANY, L.L.C., AS NON-OPERATOR

GAS BALANCING AGREEMENT

1. Ownership of Gas Production

(a) It is the intent of the parties that each party shall have the right to take in kind and separately dispose of its proportionate share of gas (including casinghead gas) produced from each formation in each well located on acreage ("Contract Area") covered by the Operating Agreement to which this Exhibit is attached ("Operating Agreement").

(b) Operator shall control the gas production and be responsible for administering the provisions of this Agreement and shall make reasonable efforts to deliver or cause to be delivered gas to the parties' gas purchasers as may be required in order to balance the accounts of the parties in accordance with the provisions herein contained. For purposes of this Agreement, Operator shall maintain production accounts of the parties based upon the number of MMBtu's actually contained in the gas produced from a particular formation in a well and delivered at the outlet of lease equipment for each party's account regardless of whether sales of such gas are made on a wet or dry basis. All references in this Agreement to quantity or volume shall refer to the number of MMBtu's contained in the gas stream. Toward this end, Operator shall periodically determine or cause to be determined the Btu content of gas produced from each formation in each well on a consistent basis and under standard conditions pursuant to any method customarily used in the industry.

2. Balancing of Production Accounts

(a) Any time a party, or such party's purchaser is not taking or marketing its full share of gas produced from a particular formation in a well ("non-marketing" party), the remaining parties ("marketing" parties) shall have the right, but not the obligation, to produce, take, sell and deliver for such marketing parties' accounts, in addition to the full share of gas to which the marketing parties are otherwise entitled, all or any portion of the gas attributable to a non-marketing party. (Gas attributable to a non-marketing party, taken by a marketing party, is referred to in this Agreement as "overproduction"). If there is more than one marketing party taking gas attributable to a non-marketing party, each marketing party shall be entitled to take a non-marketing party's gas in the ratio that such marketing party's interest in production bears to the total interest in production of all marketing parties.

(b) A party that has not taken its proportionate share of gas produced from any formation in a well ("Underproduced Party") shall be credited with gas in storage equal to its share of gas produced but not taken, less its share of gas used in lease operations, vented or lost ("underproduction"). Such Underproduced Party, upon giving timely written notice to Operator, shall be entitled, on a monthly basis beginning the month following receipt of notice, to produce, take, sell and deliver. In addition to the full share of gas to which such party is otherwise entitled, a quantity of gas ("make-up gas") equal to fifty percent (50%) of the total share of gas attributable to all parties having cumulative over production (individually called "Overproduced Party"). Such make-up gas shall be credited against such Underproduced Party's accrued underproduction in order of accrual. Notwithstanding the foregoing and subject to subsection (e) below; (i) an Overproduced Party shall never be obligated to reduce its takes to less than fifty percent (50%) of the quantity to which such party is otherwise entitled and (ii) an Underproduced Party shall never be allowed to make up underproduction during the months of December, January, February, and March.

(c) If there is more than one Underproduced Party desiring make-up gas, each such Underproduced Party shall be entitled to make-up gas in the ratio that such party's interest in production bears to the total interest in production of all parties then desiring make-up gas. Any portion of the make-up gas to which an Underproduced Party is entitled and which is not taken by such Underproduced Party may be taken by any other Underproduced Party(ies).

(d) If there is more than one Overproduced Party required to furnish make-up gas, each such Overproduced Party shall furnish make-up gas in the ratio that such party's interest in production bears to the total interest in production of all parties then required to furnish make-up gas. Except as provided in (e) below, each Overproduced Party in any formation in a well shall be entitled, on a monthly basis, to take its full share of gas less its share of the make-up gas then being produced from the particular formation in the well in which it is overproduced.

