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March 28, 2001

RE: DRILLING OPINION OF TITLE TO:

The following lands collectively comprising E½ Section 15,
Township 21 South, Range 27 East, N.M.P.M., Eddy County,
New Mexico, containing 320 acres, more or less, **limited**
to depths from base of Yates formation down to base of
Morrow formation as identified at depth of 11,750 feet
in the Harvey E. Yates No. 1 Cedar Hills - State
located 1,980' FSL and 660' FEL of said Section 15:

Tract 1:

State of New Mexico Oil and Gas Lease K-3977-7
insofar as it embraces NE¼NE¼ Section 15,
containing 40 acres, more or less,

Tract 2:

State of New Mexico Oil and Gas Lease OG-6027
insofar as it embraces NW¼NE¼, S½NE¼ Section 15,
containing 120 acres, more or less;

Tract 3:

State of New Mexico Oil and Gas Lease OG-2426-1
embracing W½SE¼ Section 15, containing
80 acres, more or less;

Tract 4:

State of New Mexico Oil and Gas Lease OG-5809-1
insofar as it embraces NE¼SE¼ Section 15,
containing 40 acres, more or less; and

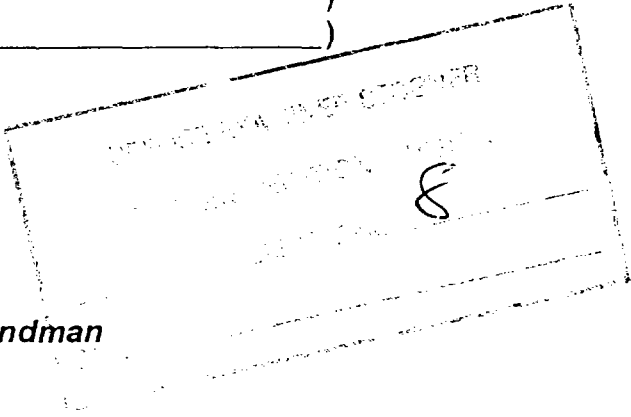
Tract 5:

State of New Mexico Oil and Gas Lease V-5074
embracing SE¼SE¼ Section 15, containing 40 acres,
more or less.

No.30,417

Mewbourne Oil Company
500 W. Texas, Suite 1020
Midland, Texas 79701

Attention: Mr. D. Paul Haden, Senior Landman



Ladies and Gentlemen:

In connection with the title to the oil and gas mineral estate of the lands and depths described in the caption hereof, and of the oil and gas leases embracing same, we have been submitted and have examined the following:

(a) Schutz Abstract Company Abstract of Title Nos. 7474 and 7577, which collectively cover the records of the Offices of the Commissioner of Public Lands of the State of New Mexico, affecting the oil and gas mineral rights to the exact captioned Tract 1, 2, 3, 4 and 5 lands under Leases K-3977-7, OG-6027, OG-2426-1, OG-5809-1 and V-5074, respectively, for the time period from inception of records down to February 20, 2001 at 8:00 A.M.

(b) Currier Abstract Company Abstract of Title No. 01,006, which covers the records and files in the Offices of the County Clerk and Recorder and Clerk of the District Court of Eddy County, New Mexico, affecting the mineral title only to the exact captioned lands, for the time period from inception of records down to February 15, 2001 at 8:00 A.M.

(c) Photocopy of letter agreement dated March 2, 1964 from Texaco Inc. to Starr Oil & Gas Company, pertaining to the captioned Tract 4 lease and lands, which is briefly analyzed in Subparagraph V-4(d) below.

(d) Certain of our files with respect to the Estate of Harvey E. Yates, deceased, Chaves County, New Mexico, District Court Cause No. PB-99-42.

Based solely upon our examination of the foregoing, we now report the status of title to the oil and gas mineral estate of the captioned lands and depths, and of the oil and gas leases embracing same, for drilling purposes, as of the aforesaid closing dates of state and county abstract certificates examined hereby, as follows:

I. FEE TITLE TO OIL AND GAS IN THE CAPTIONED LANDS (SUBJECT TO LEASES COVERING THE LANDS AS DESCRIBED IN CAPTION HEREOF):

State of New Mexico All

II. RECORD TITLE TO LEASES:

K-3977-7 (Tract 1):

W. R. H. Inc. and Harvey E. Yates Company All

OG-6027 (Tract 2) and OG-2426-1 (Tract 3):

Exxon Corporation All

OG-5809-1 (Tract 4):

Texaco Exploration and Production Inc. All

V-5074 (Tract 5):

Marbob Energy Corporation All

III. TITLE TO OIL AND GAS IN THE CAPTIONED LANDS AND DEPTHS ARISING UNDER CAPTIONED LEASES:

1. Tract 1 (K-3977-7):

<u>Name</u>	<u>Interest in Operating Rights</u>	<u>Net Interest in Production</u>
State of New Mexico	0	.12500000 RI
Harvey E. Yates, Jr. Trustee of Yates Revocable Trust	0	.00500000 ORI*
Spiral, Inc.	0	.00500000 ORI*
Tommy Phipps and wife, Werta Phipps	0	.00500000 ORI*
Marifred Miller, apparently now known as Marifred Miller Handley, separate property	0	.00250000 ORI*
Heirs or devisees of Forrest C. Miller, deceased	0	.00250000 ORI*
RussLynn Properties, LLC	0	.03125000 ORI**
Jalapeno Corporation	.05263435	.04605506 WI
Cibola Energy Corporation	.25399808	.20224832 WI
Yates Energy Corporation	.11037128	.09657487 WI
Harvey E. Yates Company	.33299629	.29137175 WI
Mewbourne Oil Company	<u>.25000000</u> **	<u>.18750000</u> WI**
	1.00000000	1.00000000

*These overriding royalties are borne solely by the working interest of Cibola Energy Corporation.

