

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

**IN THE MATTER OF THE APPLICATION
OF JOHN H. HENDRIX CORPORATION
FOR COMPULSORY POOLING
LEA COUNTY, NEW MEXICO**

No. 12343

**MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO HAVE
HARTMAN DESIGNATED AS OPERATOR
FOR THE EVA BLINEBRY "B" WELL NO. 1**

OIL CONSERVATION DIVISION
CCTEED 10 FEB 2 2014

Doyle Hartman, Oil Operator ("Hartman"), and James A. Davidson, by and through their attorneys, the Gallegos Law Firm, P.C., hereby move The New Mexico Oil Conservation Division ("Division") for its Order dismissing the application of John H. Hendrix Corporation ("Hendrix") for compulsory pooling for a forty (40) acre tract, ostensibly comprising the NE/4 SW/4 of Section 34, Township 23 South, Range 37 East, N.M.P.M., Lea County, New Mexico, to develop the Yeso formation. In support of this Motion, Hartman states as follows:

SUMMARY OF RELIEF REQUESTED

1. Hartman contends that the application for compulsory pooling filed by Hendrix should be denied as being premature. Hendrix has not, to date, undertaken a good faith effort, and allowed reasonable time, to achieve voluntary joinder for the forty (40) acre tract at issue in the Application. NMSA 1978, Section 70-2-18A. Moreover, the acreage described in John H. Hendrix Corporation's Compulsory Pooling Application differs from the acreage described in the AFE provided to Hartman by Hendrix, in

November, 1999, prior to the filing of its Compulsory Pooling Application. Hendrix has failed to provide Hartman and Davidson, working interest owners in the tract, with basic data, or well economics corresponding to a working interest owners position (upon which Hendrix should have made its decision to develop), so that Hartman and other working interest owners can make an equally reasoned decision as to whether the proposed well can now be economically justified. Prior to the filing of its application, Hendrix also failed to provide Hartman and Davidson with a proposed joint operating agreement.

2. In the Alternative. At the present time, Hartman has not concluded his evaluation of the proposed test well, and Hendrix has not supplied certain requested data. If that evaluation indicates that the test well would likely recover otherwise untapped reserves and be financially successful, Hartman and Davidson believe that Hartman (the largest single working interest owner) should be designated operator of the drilling unit, in which case, Hartman should drill the well, subject to an approved AFE and standard operating agreement. If Hartman's evaluation indicates that there is insufficient justification at this time for the proposed well, then Hartman will oppose the Application on the merits.

BACKGROUND FACTS

3. Hartman and Davidson are working interests owners in the W/2 of Section 34, Township 23 South, Range 37 East. Other recent common working interest owners include John H. Hendrix Corporation, Michael L. Klein, Ronnie H. Westbrook, Daniel L. Veirs, and Larry A. Nermyr. Hartman believes the working interest ownership in the tract is as follows:

	W.I.	N.R.I.	O.R.R.I.
Hartman	35.5468750%	26.6601600%	0.0000000%
Davidson	12.5000000%	9.3750000%	0.0000000%
Nermyr	0.0781250%	0.5859400%	0.0000000%
Hendrix	24.0859375%	18.0644500%	5.8750000%
Klein	24.0859375%	18.0644500%	5.8750000%
Veirs	2.0000000%	1.5000000%	0.5000000%
Westbrook	1.0000000%	0.7500000%	0.2500000%
	100.0000000%	75.0000000%	12.5000000%

4. On or about July 1, 1997, John H. Hendrix Corporation obtained, from Texaco Exploration and Production, Inc., a 12.5% overriding royalty interest, in the W/2 of Section 34, Township 23 South, Range 37 East, Lea County. Thereafter, the John Hendrix Corporation assigned 53% of that overriding royalty, in various proportions to Michael L. Klein; Ronnie H. Westbrook and Daniel L. Veirs, retaining 47.0% of that overriding royalty interest. As a result, in addition to their working interest position, the applicant and its affiliates also enjoy a totally expense-free 12.5% override, while a true paying working interest owners' well economics are a based on only a 75.0% net revenue interest.

5. Hartman is an experienced oil and gas operator who has drilled approximately 200 oil and gas wells in Lea County, New Mexico.

6. On November 3, 1999, Hendrix circulated a letter, with an attached AFE, for its proposed Eva Blinebry "B" No. 1 Well, described in the cover letter as being located in the NE/4 SW/4 of Section 34. The total amount of the AFE was \$573,067.16. The proposal was for a test of the Blinebry/Tubb/Drinkard sections of the Yeso formation occurring at a depth down to approximately 6300 feet.

7. Working interests in the entire W/2, and particularly the NE/4 SW/4, of Section 34 are not communitized or pooled. There is no operating agreement between the interest working owners. No proposed operating agreement was provided by Hendrix to Hartman and Davidson, with its AFE, nor did Hendrix provide to the paying interest owners any logs, geologic data, other technical data, or economic calculations, for working interest owners, upon which Hendrix should have based its recommendation for a test well.

8. In January, 2000, Hartman began studying Hendrix's proposal of November 3, 1999, based upon Hendrix's November 3, 1999 representation that Hendrix would not spud the well until 120 days after acceptance of the proposal. The Hartman study and analysis is ongoing.

9. Without any further inquiry or communication to Hartman, after November 3, 1999, Hendrix, on January 24, 2000, filed this Application for a compulsory pooling order pursuant to NMSA 1978 Section 70-2-17.

10. By letter dated January 27, 2000, Hartman wrote to Hendrix informing Hendrix that Hartman was investigating the proposed well, and requesting information and data necessary for Hartman to evaluate the proposal. A copy of Hartman's January 27, 2000 letter, with attachments, is attached as Exhibit A.

11. The Hendrix Application was served on Hartman by certified mail on January 28, 2000. As of the date of filing this Motion, Hendrix has not responded to Hartman's request for certain information and documents.

12. Hartman has not approved the Hendrix AFE, nor does Hartman agree with the Hendrix proposal that Hendrix be designated the operator of any well drilled in this section. Hartman, an experienced oil and gas operator owning the largest percentage of paying interest in the tract, should be designated the operator for any well drilled. Davidson who owns a 12.5% W.I. approved the Hendrix AFE without any data supporting the test, but opposes any Hendrix Compulsory Pooling Application, and contends Hartman should be designated the operator of any well for this tract. Hartman and Davidson have a combined working interest ownership of 48.046%, compared to Hendrix's 24.0859375% working interest.

ARGUMENT AND AUTHORITIES

13. The Oil and Gas Act, Sections 70-2-17 and 18, provide for forced pooling procedures where an operator has failed to obtain a voluntary pooling agreement. Sections 70-2-18 states "it shall be the obligation of the operator to obtain voluntary agreements pooling said lands". (Emphasis added) Thus, under the statutory provisions authorizing forced pooling, such procedures cannot be initiated until the operator can demonstrate he has fulfilled that obligation to reasonably seek to obtain a voluntary agreement between the parties. The law cannot rationally be applied to mean that if one owner wants to drill a well and another owner does not without question agree, the one proposing the well has done everything required "to obtain

voluntary agreements,” especially if the proposed project will be non-commercial to expense bearing working interest owners.

14. The Division practice has been to require force pooling applicants to demonstrate sound justification for the well and that a good faith and reasonable effort was made to obtain voluntary agreements for future development of acreage, prior to initiating forced pooling proceedings. The Division practice is the very minimum burden on an applicant possibly consistent with the mandate of Section 70-2-17 and 18, and the use of the police powers of the State to force a person to give up his property rights.

15. Hendrix, to date, has failed, as required by Section 70-2-17 and 18, to undertake a complete good faith effort to obtain voluntary agreement from all expense bearing working interest owners, for its proposed Eva Blinebry “B” Well No. 1. Hendrix, to date, has failed to provide technical data and information that would allow the working interest owners to properly evaluate the proposal for this well and to make an informed decision on whether to agree and pay for the drilling of the well.

16. Hendrix, prior to February 9, 2000, failed to provide a proposed operating agreement for voluntary pooling, so, prior to that late date, the parties had no idea what Hendrix proposed for the terms of a joint operating agreement.

WHEREFORE, Hartman requests that the Division enter its Order dismissing the Hendrix application in this case. In the alternative, if the Division finds that there is sufficient justification for the proposed test well in the NE/4 SW/4 Section 34, Hartman and Davidson (who represent a true working interest owner’s position) request that the Division appoint Hartman as the operator under any voluntary agreement which may be negotiated or forced pooling order which may be entered.

Respectfully submitted,

GALLEGOS LAW FIRM, P. C.

By  _____

J. E. GALLEGOS

MICHAEL J. CONDON

460 St. Michael's Drive, Bldg. 300

Santa Fe, New Mexico 87505

(505) 983-6686

(505) 986-1367 Fax

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Motion To Dismiss Or, In The Alternative, To Have Hartman Designated as Operator For Eva Blinebry "B" Well No. 1 to be served via U.S. Mail on this 10th day of February, 2000 to the following counsel of record.

William F. Carr
Campbell, Carr, Berge & Sheridan
Post Office Box 2208
Santa Fe, New Mexico 87504

 _____
J. E. GALLEGOS

DOYLE HARTMAN

Oil Operator

500 NORTH MAIN

P.O. BOX 10426

MIDLAND, TEXAS 79702

(915) 684-4011

(915) 682-7616 FAX

January 27, 2000

John H. Hendrix Corporation
110 Marienfeld, Suite 400
P.O. Box 3040
Midland, TX 79702

Attn: Ronnie H. Westbrook

Re: John H. Hendrix Corporation's
Proposed Eva Blinebry "B" No. 1

98:0144 00:18 NBE

Gentlemen:

Reference is made to your letter and AFE to us dated November 3, 1999 and November 4, 1999, respectively, corresponding to your proposed 6300' Eva Blinebry "B" No. 1 Blinebry/Tubb/Drinkard test, which 40-acre well is to be drilled either in the NE/4SW/4 or NE/4NW/4 Section 34, T-23-S, R-37-E, Lea County, New Mexico.

In your November 3, 1999 letter (received by us on November 8, 1999), it was stated that the subject well would be spudded within 120 days from our acceptance. Consequently, we have been in the process of performing an in-depth review of your proposed well, including a review of (1) your implied drilling and completion procedure, (2) the accuracy and reliability of your November 4, 1999 AFE, and (3) a detailed review of applicable offset production (production plots enclosed). However, due to the brevity of your letter and AFE, we are unable, at this time, to fully and accurately evaluate your well proposal, without first being furnished the following additional information and documents.

1. A copy of the C-101 and C-102 corresponding to your proposed Eva Blinebry "B" No. 1 well, including a designation of those zones that are intended to be the primary and secondary completion intervals.
2. If it is planned to complete the Eva Blinebry "B" No. 1 well in more than one pool, please promptly furnish a copy of your required application to the NMOCD that seeks approval of the multiple zone completion.

EXHIBIT A

John H. Hendrix Corporation

January 27, 2000

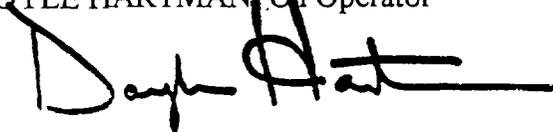
Page 2

3. Please furnish the daily fluid rates that are anticipated from the Eva Blinebry "B" No. 1 (oil, water, gas), including (where applicable) the anticipated fluid decline rate(s), and the anticipated stabilized producing fluid level.
4. Please furnish an example water analysis for the water that is anticipated to be produced from the proposed Eva Blinebry "B" No. 1 completion interval(s).
5. Please furnish (on the herein enclosed *Rod Pump Installation Data Sheet* form) a detailed and accurate description of the rod pump equipment that you have computed as being necessary for producing the subject well, including a copy of your engineering design calculations.
6. Please outline what operational and financial contingency plans have been made by you for dealing with the potential high-pressure high-volume Salado waterflows that are common to the proposed drilling area.
7. Please provide the monetary amount you anticipate as being necessary to cover monthly operating expenses, including any and all monies for water hauling, rod parts, tubing leaks, well cleanouts, and casing leaks, all of which are common with the production of highly corrosive formation waters.
8. Please provide the name of the drilling contractor that is to be selected to drill the Eva Blinebry "B" No. 1 well, the stated footage and day-work rates, and documentation of the date that the drilling is to begin.
9. Finally, as required of you by 70-2-18(A), NMSA 1978 (copy enclosed), please also furnish a copy of your proposed Eva Blinebry "B" No. 1 Operating Agreement, which instrument is necessary for achieving the voluntary agreement (between the parties), that is contemplated in 70-2-18(A), NMSA 1978, but which has not been furnished by John H. Hendrix Corporation as of this date.

We respectfully ask that you promptly furnish the above-requested information and documents so that we can continue to proceed with an accurate and thorough evaluation of your well proposal.

Very truly yours,

DOYLE HARTMAN, Oil Operator

A handwritten signature in black ink, appearing to read "Doyle Hartman", written over the typed name.

Doyle Hartman

John H. Hendrix Corporation
January 27, 2000
Page 3

enclosures

rcs
wp7\corresp.dh\hendrix-evablinebry

cc: John H. Hendrix Corporation
110 Marienfeld, Suite 400
P.O. Box 3040
Midland, TX 79702
Attn: John H. Hendrix

Michael L. Klein
500 W. Texas, Suite 1230
Midland, TX 79701

James A. Davidson
214 W. Texas, Suite 710
Midland, TX 79701

Gallegos Law Firm
460 St. Michaels Dr., Bldg. 300
Santa Fe, NM 87505
Attn: J.E. Gallegos
Michael Condon

DOYLE HARTMAN, Oil Operator (Midland)
Don Mashburn
Steve Hartman
Sheila Potts
Linda Land

DOYLE HARTMAN, Oil Operator (Dallas)

Rod Pump Installation Data Sheet

Lease & Well No.: _____ Date Prepared: _____

Location: _____

Pool: _____ County/State: _____

Current Arrangement:

_____ x _____ x _____
 SPM SL PD Torque PPRL PMHP BPD @ 100% Actual BPD

Unit Mfg: _____ Date Mfd: _____

Size: _____ Date Installed: _____

S/N: _____ Gear Box No.: _____

Sheave Size: _____ Reducer Ratio: _____

Available Stroke Lengths: _____

Motor Mfg: _____ H.P. Rating: _____

NEMA Classification: _____ Frame Size: _____

S/N: _____ Date Mfd.: _____

Voltage: _____ Amperage: _____

RPM: _____ Sheave Size: _____

Belts: _____

Motor Controller Mfg.: _____ Size: _____

S/N: _____ Date Mfd.: _____

P/O Controller Mfg.: _____ Model: _____

S/N: _____ Date Mfd: _____ Δ Time: _____

Tubing: Date Installed: _____ Description: _____

No. Of Full Jts.: _____ Avg Jt Length: _____

Total Length: _____

Bottom of Tubing (RKB): _____

Anchor: _____

Rods: Date Installed: _____ Mfg: _____ Type: _____

Grade: _____ Yield: _____ Tensile: _____ % Load: _____

Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

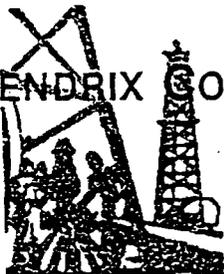
Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

Dia _____ No. Of Rods _____ Ft. _____ Cplgs _____

Pump Description: _____ Pump Depth: _____

JOHN H. HENDRIX CORPORATION



MAILING ADDRESS
P.O. BOX 3040
MIDLAND, TX 79702-3040

(915) 684-6631
FAX (915) 684-7317
110 N. MARIENFELD, SUITE 400
MIDLAND, TEXAS 79701-4412

November 3, 1999

Working Interest Owners

Re: AFE – Drill and Equip
John H. Hendrix Corp.
Eva Blinebry "B" No. 1 well
NE/4 SW/4 of Section 34,
T-23-S, R-37-E
Teague Blinebry & Imperial
Tubb/Drinkard Pools
Lea County, New Mexico

Gentlemen:

Respectfully submitted for your approval is an AFE to drill and equip a well to test the Blinebry and Tubb/Drinkard formations occurring at a depth of approximately 6300' at a location approximately 1880' FSL and 2080' FWL of Section 34, T-23-S, R-37-E, Lea County, New Mexico.

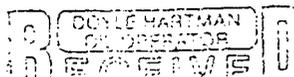
In the event you do not desire to participate, we propose a farmout of all your interest in the NE/4 SW/4 or Section 34 covering rights to deepest depth drilled, except the Myers Langlie Mattix Unitized Interval, with you retaining a 25% back-in at payout of the well, proportionately reduced to your interest. We will spud the well within 120 days of acceptance and drill to a depth sufficient to test the Blinebry and Tubb/Drinkard formations.

I am hopeful that we can reach agreement on one of the above proposals.

Yours very truly,

JOHN H. HENDRIX CORPORATION

by: Ronnie H. Westbrook



NOV 08 1999

Authority For Expenditure

Lease Name <u>Eva Blinebry "B"</u>	Well No. <u>1</u>	Pool <u>Imperial (Tubb Drinkard)/Teague (Blinebry)</u>
Description <u>330' FNL & 1980' FWL, Sec. 34 T23S - R37E</u>	County/State <u>Lea, NM</u>	Operator <u>John H. Hendrix Corp.</u>
Exploration <u>Development</u> <u>X</u>	Date <u>Nov. 4, 1999</u>	

Drilling Intangibles

Descr. Dry Hole Costs Producer Costs

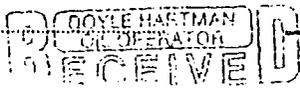
Location, Roads, Pits	\$20,000.00	
Damages	\$10,000.00	
Permit/Survey	\$700.00	
Footage 6300 @ \$ 17 /Ft	\$107,100.00	
Day Work 2 @ \$ 6000 /Day	\$12,000.00	\$13,000.00
Cement & Cementing	\$8,000.00	
Testing & Coring		
Logging & Mud logging	\$20,000.00	
Professional Servcs. (Legal, Eng., Geol., Survey)	\$2,500.00	
Mud, Fuel, Water	\$20,000.00	
Bits, Coreheads & Rentals	\$5,000.00	
Service Labor (rigging, welding, etc.)	\$5,000.00	
Misc. (Labor & Ins.)	\$2,500.00	
Transportation	\$1,000.00	
Rig Supervision & Overhead	\$8,000.00	
Contingency 3 %	\$7,000.00	
Plug & Abandon		
Total	\$228,800.00	\$13,000.00

Completion Intangibles

Completion Unit 10 Days @ \$ 1500 Day		\$15,000.00
Cement & Cementing		\$22,000.00
Perforating & Logging		\$6,000.00
Fracturing		\$90,000.00
Acidizing		\$7,000.00
Fuel, Water, Power		\$10,000.00
Battery Const., Dirt work, etc.		\$10,000.00
Completion tools & Equip rentals		\$7,000.00
Professional Servcs. (Legal, Eng., Geol., Survey)		\$2,500.00
Misc Servcs (Welding, backfil, etc.)		\$4,000.00
Labor & Transportation		\$3,000.00
Casing crew		\$2,000.00
Rig Supervision		\$2,000.00
Contingency 3 %		\$5,000.00
Total Intangibles	\$0.00	\$185,500.00
Total Completion	\$228,800.00	\$198,500.00

Drilling & Completion Tangibles

Casing 1400 Ft 8 5/8 @ \$ 6.7 Ft	\$9,380.00	\$0.00
6400 Ft 5 1/2 @ \$ 4.2 Ft		\$26,880.00
Ft @ \$ Ft		\$0.00
Tubing 6200 Ft 2 3/8 @ \$ 1.8 Ft		\$11,160.00
Rods 6200 Ft 7/8 3/ @ \$ 1.5 Ft		\$9,300.00
Line Pipe 1000 Ft 3 1/2 @ \$ 2 Ft		\$2,000.00
Transportation		\$4,000.00
Wellhead Equipment	\$5,000.00	\$8,000.00
Centralizers, Scratchers	\$500.00	\$2,000.00
Subsurface Equip, pump etc..		\$2,000.00
Tanks, Treaters, Separators, Valves, Fittings..		\$20,000.00
Pumping Unit & Engine		\$35,000.00
Taxes, 7.8%	\$1,160.64	\$9,386.52
Contingency 3 %		
Total Equipment Cost	\$16,040.64	\$129,726.52
Total Well Cost	\$244,840.64	\$328,226.52
Grand Total	\$228,800.00	\$573,067.16



NOV 08 1999

Leases Acre @ \$ /acre \$0.00

Total Well & Lease Cost

Approvals:

Operator <u>John H. Hendrix Corp.</u>	By: <u>Ronnie A. Westhead</u>	Date: <u>11/5/99</u>
Owner <u>Doyle Hartman</u>	By: _____	Date: _____

35.546875% Interest

✓
Send to 10288/
1-423-510-8013

DOYLE HARTMAN
Oil Operator
500 N. Main
P.O. Box 10426
MIDLAND, TEXAS 79702
(915) 684-4011 Office / 682-7616 Fax

FAX COVER SHEET

To:

NAME <i>Doyle / Buddy</i>	DATE AND TIME OF TRANSMISSION <i>8-14-96</i>
COMPANY	FAX NUMBER <i>Del off/home/Midland</i>

From:

NAME <i>CMS</i>

Reference:

SUBJECT <i>Habbs AFE / Blinbery B Hendrix AFE</i>

The information contained in this facsimile message is confidential and intended solely for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or unauthorized use of this communication is strictly prohibited. If you have received this facsimile in

mediately by telephone, and return the address via the United States Postal

Date *8/14* Hour *9:58*

To *Carolyn*

WHILE YOU WERE OUT

From *Mickey Klein*

Of _____

Phone *684-8442*



Please Call Returned Call Will Call Again Please See Me

Message

Signed *MES*

Page: 1 of 1 *C*

*Mickey Klein called re
above. Said they
are not in a position
to sign until we
make a decision on
their Teague Blinbery.
Wants to work out both.
Pls. let me know what
you want at your convenience.*

DOYLE HARTMAN

Oil Operator

500 NORTH MAIN

P.O. BOX 10426

MIDLAND, TEXAS 79702

(915) 684-4011

(915) 682-7616 FAX

August 16, 1996

John H. Hendrix Corporation
110 Marienfeld, Suite 400
P.O. Box 3040
Midland, TX 79702-3040

Michael L. Klein
500 West Texas, Suite 1230
Midland, TX 79701

Re: Hobbs No. 5 AFE
Lea County, New Mexico
Section 18, T-20-S, R-37-E

Dear John and Micky:

Reference is made to our previously issued AFE corresponding to the drilling of our proposed Hobbs No. 5 infill Eumont well (1980' FSL and 1650' FWL Section 18, T-20-S, R-37-E) that was sent to Ronnie Westbrook at John H. Hendrix's office about the time that Ronnie was at M.D. Anderson Hospital in Houston, Texas.

Because of the current shortage of available adequate drilling rigs, earlier this week, we entered into a commitment with TMBR-Sharp Drilling Company for TMBR-Sharp to drill the Hobbs No. 5 well. Subsequent to committing to TMBR-Sharp for the drilling of the Hobbs No. 5 well, I received a fax (here in Tennessee) from Buddy Davidson, that advised me, for the first time, that the Hendrix Group was not presently agreeable to the drilling of the subject well.

Unfortunately, prior to learning that the Hendrix group was not in agreement with the drilling of the subject well, and due to the current shortage of available adequate rigs, the wheels had already been put into motion to utilize the only currently available rig for drilling the Hobbs No. 5 well. Therefore, as a consequence of the foregoing, construction work has already begun on building the necessary

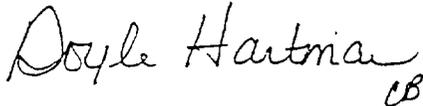
John H. Hendrix Corporation
Michael L. Klein
August 16, 1996
Page 2

road and location and early Monday morning (August 19, 1996) TMBR-Sharp Drilling Company will be moving in its rig to commence the subject well.

In consideration of these circumstances and your late notice that you do not wish to participate at this time in the drilling of the Hobbs No. 5 well, we respectfully request that you reconsider your decision and voluntarily commit to the drilling of the subject well.

Yours very truly,

DOYLE HARTMAN



Doyle Hartman

rcp
wpdocs\corresp.dh\hobbs#5.afe

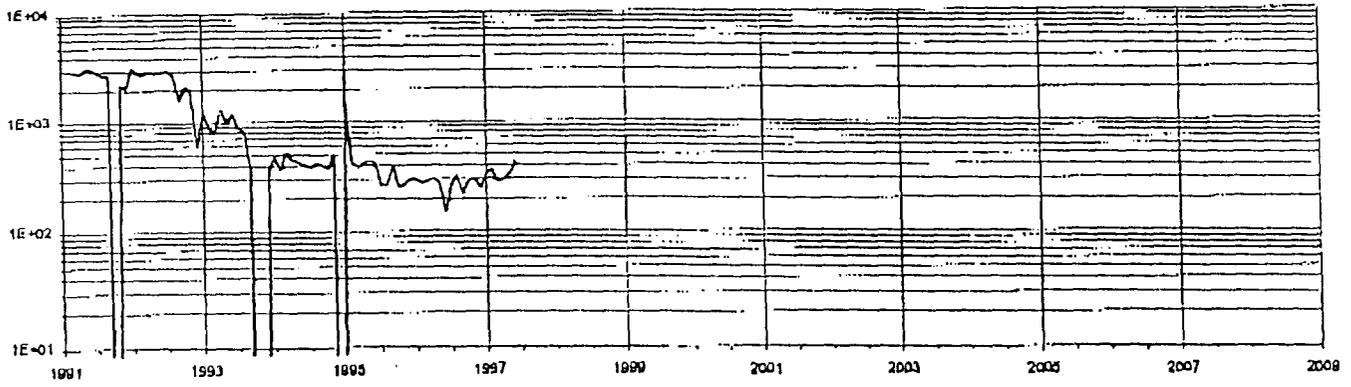
cc: James A. Davidson
214 W. Texas, Suite 710
Midland, TX 79701

Doyle Hartman
3811 Turtle Creek Blvd., Suite 200
Dallas, TX 75219
Attn: Doyle Hartman

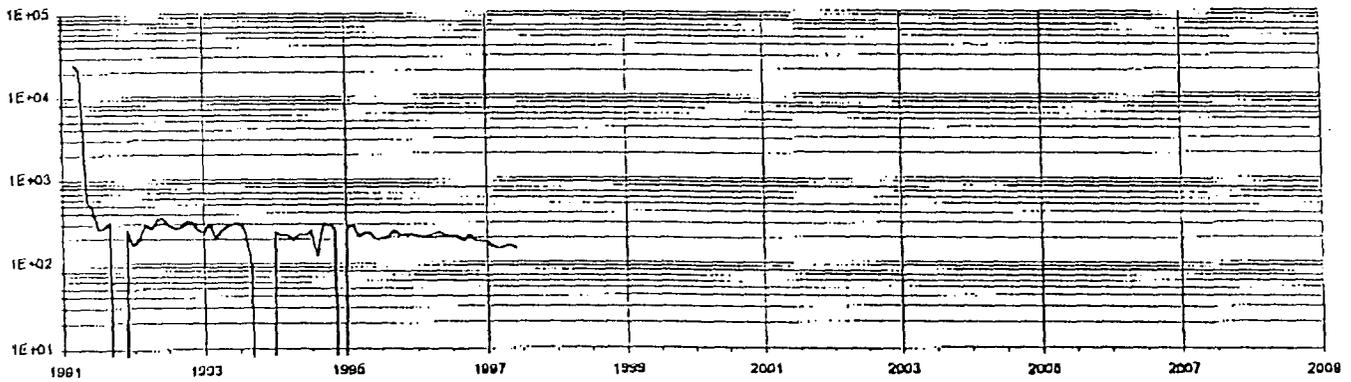
Doyle Hartman, Midland
Don Mashburn, Engineer
Steve Hartman, Engineer
Carolyn Sebastian, Landman

E C HILL B FEDERAL #1
 TEAGUE (PADDOCK) PD
 34A 23S 37E
 PLAINS PETR OPERG CO

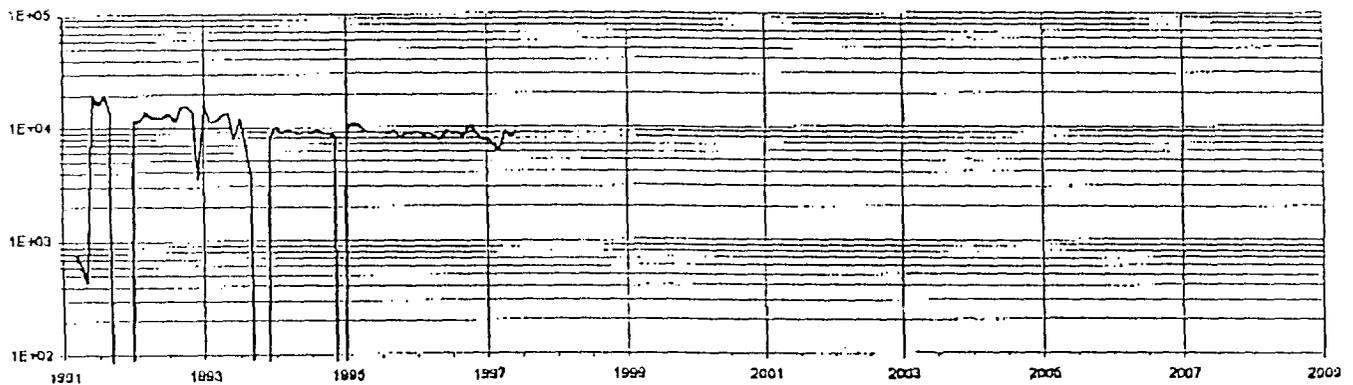
Gas Production (MCFPM)