(e) If Operator in good faith believes that an Overproduced Party has recovered one hundred percent (100%) of such Overproduced Party's share of the recoverable reserves from a particular formation in a well, such Overproduced Party, upon being notified in writing of such fact by Operator, shall cease taking gas from such formation in such well and the remaining parties shall be entitled to take one hundred percent (100%) of such production until the accounts of the parties are balanced. Thereafter, such Overproduced Party shall again have the right to take its share of the remaining production, if any, in accordance with the provisions herein contained. Notwithstanding anything to the contrary herein, after an Overproduced Party has recovered one hundred percent (100%) of its full share of the recoverable reserves as so determined by Operator from a particular formation in a well, such Overproduced Party may continue to produce if such continued production is (i) necessary for lease maintenance purposes, or (ii) permitted by a majority of interest of the parties who have not produced one hundred percent (100%) of their recoverable reserves from such formation in such well after written ballot conducted by Operator.

3. **Cash Balancing Upon Interim Imbalances or Upon Deletion**
- (a) On January 15th and July 15th of each Calendar Year Underproduced Party may give notice that he desires cash balancing for any Underproduced volumes. This notice and request to cash balance shall constitute an "Interim Accounting".
- (b) If gas production from a particular formation in a well ceases and no attempt is made to restore production (or substitute therefor) within sixty (60) days, Operator shall distribute, within ninety (90) days of the date the well last produced gas from such formation, a statement of net unrecovered underproduction and overproduction and the months and years in which such unrecovered produced accrued ("Final Accounting").
- (c) Within thirty (30) days of receipt of either Final Accounting or an Interim Accounting, each Overproduced Party shall remit to Operator for disbursement to the Underproduced Parties, a sum of money (which sum shall not include interest) equal to the amount actually received or constructively received under subparagraph (e) below, by Overproduced Party for sales during the month(s) of overproduction, calculated in order of accrual but less applicable taxes, royalties and reasonable costs of marketing and transporting such gas actually paid by such Overproduced Party. Such remittance shall be based on number of MMBtu's of overproduction and shall be accompanied by a statement showing volumes and prices for each month with accrued unrecovered overproduction.
- (d) Within thirty (30) days of receipt of any such remittance by Operator from an Overproduced Party, Operator shall disburse such funds to the Underproduced Party(ies) in accordance with the final accounting. Operator assumes no liability with respect to any such payment (unless such payment is attributable to Operator's overproduction), it being the intent of the parties that each Overproduced Party shall be solely responsible for reimbursing each Underproduced Party for such Underproduced Party's respective share of overproduction taken by such Overproduced Party in accordance with the provisions herein contained. If any party fails to pay any sum due under the terms hereof after demand therefor by the Operator, the Operator may turn responsibility for the collection of such sum to the party or parties to whom it is owed, and Operator shall have no further responsibility for collection.
- (e) In determining the amount of overproduction for which settlement is due, production taken during any month by an Underproduced Party in excess of such Underproduced Party's share shall be treated as make-up and shall be applied to reduce prior deficits in the order of accrual of such deficits.
- (f) An Overproduced Party that took gas in kind for its own use, sold gas to an affiliate, or otherwise disposed of gas in other than a cash sale shall pay for such gas at market value at the time it was produced, even if the Overproduced Party sold such gas to an affiliate at a price greater or lesser than market value.
- (g) If refunds are later required by any governmental authority, each party shall be accountable for its respective share of such refunds as finally balanced hereunder.
4. **Deliverability Tests**
- At the request of any party, Operator may produce the entire well stream for a deliverability test not to exceed seventy-two (72) hours in duration (or such longer period of time as may be mutually agreed upon by the parties) if required under such requesting party's gas sales or transportation contract.
5. **Nominations**
- Each party shall, on a monthly basis, give Operator sufficient time and data either to nominate such party's respective share of gas to the transporting pipeline(s) or, if Operator is not nominating such party's gas, to inform Operator of the manner in which to dispatch such party's gas. Except as and to the extent caused by Operator's gross negligence or willful misconduct, Operator shall not be responsible for any fees and/or penalties associated with imbalances charged by any pipeline to any Underproduced or Overproduced Party(ies).
6. **Statements**
- On or before the twenty-fifth (25th) day of the month following the month of production, each party taking gas shall furnish or cause to be furnished to Operator a statement of gas taken expressed in terms of MMBtu's. If actual volume information sufficient to prepare such statement is not made available to the taking party in sufficient time to prepare it, such taking party shall nevertheless furnish a statement of its good faith estimate of volumes taken. Within twenty (20) days of the receipt of all such statements, Operator shall furnish to each party a statement of the gas balance among the parties, including the total quantity of gas produced from each formation in each well, the portion thereof used in operations, vented or lost, and the total quantity delivered for each party's account. Any error or discrepancy in Operator's monthly statement shall be promptly reported to Operator and Operator shall make a proper adjustment thereof within thirty (30) days after final determination of the correct quantities involved; provided, however, that if no errors or discrepancies are reported to Operator within two (2) years from the date of any statement, such statement shall be conclusively deemed to be correct. Additionally, within thirty (30) days from the end of each calendar year, non-operators shall furnish to Operator, for the sole purpose of establishing records sufficient to verify cash balancing values, a statement reflecting amounts actually received or constructively received under paragraph 3(c), on a monthly basis for the calendar year preceding the immediately concluded calendar year. Operator shall not allow a party to produce gas for its account during any month when such party is delinquent in so furnishing the monthly or annual statements.
7. **Payments of Taxes**
- Each party taking gas shall pay or cause to be paid any and all production, severance, utility, sales, excise, or other taxes due on such gas.
8. **Operating Expenses**
- The operating expenses are to be borne as provided in the Operating Agreement, regardless of whether all parties are selling or using gas or whether the sales and use of each are in proportion to their respective interests in such gas.