**The Mewbourne Oil Company leasehold interest arises under one year Term Assignment dated January 18, 2001, executed by RussLynn Properties, L.L.C. and bears the entire burden of the RussLynn overriding royalty reserved in said assignment; see analysis in Subparagraph V-4(z) below.

2. Tracts 2 (OG-6027) and 3 (OG-2426-1):

<u>Name</u>	<u>Interest in Operating Rights</u>	<u>Net Interest in Production</u>
State of New Mexico	0	.12500000 RI
Jalapeno Corporation	.02631718	.02302753 WI
Cibola Energy Corporation	.12699904	.11112416 WI
Yates Energy Corporation	.05518564	.04828744 WI
Harvey E. Yates Company	.16649814	.14568587 WI
Tenison Oil Company	.12500000	.10937500 WI
Exxon Corporation	<u>.50000000</u>	<u>.43750000</u> WI
	1.00000000	1.00000000

3. Tract 4 (OG-5809-1):

<u>Name</u>	<u>Interest in Operating Rights</u>	<u>Net Interest in Production</u>
State of New Mexico	0	.12500000 RI
Texaco Exploration and Production Inc.	0	.06250000 ORI*
Jalapeno Corporation	.02631718	.02302753 WI
Cibola Energy Corporation	.12699904	.11112416 WI
Yates Energy Corporation	.05518564	.04828744 WI

Harvey E. Yates Company	.16649814	.14568587 WI
Tenison Oil Company	.12500000	.10937500 WI
Mewbourne Oil Company	<u>.50000000*</u>	<u>.37500000 WI*</u>
	1.00000000	1.00000000

*The Mewbourne Oil Company leasehold interest arises under two year Term Assignment dated January 15, 2001, executed by Texaco Exploration and Production, Inc. and bears the entire burden of the Texaco overriding royalty reserved in said assignment; see analysis in Subparagraph V-4(x) below.

4. Tract 5 (V-5074):

<u>Name</u>	<u>Interest in Operating Rights</u>	<u>Net Interest in Production</u>
State of New Mexico	0	.16666667 RI
Raye P. Miller	0	.00500000 ORI
Black River Enterprises	0	.00250000 ORI
Darlene Boyce	0	.00500000 ORI
Marbob Energy Corporation	<u>1.00</u>	<u>.82083333 WI</u>
	1.00	1.00000000

IV. TITLE TO COMMUNITIZED OIL AND GAS IN THE CAPTIONED LANDS AND DEPTHS UNDER CAPTIONED LEASES AND APPLICABLE COMMUNITIZATION AGREEMENT:

Name	Tract No.	Calculation	Decimal Interest
State of New Mexico	1-4 5	1/8 x 280/320 +1/6 x 40/320	.13020833 RI
Harvey E. Yates, Jr., Trustee of Yates Revocable Trust	1	.005 x 40/320	.00062500 ORI
Spiral, Inc.	1	.005 x 40/320	.00062500 ORI
Tommy Phipps and wife, Werta Phipps	1	.005 x 40/320	.00062500 ORI
Marifred Miller, apparently now known as Marifred Miller Handley, separate property	1	.0025 x 40/320	.00031250 ORI
Heirs or devisees of Forrest C. Miller, deceased	1	.0025 x 40/320	.00031250 ORI
RussLynn Properties, LLC	1	.125 x 1/4 x 40/320	.00390625 ORI
Texaco Exploration and Production Inc.	4	.125 x 1/2 x 40/320	.00781250 ORI
Raye P. Miller	5	.005 x 40/320	.00062500 ORI
Black River Enterprises	5	.0025 x 40/320	.00031250 ORI
Darlene Boyce	5	.005 x 40/320	.00062500 ORI
Jalapeno Corporation	1 2-4	.05263435 x .875 x 40/320 +.02631718 x .875 x 240/320	.02302753 WI

Cibola Energy Corporation	1 1 2-4	.25399808 x .875 x 40/320 -.02 x 40/320 +.12699904 x .875 x 240/320	.10862416 WI
Yates Energy Corporation	1 2-4	.11037128 x .875 x 40/320 +.05518564 x .875 x 240/320	.04828744 WI
Harvey E. Yates Company	1 2-4	.33299629 x .875 x 40/320 +.16649814 x .875 x 240/320	.14568587 WI
Tenison Oil Company	2-4	.12500000 x .875 x 240/320	.08203125 WI
Exxon Corporation	2-3	.50000000 x .875 x 200/320	.27343750 WI
Mewbourne Oil Company	1 4	.25000000 x .75 x 40/320 +.50000000 x .75 x 40/320	.07031250 WI
Marbob Energy Corporation	5	All x 5/6 x 40/320 -.0125 x 40/320	.10260417 WI
			1.00000000

V. OIL AND GAS LEASES - RENTALS - FIRST PRODUCTION AND SHUT-IN ROYALTY FOR TRACTS 1-4 - UNRELEASED OPERATING AGREEMENT - ASSIGNMENTS, CHANGES OF NAME AND MERGERS - NEW COMMUNITIZATION:

1. **Oil and Gas Leases - Rentals:** The principal features of the captioned leases are as follows:

(a) **Lease K-3977 embracing Tract 1 (page 39 of state abstract No. 7474):**

Form: 57

Date: March 17, 1964

Recorded: Not recorded and there is no necessity to record the lease.

Lessor: State of New Mexico, acting by and through its Commissioner of Public Lands.

Original Lessee: Starr Oil & Gas Company

Lands Covered: The captioned Tract 1 lands, together with S½ Section 10, NW¼NE¼, SE¼NE¼ Section 22 in the same township and range, containing 440 acres, more or less, which are common school lands. The lease, under Assignment No. 7, now covers Tract 1 and the Section 10 lands, containing 360 acres, more or less.