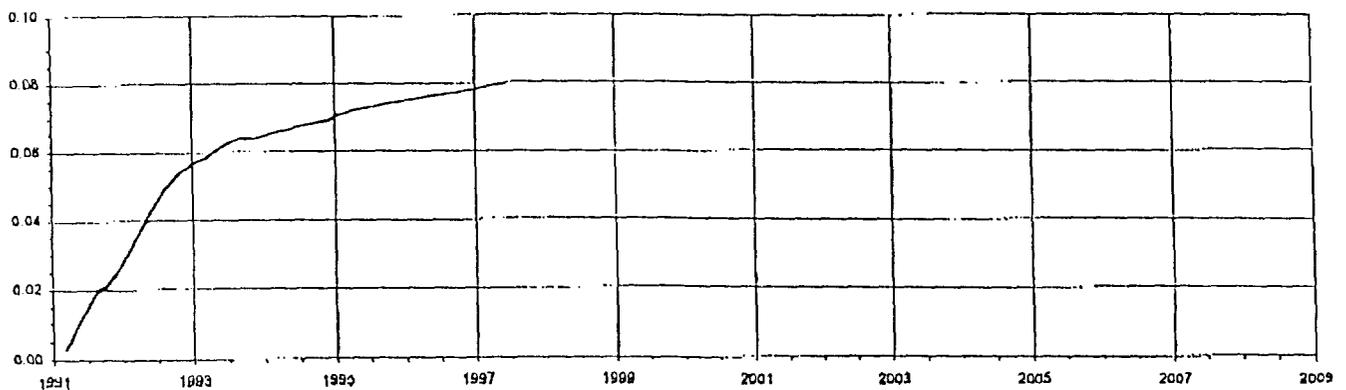
Oil Production (BPM)



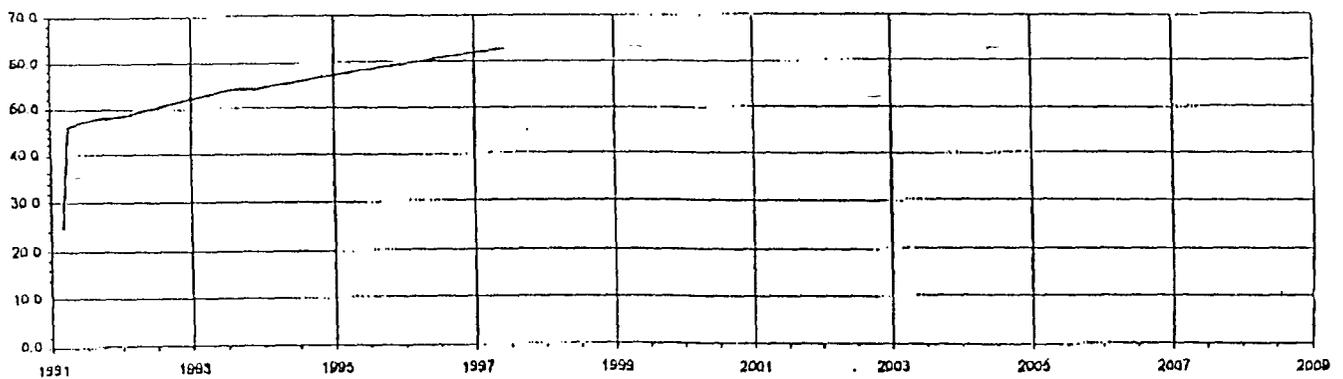
Water Production (BPM)



Cumulative Gas Production (BCF)



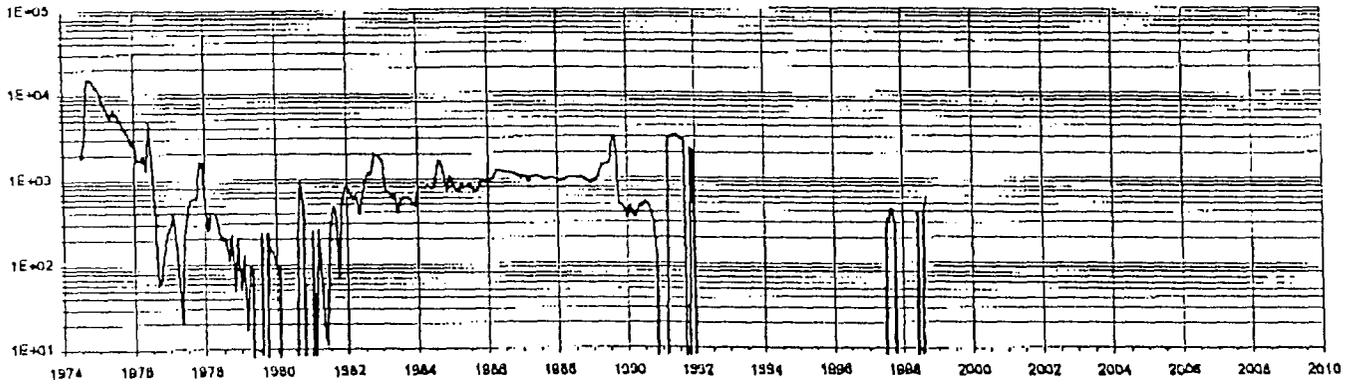
Cumulative Oil Production (MBO)



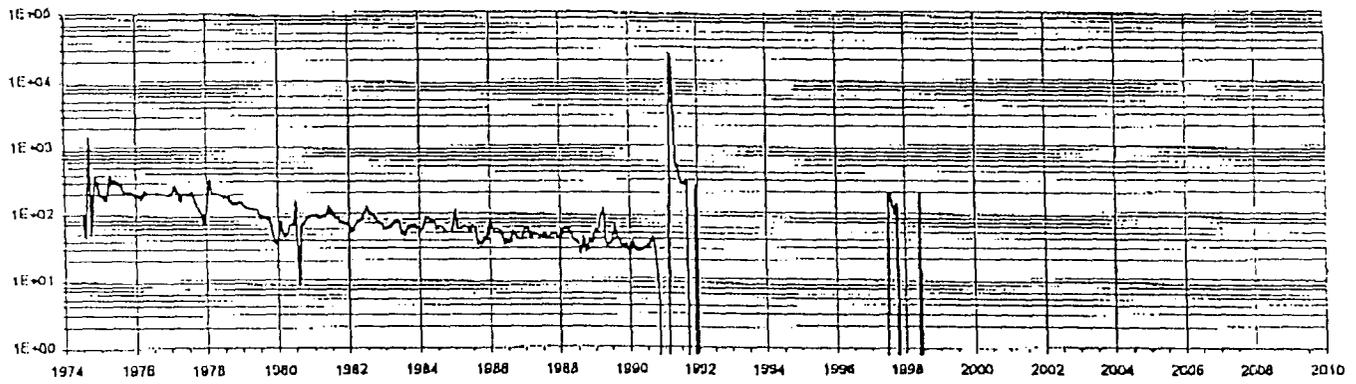
05/97: 0.080 BCF 62.82 MBO

E C HILL B FEDERAL #1
TEAGUE (BLINEBRY) BL
34A 23S 37E
PLAINS PETR OPERG CO

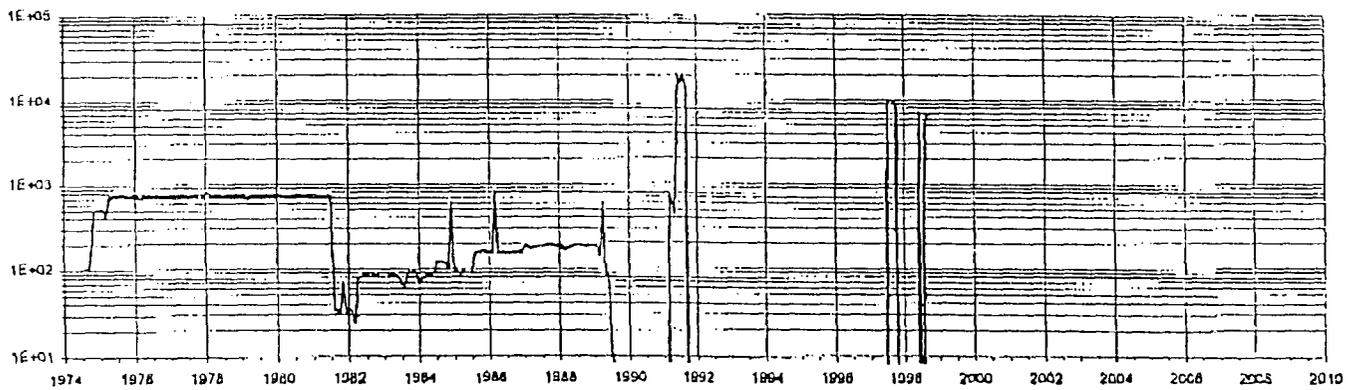
Gas Production (MCFPM)



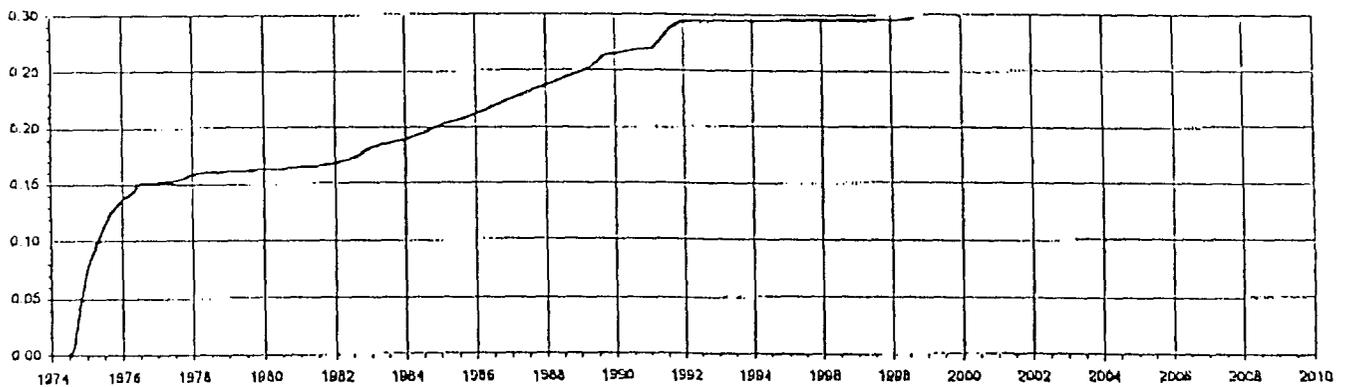
Oil Production (BPM)



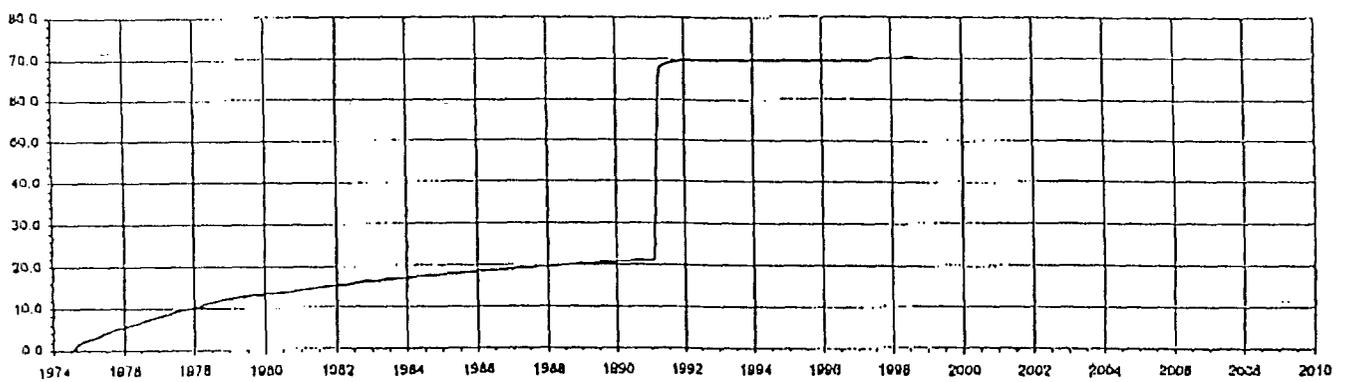
Water Production (BPM)



Cumulative Gas Production (BCF)



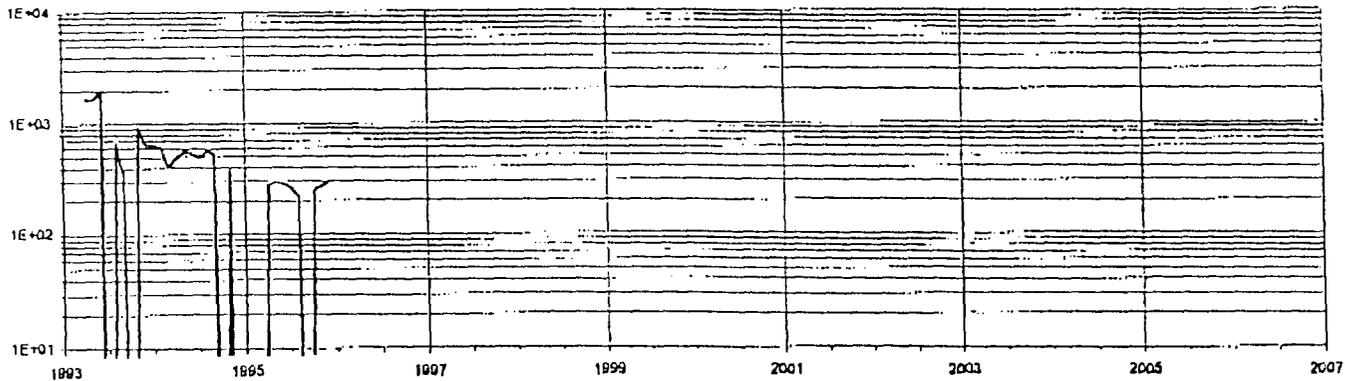
Cumulative Oil Production (MBO)



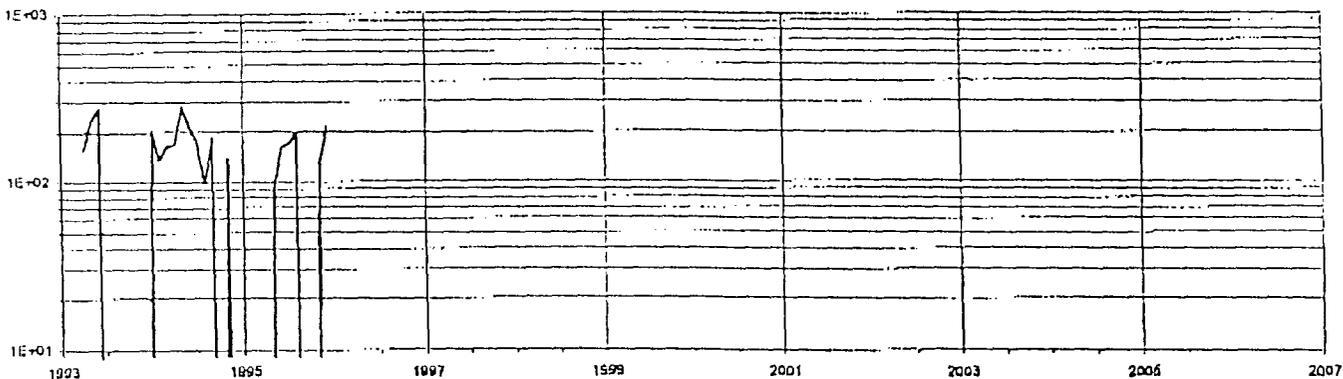
00/98: 0.297 BCF 70.50 MBO

E C HILL B FEDERAL #2
TEAGUE (PADDOCK) PD
34H 23S 37E
PLAINS PETRO OPERG CO

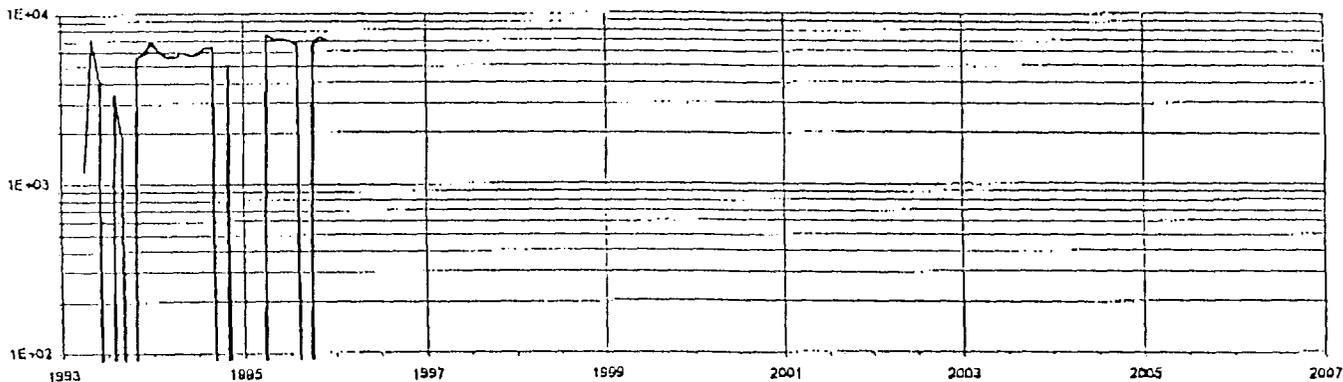
Gas Production (MCFPM)



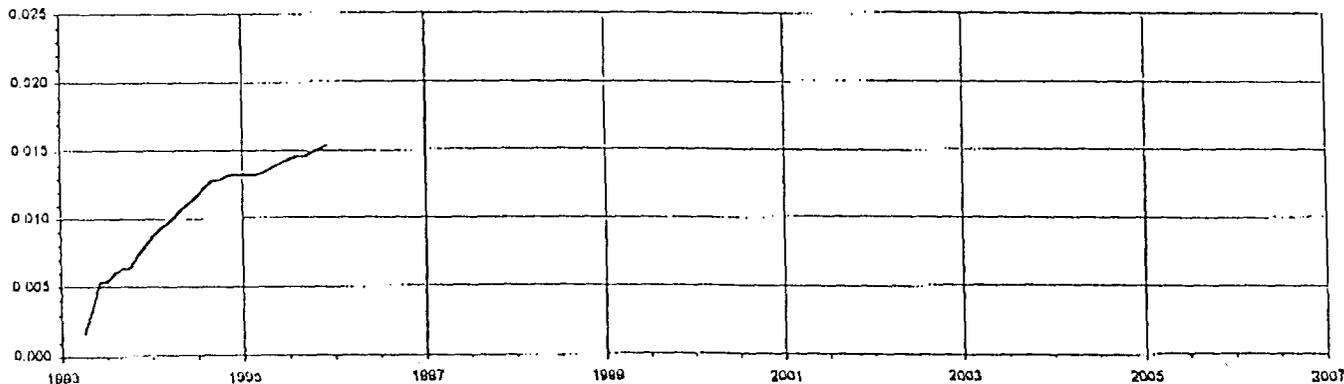
Oil Production (BPM)



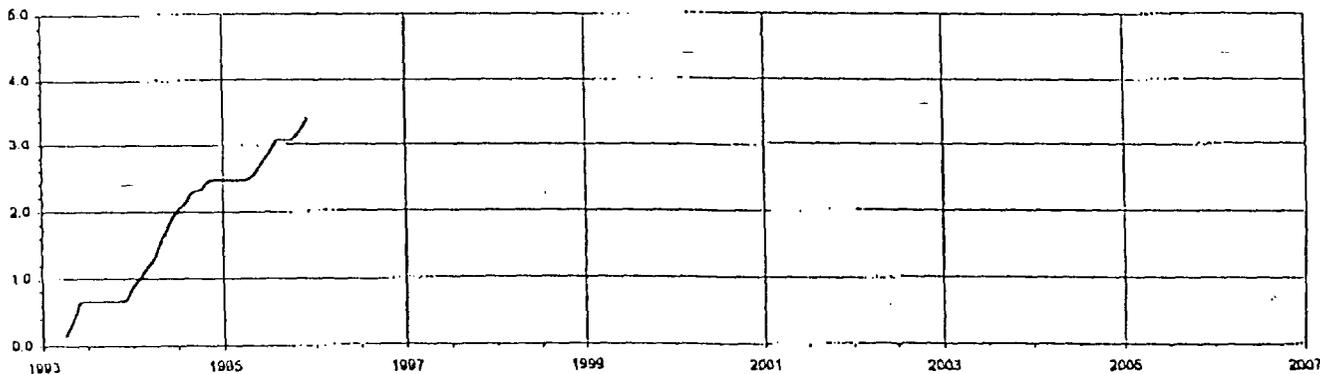
Water Production (BPM)



Cumulative Gas Production (BCF)



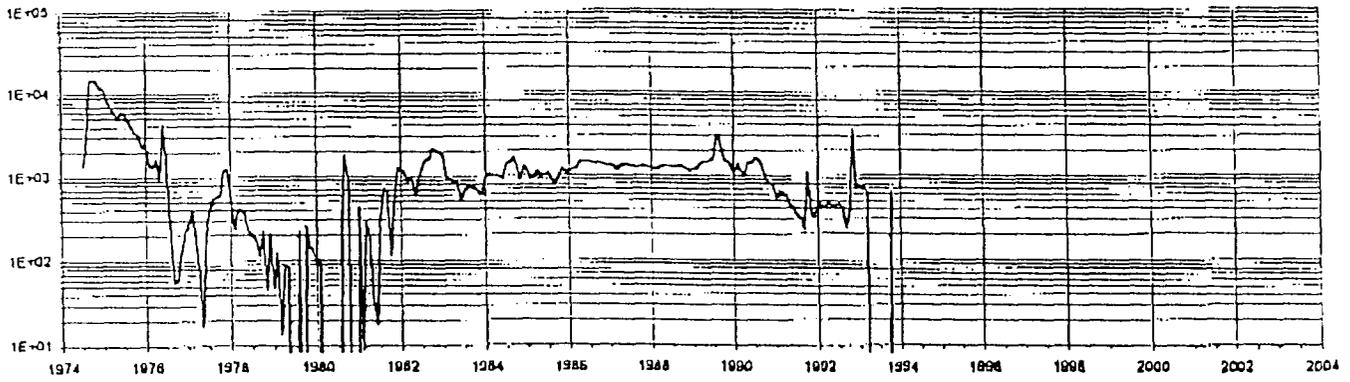
Cumulative Oil Production (MBO)



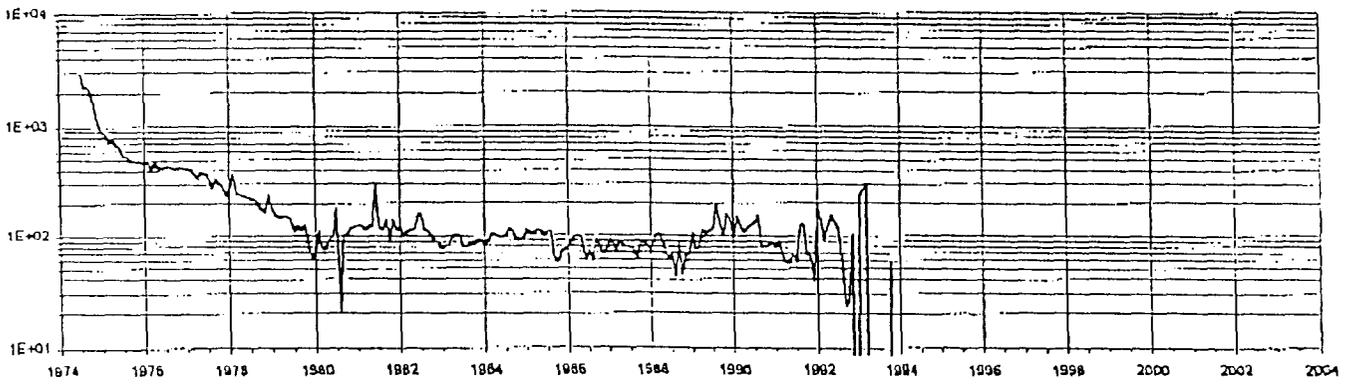
11/95: 0.015 BCF 3.43 MBO

E C HILL B FEDERAL #2
TEAGUE (BLINEBRY) BL
34H 23S 37E
ARROWHEAD OPERATING INC

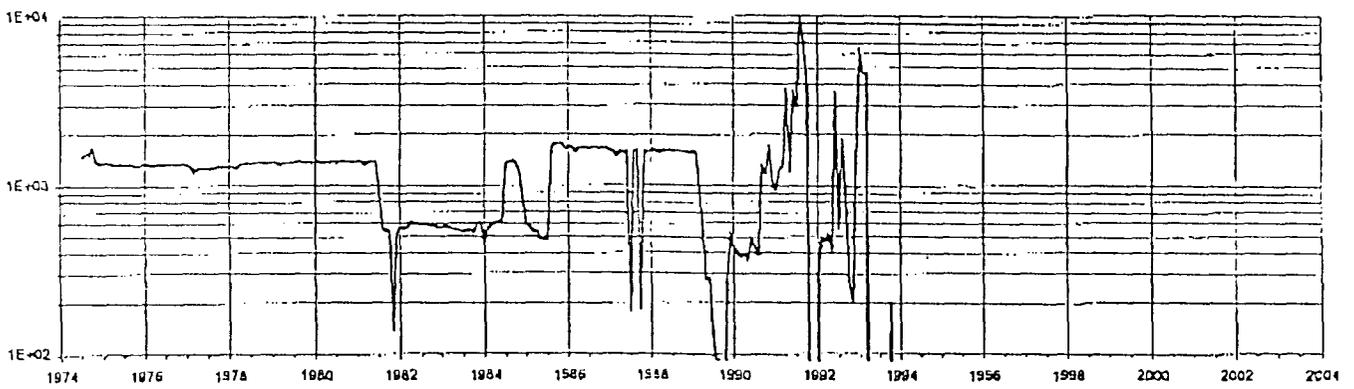
Gas Production (MCFPM)



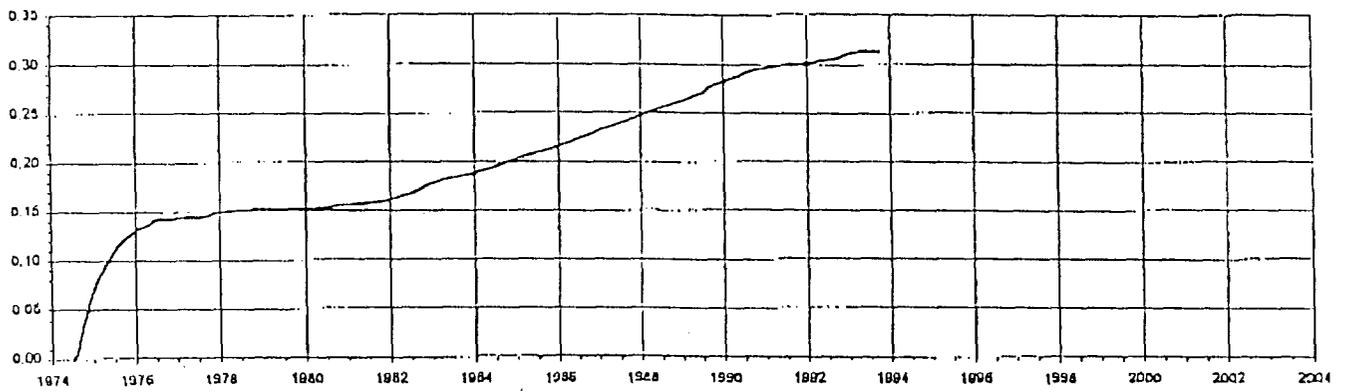
Oil Production (BPM)



