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November 11, 1997

PLEASE REPLY TO SANTA FE

W. Thomas Kellahin, Esq.
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Post Office Box 2265
Santa Fe, New Mexico 87504-2265

Re: NMOCD Case No.s 11808 and 11809 (De Novo); Application of Burlington Resources Oil and Gas Company For Compulsory Pooling, San Juan County, New Mexico **(De Novo)**

Dear Tom:

Thank you for your November 10, 1997 letter regarding our offer to execute a confidentiality agreement. While your letter is neither fully nor directly responsive to my November 10th letter, it is my understanding that Burlington refuses to enter into a confidentiality agreement unless Total executes Burlington's customized Join Operating Agreement. By so doing, Burlington asks Total to waive its rights in the **de novo** proceeding as well as the long-standing property rights it owns with Burlington under the GLA-46 Agreement. This, Total cannot do.

As you know, it is Total's position that it had voluntarily committed its acreage to the Marcotte No. 2 and Scott No. 24 wells under the terms of the GLA-46 Agreement. The GLA-46 Agreement is binding on both Total and Burlington and has been followed by both parties on numerous other wells without restriction as to depth. As a consequence, Total's acreage, having been previously committed, may not be the subject of a pooling proceeding. Similarly, Burlington may not utilize the Division's authority under §70-2-17(C) as a tool to abrogate a pre-existing land contract between the parties. These are the reasons Total has resisted Burlington's inappropriate pooling applications and has refused to execute the JOA's.

Given the foregoing, it should be clear that the 400% risk penalty provision is not the only reason Total is unable to execute Burlington's customized JOA, as your letter incorrectly concludes. Moreover, in this context, your reference to the subsequent operations provisions of the JOA is off-base: In this regard, you should refer to Article XV(C) on page 14 of the proposed

EXHIBIT 3

JOA which makes the non-consent provisions of Article VI(B) specifically applicable to the drilling of the initial well, including the 400% risk penalty rate. There should be no debate about the meaning of this particular provision of Burlington's JOA, and consequently, the offer of a 300% risk penalty for subsequent operations seems rather pointless.

Again, for the record, Total cannot sign Burlington's JOA and waive its rights. However, our offer to enter into a mutually acceptable confidentiality agreement governing discovery during the pendency of the **de novo** proceeding still stands.

Very truly yours,

MILLER, STRATVERT & TORGERSON, P.A.

J. Scott Hall, Esq.

cc: Wm. J. LeMay
Lynn Hebert, Esq
J.E. Gallegos, Esq.
Norman Inman, Esq.