Term: Two fixed terms of five years each, or a total fixed term of ten years, and so long thereafter as oil or gas is produced in commercial quantities.

Royalty: 1/8 on oil and gas, but see lease for details of calculation and payment of royalty.

Shut-In Clause: Paragraph 2 provides the lease shall not expire at the end of either the primary or secondary term if there is a well capable of producing gas in paying quantities located on some part of the lands embraced therein where such well is shut-in due to the inability of the lessee to obtain a pipeline connection or to market the gas therefrom; provided, however, the lessee shall pay an annual royalty equal to the annual rental but not less than \$100.00 per well per year, to be paid on or before the annual rental date next ensuing after expiration of ninety days from the date the well was shut-in and on or before said rental date thereafter. However, the lease shall not be continued after ten years from the date of the lease for any period of more than five years by the payment of annual shut-in royalty.

In the unreported Decision of Pace v. Baca, Sup. Ct. N.M. Docket No. 15,564 (filed January 7, 1986), the New Mexico Supreme Court held that the shut-in clause in a State of New Mexico oil and gas lease is a condition, rather than a covenant, and failure to timely tender a shut-in payment causes the lease to automatically terminate.

Annual Rentals: Currently \$.25 per acre and annual rentals in the amount of \$90.00 have been paid through the lease year expiring March 17, 2002. Rentals are due and payable annually on or before the anniversary date of a State of New Mexico Oil and Gas Lease, notwithstanding the fact of production.

Other Features: See attached schedule.

(b) Lease OG-6027 embracing Tract 2 (page 262 of state abstract No. 7474):

Form: 57; but amended to Form 72 by Stipulation approved by the Land Commissioner on March 25, 1985.

Date: October 20, 1959

Recorded: Not recorded and there is no necessity to record the lease.

Lessor: State of New Mexico, acting by and through its Commissioner of Public Lands.

Original Lessee: Humble Oil & Refining Company (later Exxon Corporation by virtue of merger).

Lands Covered: The captioned Tract 2 lands, together with S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16 in the same township and range, containing 320 acres, more or less, which are common school lands.

Term: Two fixed terms of five years each, or a total fixed term of ten years, and so long thereafter as oil or gas is produced in commercial quantities.

Royalty: 1/8 on oil and gas, but see lease for details of calculation and payment of royalty.

Shut-In Clause: Same as Lease K-3977.

Annual Rentals: Currently \$.50 per acre and annual rentals in the amount of \$160.00 have been paid through the lease year expiring October 20, 2001. Rentals are due and payable annually on or before the anniversary date of a State of New Mexico Oil and Gas Lease, notwithstanding the fact of production.

Other Features: See attached schedule.

(c) Lease OG-2426 embracing Tract 3 (page 122 of state abstract No. 7474):

Form: 57

Date: April 15, 1958

Recorded: Not recorded and there is no necessity to record the lease.

Lessor: State of New Mexico, acting by and through its Commissioner of Public Lands.

Original Lessee: E. B. Burgett

Lands Covered: The exact captioned Tract 3 lands, containing 80 acres, more or less, which are common school lands.

Term: Two fixed terms of five years each, or a total fixed term of ten years, and so long thereafter as oil or gas is produced in commercial quantities.

Royalty: 1/8 on oil and gas, but see lease for details of calculation and payment of royalty.

Shut-In Clause: Same as Lease K-3977.

Annual Rentals: Currently \$.50 per acre and annual rentals in the amount of \$40.00 have been paid through the lease year expiring April 15, 2001. Rentals are due and payable annually on or before the anniversary date of a State of New Mexico Oil and Gas Lease, notwithstanding the fact of production.

Other Features: See attached schedule.

(d) Lease OG-5809 embracing Tract 4 (page 190 of state abstract No. 7474):

Form: 57, but amended to Form 72 by Stipulation approved by the Land Commissioner on December 7, 1984.

Date: August 18, 1959

Recorded: Not recorded and there is no necessity to record the lease.

Lessor: State of New Mexico, acting by and through its Commissioner of Public Lands.

Original Lessee: Texaco Inc.

Lands Covered: The captioned Tract 4 lands, together with S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15 in the same township and range, containing 320 acres, more or less, which are common school lands.

Term: Two fixed terms of five years each, or a total fixed term of ten years, and so long thereafter as oil or gas is produced in commercial quantities.

Royalty: 1/8 on oil and gas, but see lease for details of calculation and payment of royalty.

Shut-In Clause: Same as Lease K-3977.

Annual Rentals: Currently \$.50 per acre and annual rentals in the amount of \$160.00 have been paid through the lease year expiring August 18, 2001. Rentals are due and payable annually on or before the anniversary date of a State of New Mexico Oil and Gas Lease, notwithstanding the fact of production.

Other Features: See attached schedule.

(e) Lease V-5074 embracing Tract 5 (page 336 of state abstract No. 7474):

Form: Discovery

Date: May 1, 1997

Recorded: Not recorded and there is no necessity to record the lease.

Lessor: State of New Mexico, acting by and through its Commissioner of Public Lands.

Original Lessee: Marbob Energy Corporation

Lands Covered: The exact captioned Tract 5 lands, containing 40 acres, more or less, which are Common School lands.

Term: Five years and so long thereafter as oil or gas is produced in commercial quantities.

Royalty: 1/6 on oil and gas, but see lease for details of calculation and payment of royalty.