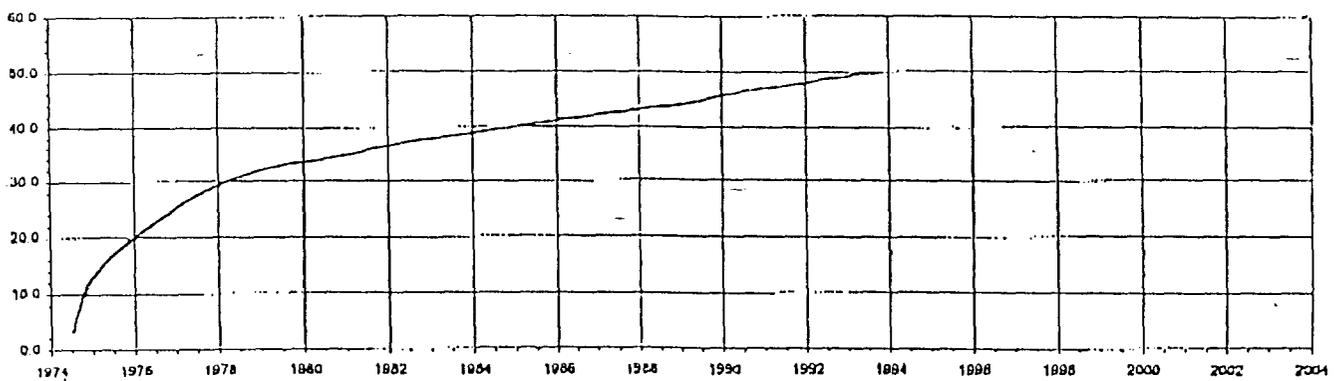
Water Production (BPM)



Cumulative Gas Production (BCF)

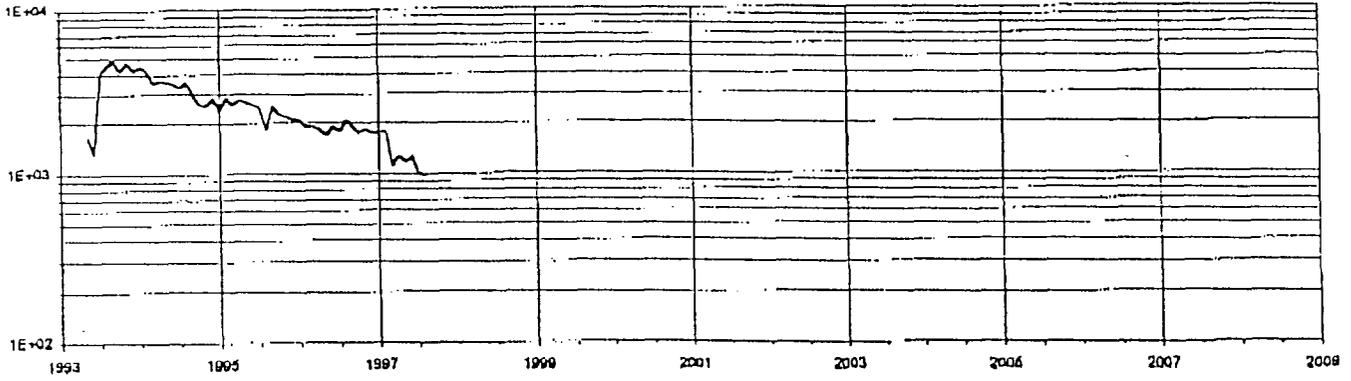


Cumulative Oil Production (MBO)

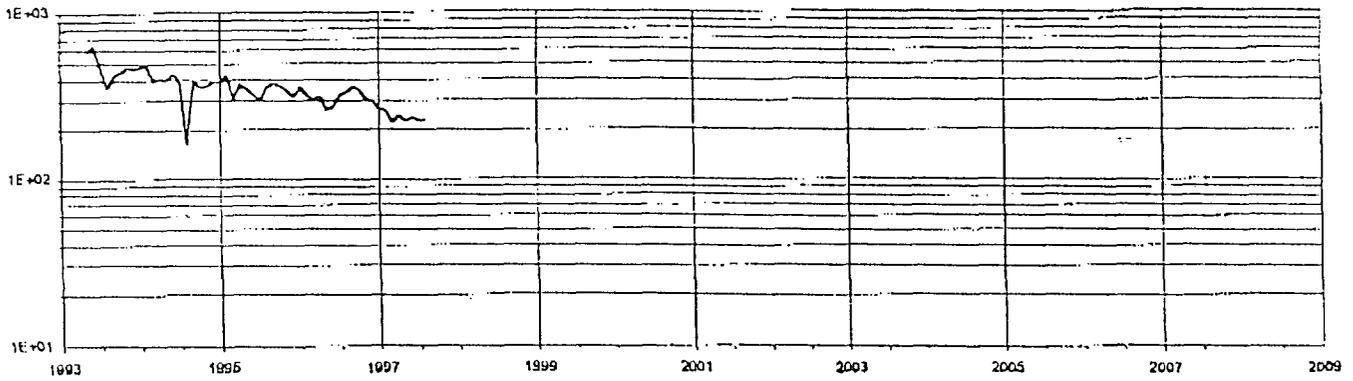


E C HILL B FEDERAL #3
 TEAGUE (PADDOCK) PD
 34B 23S 37E
 PLAINS PETR OPERG CO

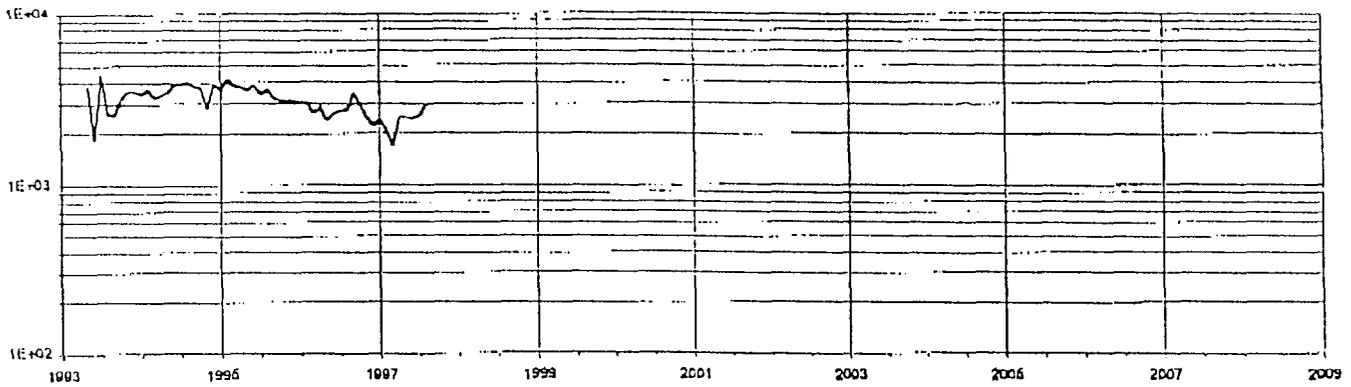
Gas Production (MCFPM)



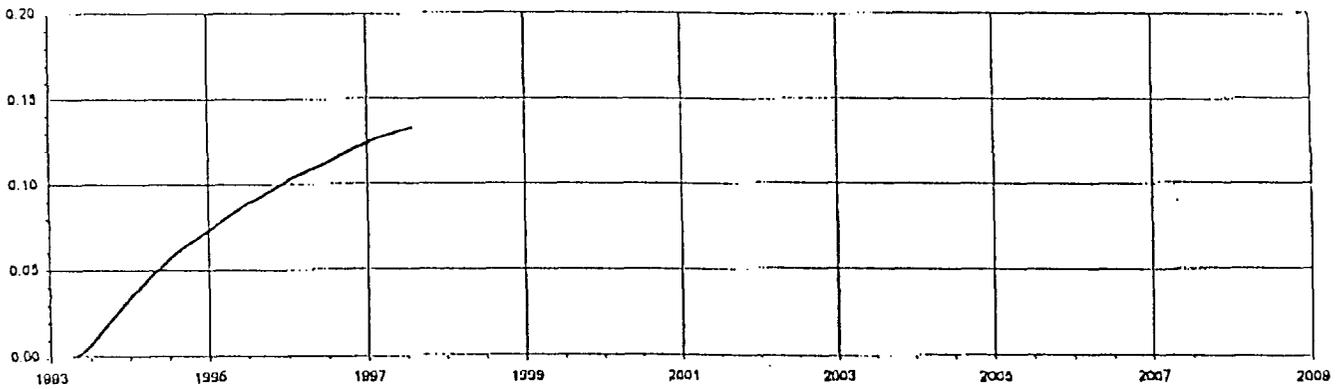
Oil Production (BPM)



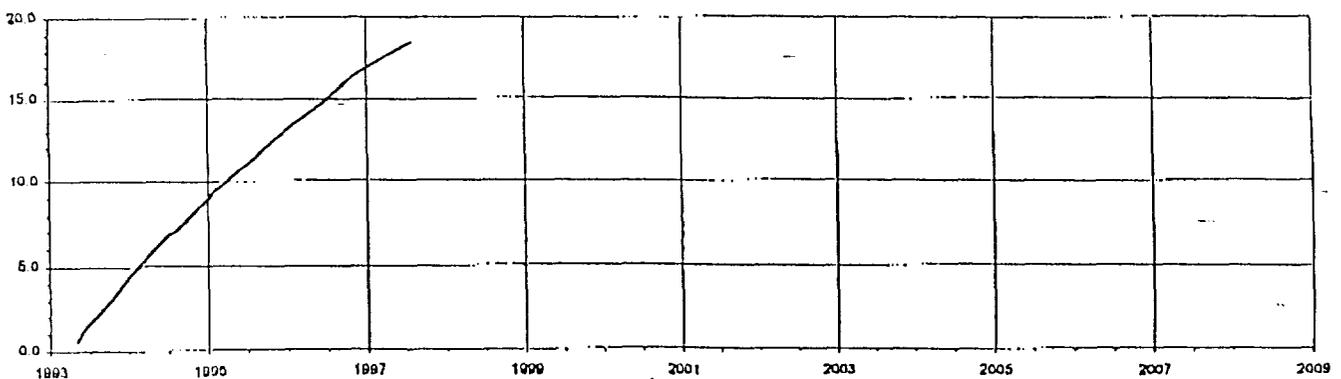
Water Production (BPM)



Cumulative Gas Production (BCF)

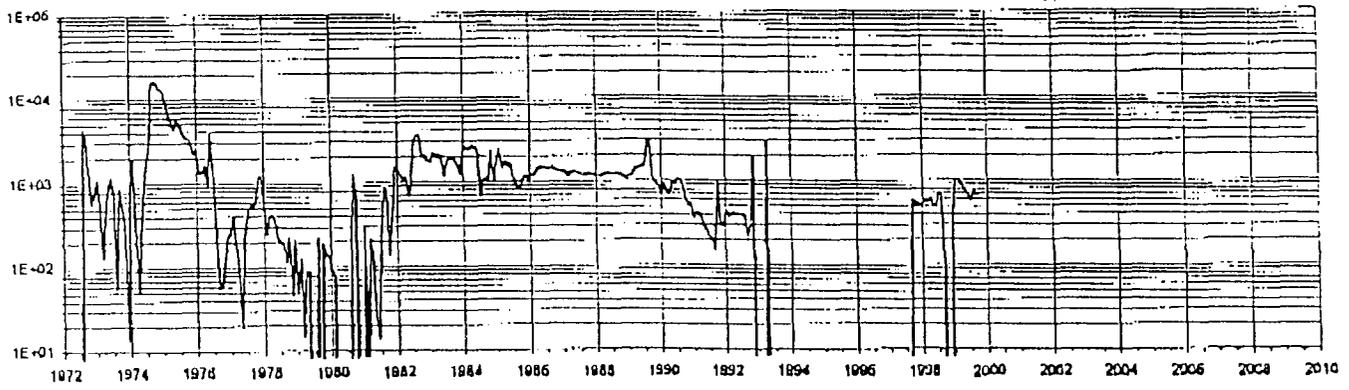


Cumulative Oil Production (MBO)

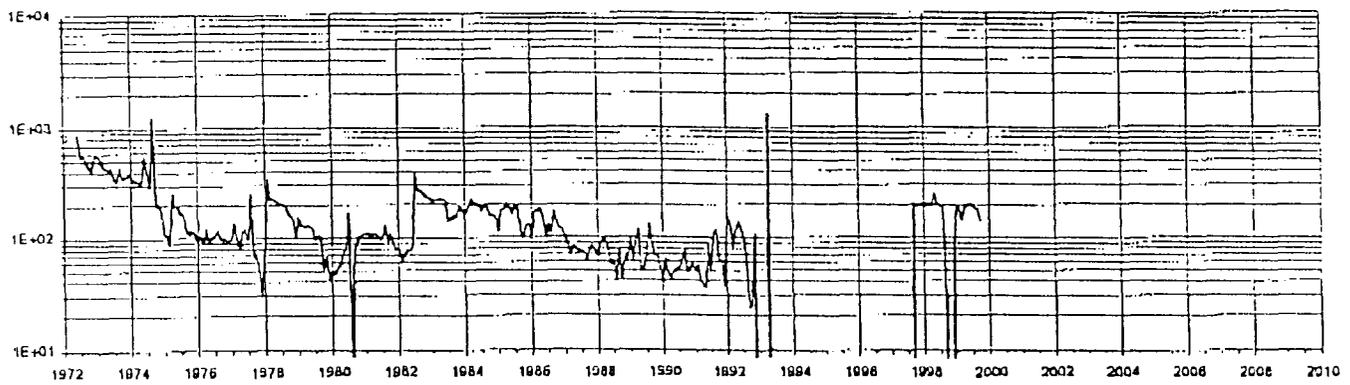


E C HILL B FEDERAL #3
 TEAGUE (BLINEBRY) BL
 34B 23S 37E
 PLAINS PETR OPERG CO

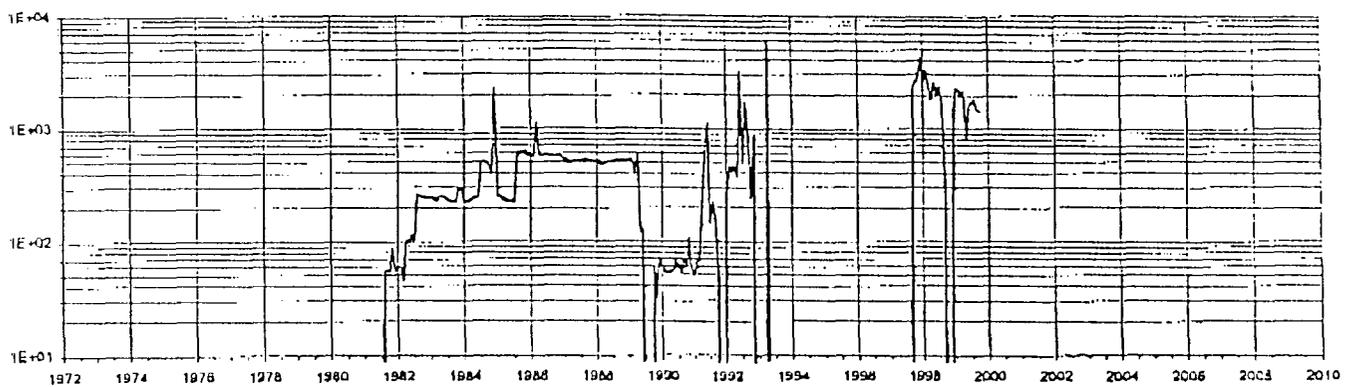
Gas Production (MCFPM)



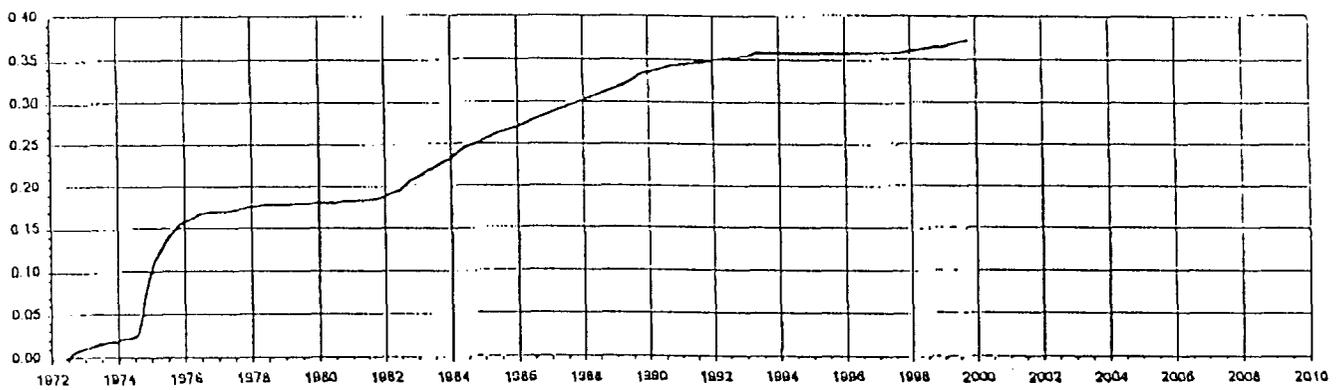
Oil Production (BPM)



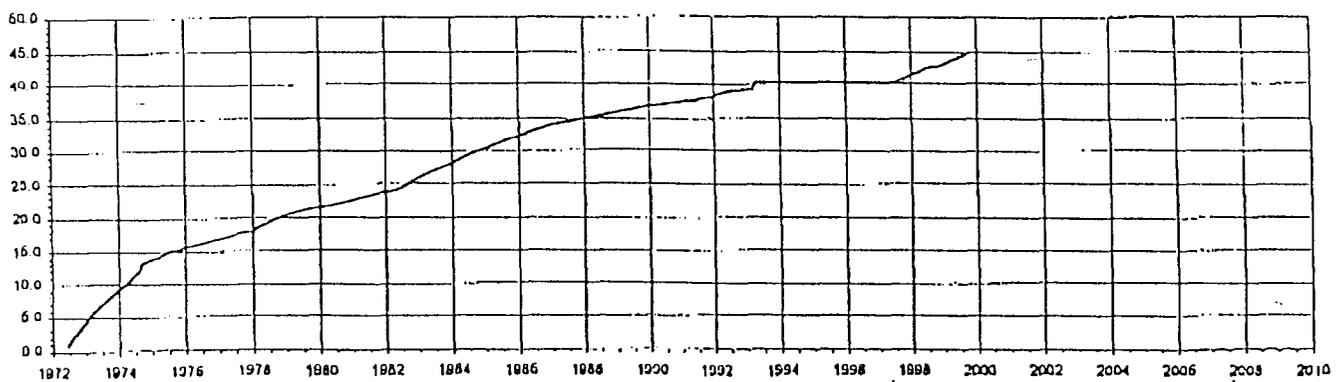
Water Production (BPM)



Cumulative Gas Production (BCF)

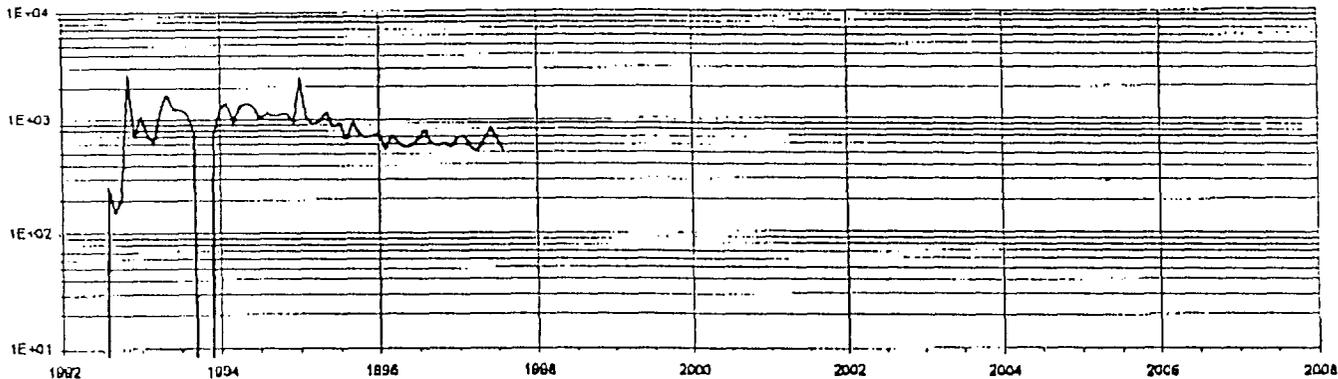


Cumulative Oil Production (MBO)

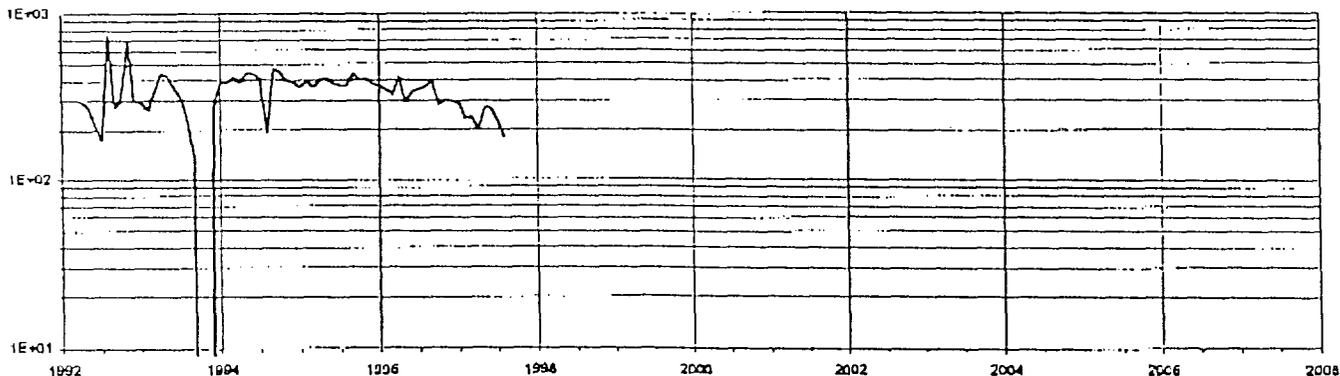


E C HILL B FEDERAL #4
 TEAGUE (PADDOCK) PD
 34G 23S 37E
 PLAINS PETROPERG CO

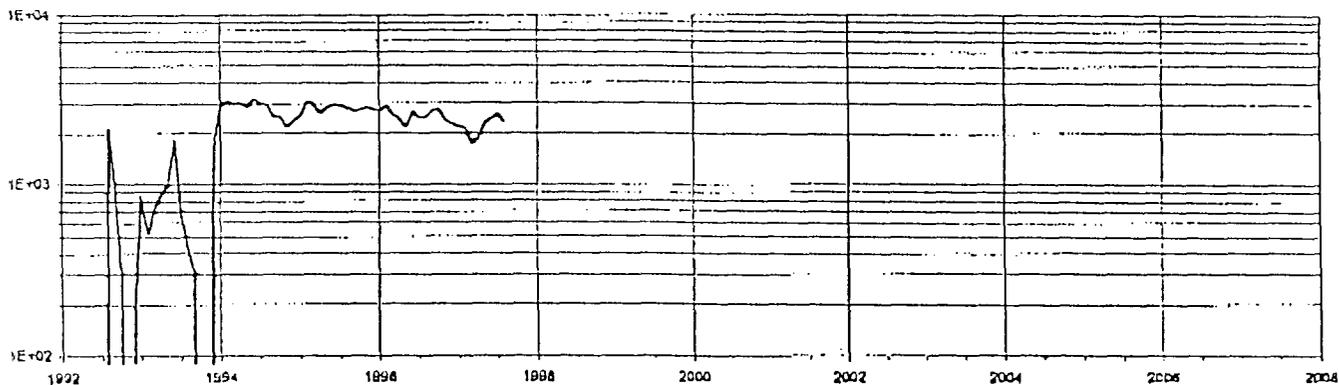
Gas Production (MCFPM)



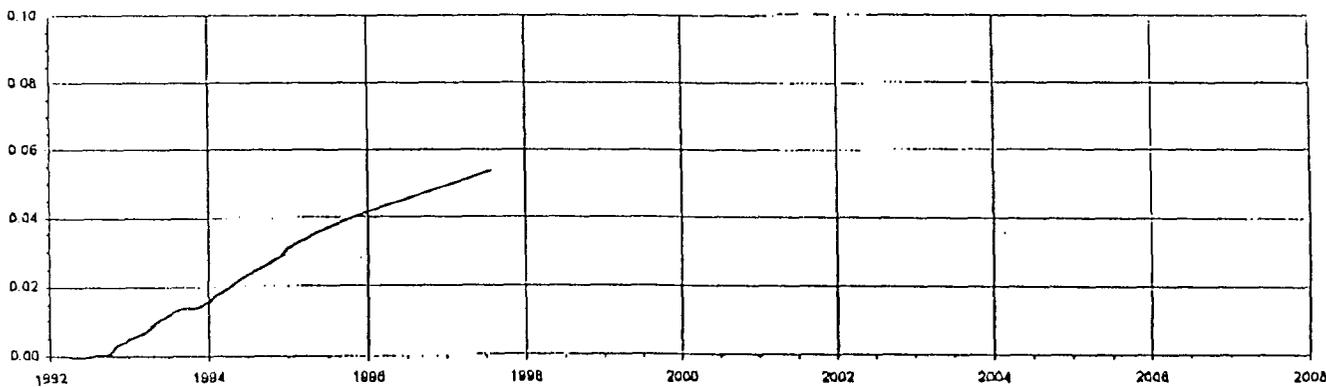
Oil Production (BPM)



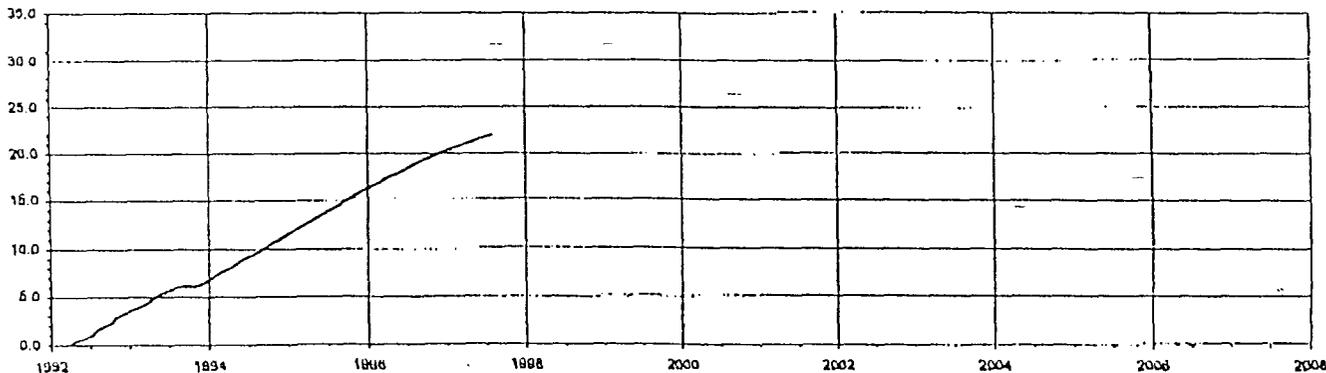
Water Production (BPM)



Cumulative Gas Production (BCF)

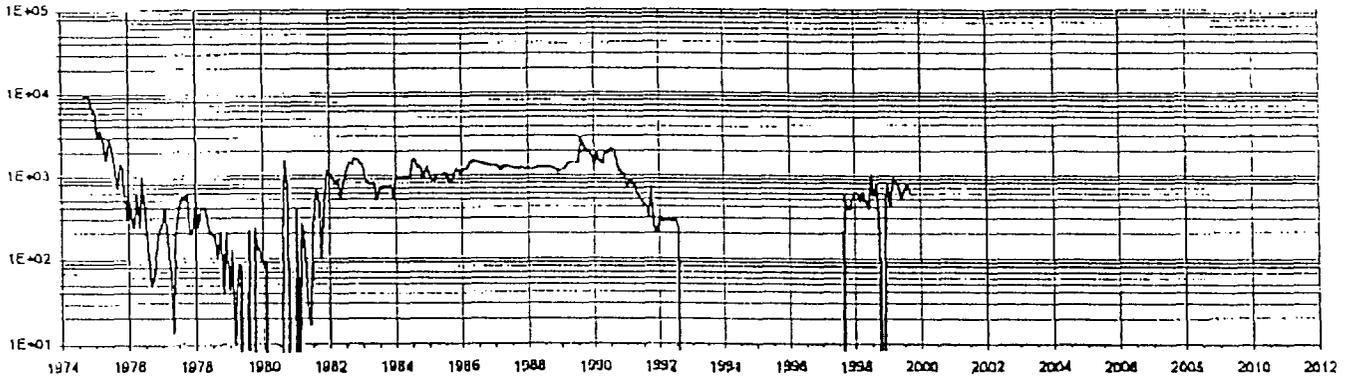


Cumulative Oil Production (MBO)