9. **Overproducing Allowable**
Each party shall give Operator sufficient time and data to enable Operator to make appropriate nominations, forecasts and/or filings with the regulatory bodies having jurisdiction to establish allowances. Each party shall at all times regulate its takes and deliveries from the Contract Area so that the well(s) covered hereby shall not be curtailed and/or shut-in for overproducing the allowable production assigned thereto by the regulatory body having jurisdiction.
10. **Payment of Leasehold Burdens**
At all times while gas is produced from the Contract Area, each party agrees to make appropriate settlement of all royalties, overriding royalties and other payments out of or in lieu of production for which such party is responsible just as if such party were taking or delivering to a purchaser such party's full share, and such party's full share only, of such gas production exclusive of gas used in operations, vented or lost, and each party agrees to indemnify and hold each other party harmless from any and all claims relating thereto.
11. **Application of Agreement**
The provisions of this Agreement shall be separately applicable and shall constitute a separate agreement with respect to gas produce from each formation in each well located on the Contract Area.
12. **Term**
This Agreement shall terminate when gas production under the Operating Agreement permanently ceases and the accounts of the parties are finally settled in accordance with the provisions herein contained.
13. **Operator's Liability**
Except as otherwise provided herein, Operator is authorized to administer the provisions of this Agreement, but shall suffer no liability to the other parties for losses sustained or liability incurred which arise out of or in connection with the performance of Operator's duties hereunder except such as may result from Operator's gross negligence or willful misconduct.
14. **Audits**
Any Underproduced Party shall have the right for a period of two (2) years after receipt of payment pursuant to a final accounting and after giving written notice to all parties, to audit an Overproduced Party's accounts and records relating to such payment. Any Overproduced Party shall have the right for a period of two (2) years after tender of payment for unrecovered volumes and upon giving written notice to all parties, to audit an Underproduced Party's records as to volumes. The party conducting such audit shall bear its costs of the audit. Additionally, Operator shall have the right for a period of two (2) years after receipt of an annual statement from a non-operator under paragraph 6 after giving written notice to the affected non-operator to audit such non-operator accounts and records relating to such payment. Costs of such audit shall be borne by the joint account.
15. **Successors and Assigns**
The terms, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties and to their respective successors and assigns, and may be assigned in whole or in part from time to time; provided, however, that (a) any such assignments shall be made subject to this Agreement and as among the parties shall not be valid without the express written acceptance of the terms of this Agreement by the Assignee, (b) the Assignee shall acquire such interest subject to any overproduction and/or underproduction imbalances existing at such time as well as any cash balancing obligation created thereby and (c) no such assignments shall relieve the Assignor from any obligation to the other parties with respect to any overproduction taken by Assignor prior to such assignment.
16. **Liquefiable Hydrocarbons Not Covered Under Agreement**
The parties shall share proportionately in and own all liquid hydrocarbons recovered with the gas by lease equipment in accordance with their respective interests.
17. **Conflict**
If there is a conflict between the terms of this Agreement and the terms of any gas sales contract covering the Contract Area entered into by any party, the terms of this Agreement shall govern.
18. **Arbitration**
Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award may be entered in any Court having jurisdiction thereof. The arbitrator shall not award punitive damages in settlement of any controversy or claim.