Shut-in Clause: Paragraph 2 provides that the lease shall not expire at the end of the primary term thereof if there is a well capable of producing gas in paying quantities located

upon the lease premises or lands communitized therewith where such well is shut-in due to the inability of the lessee to obtain a pipeline connection or to market the gas therefrom and if the lessee timely pays an annual royalty on or before the annual rental paying date ensuing after the expiration of ninety days from the date the well was shut-in and on or before said rental date thereafter. The royalty paid for the lease year in which the gas is first marketed shall be credited upon the shut-in royalty paid to the lessor for such year. The shut-in clause shall also apply where the gas is being marketed from the lease and through no fault of lessee, the pipeline connection or market is lost or ceases. The amount of any annual shut-in royalty payable shall equal twice the annual rental due by the lessee under the terms of the lease but not less than \$320.00 per well per year; provided, however, any such royalty for any month beginning on or after ten years from the date shall equal four times the annual rental due by lessee under the terms of the lease but not less than \$2,000 per well per year. However, no annual shut-in royalty shall be payable if equivalent amounts are timely paid pursuant to another lease issued by lessor and if such other lease includes the lands communitized with the lease premises for the purposes of proportionately sharing in the shut-in well. The lease shall not be continued after five years from date of issuance for any period of more than ten years by the payment of annual shut-in royalty unless, for good cause shown, the Commissioner of Public Lands, in his discretion, grants such a continuance.

The unreported Decision of Pace v. Baca, Sup. Ct. N.M. Docket No. 15,564 (filed January 7, 1986), discussed in connection with Lease K-3977 above, would also apply to this lease.

Annual Rentals: Currently \$1.00 per acre and annual rentals in the amount of \$40.00 have been paid through the fourth lease year expiring May 1, 2001. Rentals are due and payable annually on or before the anniversary date of a State of New Mexico Oil and Gas Lease, even after the lease goes on production.

Other Features: See attached schedule.

2. First Production and Shut-in Royalty for Tracts 1 - 4: The Oil and Gas Record Sheets for Leases K-3977-7, OG-6027, OG-2426-1 and OG-5809-1 contained in the submitted state abstracts reflect that at least two producing gas wells were drilled within E½ Section 15. They are the Harvey E. Yates - Cedar Hills Com Well No. 1 located in NE¼SE¼ Section 15, which was apparently a Pennsylvanian gas producer, and subsequently a Wolfcamp gas producer and the Harvey E. Yates Company - Cedar Hills Com Well No. 2 located in SW¼NE¼ Section 15, apparently completed as a Morrow and Wolfcamp gas producer. The captioned Tract 1 through 4 leases and lands, together with now-expired Lease OG-2427-1 covering SE¼SE¼ Section 15, were communitized as to the Pennsylvanian and Wolfcamp formations as to each of these two wells, and the captioned Tract 3 and 4 leases and lands, together with now-expired

in the captioned Tract 2 and 3 leases, lands and depths as set forth in Section III-2 of this opinion.

REQUIREMENT F: Submit the April 30, 1964 Agreement between Starr Oil & Gas Company and Harvey E. Yates, which pertains to Lease K-3977 covering the captioned Tract 1 lands. We reserve possible further requirement.

(f) **Landa - Triton:** By Assignment of Oil and Gas Lease dated November 26, 1969, and approved as Assignment No. 3 on December 31, 1969, Harvey E. Yates and wife, Louise D. Yates and Landa Oil Company assigned to Harvey E. Yates and Triton Oil & Gas Corp. Lease K-3977 covering the captioned Tract 1 and other lands. By Assignment of Operating Rights dated March 18, 1969, recorded in Miscellaneous Records Book 66, page 869, Landa Oil Company and its parent company, Landa Industries, Inc., assigned to Triton Oil & Gas Corporation, the same undivided interests in operating rights in the captioned Tract 1 through 4 lands which Landa Oil Company acquired from Starr Oil & Gas Company in the assignment described in Subparagraph (e) above.

(g) **Riebold - Yates:** The above described December 23, 1964 Operating Agreement clearly reflects that Harvey E. Yates was holding beneficially for E. M. Riebold, title to a 1/6 interest in the operating rights in the captioned Tract 1 lease and lands, for all depths, and an undivided 1/12 interest in the operating rights in the captioned Tract 2, 3 and 4 leases and lands, limited to depths from the base of the Yates formation down to 11,750 feet. By Conveyance of Operating Rights dated March 8, 1968, recorded in Miscellaneous Records Book 59, page 923, E. M. Riebold and wife, Elizabeth E. Riebold, assigned said operating rights to Harvey E. Yates.

(h) **Yates - HEYCO:** By Assignment of Oil and Gas Lease dated November 25, 1970 and approved as Assignment No. 4 on January 5, 1971, Harvey E. Yates and wife, Louise D. Yates and Triton Oil & Gas Corp. assigned to Harvey E. Yates Company and Triton Oil & Gas Corp., Lease K-3977 covering Tract 1 and other lands. By Assignment of Operating Rights dated November 25, 1970, but effective July 15, 1969, recorded in Miscellaneous Records Book 75, page 898, Harvey E. Yates and wife, Louise D. Yates assigned to Harvey E. Yates Company, their 14/24 interest in the operating rights in the captioned Tract 1 lease and lands, without depth limitation, and their 14/48 interest in the operating rights in the captioned Tract 2, 3 and 4 leases and lands, limited to depths from the base of the Yates formation down to 11,750 feet.