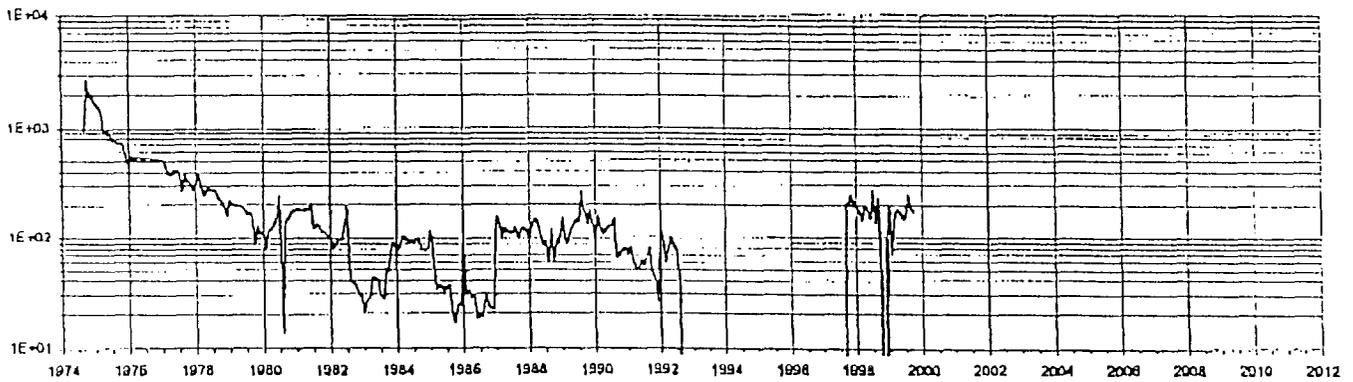


E C HILL B FEDERAL #4
 TEAGUE (BLINEBRY) BL
 34G 23S 37E
 PLAINS PETR OPERG CO

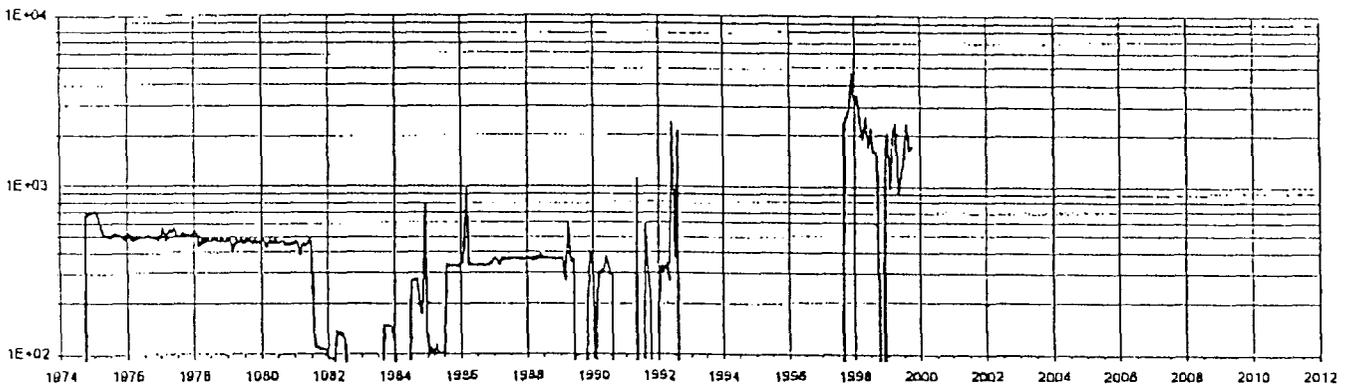
Gas Production (MCFPM)



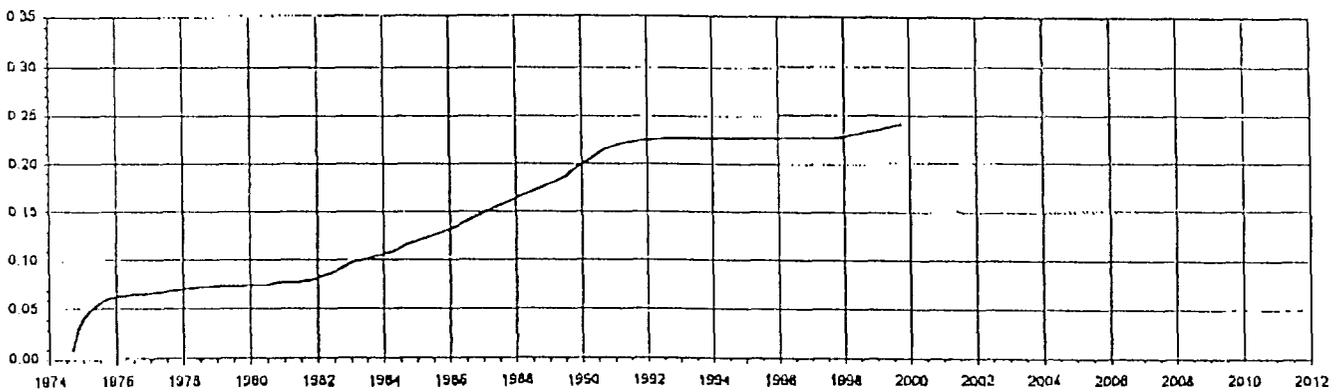
Oil Production (BPM)



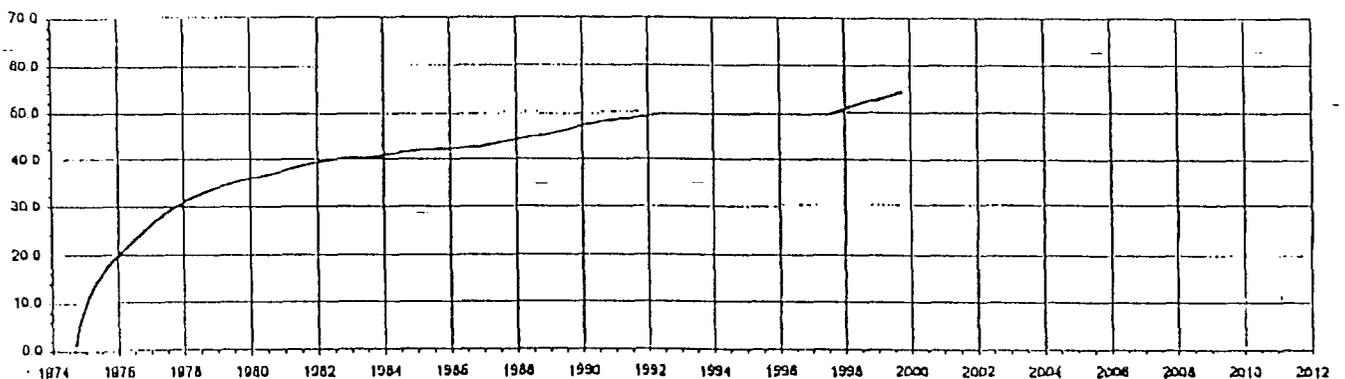
Water Production (BPM)



Cumulative Gas Production (BCF)

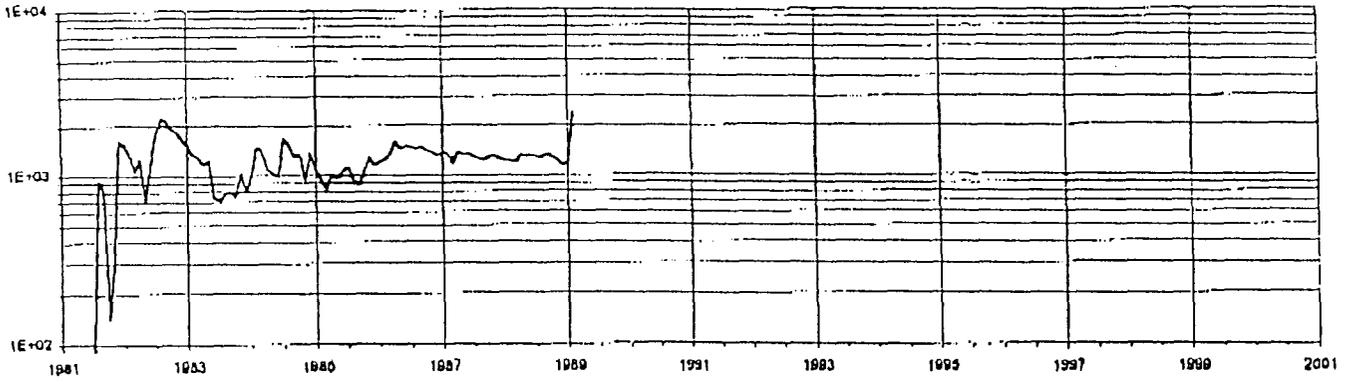


Cumulative Oil Production (MBO)

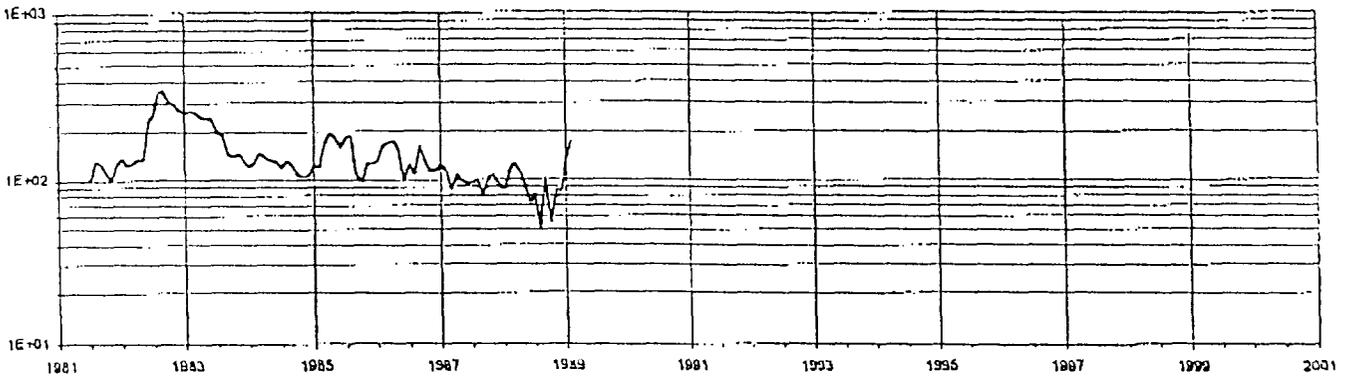


E C HILL B FEDERAL #6
 TEAGUE (BLINEBRY) BL
 34B 23S 37E
 ARCH PETROLEUM INC

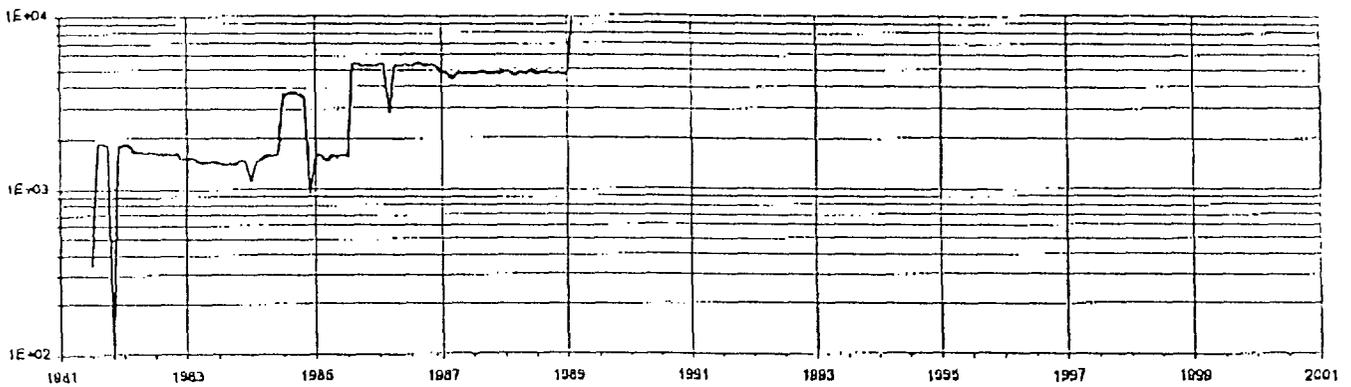
Gas Production (MCFPM)



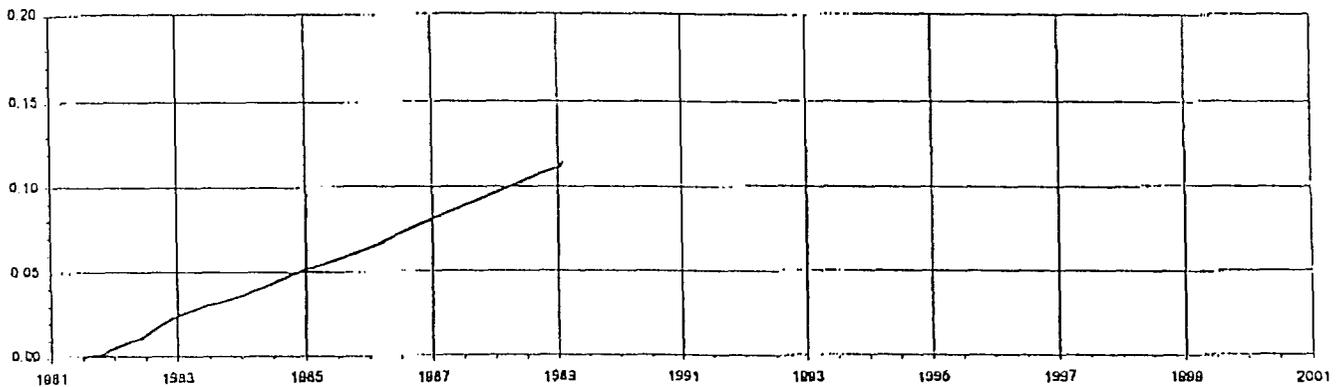
Oil Production (BPM)



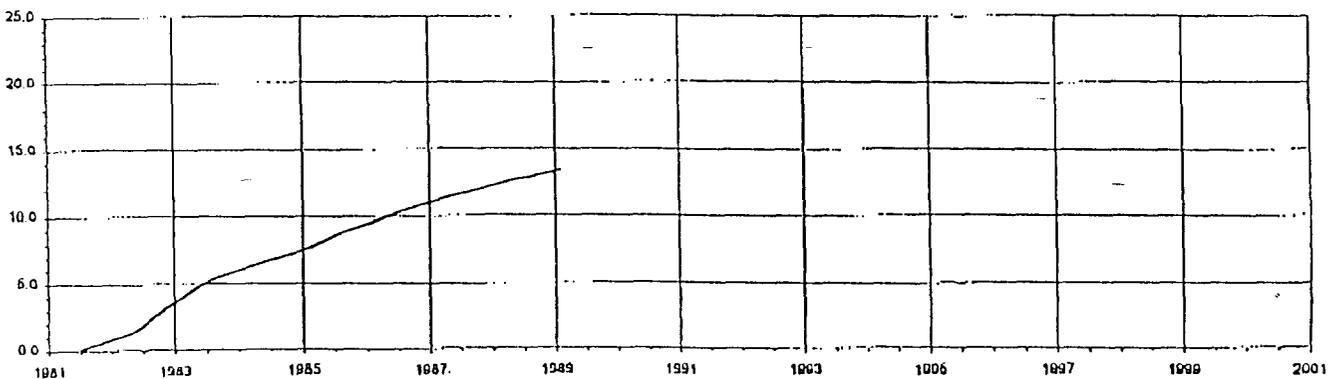
Water Production (BPM)



Cumulative Gas Production (BCF)



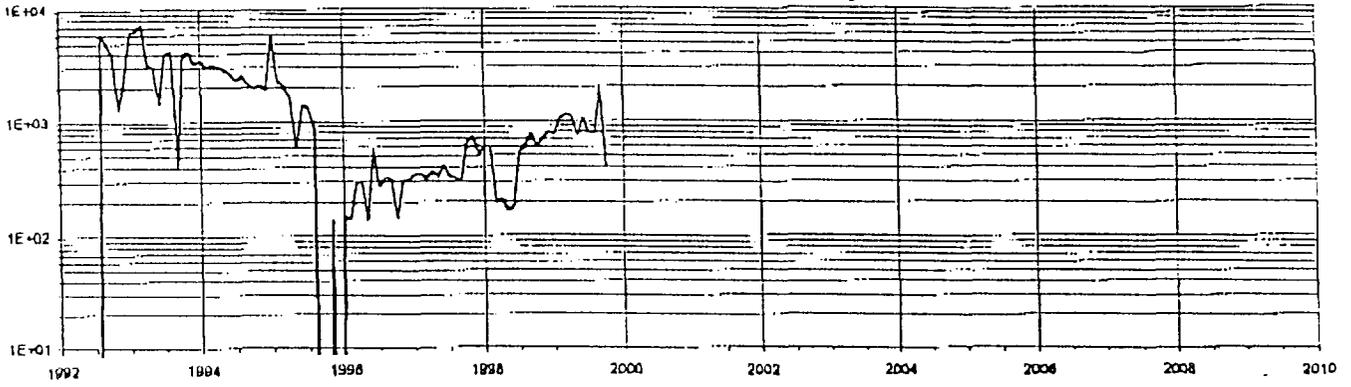
Cumulative Oil Production (MBO)



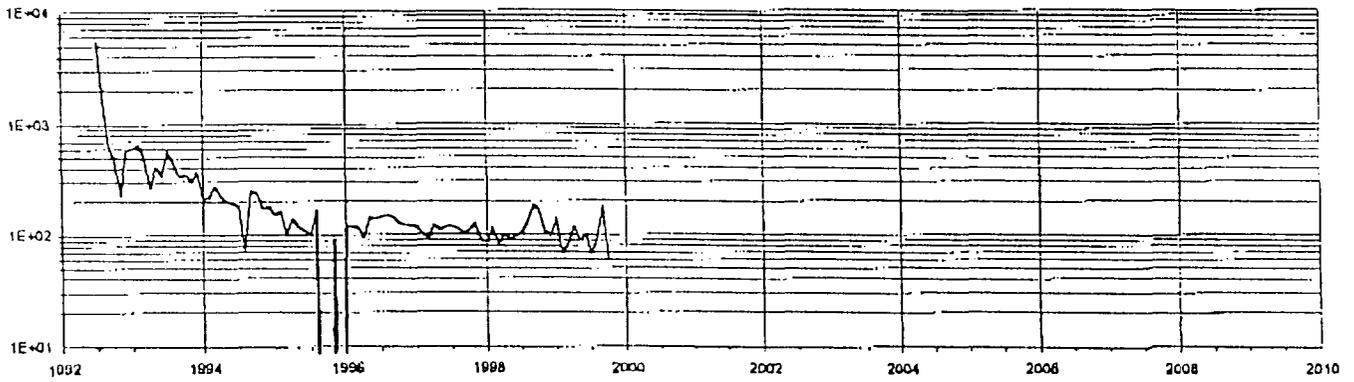
01/89: 0.114 BCF 13.49 MBO

E.C. HILL D FED #8
TEAGUE (BLINEBRY) BL
341 235 37E
PLAINS PETR OPERG CO

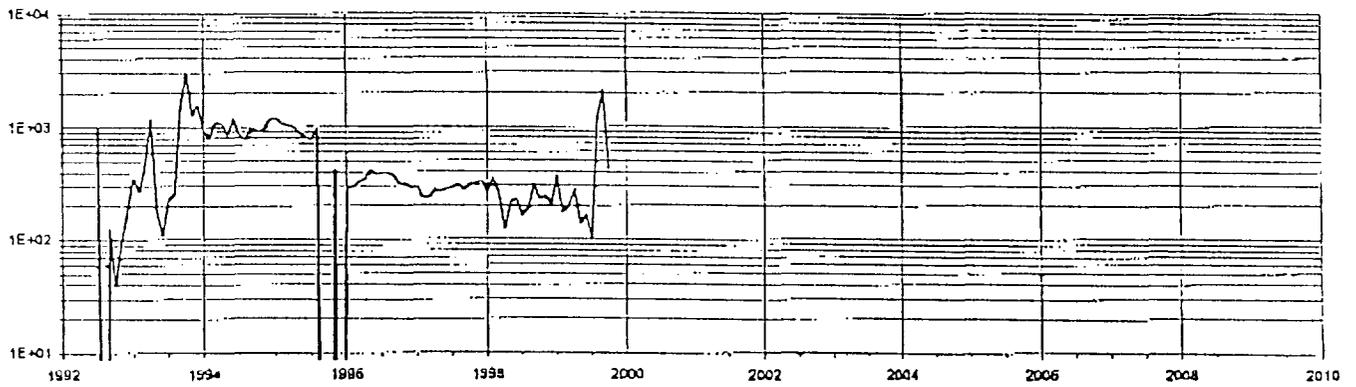
Gas Production (MCFPM)



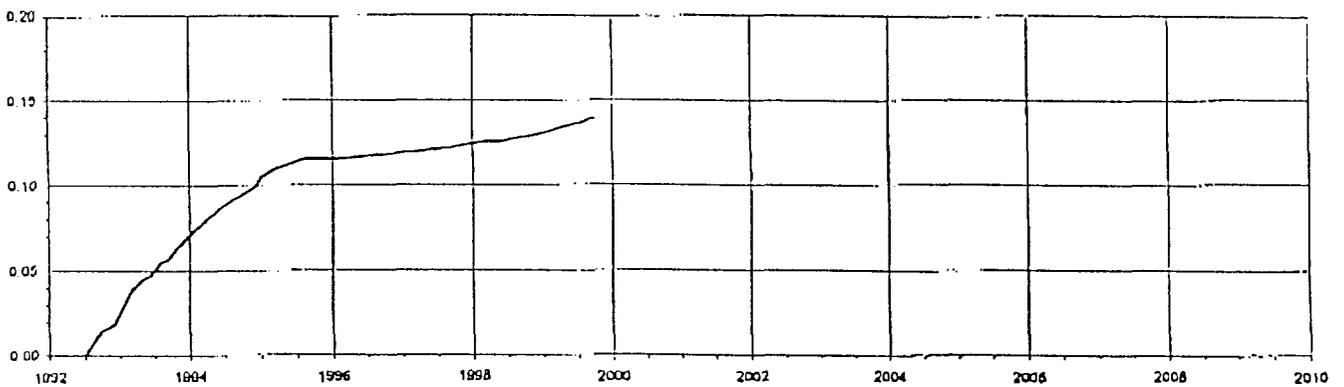
Oil Production (BPM)



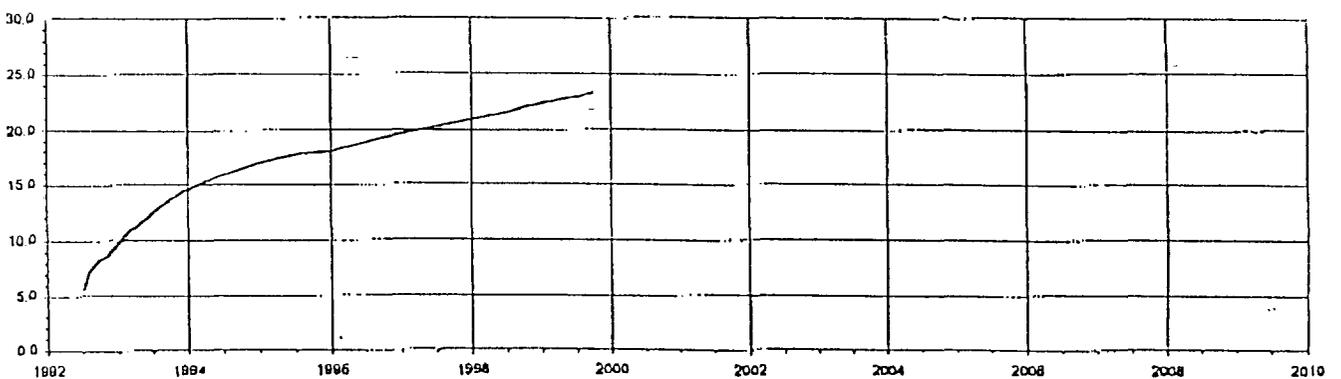
Water Production (BPM)



Cumulative Gas Production (BCF)



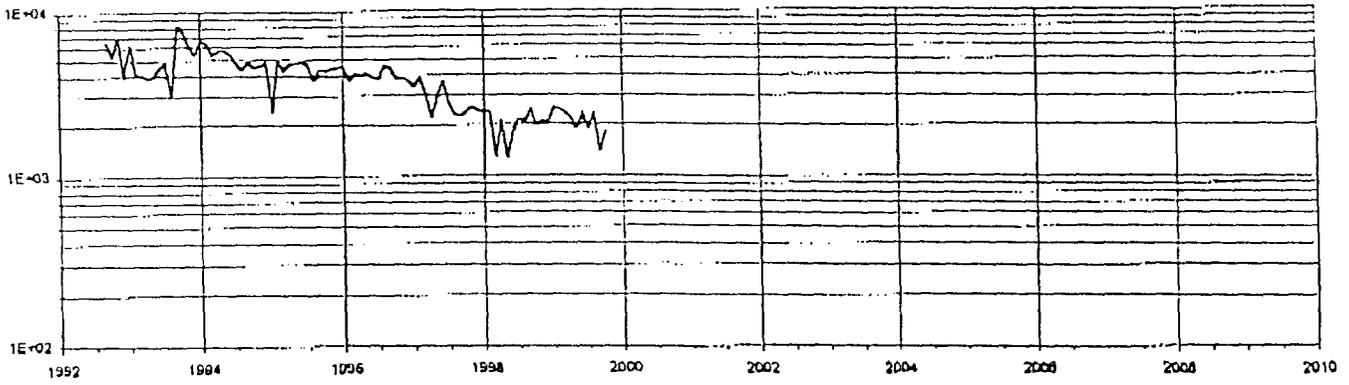
Cumulative Oil Production (MBO)



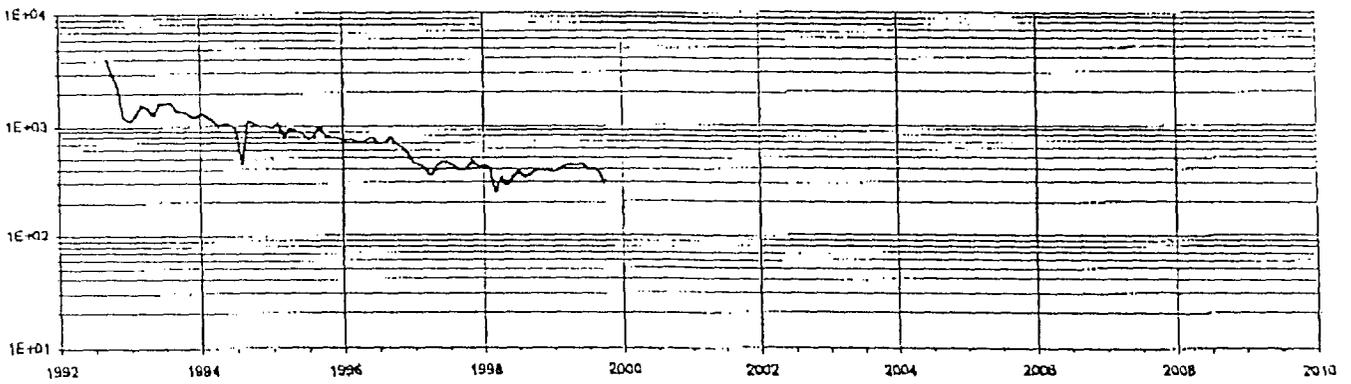
09/99: 0.140 BCF 23.24 MBO

E C HILL B FEDERAL #7
TEAGUE (BLINEBRY) BL
34J 23S 37E
PLAINS PETR OPERG CO

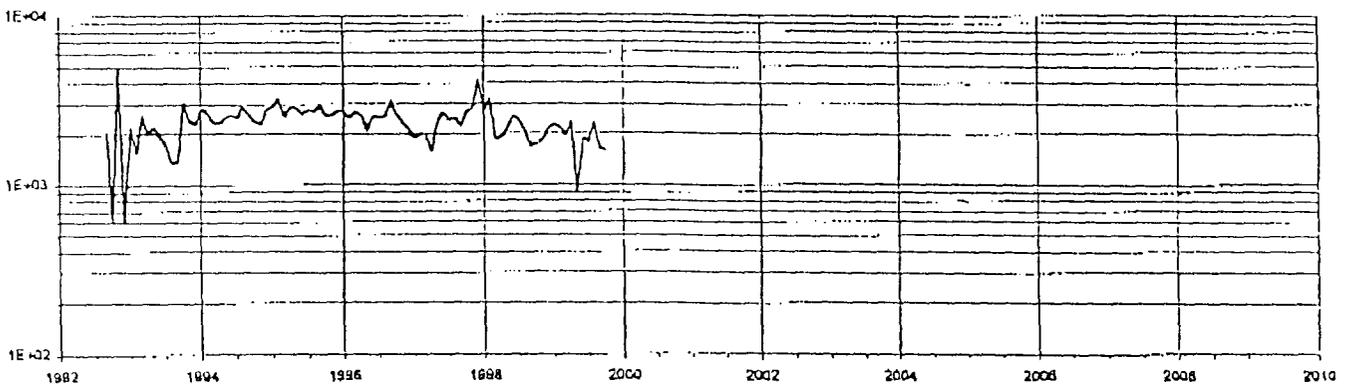
Gas Production (MCFPM)