EXHIBIT "F"

ATTACHED TO AND MADE A PART OF THE OPERATING AGREEMENT DATED JANUARY 26, 1998,
BY AND BETWEEN PENWELL ENERGY, INC., AS OPERATOR, AND
NEARBURG EXPLORATION COMPANY, L.L.C., AS NON-OPERATOR

NONDISCRIMINATION AND CERTIFICATION OF NONSEGREGATED FACILITIES

A. Equal Opportunity Clause (41 CFR 60-1.4). (Applicable only to contracts or purchase orders for more than \$10,000.)

During the performance of this contract, the Operator agrees as follows:

- (1) The Operator will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Operator will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, including apprenticeship. The Operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Operator will, in all solicitations or advertisements for employees placed by or on behalf of the Operator, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The Operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers representative of the Operator's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Operator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Operator will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Operator's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Operator may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Operator will include the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of the Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Operator will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Operator becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Operator may request the United States to enter into such litigation to protect the interests of the United States.

B. Certification of Nonsegregated Facilities (41 CFR 60-1.8). (Applicable only to contracts or purchase orders which are not exempt from the provisions of the Equal Opportunity Clause set out above.)

The Operator certifies that it does not, and will not, maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not, and will not, permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Operator agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract or purchase order. As used in this certification, the term segregated facilities means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The Operator further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors.

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certificate of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

- C. Affirmative Action Compliance Program (41 CFR 60-1.40.) (Applicable only if (a) the Operator has 50 or more employees and (b) the contract or purchase order is for \$50,000 or more.)

The Operator shall develop a written affirmative action program for each of its establishments, and within 120 days from the effectiveness of this contract or purchase order, shall maintain a copy of separate programs for each establishment, including evaluations of utilization of minority group personnel and the job classification tables, at each local office responsible for the personnel matters of such establishment.

- D. Employer Information Report (41 CFR 60-1.7.) (Applicable only if (a) the Operator has 50 or more employees, and (b) the Operator is not exempt (pursuant to section 60-1.5 of Title 41 of the Code of Federal Regulations) from the requirement for filing Employer Information Report EEO-1, and (c) the contract or purchase order is for \$50,000 or more.)

The Operator agrees to file with the appropriate Federal agency annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place.

- E. Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (41 CFR 60-250.) (Applicable only to contracts or purchase orders for \$10,000 or more.)

The affirmative action clause prescribed in section 60-250.4 of Title 41 of the Code of Federal Regulations is incorporated herein by reference (as permitted by section 60-250.22 of said Regulations) as if set out in full at this point. If the Operator (a) has 50 or more employees and (b) this contract or purchase order is for \$50,000 or more, then within 120 days from the effectiveness of this contract or purchase order, the Operator shall prepare and maintain an affirmative action program at each establishment which shall set forth the Operator's policies, practices and procedures in accordance with section 60-250.6 of said Regulations.

- F. Affirmative Action for Handicapped Workers (41 CFR 60-741.4.) (Applicable only to contracts or purchase orders for \$2,500 or more.)

The Affirmative Action Clause prescribed in section 60-741.4 of Title 41 of the Code of Federal Regulations is incorporated herein by reference (as permitted by section 60-741.22 of said Regulations) as if set out in full at this point. If the Operator (a) has 50 or more employees and (b) this contract or purchase order is for \$50,000 or more, then, within 120 days of the effectiveness of this contract or purchase order, the Operator shall prepare and maintain an affirmative action program at each establishment, which program shall set forth the Operator's policies, practices and procedures in accordance with section 60-741.6 of said Regulations.