(i) **Miller - Yates:** The above described December 23, 1964 Operating Agreement also reflects that Harvey E. Yates was holding title beneficially for Forrest C. Miller for the identical interests in operating rights as he was holding beneficial title for E. M. Riebold. The April 11, 1969 Agreement with Respect to Ownership of State Lease described in Subparagraph (e) above vested title to said operating rights in Forrest C. Miller and wife, Marifred Miller. By Conveyance and Stipulation dated February 9, 1973, recorded in Miscellaneous Records Book 84, page 599, Forrest C. Miller and wife, Marifred Miller assigned to George M. Yates, their 1/6 interest in the operating rights in the captioned Tract 1 lands, without depth limitation. In this assignment, assignors reserved an unreduced overriding royalty equal to 2% of the proceeds realized by assignee from the sale of all of the oil and gas which is produced, saved and marketed from the assigned operating rights. The overriding royalty shall be computed and paid at the same time and in the same manner as royalty payable to the State of New Mexico under the terms of said lease are computed and paid but assignors shall be responsible for their proportionate part of all taxes and assessments levied upon or against or measured by the production of oil or gas therefrom. The reserved overriding royalty is not subject to communitization by assignee. In this same assignment, Mr. and Mrs. Miller assigned equally to Harvey E. Yates and to Louise D. Yates, an undivided one-half of said overriding royalty interest. Forrest C. Miller and wife, Marifred Miller, Harvey E. Yates and wife, Louise D. Yates and Shinnery Investment Company, successor in interest to George M. Yates, subsequently entered into

Stipulation and Quitclaim dated April 21, 1976, recorded in Miscellaneous Records Book 138, page 462, to confirm that the reserved overriding royalty interest applied to the captioned Tract 1 lands, without depth limitation. Also, by Conveyance of Operating Rights dated February 9, 1973, recorded in Miscellaneous Records Book 94, page 602, Forrest C. Miller and wife, Marifred Miller, assigned to George M. Yates, all of their 1/12 interest in operating rights in the captioned Tract 2, 3 and 4 lands, limited to depths from the base of the Yates formation down to 11,750 feet, without reservation of any overriding royalty or other interest.

(j) **Humble - Exxon Merger:** A Corporate Certificate dated January 19, 1973, filed with the Commissioner of Public Lands on January 23, 1973 in Book No. 2, Register of Miscellaneous Instrument No. 839 and recorded in Miscellaneous Records Book 84, page 696, reflects that Humble Oil & Refining Company, record lessee of the captioned Tract 2 and 3 leases, merged into Exxon Corporation as the surviving corporation, effective January 1, 1973.

(k) **Yates - Shinnery:** By Assignment of Operating Rights dated April 23, 1973, recorded in Miscellaneous Records Book 98, page 822, George M. Yates, a single man, assigned to Shinnery Investment Co., a partnership composed of James H. Yates, Harvey E. Yates, Jr., Fred G. Yates and George M. Yates, individually and with Joel M. Carson, Trustee for Colleen Yates, Kelly Yates and Shannon Yates under Trust Agreement dated March 2, 1973, the interest in operating rights in the captioned Tract 1 through 4 lands acquired by assignor from Forrest C. Miller and wife, Marifred Miller in the assignments described in Subparagraph (i) above.

(l) **Miller - Phipps:** By Assignment dated December 10, 1975, recorded in Miscellaneous Records Book 132, page 806, Forrest Miller and wife, Marifred Miller, assigned to Tommy Phipps and wife, Werta Phipps, an undivided 1/2 of 1% overriding royalty interest in Lease K-3977 covering the Tract 1 and other lands.

(m) **HEYCO - Coronado:** By Blanket Conveyance dated February 3, 1978, recorded in Deed Records Book 234, page 370, Harvey E. Yates Company assigned to Coronado Exploration Corporation, 14.9711% of its operating rights in all real and personal property owned by assignor, wherever situated. An Assignment of Operating Rights between the same parties dated June 13, 1978, but effective as of January 1, 1978, recorded in Miscellaneous Records Book 164, page 279, specifically assigned 14.9711% of Harvey E. Yates Company's interest in operating rights in the captioned Tract 2 through 4 lands, for depths from the base of the Yates formation down to the base of the Morrow formation. An Assignment of Operating Rights between the same parties June 14, 1978, but effective as of January 1, 1978, recorded in Miscellaneous Records Book 164, page 365, specifically assigned 14.9711% of Harvey E. Yates Company's interest in operating rights in Lease K-3977 covering the captioned Tract 1 and other lands, without depth limitation.

(n) **Shinnery - Coronado:** Page 310 of the county abstract contains Assignment of Oil and Gas Leases dated December 20, 1979, but effective September 1, 1979, recorded in Miscellaneous Records Book 196, page 231, wherein Harvey E. Yates, Jr., joined pro forma by his wife, Janice B. Yates, and Harvey E. Yates, Jr., in his capacity as sole proprietor of Tularosa Oil Company and as a general partner in Shinnery Investment Company, a partnership created under the New Mexico Uniform Partnership Act, assigned to Coronado Exploration Corporation, all of their interest in numerous properties, including the captioned Tract 1 through 4 leases and lands, limited in depth from 800 feet, or the base of the Yates formation, to 11,750 feet, or the base of the Morrow formation.

We have not seen the Partnership Agreement creating Shinnery Investment Co. and we cannot advise you whether Harvey E. Yates, Jr., as one of the partners, had the authority to assign the operating rights acquired in the assignment described in Subparagraph (k) above, to Coronado Exploration Corporation.

REQUIREMENT G: Submit a copy of the Partnership Agreement creating Shinnery Investment Co. so that we can determine whether Harvey E. Yates, Jr. had the authority as a partner thereof to assign the above described operating rights in the captioned Tract 1 through 4 lands to Coronado Exploration Corporation. We reserve possible further requirement.

(o) **Coronado - Cibola Change of Name:** A New Mexico Corporation Commission Certificate of Comparison dated April 24, 1981, recorded in Miscellaneous Records Book 199, page 284, reflects that Coronado Exploration Corporation changed its name to Cibola Energy Corporation effective March 30, 1981.