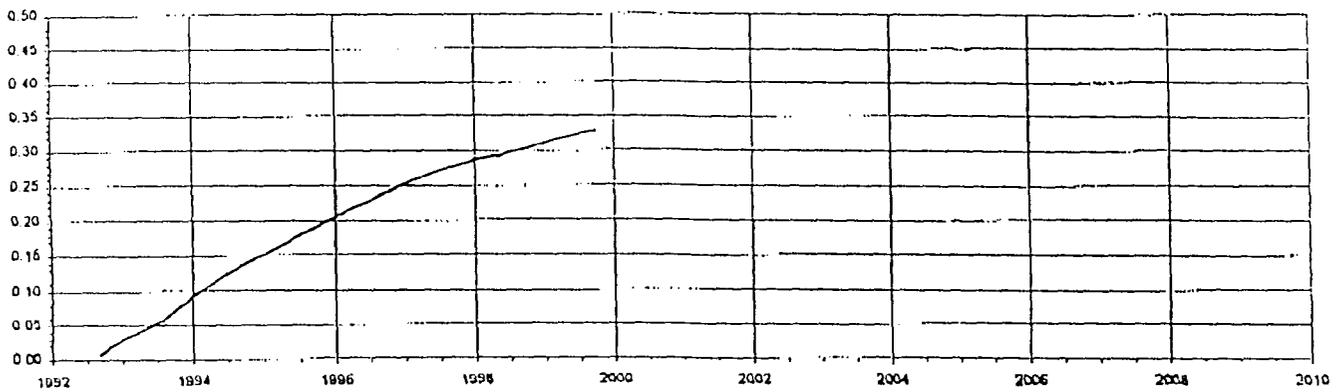
Oil Production (BPM)



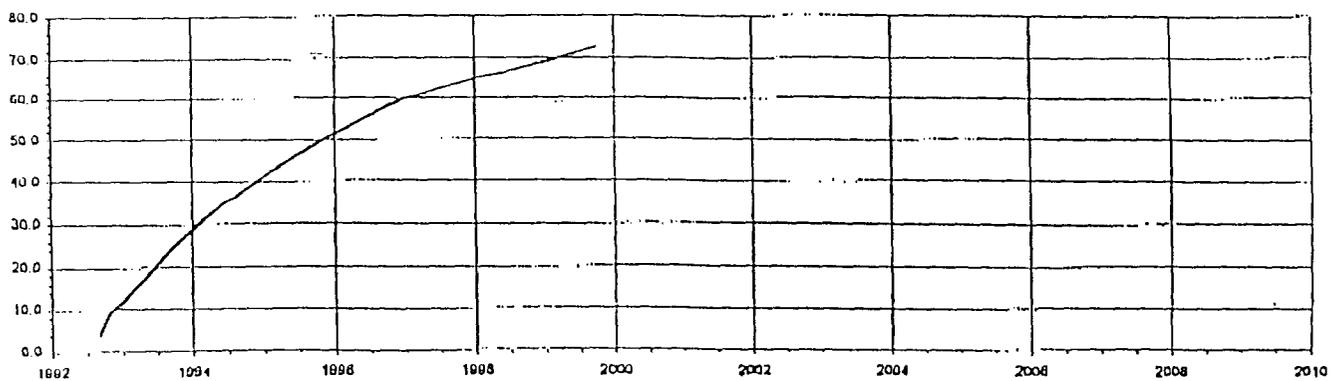
Water Production (BPM)



Cumulative Gas Production (BCF)

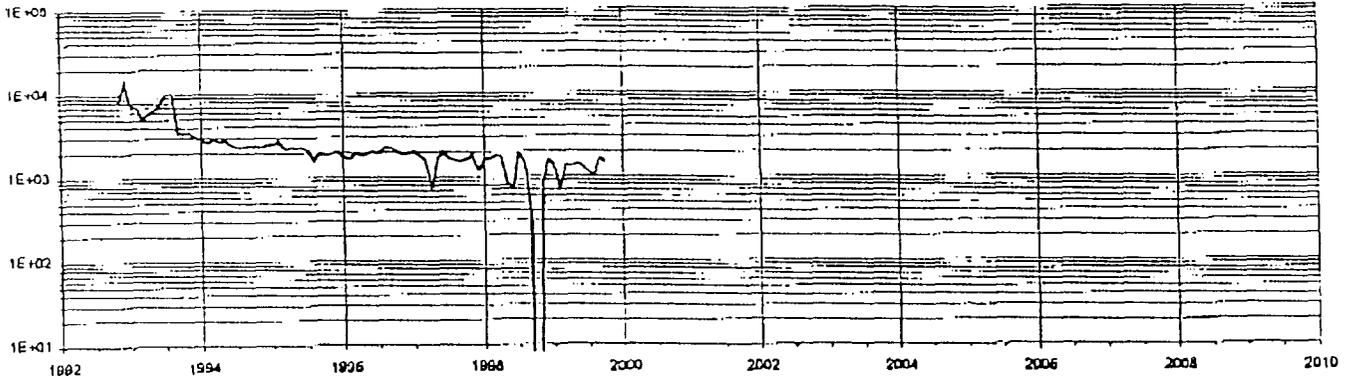


Cumulative Oil Production (MBO)

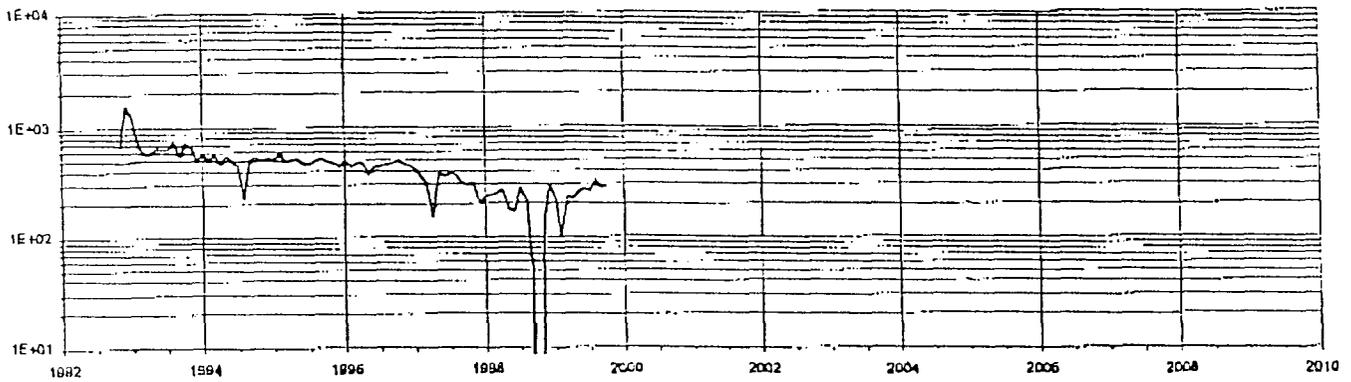


E C HILL B FEDERAL #8
TEAGUE (BLINEBRY) BL
340 23S 37E
PLAINS PETR OPERG CO

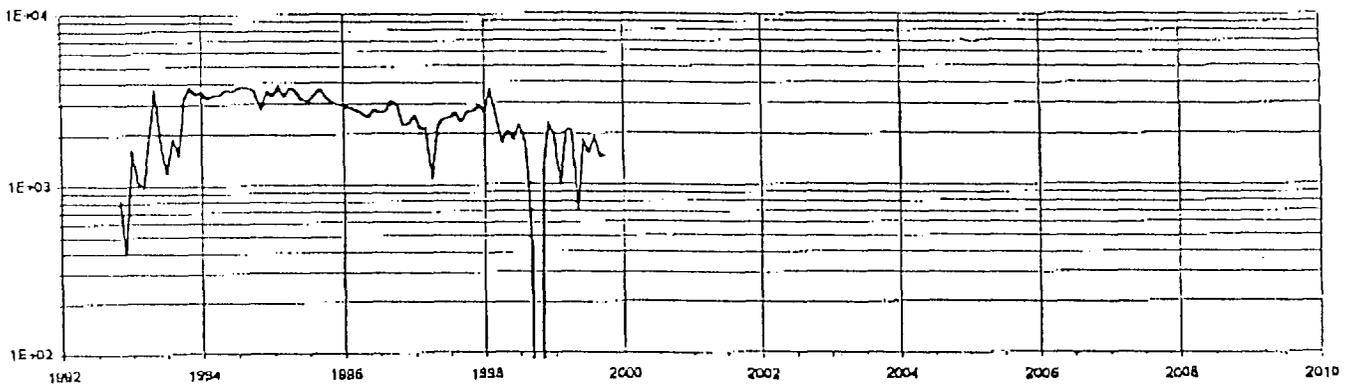
Gas Production (MCFPM)



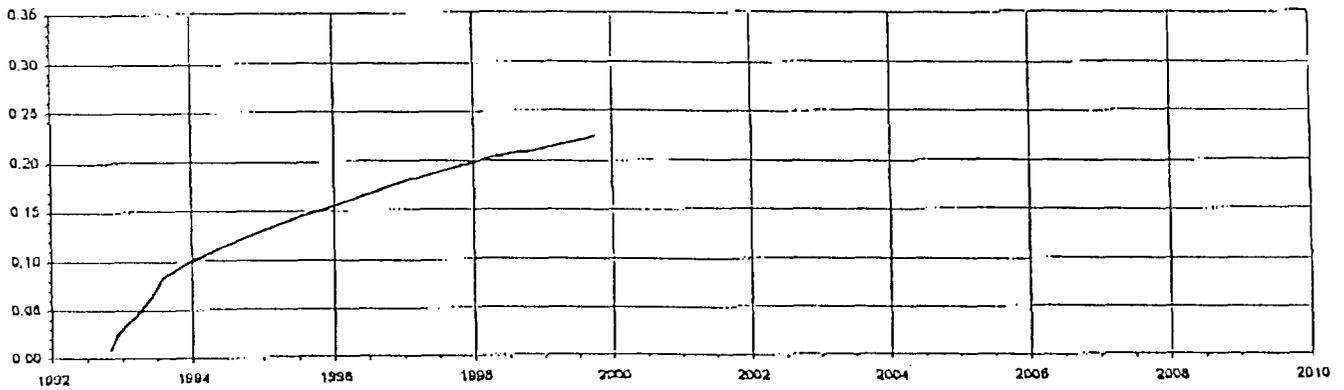
Oil Production (BPM)



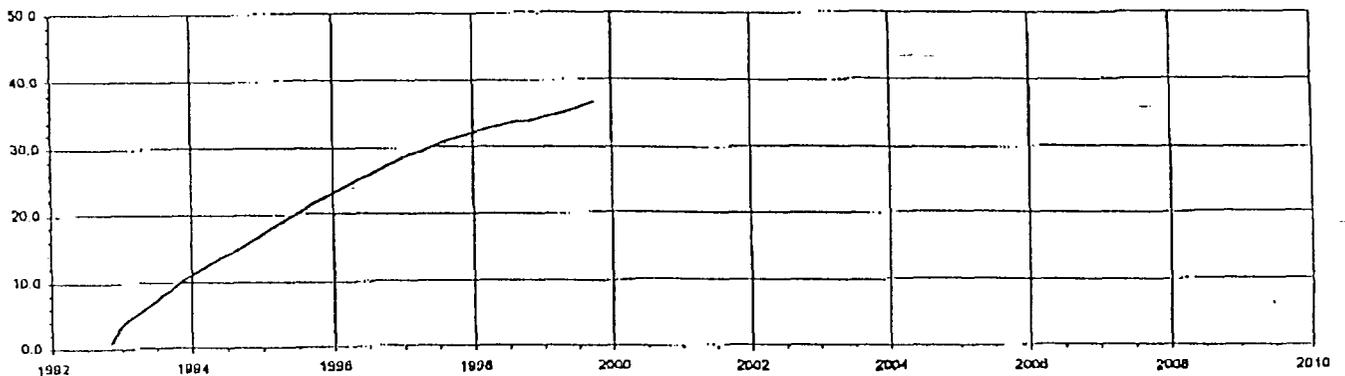
Water Production (BPM)



Cumulative Gas Production (BCF)



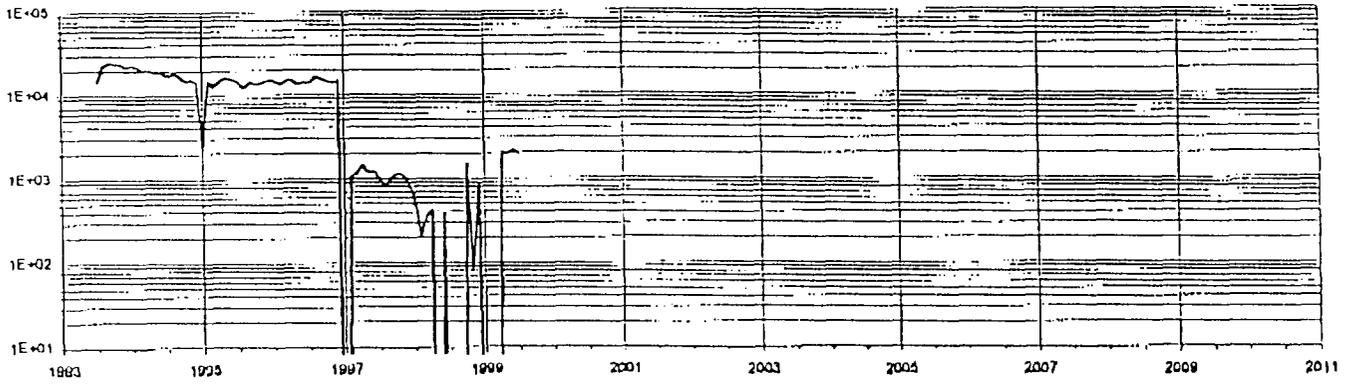
Cumulative Oil Production (MBO)



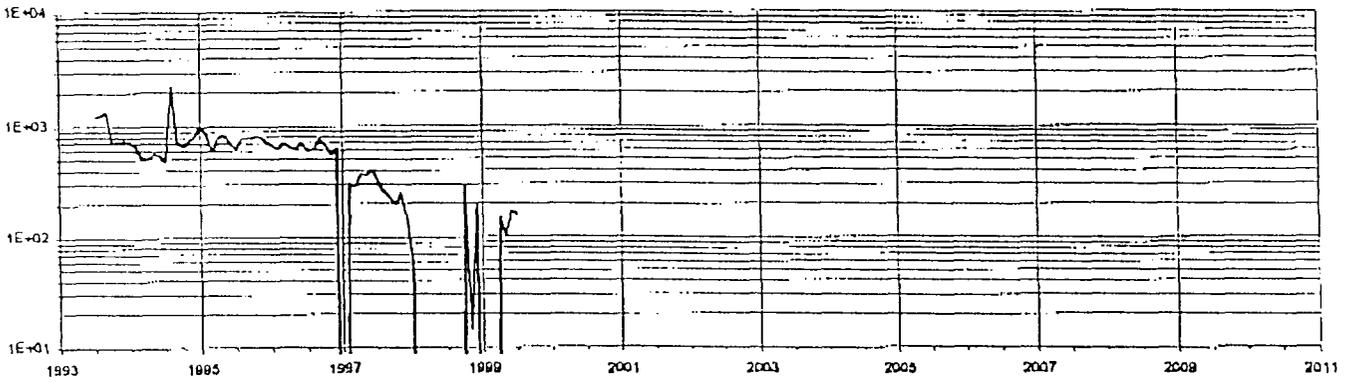
08/98: 0.224 BCF 36.81 MBO

E C HILL B FEDERAL #9
 TEAGUE (BLINEBRY) BL
 34P 23S 37E
 PLAINS PETR OPERG CO

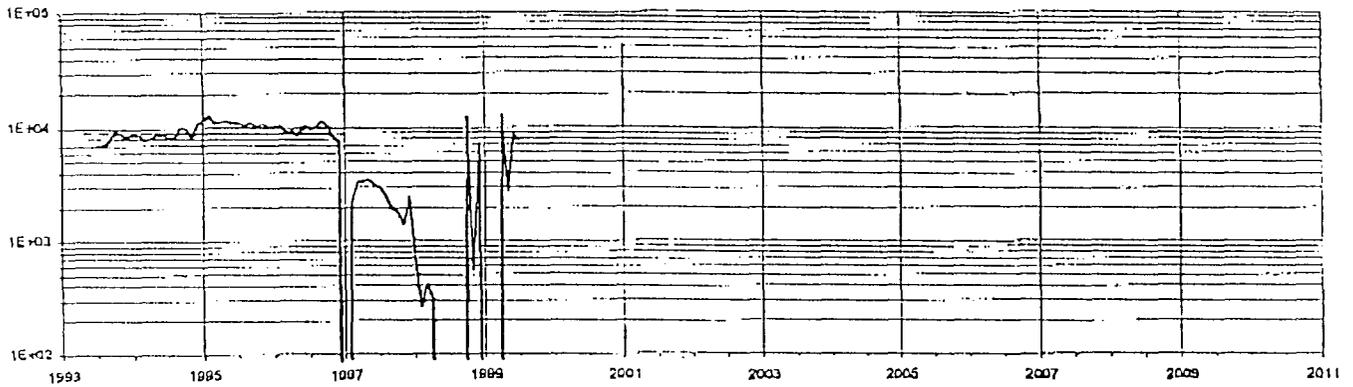
Gas Production (MCFPM)



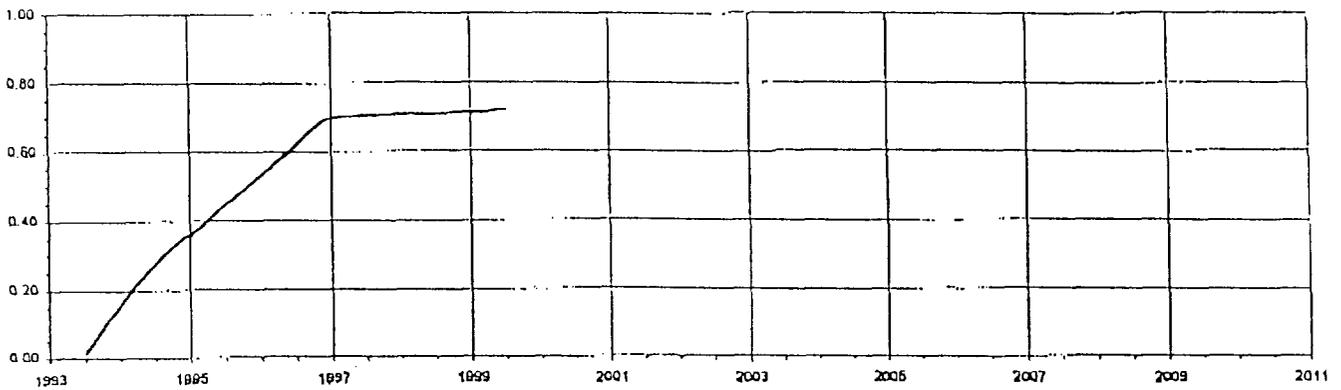
Oil Production (BPM)



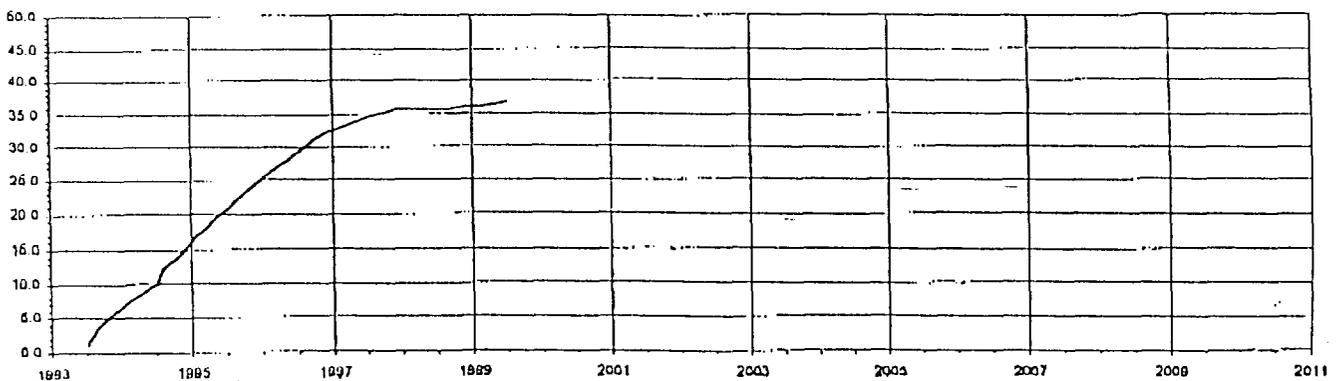
Water Production (BPM)



Cumulative Gas Production (BCF)



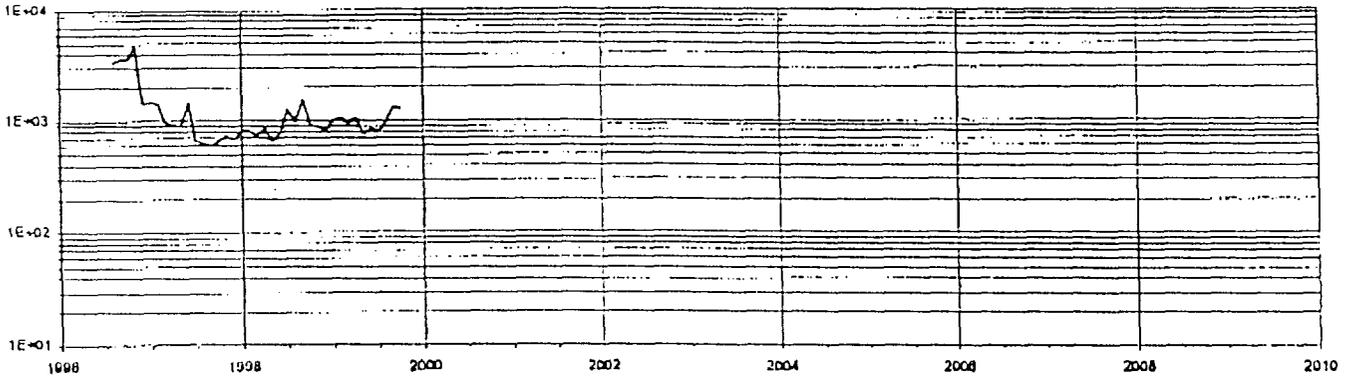
Cumulative Oil Production (MBO)



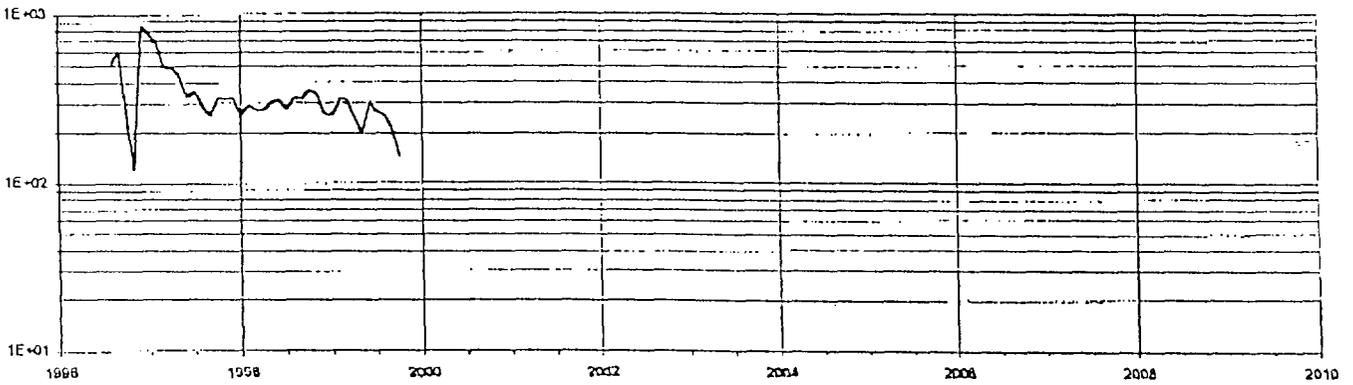
09/99: 0.721 BCF 36.83 MBO

E C HILL B FEDERAL #16
 TEAGUE (BLINEBRY) BL
 34 23S 37E
 PLAINS PETR OPERG CO

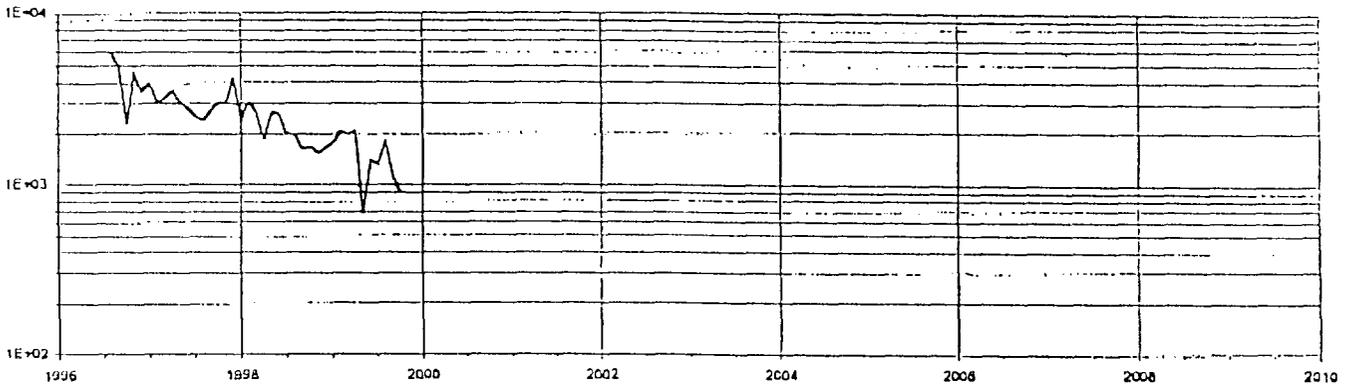
Gas Production (MCFPM)



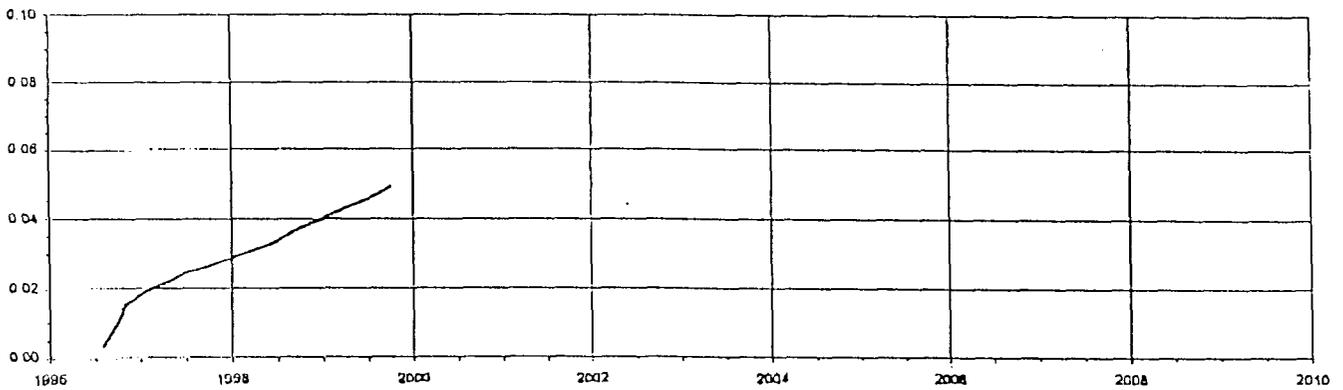
Oil Production (BPM)