- G. Utilization of Minority Business Enterprises (Federal Procurement Regulations 1-1.13.) (Applicable only to contracts or purchase orders which may exceed \$10,000.)

(1) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(2) The Operator agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term minority business enterprise means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

EXHIBIT "H"

ATTACHED TO AND MADE A PART OF THAT CERTAIN OPERATING AGREEMENT DATED THE 26TH DAY OF JANUARY, 1998, BY AND BETWEEN PENWELL ENERGY, INC., AS OPERATOR, AND NEARBURG EXPLORATION COMPANY, L.L.C., AS NON-OPERATOR

NEARBURG EXPLORATION COMPANY, L.L.C.
EXPLORATION AND PRODUCTION

WELL INFORMATION REQUIREMENTS

Well:
Location:
Operator:
Spacing Unit:

Operator agrees to furnish to Nearburg the information requested herein, to observe the requests made herein by Nearburg and to allow Nearburg the rights and privileges set forth below.

A. **DRILLING AND MUDLOGGER REPORTS:**

Daily drilling and mudlogger reports containing current depth and status, general summary, deviation surveys, mud properties, daily and cumulative costs, background gas and drilling break intervals in which a show is present with a description of show and the lithology containing the show. Daily well and mudlogger reports should be faxed daily by 9:00 a.m. CST and a weekly recap mailed/faxed to the following:

NEARBURG EXPLORATION COMPANY, L.L.C.
(Drilling and Mudlogger Reports)
3300 N. "A" Street, Building 2, Suite 120
Midland, Texas 79705
Attn.: Jerry Elger
FAX: (915)-686-7806

B. **WELL DATA**

The following listed data should be mailed as follows:

NEARBURG EXPLORATION COMPANY, L.L.C.
3300 N. "A" Street, Building 2, Suite 120
Midland, Texas 79705
Attn.: Ken Billings

NEARBURG PRODUCING COMPANY
P.O. Box 823085
Dallas, Texas 75382-3085
Attn.: Production Secretary

	<u>MIDLAND</u>	<u>DALLAS</u>
1. Copy of survey plats, permit to drill, and other regulatory forms and letters filed with any governmental agencies.	1	1
2. Copy of the drilling and completion procedures 48 hours prior to commencement of operation.	1	1
3. Copy of daily mud logs.	1	1
4. Copies of the final mud log.	3	2
5. Copies of the field prints of all logs run in the well.	3	1
6. Copies of the final composite prints of all logs run in well.	3	2
7. Copy of film of the final composite prints of all logs run in well.	1	
8. Copy well log customer diskette 3½" LAS format.	1	1

	<u>MIDLAND</u>	<u>DALLAS</u>
9. One initial and final copy of any DST, coring, sample analysis, formation fluid analysis, or test reports on the well.	2	1
10. Well history at completion of the well.	1	1
11. Copy of the bit record and mud recap.	1	
12. One copy of Operator's State Production Report (monthly)	1	1
13. One sample cut of all samples collected by mudlog crew.	1	
14. One (1) complete slabbed section of whole core ("chips" from those portions removed for special analysis).		
15. One (1) copy of all title opinions and curative instruments covering the proration or spacing unit for the well should be sent to:		

NEARBURG EXPLORATION COMPANY, L.L.C.
3300 N. "A", Building 2, Suite 120
Midland, Texas 79705
Attn.: Bob Shelton

NEARBURG PRODUCING COMPANY
P. O. Box 823085
Dallas, Texas 75382-3085
Attn.: Kathie Craft

C. NOTIFICATION:

1. Nearburg Producing Company should receive 24-hour notice of the following events: spudding, wireline logging, open hole testing, coring, or plugging of the well. Notification should be by phone to one of the following in the order listed:

<u>NAME</u>	<u>OFFICE</u>	<u>HOME</u>	<u>PAGE</u>
Jerry Elger (Geology)	(915) 686-8235	(915) 687-0344	(800) 405-5160
Cap Homing (Geology)	(915) 686-8235	(915) 699-4131	(800) 585-4543
Scott Kimbrough (Drilling)	(915) 686-8235	(915) 687-4279	(800) 405-5173
Tim MacDonald (Engineering)	(214) 739-1778	(972) 390-8106	(888) 357-1884

2. If you anticipate a major decision (plugging, casing point, etc.) that involves Nearburg Exploration Company over a weekend or holiday, please notify Jerry Elger by phone (or one of the above in the order listed) during regular working hours so that arrangements can be made.