(p) **HEYCO - Yates Energy:** By Blanket Conveyance of Oil and Gas Properties dated July 20, 1982, but effective December 31, 1981, recorded in Miscellaneous Records Book 213, page 1055, Harvey E. Yates Company assigned to Yates Energy Corporation, an undivided 32.863912% interest in the oil and gas leases and other real property interests owned by assignor, vested or contingent, and wherever situated. We have construed this Blanket Conveyance as assigning to assignee, the specified percentage interest of assignor's 49.600192% interest in the operating rights in Tract 1 and 24.800096% interest in the operating rights in the Tract 2 through 4 lands and depths.

(q) **Triton Mergers:** A Texas Secretary of State Certificate dated May 25, 1988, recorded in Eddy County Records Book 23, page 1097, reflects that Triton Oil & Gas Corp., a Texas corporation, merged into Triton Oil & Gas Corp. of Delaware, a Delaware corporation, as the surviving corporation, effective April 29, 1988.

In addition, a Delaware Secretary of State Certificate dated July 19, 1988, recorded in Eddy County Records Book 26, page 795, reflects that Triton Oil & Gas Corp. of Delaware merged with and into World Wide Energy Corporation under the name of Triton Oil & Gas Corp., effective May 31, 1988.

(r) **Triton - Tenison:** By Assignment of Oil and Gas Lease dated February 20, 1992, and approved as Assignment No. 6 on April 16, 1992, Triton Oil & Gas Corp. and Harvey E. Yates Company assigned to Tenison Oil Company and Harvey E. Yates Company, Lease K-3977 covering Tract 1 and other lands. By Assignment, Bill of Sale and Conveyance of Oil and Gas Properties dated October 4, 1989, but effective June 1, 1989, recorded in Eddy County Records Book 56, page 100, Triton Oil & Gas Corp., a Delaware corporation, assigned to Tenison Oil Company all of its interest in operating rights in the captioned Tract 1 through 4 leases and lands.

(s) **Tenison - W.R.H.:** By Assignment of Oil and Gas Lease dated March 12, 1992, and approved as Assignment No. 7 on April 16, 1992, Tenison Oil Company and Harvey E. Yates Company assigned to W.R.H. Incorporated and Harvey E. Yates Company, Lease K-3977 covering the captioned Tract 1 and other lands.

There is no corresponding county assignment from Tenison Oil Company to W.R.H. Incorporated, and we have construed this assignment as assigning to W.R.H. Incorporated, Tenison Oil Company's 1/4 interest in the operating rights in the captioned Tract 1 lease and lands, without depth limitation. However, we continue to credit Tenison Oil Company with 1/8 interest in the operating rights in the captioned Tract 2 through 4 lands, limited to depths from the base of the Yates formation down to 11,750 feet.

(t) **Texaco Change of Name:** By Assignment of Oil and Gas Lease dated May 24, 1991, and approved as Assignment No. 1 on November 15, 1991, Texaco Inc. assigned to Texaco Exploration and Production Inc., Lease OG-5809 covering the captioned Tract 4 and other lands. By Agreement and Conveyance dated May 1, 1991, but effective January 1, 1991, recorded in Eddy County Records Book 98, page 191,

Texaco Inc. assigned to Texaco Exploration and Production Inc., all of its oil and gas leases and other real property interests in Eddy County, New Mexico.

(u) **Yates Energy - Jalapeno:** By Conveyance and Bill of Sale dated September 10, 1993, recorded in Eddy County Records Book 167, page 247, Yates Energy Corporation assigned to Jalapeno Corporation, 32.2899% of assignor's right, title and interest in all oil and gas leases and other real property interests owned by assignor, vested or contingent, and wherever situated. We have construed this conveyance as assigning to Jalapeno, the stated percentage interest of assignor's 16.300563% interest in the operating rights in Tract 1 and 8.150282% interest in the operating rights in the Tract 2 through 4 lands and depths.

(v) **Yates - Yates Revocable Trust:** By Blanket Conveyance, Assignment and Transfer and Assumption of Liabilities dated September 14, 1995, recorded in Eddy County Records Book 230, page 877, Louise D. Yates assigned to Yates Revocable Trust, whose trustees were Louise D. Yates and Harvey E. Yates, Jr., all of her interest in real property located in New Mexico, including those interests described on Exhibit A thereto. Exhibit A described Lease OG-5809 covering Tract 4 and other lands "and any wells located thereon, including, but not limited to, the Bass State Com #1," and Lease K-3977 covering the captioned Tract 1 and other lands. At the time of this assignment, assignor only owned a 1/2 of 1% overriding royalty interest in the captioned Tract 1 lease and lands. See Exception to Title No. 1(a) below with respect to her possible adverse claim to an interest in the captioned Tract 4 lease and lands. Also, see Exception to Title No. 4 below with respect to this trust agreement.

(w) **Harvey E. Yates Estate - Spiral, Inc.:** By Blanket Conveyance of Oil and Gas Properties dated November 20, 2000, but effective as of August 1, 2000, recorded in Eddy County Records Book 402, page 290, George M. Yates, Personal Representative of the Estate of Harvey E. Yates, deceased, joined pro forma by Lucille G. Yates, widow of Harvey E. Yates, deceased, assigned to Spiral, Inc., all of assignors' interest in and to the leases and other interests described on Exhibit "A" as well as all interest owned by assignors in Eddy County, New Mexico. Exhibit "A" describes Lease OG-5809 covering the captioned Tract 4 lands, limited to depths from the base of the Yates formation to the base of the Morrow formation and Lease K-3977 covering the captioned Tract 1 lands, for all depths. At the time of his death, Harvey E. Yates only owned a 1/2 of 1% overriding royalty interest in the captioned Tract 1 lease and lands and this assignment places a cloud on title to the captioned Tract 4 lands. See Exception to Title No. 1(a) below. Also, see Exception to Title No. 3(b) below with respect to the estate of Harvey E. Yates, deceased.