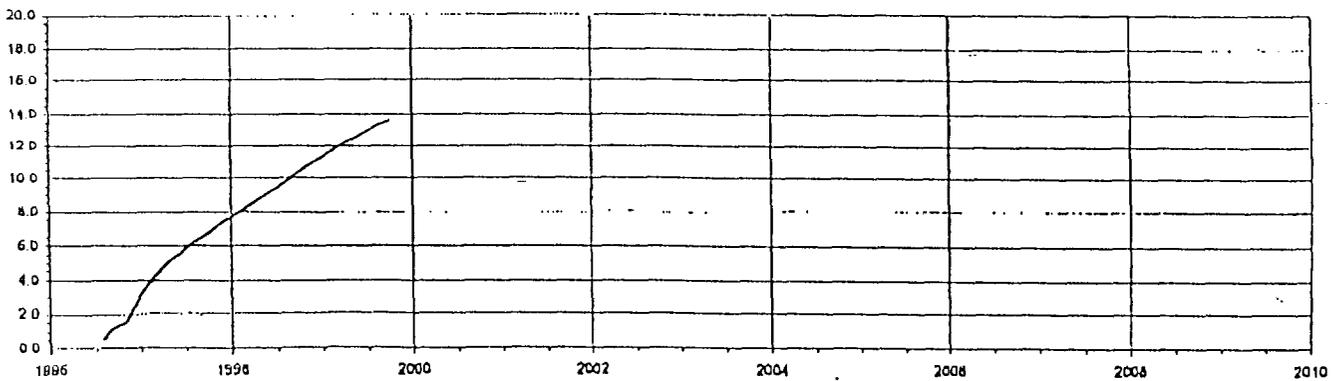
Water Production (BPM)



Cumulative Gas Production (BCF)



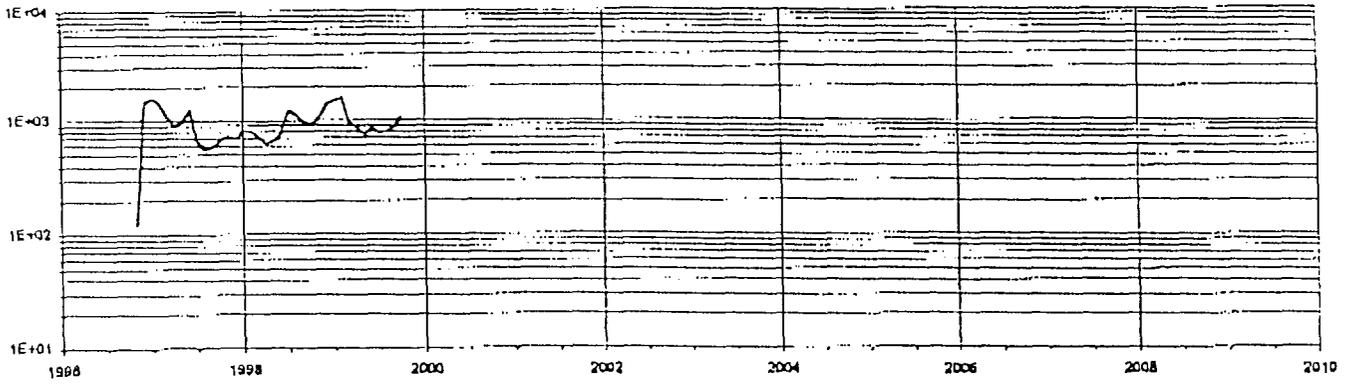
Cumulative Oil Production (MBO)



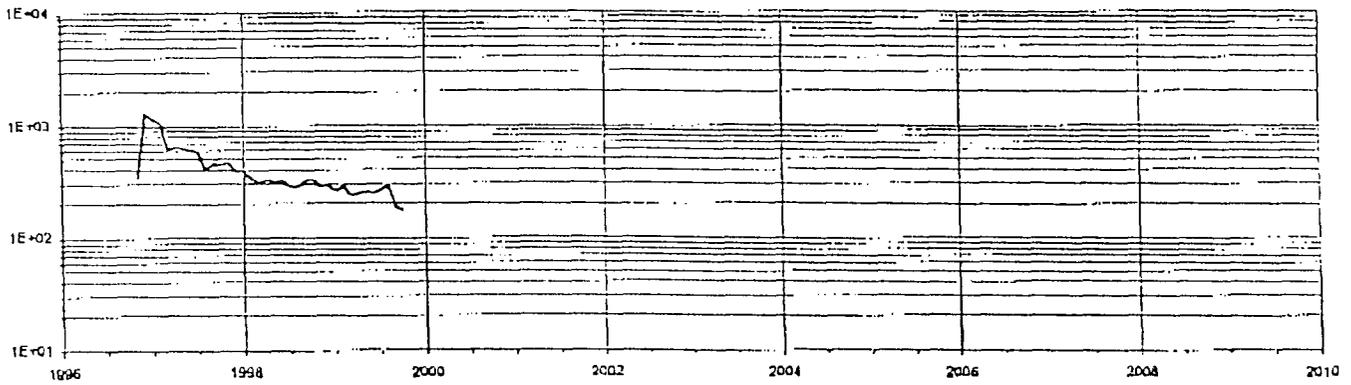
09/99: 0.049 BCF 13.61 MBO

EC HILL B FEDERAL #16
TEAGUE (BLINEBRY) BL
34P 23S 37E
PLAINS PETR OPERG CO

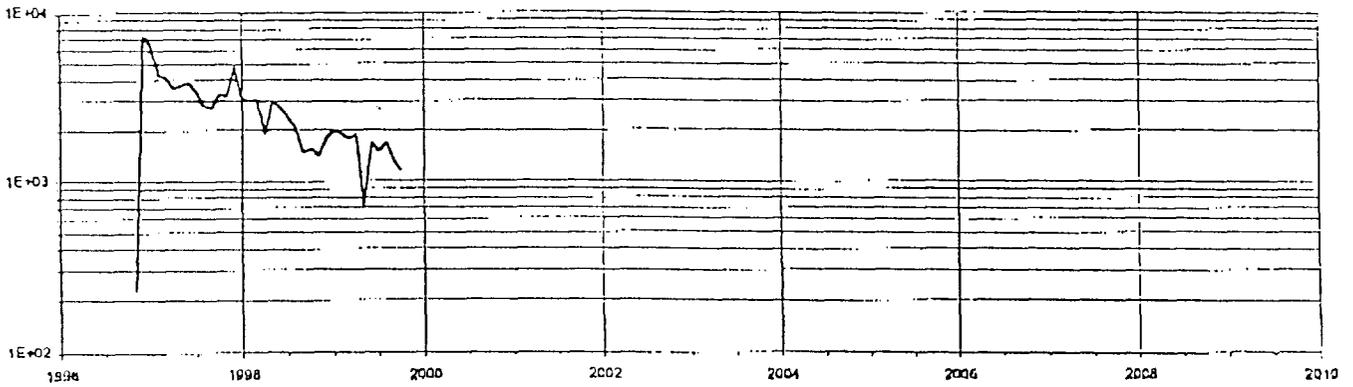
Gas Production (MCFPM)



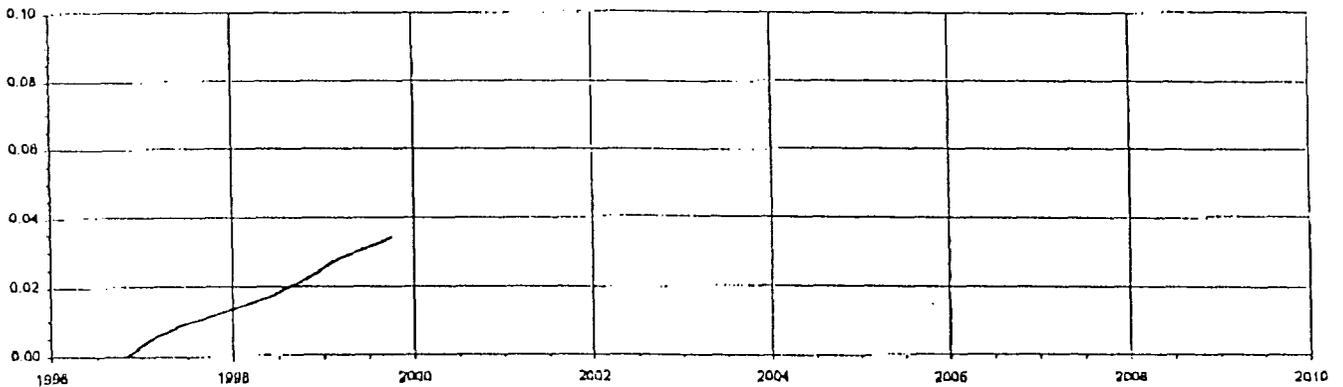
Oil Production (BPM)



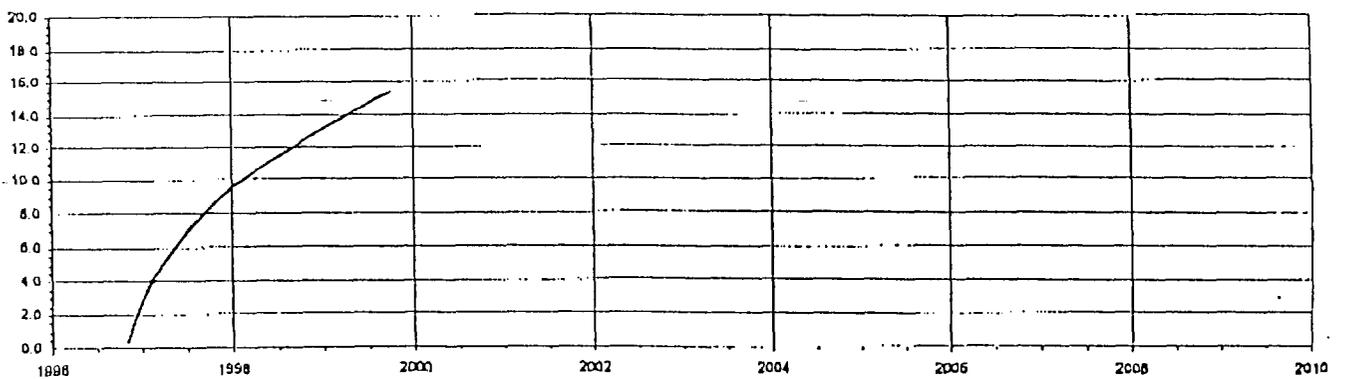
Water Production (BPM)



Cumulative Gas Production (BCF)



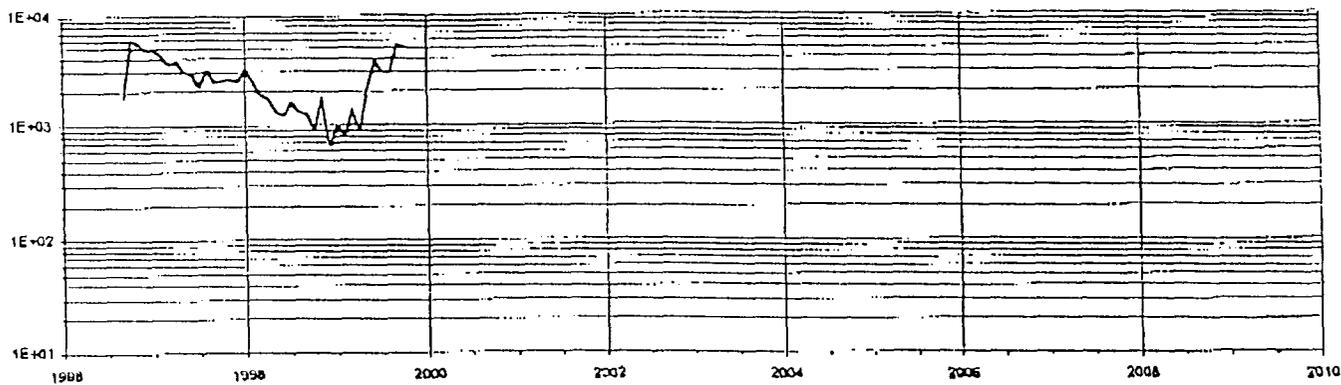
Cumulative Oil Production (MBO)



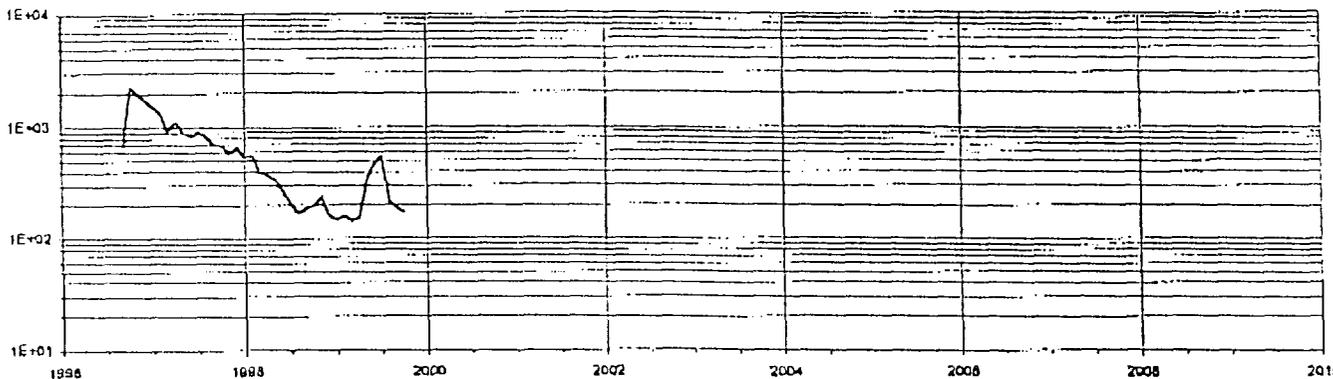
00/98; 0.034 BCF 15.38 MBO

E C HILL B FEDERAL #17
TEAGUE (BLINEBRY) BL
34 235 37E
PLAINS PETR OPERG CO

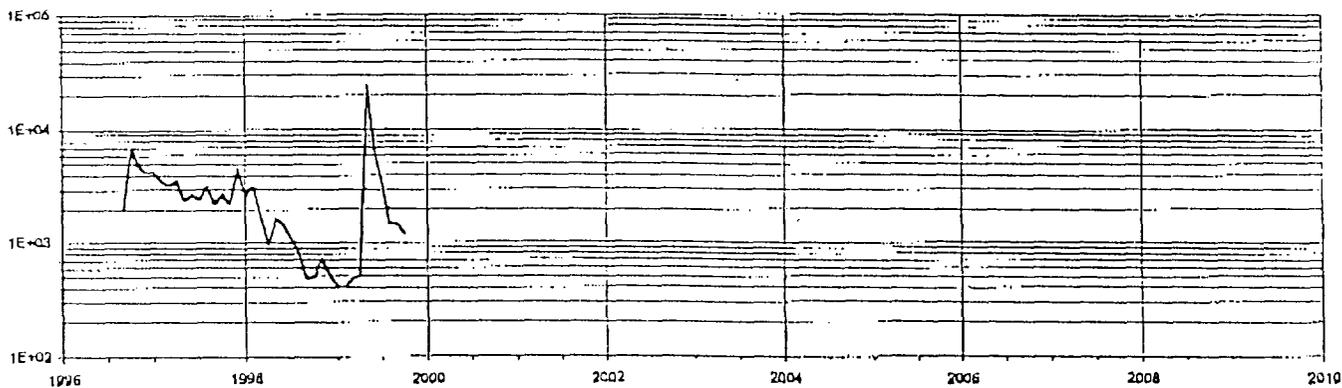
Gas Production (MCFPM)



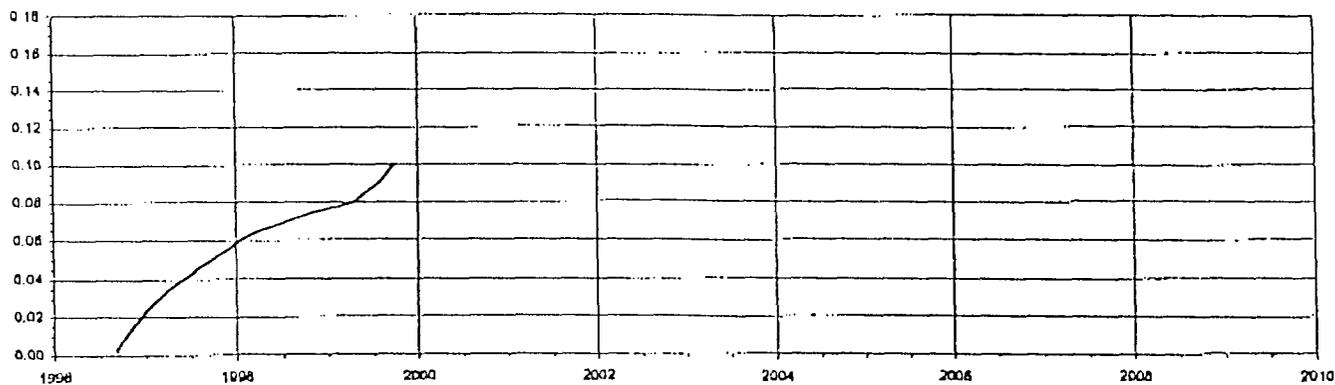
Oil Production (BPM)



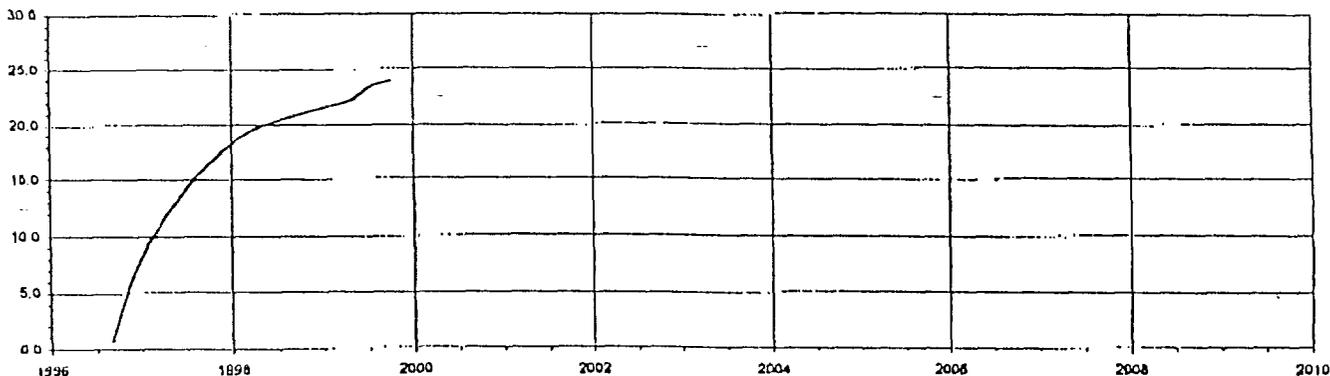
Water Production (BPM)



Cumulative Gas Production (BCF)



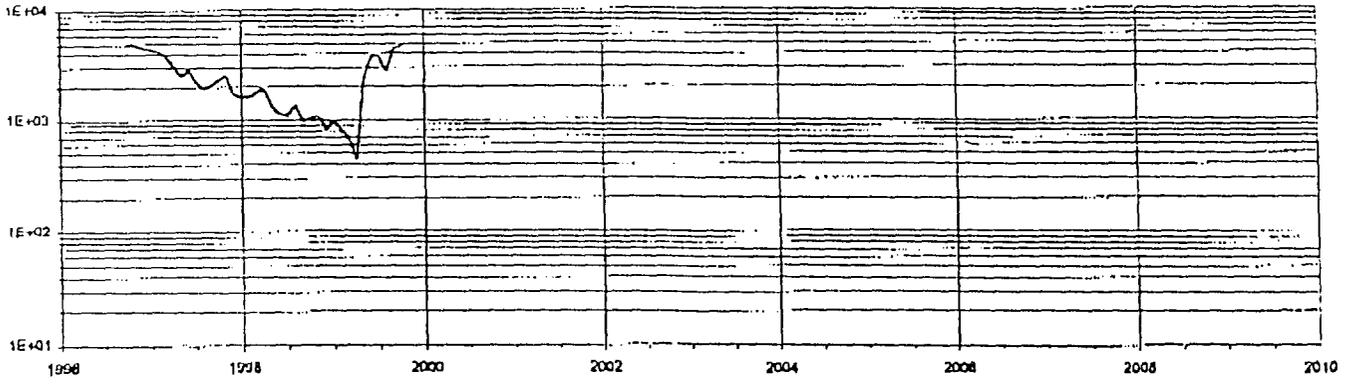
Cumulative Oil Production (MBO)



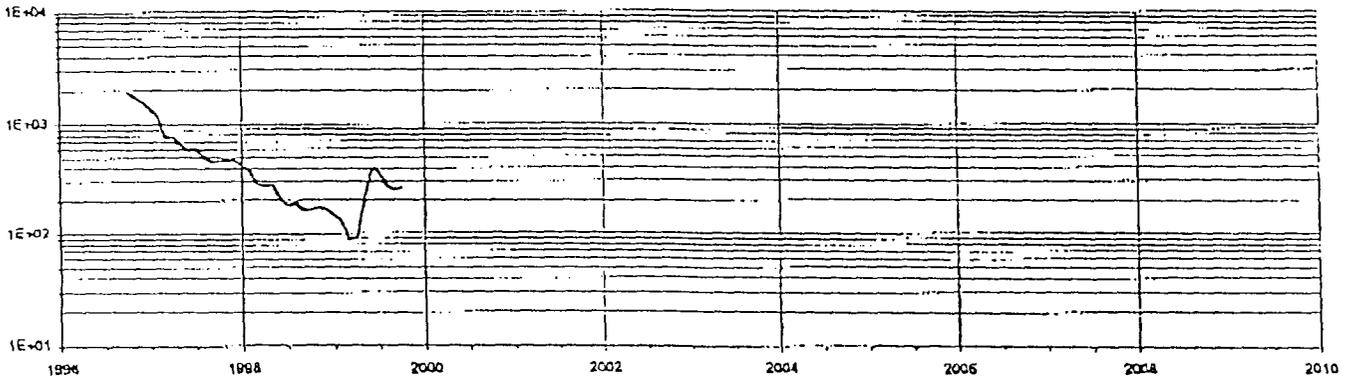
09/99: 0.102 BCF 23.87 MBO

E C HILL B FEDERAL #18
 YEAGUE (BLINEBRY) BL
 34 23S 37E
 PLAINS PETR OPERG CO

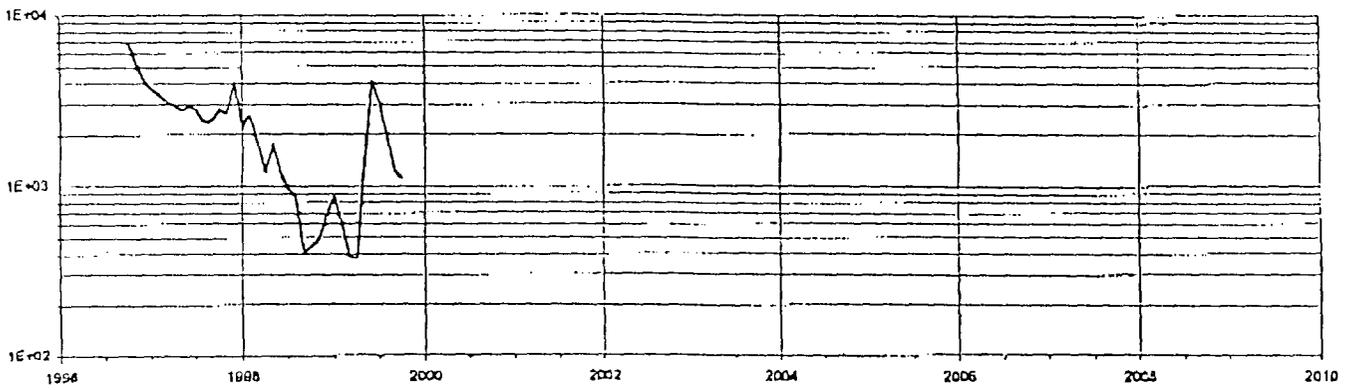
Gas Production (MCFPM)



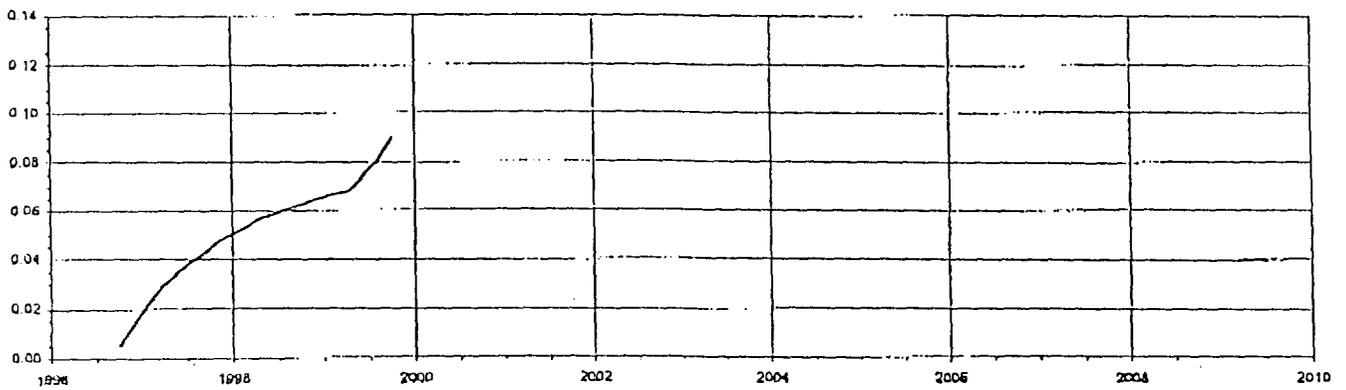
Oil Production (BPM)



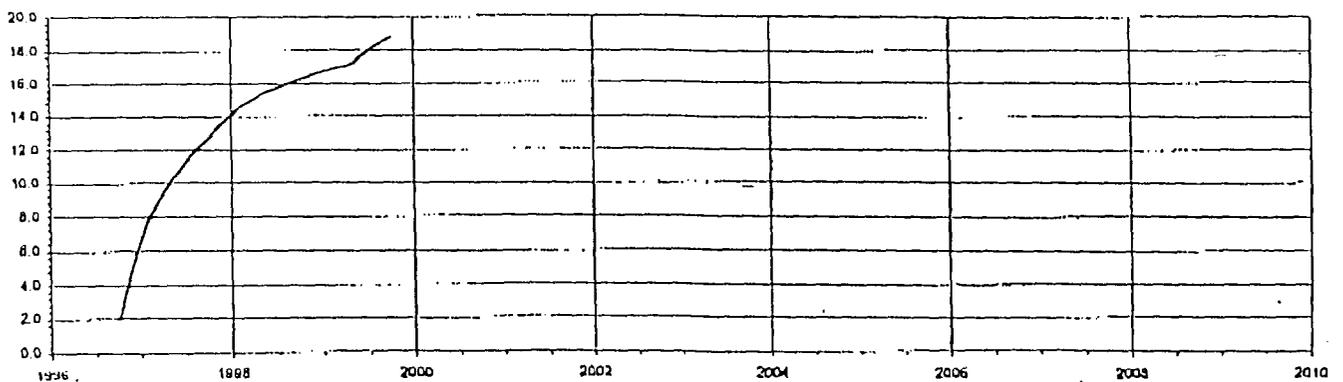
Water Production (BPM)



Cumulative Gas Production (BCF)



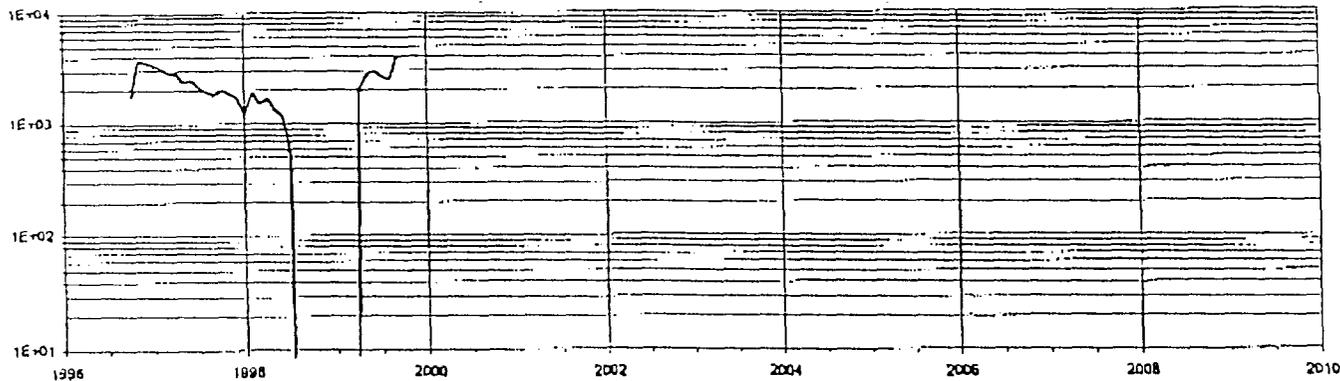
Cumulative Oil Production (MBO)