D. ACCESS TO LOCATION

Nearburg Producing Company and Nearburg Exploration Company, L.L.C., its employees, consultants, or agents, shall have full and free access to the drilling location to include the derrick floor AND mudlogging unit at all times, without notice, and all well operation and information obtained or conducted during the drilling, completing or producing life of any well to which Nearburg is entitled to receive such well information.

E. SPECIAL REQUIREMENTS FOR ADDITIONAL WELL INFORMATION

Nearburg Producing Company and Nearburg Exploration Company, L.L.C. reserve the right to run a velocity survey, acoustic surveys, or other well bore logs or tests including the Schlumberger hi-res density and FMI for spot ELAN analysis and DST(s) to its satisfaction if not run by the operator, or in the case where operator runs same, operator shall furnish to Nearburg all such information or surveys. In addition, Nearburg Exploration Company, L.L.C. may require operator to run a two-man mudlogging unit.

In the event that any of the requirements herein are unacceptable to the operator, please contact one of the undersigned at Nearburg Producing Company, Midland.

Cap Homing
Exploration Manager
Date: _____

Bob Shelton
Land Manager
Date: _____

EXHIBIT "I"

To that certain Operating Agreement dated January 26, 1998,
by and between PENWELL ENERGY, INC., as Operator, and
NEARBURG EXPLORATION COMPANY, L.L.C., ET AL, as Non-Operators.

**NOTICE OF JOINT OPERATING AGREEMENT, LIEN,
SECURITY INTERESTS AND FINANCING STATEMENT**

STATE OF NEW MEXICO §
 §
COUNTY OF EDDY §

WHEREAS, A Joint Operating Agreement dated January 26, 1998, has been entered into between Penwell Energy, Inc., as Operator, and the undersigned parties, as Non-Operators, with respect to the exploration, development and operation of their Working Interest and Mineral Interest, insofar as said interests pertain to the following described land (hereinafter called "Contract Area") in Eddy County, New Mexico, to-wit:

W/2 of Section 10, and All of Section 11,
Township 16 South, Range 28 East, NMPM,
Eddy County, New Mexico, being limited
in depth from the surface of the earth to the
base of the Morrow Formation.

AND, WHEREAS the said Operating Agreement provides in part that the parties hereto have granted certain liens and security interests in the above referenced property, fixtures and production located thereon or produced therefrom, to wit:

"Lien and Payment Defaults:

Each Non-Operator grants to Operator a lien upon its oil and gas rights in the Contract Area, and a security interest in its share of oil and/or gas when extracted and its interest in all equipment, to secure payment of its share of expense, together with interest thereon at a rate provided in Exhibit "C" to the above referenced Operating Agreement. To the extent that Operator has a security interest under the Uniform Commercial Code of the state, Operator shall be entitled to exercise the rights and remedies of a secured party under the Code. The bringing of a suit and the obtaining of judgement by Operator for the secured indebtedness shall not be deemed as election of remedies or otherwise affect the lien rights or security interest as security for the payment thereof. In Addition, upon default by any Non-Operator in the payment of its share of expense, Operator shall have the right, without prejudice to other rights or remedies, to collect from the purchaser the proceeds from the sale of such Non-Operator's share of oil and/or gas until the amount owed by such Non-Operator, plus interest, has been paid. Each purchaser shall be entitled to rely upon Operator's written statement concerning the amount of any default. Operator grants a like lien and security interest to the Non-Operators to secure payment of Operator's proportionate share of expense."

WHEREAS, it is the intent of the parties to give third parties notice of this instrument by filing same in the records of Eddy County, New Mexico.

ATTENTION OF RECORDING OFFICE: This instrument gives notice of and grants liens and security interests to both Operator and Non-Operators. Operator is both a secured party and a debtor. Non-operators are both a secured party and debtor. This Notice, as a financing statement, should be indexed accordingly.