(x) **Texaco - Mewbourne:** Page 4 of the county abstract contains Term Assignment dated January 15, 2001, but effective January 10, 2001, and recorded in Eddy County Records Book 403, page 281, wherein Texaco Exploration and Production Inc. assigned to Mewbourne Oil Company, all of its interest, without warranty of title, in the captioned Tract 4 lease and lands. At the time of this assignment, assignor owned 50% of the operating rights therein, for depths from the base of the Yates formation down to 11,750 feet subsurface, and 100% of the operating rights therein for all other depths. In Paragraph 2, assignor reserved an overriding royalty interest equal to the difference between existing lease burdens and 25% on (i) oil, including condensate, distillate and all hydrocarbons produced in a liquid form at the mouth of the well or recovered from oil or gas run through a separator or other equipment, (ii) gas, including casinghead gas and any other gaseous substances, and (iii) gas processed in a plant for recovery of gasoline or other liquid hydrocarbons. The reserved overriding royalty interest shall be free and clear of all exploring, producing, developing, processing, treating, transporting and marketing costs as well as all charges and expenses. The overriding royalty interest reserved on the above described specifically mentioned substances shall be calculated on the basis set forth in Paragraphs 2.A., B., C., and D. and we refer you to these provisions without attempting to analyze the same. Paragraph 2 does not specify that the reserved overriding royalty interest shall bear its

proportionate part of all production based taxes assessed against the reserved overriding royalty interest and in this connection, see Requirement H below. Paragraph 3 contains disclaimers of warranties and representations and any liability with respect to environmental condition of the assigned lands. Paragraph 4 provides that the assignment shall be for a term of two years after the effective date ("Primary Term") and as long thereafter as oil, gas or associated hydrocarbons are produced in paying quantities from the assigned lands or lands pooled therewith, or there is a shut-in gas well capable of producing gas in paying quantities on the lands, or on lands pooled therewith, but such gas is not being produced therefrom for lack of market. Paragraph 5 grants Mewbourne the right to pool the assigned operating rights with other lands in compliance with pooling and spacing rules and orders of the New Mexico Oil Conservation Division or other governmental authority having jurisdiction. Any operations commenced or conducted on lands pooled or communitized with the assigned lands shall be considered to be located on the assigned lease and lands for purposes of this assignment. Paragraph 6 contains a 120 day continuous development program option in favor of Mewbourne and we refer you to this paragraph for details thereof. Upon expiration of the primary term, or the continuous development program, whichever is later, the assignment shall terminate as to all of the assigned lands except those portions included within a proration unit established under the spacing and proration rules and regulations of any governmental body having jurisdiction or on which Mewbourne is then engaged in a bonafide operation to establish or restore production of oil or gas and as to all depths below the deepest producing formation in each retained proration/spacing unit. The assignment shall likewise terminate upon cessation of operations to establish or restore production upon cessation of such operations for a period of 60 consecutive days unless such operations result in restoration or establishment of a well capable of producing oil or gas in paying quantities on such retained proration unit. Mewbourne is obligated to furnish assignor with a recordable reassignment for all lands and depths required to be reassigned. Paragraph 7 provides that this assignment is subject to all agreements of record affecting the assigned lands. Paragraph 8 contains certain indemnity provisions in favor of assignor with respect to Mewbourne's operations on the assigned lands. Paragraph 11 provides for proportionate reduction of the reserved overriding royalty interest in the event the lease covers less than the entire fee simple mineral interest in the assigned lands or if assignor conveys less than the full leasehold estate in the assigned lease and lands. Paragraph 13 provides that Mewbourne will furnish to assignor the geological information and reports and other information specified on Exhibit "B".

REQUIREMENT H: Texaco Exploration and Production Inc. and Mewbourne Oil Company must amend the above described Term Assignment of record to provide that Texaco's reserved overriding royalty interest must bear its proportionate share of production based taxes and assessments.

(y) **W.R.H. - RussLynn Properties:** By Assignment and Bill of Sale dated January 26, 2001, but effective January 1, 2001, recorded in Eddy County Records Book 404, page 1165, W.R.H., Inc. assigned to RussLynn Properties, LLC, a New Mexico limited liability company, all of assignor's interest in the captioned Tract 1 lease and lands (which was 25%), limited to depths from the base of the Yates formation to 11,500 feet, without warranty of title.

(z) **RussLynn - Mewbourne:** You have submitted Term Assignment of Operating Rights dated and effective January 18, 2001, unrecorded, wherein RussLynn Properties, LLC, assigned to Mewbourne Oil Company, all of its interest in operating rights and working interest in the captioned Tract 1 lease and lands, limited to depths from the base of the Yates formation through the base of the Morrow formation. As noted in connection with our analysis of the assignment in Subparagraph (y) above, RussLynn Properties, LLC acquired 25% of the operating rights only for depths down to 11,500 feet and we cannot advise you if 11,500 feet is the equivalent of the base of the Morrow formation in Tract 1. In Paragraph 1, assignor reserved an overriding royalty equal to 25% of all oil and gas produced and saved from