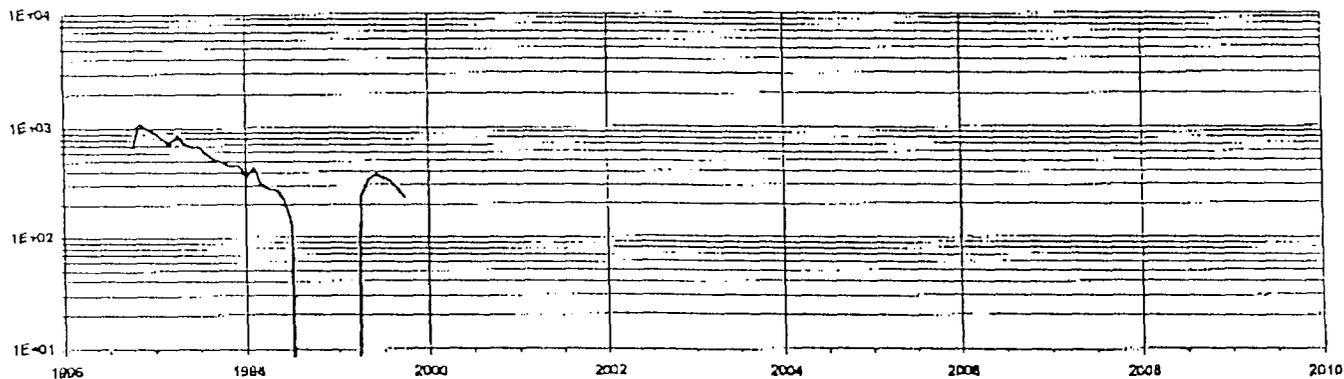
09/99: 0.090 BCF 18.83 MBO

E C HILL B FEDERAL #19
 TEAGUE (BLINEBRY) BL
 34 23S 37E
 PLAINS PETR OPERG CO

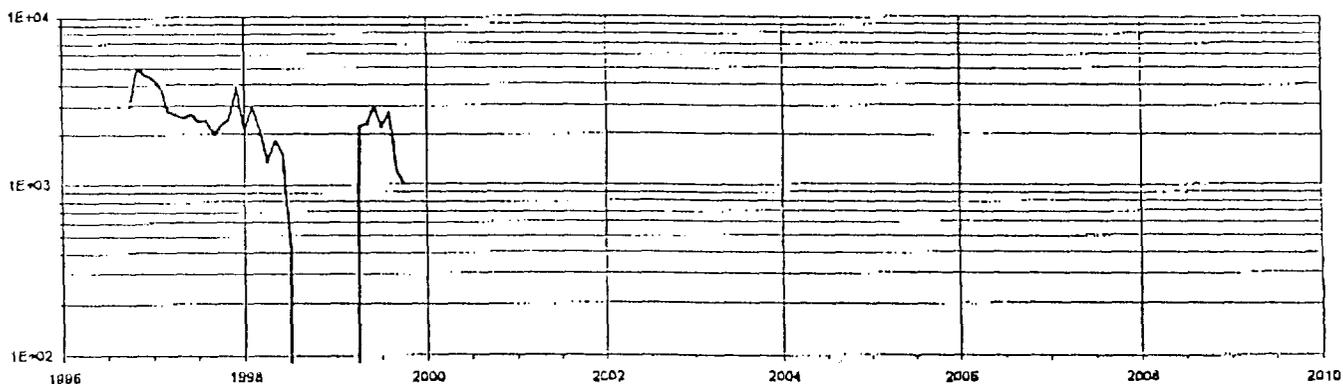
Gas Production (MCFPM)



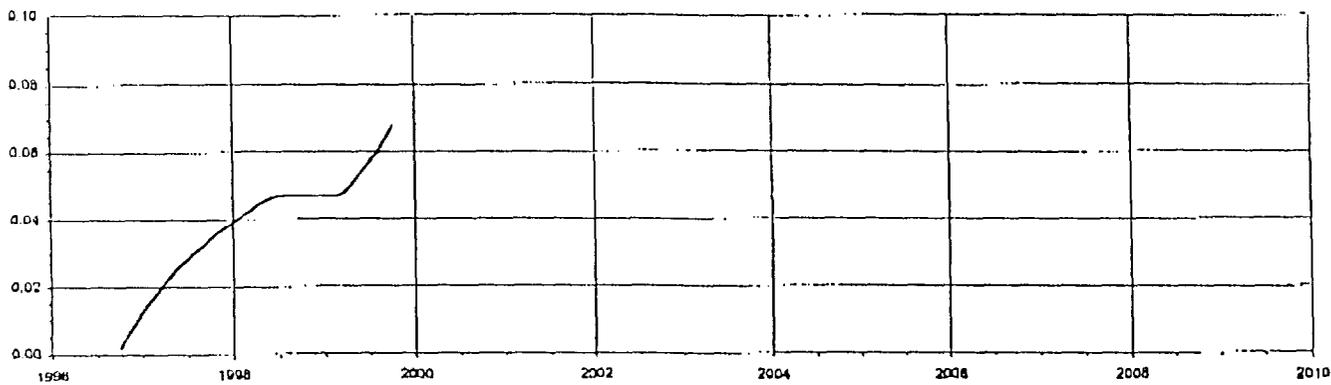
Oil Production (BPM)



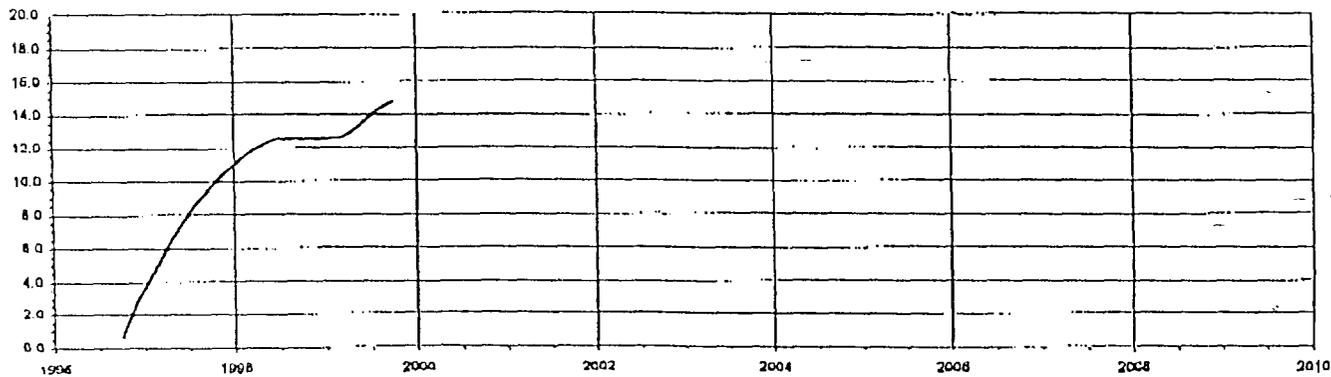
Water Production (BPM)



Cumulative Gas Production (BCF)



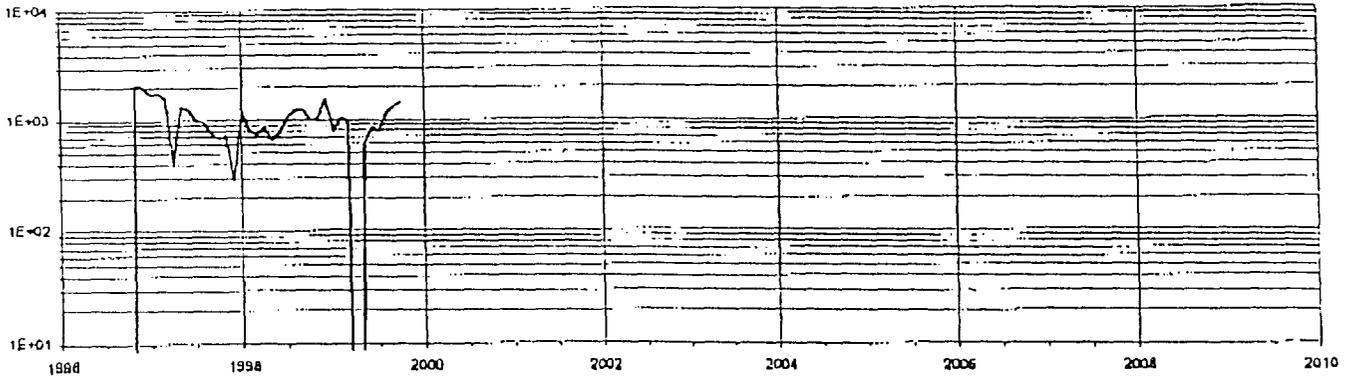
Cumulative Oil Production (MBO)



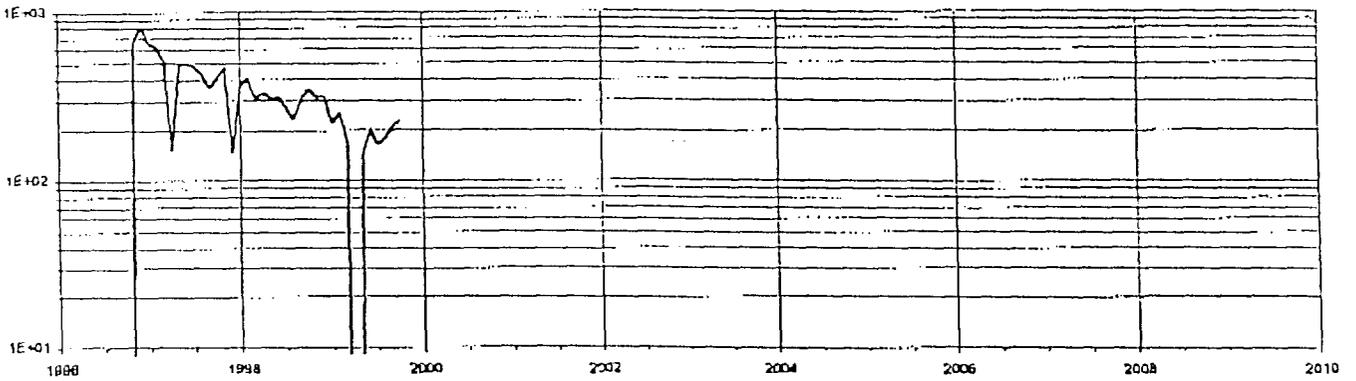
09/99: 0.068 BCF 14.81 MBO

E C HILL B FEDERAL #20
 TEAGUE (BLINEBRY) BL
 34 235 37E
 PLAINS PETR OPERG CO

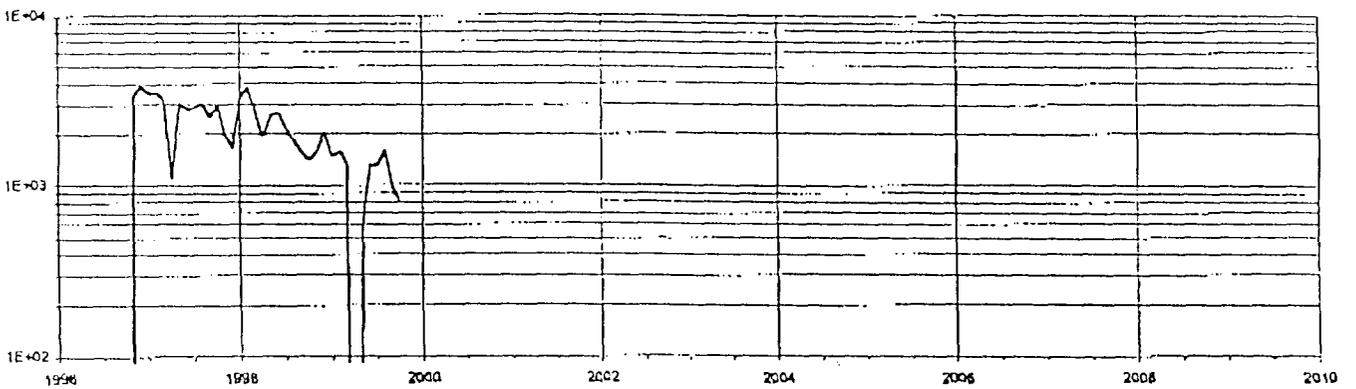
Gas Production (MCFPM)



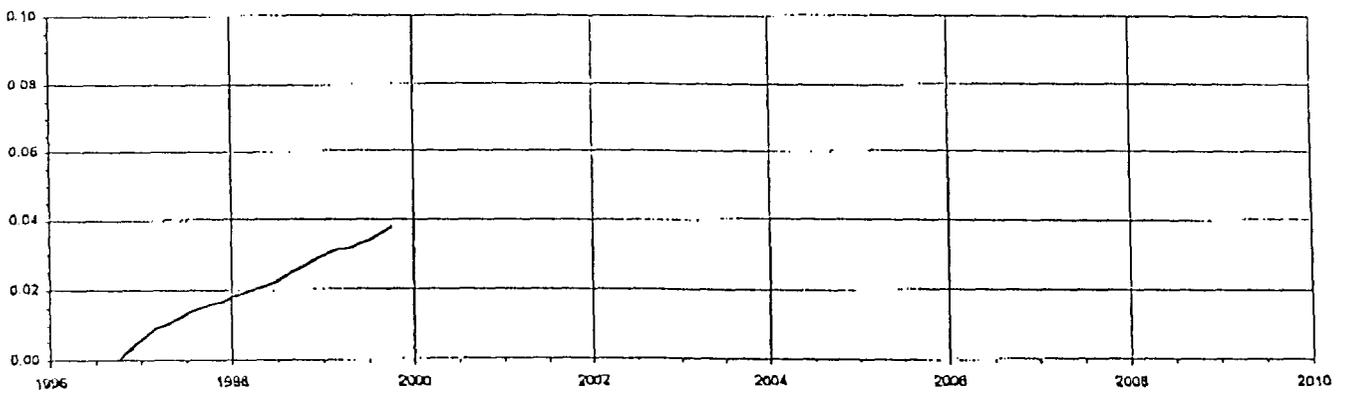
Oil Production (BPM)



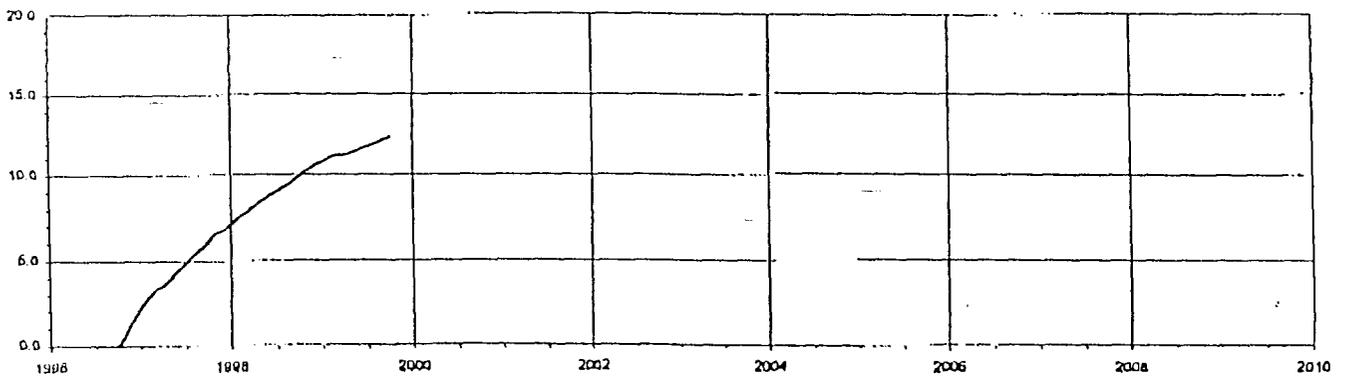
Water Production (BPM)



Cumulative Gas Production (BCF)



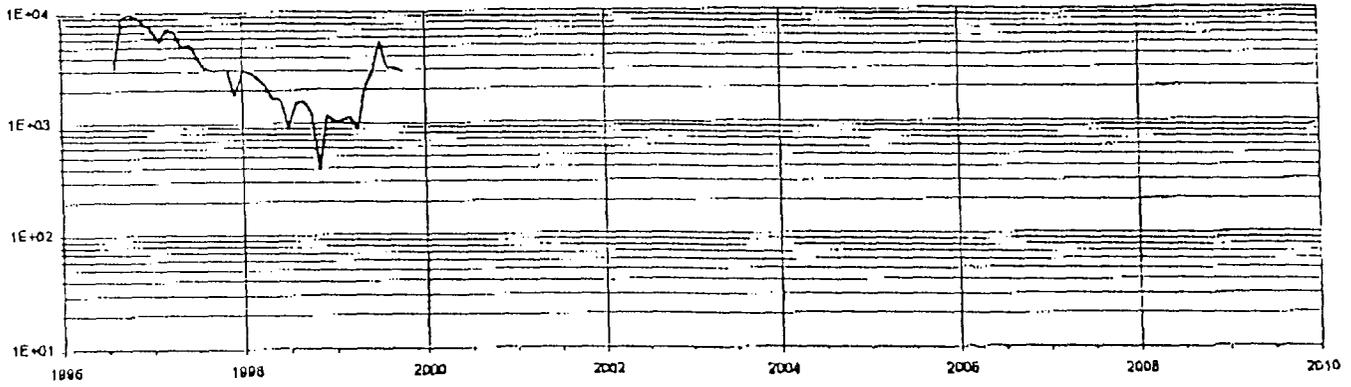
Cumulative Oil Production (MBO)



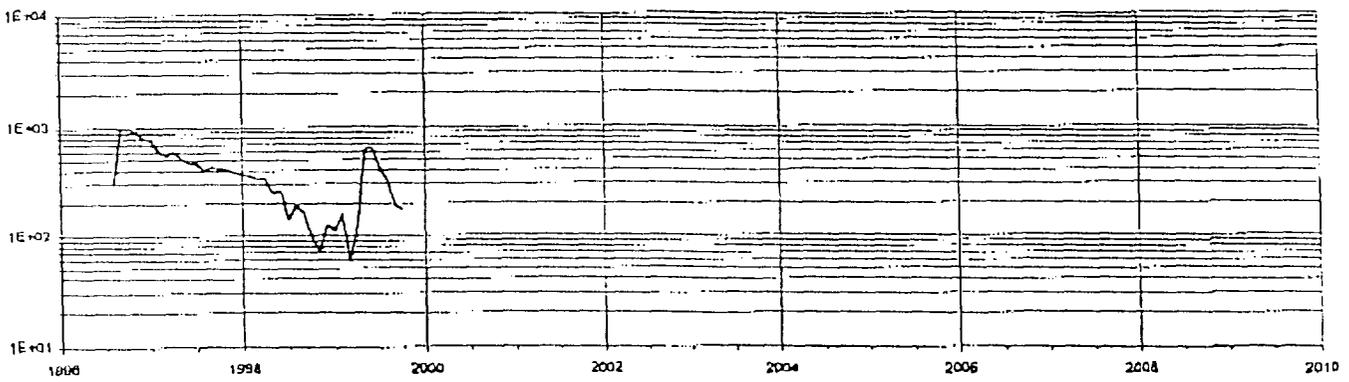
09/99: 0.038 BCF 12.42 MBO

E C HILL B FEDERAL #21
TEAGUE (BLINEBRY) BL
34N 23S 37E
PLAINS PETRO OPERG CO

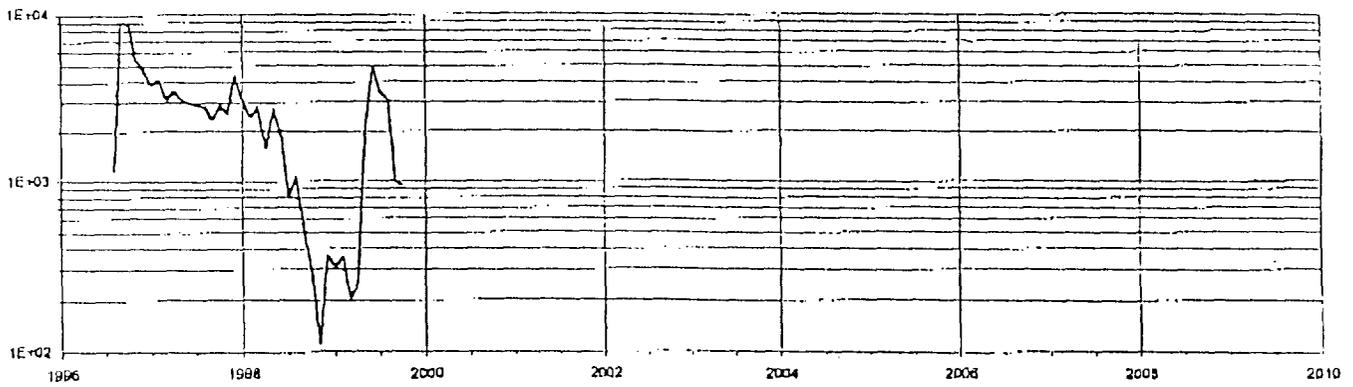
Gas Production (MCFPM)



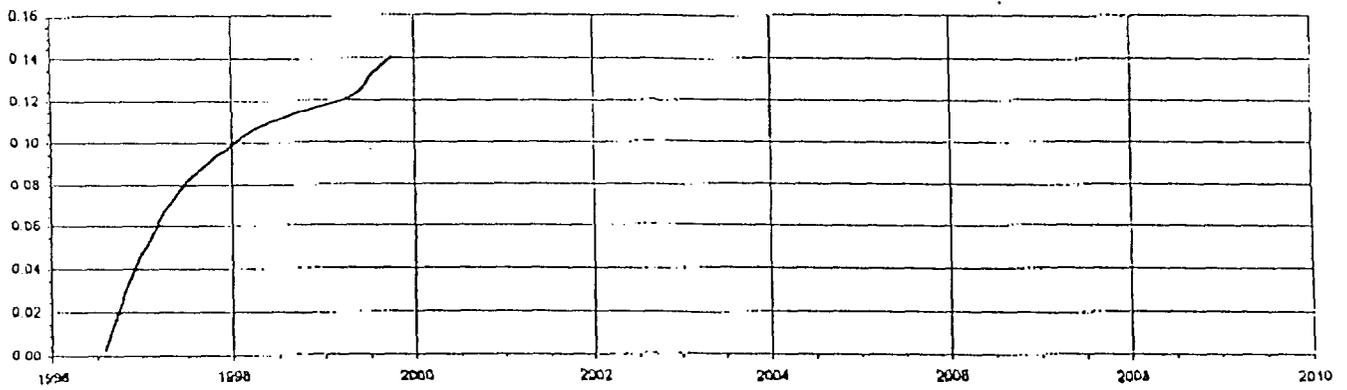
Oil Production (BPM)



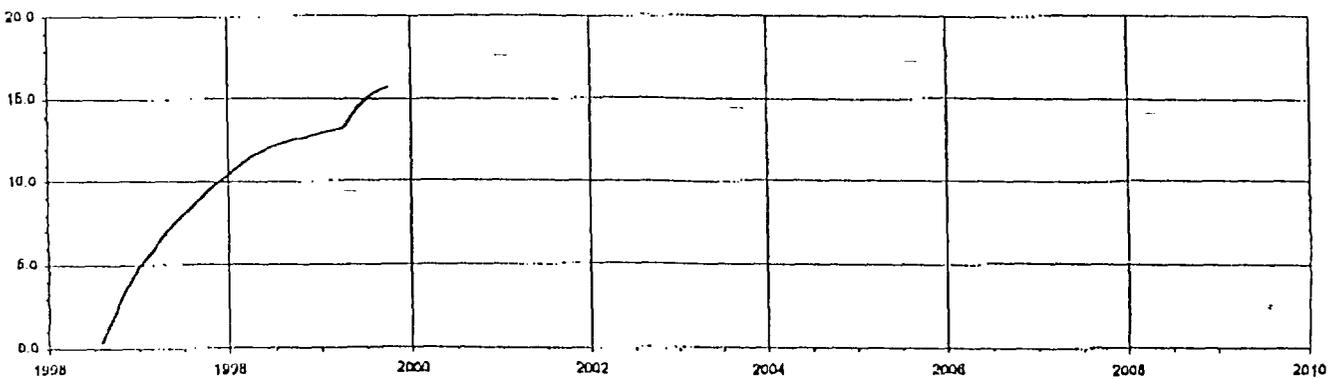
Water Production (BPM)



Cumulative Gas Production (BCF)



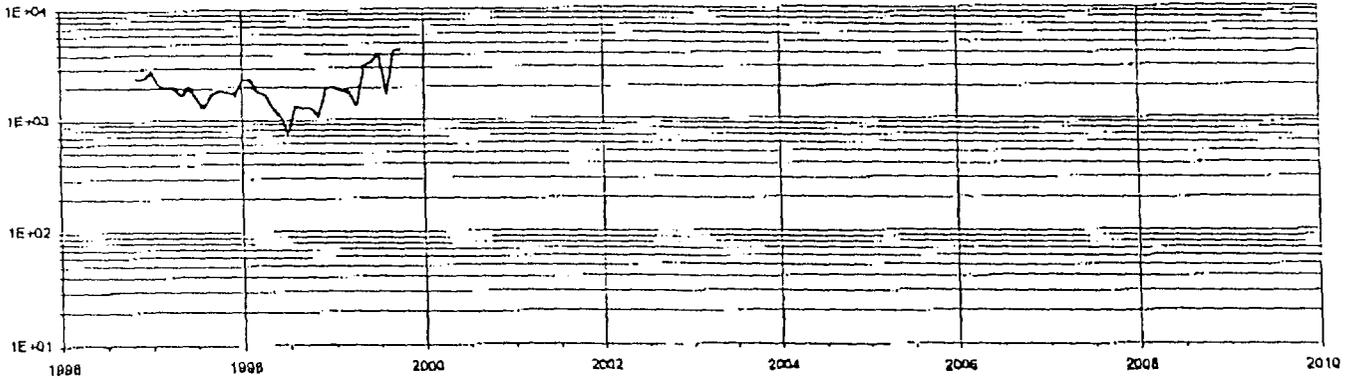
Cumulative Oil Production (MBO)



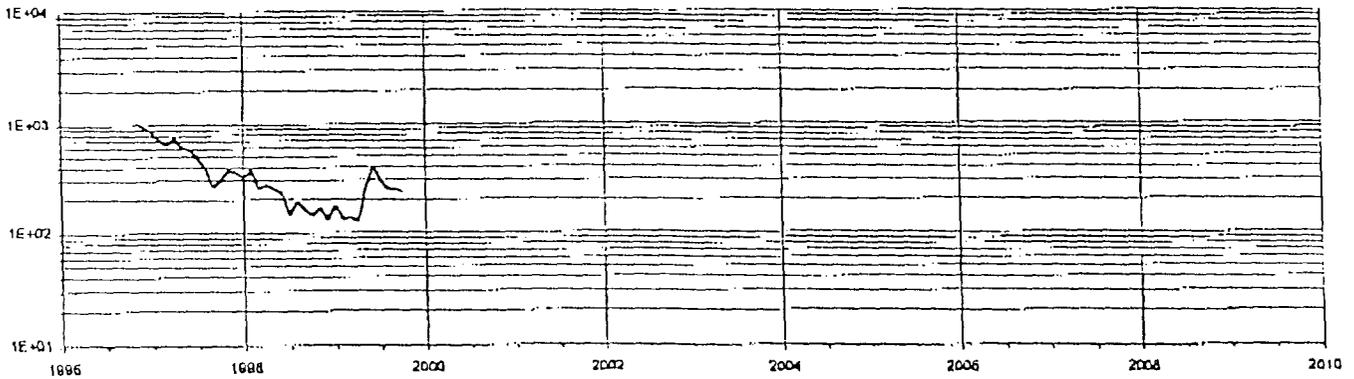
09/99: 0.141 BCF 15.69 MBO

E C HILL B FEDERAL #22
 TEAGUE (BLINEBRY) BL
 34 23S 37E
 PLAINS PETR OPERG CO

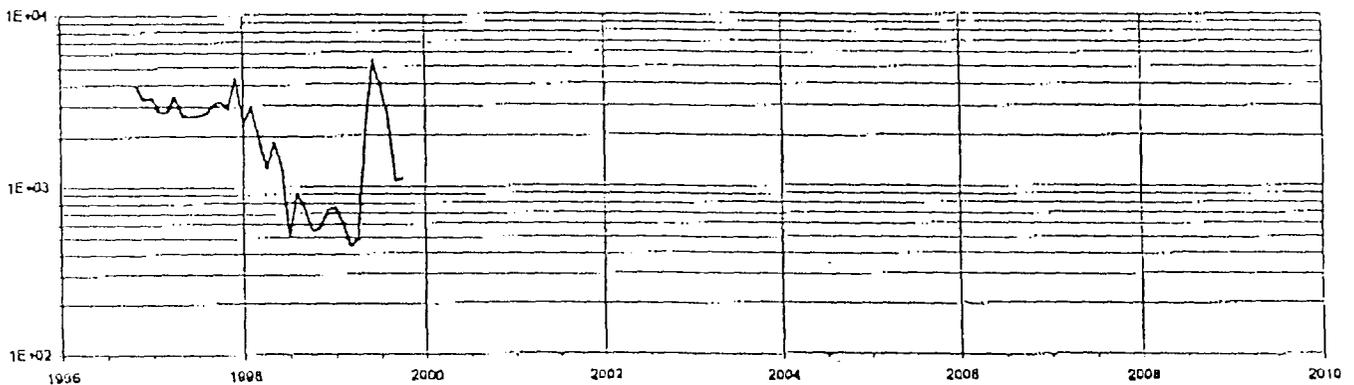
Gas Production (MCFPM)