RECEPTION
983379

Tammy Balmbidge
Penwell Energy Inc.
1100 Arco Bldg
400 N. Maricopa
Midland TX 79701

EXHIBIT "T"
 NOTICE OF JOINT OPERATING AGREEMENT LIEN,
 SECURITY INTERESTS AND FINANCING STATEMENT
 PAGE -2-

NOW, THEREFORE, the undersigned parties do hereby grant to each other those rights described in said Agreement regarding liens priority and security interests upon the property described above insofar as said parties' property is covered by the terms of the Joint Operating Agreement outlined herein.

Operator and Non-Operator agree that a carbon, photograph or other reproduction of this Notice shall be sufficient as a financing statement.

For the purpose of filing this Notice of Joint Operating Agreement Lien, Security Interests and Financing Statement as a financing statement, the mailing address of secured parties and debtor are set forth on the signature page attached hereto.

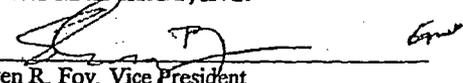
The original of the Operating Agreement herein referenced, of a copy thereof, is maintained at Operator's office at 600 North Marienfeld, Suite 1100, Midland, Texas, 79701.

This instrument may be executed in multi-counterparts, no one of which need be executed by all parties hereto and the same shall be binding upon those parties, as well as their successors and assigns, who execute same, whether or not all named parties join in execution hereof. Counterparts thus executed shall together constitute but one and the same instrument. In the interest of facilitating, filing or recording this instrument thus executed in multi-counterparts, each executing party hereby authorizes removal of signature and acknowledgment pages and reassembly of the same into a single document composed of one copy of the substantive portions of this instrument attached to multiple, separately executed signature and acknowledgement pages.

This Agreement shall be effective as of the 26th day of January, 1998.

OPERATOR:

PENWELL ENERGY, INC.

By: 
 Steven R. Foy, Vice President
 Tax ID#75-2223190

600 North Marienfeld,
 Suite 1100
 Midland, Texas 79701

NON-OPERATOR:

NEARBURG EXPLORATION COMPANY, L.L.C.

By: 
 Printed Name: Robert G. Shelton
 Title: Attorney-In-Fact
 Tax ID#: 75-2626152
 Date: March 5, 1998

3300 North "A" Street
 Building 2, Suite 120
 Midland, Texas 79705

EXHIBIT "T"
NOTICE OF JOINT OPERATING AGREEMENT LIEN,
SECURITY INTERESTS AND FINANCING STATEMENT
PAGE -3-

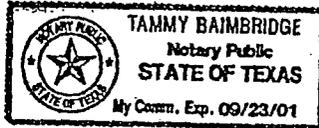
ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

This instrument was acknowledged before me this 2nd day of March 1998, by Steven R. Foy, as Vice President of PENWELL ENERGY, INC., a Texas corporation, on behalf of said corporation.

Tammy Baimbridge
Notary Public in and for State of Texas

My Commission Expires:
9/23/01

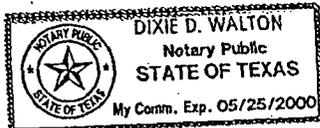


STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

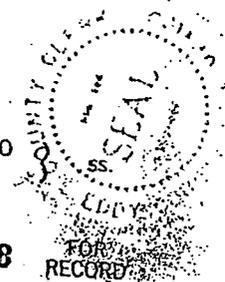
This instrument was acknowledged before me on this 5th day of March, 1998, by Robert G. Shelton as Attorney-in-Fact of NEARBURG EXPLORATION COMPANY, L.L.C., a Texas limited liability company, on behalf of said company.

Dixie D. Walton
Notary Public in and for the State of Texas

My Commission Expires:
5-25-2000



STATE OF NEW MEXICO
County of Eddy



FILED MAR 18 1998
at 3:36 o'clock P. M., and was duly
recorded in BOOK 311 PAGE 398
of the Records of Eddy County
Karen Davis, County Clerk
By: *R. Powell* Deputy