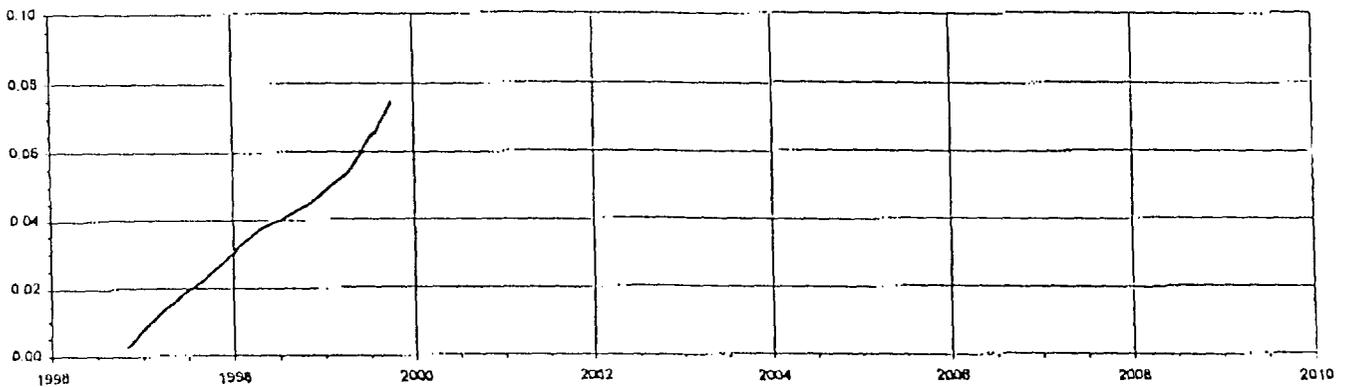
Oil Production (BPM)



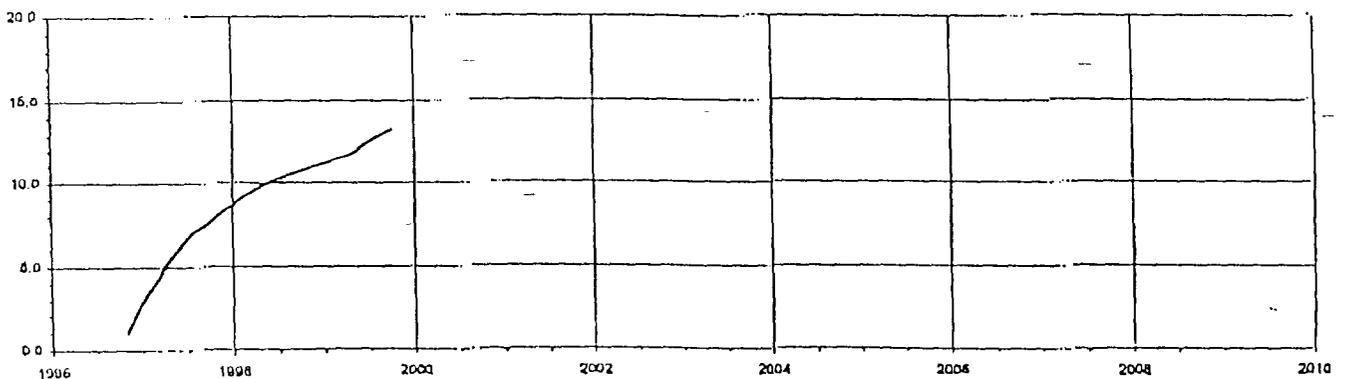
Water Production (BPM)



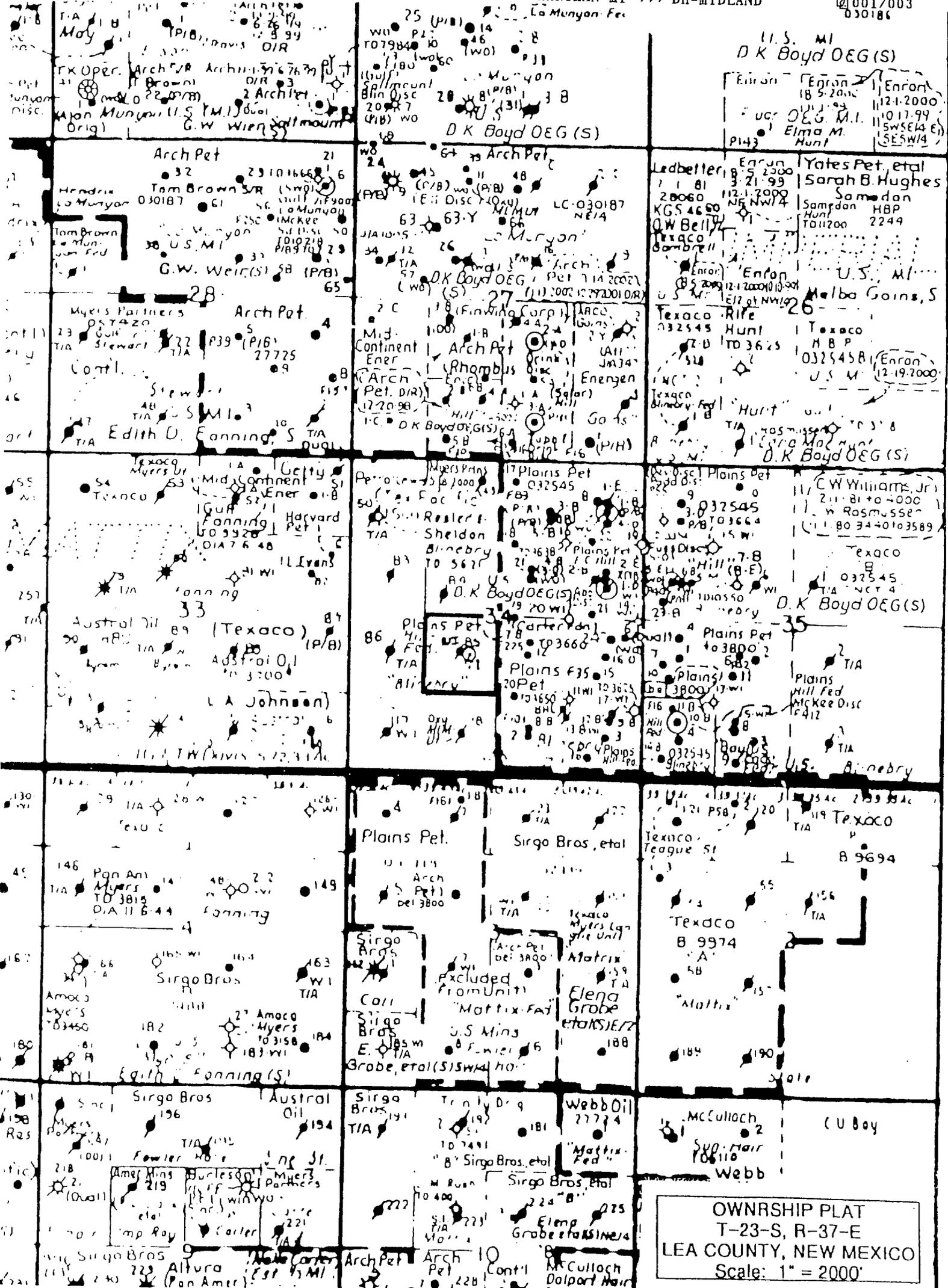
Cumulative Gas Production (BCF)



Cumulative Oil Production (MBO)



09/99: 0.075 BCF 13.34 MBO



OWNERSHIP PLAT
 T-23-S, R-37-E
 LEA COUNTY, NEW MEXICO
 Scale: 1" = 2000'

ROSWELL GEOLOGICAL SOCIETY SYMPOSIUM

Author: Thomas P. Frizzell Field Name: Teague Blinebry
 Affiliation: Texas Pacific Oil Co., Inc. Location: T-23-S, R-37-E, Sec. 15, 16, 21, 22, 33,
 Date: August 1976 County & State: Lea County, New Mexico 34, 35.

Discovery Well: Bronco Oil Corp., #1 Saultmount (660' FSL & 660' FEL) Section 23, T-23-S, R-37-E.
 This well is recompletion from the Teague McKee to Blinebry.

Exploration Method Leading to Discovery:

Ellenburger prospect drilled on subsurface and seismic anomaly.

Pay Zone:

Formation Name: Blinebry (Yeso) Depth & Datum Discovery Well: 5418 (-2115)
 Lithology Description: This is a carbonate reservoir composed of brown-tan limy dolomite with varying amounts of limestone and argillaceous to silty dolomite. The productive intervals, which may develop at any depth within the member, are relatively thin zones of intercrystalline porosity with low permeability. These zones are characterized by limited horizontal development.
 Approximate average pay: 600 gross _____ net Productive Area 2500 acres

Type Trap: Elongated anticline which reflects per-Permian structural features.

Reservoir Data:

_____ % Porosity, _____ Md Permeability, _____ % Sw, _____ % So
 Oil:
 Gas:
 Water: 41540 Na+K, 5630 Ca, 1290 Mg, 63000 Cl, 2060 SO₄, 110 CO₂, or HCO₃, Nil Fe
 Specific Gravity 1.085 @ 72 °F. Resistivity 0.054 ohms @ 105 °F
 Initial Field Pressure: _____ psi @ _____ datum Reservoir Temp. 105 °F
 Type of Drive:
 Solution gas

Normal Completion Practices: Drill through and case entire Blinebry. Selectively perforate porous intervals and stimulate with moderate to large frac treatment. Several wells have drilled through and cased the Drinkard. Recompletions are anticipated for this member of the Yeso formation which is now considered a salvage zone.

Type completion: Normal Well Spacing 40 Acres

Flow for a short period, then produced with artificial lift equip. Av. water cut 34%

Deepest Horizon Penetrated & Depth:

Granite 10205' (-6911) TD 10218' Gulf Oil Corp., #1 LaMunyon

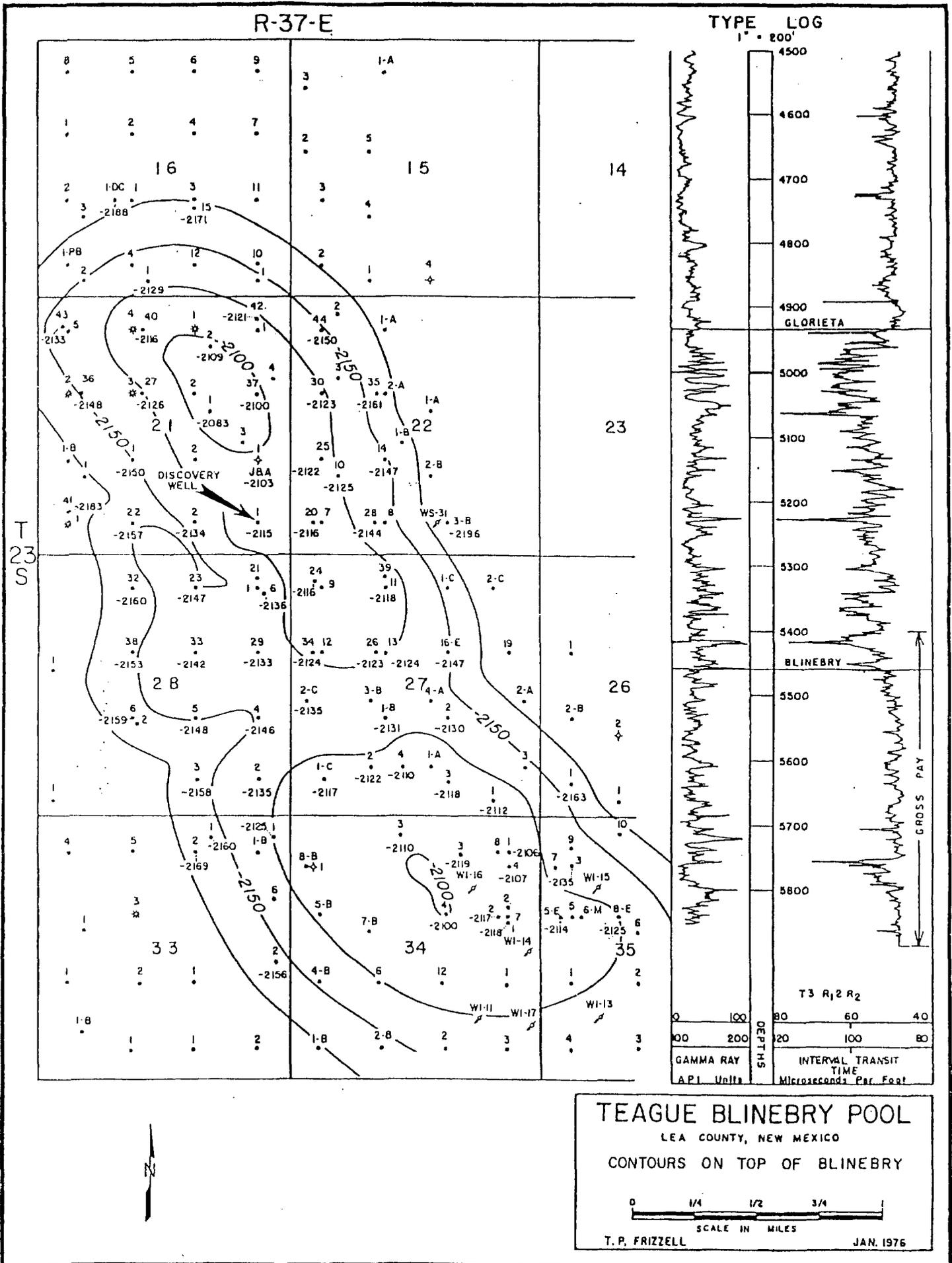
Other Producing Formations in Field:

Oil - Ellenburger, McKee, Devonian, Drinkard, Grayburg, Langlie Mattix
 Gas - Abo, Langlie Mattix

Production Data:

YEAR	TYPE	No. of wells @ yr. end		PRODUCTION OIL IN BARRELS GAS IN MMCF		YEAR	TYPE	No. of wells @ yr. end		PRODUCTION OIL IN BARRELS GAS IN MMCF	
		Prod.	S.I. or Abd.	ANNUAL	CUMULATIVE			Prod.	S.I. or Abd.	ANNUAL	CUMULATIVE
68	OIL	53	1	621,888	621,888	72	OIL	59	4	264,783	2,317,407
	GAS			1,980	1,980		GAS			1,450	10,252
69	OIL	56	2	634,561	1,235,064	73	OIL	58	3	211,529	2,538,936
	GAS			2,985	4,965		GAS			1,167	11,419
70	OIL	59	3	469,050	1,704,973	74	OIL	61	3	204,286	2,733,222
	GAS			2,167	7,132		GAS			1,220	12,639
71	OIL	59	4	347,651	2,052,624	75	OIL	60	4	171,866	2,905,088
	GAS			1,670	8,802		GAS			1,026	13,665

ROSWELL GEOLOGICAL SOCIETY SYMPOSIUM



For article, "State Conservation Regulation and the Proposed R-199," see 6 Nat. Resources J. 223 (1966).

For comment on geothermal energy and water law, see 19 Nat. Resources J. 445 (1979).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gas and Oil §§ 161, 164.

Rights and obligations, with respect to adjoining landowners, arising out of secondary recovery of gas, oil, and other fluid minerals, 19 A.L.R.4th 1182. 58 C.J.S. Mines and Minerals § 240.

70-2-17. Equitable allocation of allowable production; pooling; spacing.

A. The rules, regulations or orders of the division shall, so far as it is practicable to do so, afford to the owner of each property in a pool the opportunity to produce his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as such can be practicably obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for this purpose to use his just and equitable share of the reservoir energy.

B. The division may establish a proration unit for each pool, such being the area that can be efficiently and economically drained and developed by one well, and in so doing the division shall consider the economic loss caused by the drilling of unnecessary wells, the protection of correlative rights, including those of royalty owners, the prevention of waste, the avoidance of the augmentation of risks arising from the drilling of an excessive number of wells, and the prevention of reduced recovery which might result from the drilling of too few wells.

C. When two or more separately owned tracts of land are embraced within a spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil and gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, the owner or owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owner or owners have not agreed to pool their interests, and where one such separate owner, or owners, who has the right to drill has drilled or proposes to drill a well on said unit to a common source of supply, the division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste, shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit.

All orders effecting such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both. Each order shall describe the lands included in the unit designated thereby, identify the pool or pools to which it applies and designate an operator for the unit. All operations for the pooled oil or gas, or both, which are conducted on any portion of the unit shall be deemed for all purposes to have been conducted upon each tract within the unit by the owner or owners of such tract. For the purpose of determining the portions of production owned by the persons owning interests in the pooled oil or gas, or both, such production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit. The portion of the production allocated to the owner or owners of each tract or interest included in a well spacing or proration unit formed by a pooling order shall, when produced, be considered as if produced from the separately owned tract or interest by a well drilled thereon. Such pooling order of the division shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision and may include a charge for the risk involved in the drilling of such well, which charge for risk shall not exceed two hundred percent of the nonconsenting working interest owner's or owners' prorata share of the cost of drilling and completing the well.

In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to interested parties and a hearing thereon. The division is specifically authorized to provide that the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to all production from such well which would be received by the owner, or owners, for whose benefit the well was drilled or operated, after payment of royalty as provided in the lease, if any, applicable to each tract or interest, and obligations payable out of production, until the owner or owners drilling or operating the well or both have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner or owners of a separate interest in such unit shall be applied toward the payment of any cost properly chargeable to any other interest in said unit.

If the interest of any owner or owners of any unleased mineral interest is pooled by virtue of this act, seven-eighths of such interest shall be considered as a working interest and one-eighth shall be considered a royalty interest, and he shall in all events be paid one-eighth of all production from the unit and creditable to his interest.

D. Minimum allowable for some wells may be advisable from time to time, especially with respect to wells already drilled when this act takes effect, to the end that the production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

E. Whenever it appears that the owners in any pool have agreed upon a plan for the spacing of wells, or upon a plan or method of distribution of any allowable fixed by the division for the pool, or upon any other plan for the development or operation of such pool, which plan, in the judgment of the division, has the effect of preventing waste as prohibited by this act and is fair to the royalty owners in such pool, then such plan shall be adopted by the division with respect to such pool; however, the division, upon hearing and after notice, may subsequently modify any such plan to the extent necessary to prevent waste as prohibited by this act.

F. After the effective date of any rule, regulation or order fixing the allowable production, no person shall produce more than the allowable production applicable to him, his wells, leases or properties determined as in this act provided, and the allowable production shall be produced in accordance with the applicable rules, regulations or orders.

History: Laws 1935, ch. 72, § 12; 1941 Comp., § 69-213½; Laws 1949, ch. 168, § 13; 1953, ch. 76, § 1; 1953 Comp., § 65-3-14; Laws 1961, ch. 65, § 1; 1973, ch. 250, § 1; 1977, ch. 255, § 51.

Meaning of "this act". — The term "this act," referred to in this section, means Laws 1935, ch. 72, §§ 1 to 24, which appear as 70-2-2 to 70-2-4, 70-2-6 to 70-2-11, 70-2-15, 70-2-16, 70-2-21 to 70-2-25, 70-2-27 to 70-2-30, and 70-2-33 NMSA 1978.

The terms "spacing unit" and "proration unit" are not synonymous and the commission has power to fix spacing units without first creating proration units. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Proration formula required to be based on recoverable gas. — Lacking a finding that new gas proration formula is based on amounts of recoverable gas in pool and under tracts, insofar as these amounts can be practically determined and obtained without waste, a supposedly valid order in current use cannot be replaced. Such findings are necessary requisites to validity of the order, for it is upon them that the very power of the commission to act depends. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

Findings required before correlative rights ascertained. — In order to protect correlative rights, it is incumbent upon commission to determine, "so far as it is practical to do so," certain foundational matters, without which the correlative rights of various owners cannot be ascertained.

Therefore, the commission, by "basic conclusions of fact" (or what might be termed "findings"), must determine, insofar as practicable: (1) amount of recoverable gas under each producer's tract; (2) the total amount of recoverable gas in pool; (3) proportion that (1) bears to (2); and (4) what portion of arrived at proportion can be recovered without waste. That the extent of the correlative rights must first be determined before commission can act to protect them is manifest. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

In addition to making such findings the commission, "insofar as is practicable, shall prevent drainage between producing tracts in a pool which is not equalized by counter-drainage," under the provisions of 70-2-16 NMSA 1978. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

Four basic findings required to adopt a production formula under this section can be made in language equivalent to that required in previous decision construing this section. *El Paso Natural Gas Co. v. Oil Conservation Comm'n*, 76 N.M. 268, 414 P.2d 496 (1966) (explaining *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962)).

Although subservient to prevention of waste and perhaps to practicalities of the situation, protection of correlative rights must depend upon commission's (now division's) findings as to extent and limitations of the right. This the commission is required to do

under the legislative mandate. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

Division found not to have primary jurisdiction over suit seeking an order to join in an oil well free of risk penalty. *Mountain States Natural Gas Corp. v. Petroleum Corp.*, 693 F.2d 1015 (10th Cir. 1982).

Grant of forced pooling is determined on case-to-case basis. — The granting of or refusal to grant forced pooling of multiple zones with an election to participate in less than all zones, the amount of costs to be reimbursed to the operator, and the percentage risk charge to be assessed, if any, are determinations to be made by the commission (now the division) on a case-to-case basis and upon the particular facts in each case. *Viking Petroleum, Inc. v. Oil Conservation Comm'n*, 100 N.M. 451, 672 P.2d 280 (1983).

As to forced pooling of multiple zones with an election to participate in less than all zones. See *Viking Petroleum, Inc. v. Oil Conservation Comm'n*, 100 N.M. 451, 672 P.2d 280 (1983).

Division's findings upheld. — Commission's (now division's) findings that it would be unreasonable and contrary to the spirit of conservation statutes to drill unnecessary and economically wasteful well were held to be sufficient to justify creation of two nonstandard gas proration units, and the force pooling thereof, and were supported by substantial evidence. Likewise, participation formula adopted by commission, which gave each owner a share in production in same ratio as his acreage bore to acreage of the whole, was upheld despite limited proof as to extent and character of pool. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Relation between prevention of waste and protection of correlative rights. — Prevention of

waste is of paramount interest to the legislature and protection of correlative rights is interrelated and inseparable from it. The very definition of "correlative rights" emphasizes the term "without waste." However, protection of correlative rights is necessary adjunct to the prevention of waste. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

Division's authority to pool separately owned tracts. — Since commission (now division) has power to pool separately owned tracts within a spacing or proration unit, as well as concomitant authority to establish oversize nonstandard spacing units, commission also has authority to pool separately owned tracts within an oversize nonstandard spacing unit. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Elements of property right of natural gas owners. — The legislature has stated definitively the elements contained in property right of natural gas owners. Such right is not absolute or unconditional. It consists of merely (1) an opportunity to produce, (2) only insofar as it is practicable to do so, (3) without waste, (4) a proportion, (5) insofar as it can be practically determined and obtained without waste, (6) of gas in the pool. *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962).

Law reviews. — For article, "Compulsory Pooling of Oil and Gas Interests in New Mexico," see 3 *Nat. Resources J.* 316 (1963).

For comment on *El Paso Natural Gas Co. v. Oil Conservation Comm'n*, 76 N.M. 268, 414 P.2d 496 (1966), see 7 *Nat. Resources J.* 425 (1967).

For comment on geothermal energy and water law, see 19 *Nat. Resources J.* 445 (1979).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 *Am. Jur. 2d Gas and Oil* §§ 159, 161, 164.
38 *C.J.S. Mines and Minerals* §§ 229, 230.

70-2-18. Spacing or proration unit with divided mineral ownership.

A. Whenever the operator of any oil or gas well shall dedicate lands comprising a standard spacing or proration unit to an oil or gas well, it shall be the obligation of the operator, if two or more separately owned tracts of land are embraced within the spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil or gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, to obtain voluntary agreements pooling said lands or interests or an order of the division pooling said lands, which agreement or order shall be effective from the first production. Any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries of such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of the said order.

B. Any operator failing to obtain voluntary pooling agreements, or failing to apply for an order of the division pooling the lands dedicated to the spacing or proration unit as required by this section, shall nevertheless be liable to account to and pay each owner of minerals or leasehold interest, including owners of overriding royalty interests and other payments out of production, either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater.

C. Nonstandard spacing or proration units may be established by the division and all mineral and leasehold interests in any such nonstandard unit shall share in production from that unit from the date of the order establishing the said nonstandard unit.

History: 1963 Comp., § 65-3-14.5, enacted by Laws 1969, ch. 271, § 1; 1977, ch. 255, § 52.

Constitutionality. — Standards of preventing waste and protecting correlative rights, as laid out in 70-2-11 NMSA 1978, are sufficient to allow commission's power to prorate and create standard or nonstandard spacing units to remain intact, and this section is not unlawful delegation of legislative power under N.M. Const., art. III, § 1. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

The terms "spacing unit" and "proration unit" are not synonymous and commission has power to fix spacing units without first creating proration units. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Authority to pool separately owned tracts. — Since commission has power to pool separately owned tracts within a spacing or proration unit, as well as concomitant authority to establish oversize nonstandard spacing units, the commission also has authority to pool separately owned tracts within an oversize nonstandard spacing unit. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Creation of proration units, force pooling and participation formula upheld. — Commis-

sion's (now division's) findings that it would be unreasonable and contrary to spirit of conservation statutes to drill an unnecessary and economically wasteful well were held sufficient to justify creation of two nonstandard gas proration units, and force pooling thereof, and were supported by substantial evidence. Likewise, participation formula adopted by commission, which gave each owner a share in production in same ratio as his acreage bore to the acreage of whole, was upheld despite limited proof as to extent and character of the pool. *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 N.M. 286, 532 P.2d 582 (1975).

Proceedings to increase oil well spacing. — A proceeding on an oil and gas estate lessee's application for an increase in oil well spacing was adjudicatory, and the lessor was entitled to actual notice under the due process requirements of the New Mexico and United States Constitutions. *Uden v. New Mexico Oil Conservation Comm'n*, 112 N.M. 528, 817 P.2d 721 (1991).

Law reviews. — For comment on geothermal energy and water law, see 19 *Nat. Resources J.* 445 (1979).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 *Am. Jur. 2d Gas and Oil* §§ 159, 164, 172.
58 *C.J.S. Mines and Minerals* §§ 230, 240.

70-2-19. Common purchasers; discrimination in purchasing prohibited.

A. Every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines shall be a common purchaser thereof and shall, without discrimination in favor of one producer as against another in the same field, purchase all oil tendered to it which has been lawfully produced in the vicinity of, or which may be reasonably reached by pipelines through which it is transporting oil, or the gathering branches thereof, or which may be delivered to the pipeline or gathering branches thereof by truck or otherwise, and shall fully perform all the duties of a common purchaser. If any common purchaser shall not have need for all such oil lawfully produced within a field or if for any reason it shall be unable to purchase all such oil, then it shall purchase from each producer in a field ratably, taking and purchasing the same quantity of oil from each well to the extent that each well is capable of producing its ratable portions; provided, however, nothing herein contained shall be construed to require more than one pipeline connection for each producing well. In the event any such common purchaser of oil is likewise a producer or is affiliated with a producer, directly or indirectly, it is hereby expressly prohibited from discriminating in favor of its own production or in favor of the production of an affiliated producer as against that of others, and the oil produced by such common purchaser or by the affiliate of such common purchaser shall be treated as that of any other producer for the purposes of ratable taking.

B. It shall be unlawful for any common purchaser to unjustly or unreasonably discriminate as to the relative quantities of oil purchased by it in the various fields of the state; the question of the justice or reasonableness to be determined by the division, taking into consideration the production and age of wells in the respective fields and all other factors. It is the intent of the Oil and Gas Act [this article] that all fields shall be allowed to produce and market a just and equitable share of the oil produced and marketed in the state, insofar as the same can be effected economically and without waste.

C. It shall be the duty of the division to enforce the provisions of the Oil and Gas Act, and it shall have the power, after notice and hearing as provided in Section 70-2-23 NMSA 1978, to make rules, regulations and orders defining the distance that extension of the pipeline system shall be made to all wells not served; provided that no such authorization or order shall be made unless the division finds, as to such extension, that it is reasonably required and economically justified or, as to such extension of facilities, that the expenditures