the assigned acreage. The overriding royalty shall be inclusive of all royalties, overriding royalties, production payments and similar burdens created and existing as of the effective date of the assignment, the intent being to convey to Mewbourne a 75% net revenue interest in the assigned acreage. The reserved overriding royalty shall be free and clear of all costs and expenses, except that said overriding royalty shall bear its ratable proportion of applicable taxes. The reserved overriding royalty is subject to proportionate reduction if the assigned lease covers less than all the oil and gas in and under the assigned acreage, or if assignor owns less than the full interest of the original lessee in the lease. Mewbourne is granted the right to commit the assigned acreage and the overriding royalty to any cooperative or unit plan of operation or development or to any unitization, communitization or other agreement for the purpose of forming a well spacing and proration unit. Paragraph 2 provides that the primary term of the assignment shall be for a term of one year from January 18, 2001 and the assignment shall continue in full force and effect after the primary term for so long as oil and/or gas is being produced from any portion of the assigned acreage or from other acreage which has been pooled or communitized with any portion thereof to form a standard proration unit or units or any operation is conducted or other conditions exist which continues the term assignment in force as therein provided. Paragraph 3 provides that if at expiration of the primary term of the assignment, oil or gas are not being produced from any portion of the assigned acreage, or from lands pooled or communitized therewith, but on or before that date (or on or before the end of the 60 days following cessation of production or abandonment of the well, if the well be abandoned or production should cease within 60 days prior to expiration of the primary term), assignee commences drilling and reworking operations on the assigned acreage or on lands pooled or communitized therewith, the assignment shall continue in full force and effect beyond the end of the primary term as to all of the assigned acreage for so long as such drilling or reworking operations are conducted in good faith without lapse of more than 60 consecutive days between cessation of drilling or reworking operations and their recommencement whether on the same or on different wells successively and for so long as the production so commenced or resumed is obtained from the assigned acreage, or on lands pooled or communitized therewith. This paragraph also contains a 60 day additional drilling and reworking clause with respect to any proration unit from which production ceases after expiration of the primary term. Paragraph 4 contains cross-indemnities in favor of each party with respect to the other party's operations before or after the effective date, as the case may be. Paragraph 5 specifies the geologic information and reports to be furnished to assignor with respect to any well drilled by Mewbourne on the assigned acreage or lands pooled or communitized therewith. Paragraph 9 contains general warranty covenants.

REQUIREMENT I: The above Term Assignment of Operating Rights must be immediately recorded in the Eddy County Records and you should satisfy yourself that nothing adverse to the title you are acquiring under the terms thereof is recorded in the Eddy County Records prior to the time said assignment is recorded. Also, if it was your intent to acquire depths down to 11,750 feet subsurface, rather than 11,500 feet, W.R.H., Inc. must execute and record an assignment of the additional depths to you, subject to and under all the terms and provisions of the above term assignment.

Tract 5 Lease and Lands:

(aa) **Marbob - Miller et al.:** By separate assignment of overriding royalty instruments, each dated July 25, 1997, but effective June 1, 1997, and recorded in Eddy County Records Book 287, pages 1107, 1109 and 1111, respectively, Marbob Energy Corporation assigned to Raye P. Miller (1/2 of 1%), Black River Enterprises (1/4 of 1%) and Darlene Boyce (1/2 of 1%), a total of 1½% overriding royalty in the captioned Tract 5 lease and lands, without depth limitation. Each assigned overriding royalty shall be equal to the specified percentage of the proceeds received from the sale of all (8/8ths) of the oil and gas which may be produced, saved and marketed under the terms of said lease and lands covered thereby, and all extensions and renewals thereof. The overriding royalty shall be computed and paid at the same time and in the same manner

as royalties payable to the lessor under the terms of the lease are computed and paid and each assignee shall be responsible for assignee's proportionate part of all taxes and assessments levied upon or against or measured by the production of oil and gas therefrom. Each assigned overriding royalty shall be subject to any governmentally approved cooperative or unit plan of development or operation or communitization or other agreement forming a well spacing or proration unit under the rules or regulations of the New Mexico Oil Conservation Division, to which the lease may thereafter be committed. The assignments are made without warranty of title.

The assignment to Black River Enterprises does not specify whether this assignee is a partnership, limited partnership, sole proprietorship, etc. In the event of production from your proposed drilling operations, it will be necessary to determine what type of business entity Black River Enterprises is so that the division order may be properly set up for its execution. This is advisory at this time.

5. New Communitization: You have advised us that you plan to drill a Morrow test in a spacing unit comprising the exact captioned lands. In the event you complete your proposed well in the Morrow formation, or other formation spaced on said 320 acre spacing unit, it will be necessary to communitize the captioned leases as to the captioned lands and producing formation(s) in accordance with applicable State Land Office regulations. It will be necessary for the communitization agreement to be ratified by owners of overriding royalty interests in the captioned Tract 1 lands, but not by owners of overriding royalty interests in the captioned Tract 5 lands. This is advisory for drilling purposes.

VI. EXCEPTIONS TO TITLE AND REMARKS:

1. Possible Adverse Claims - Tract 4: The materials under examination reflect existence of certain instruments which cloud title or constitute possible adverse claims to title to operating rights in the captioned Tract 4 lease and lands. We briefly analyze these instruments as follows:

(a) Yates Revocable Trust and Harvey E. Yates Estate: In Subparagraphs V-4(v) and (w) above, we noted that the September 14, 1995 Blanket Conveyance, Assignment and Transfer and Assumption of Liabilities from Louise D. Yates to Yates Revocable Trust and the November 20, 2000 Blanket Conveyance of Oil and Gas Properties from George M. Yates, Personal Representative of the Estate of Harvey E. Yates, deceased, joined pro forma by Lucille G. Yates, to Spiral, Inc., described an interest in the captioned Tract 4 lease and lands although each of these assignors only owned a 1/2 of 1% overriding royalty interest in the captioned Tract 1 lease and lands. We know of our own knowledge that Louise D. Yates is now deceased.

REQUIREMENT J: Inquire of Harvey E. Yates, Jr., Trustee of Yates Revocable Trust and George M. Yates, Personal Representative of the Estate of Harvey E. Yates, deceased, the basis upon which Yates Revocable Trust and Spiral, Inc., respectively, claim an overriding royalty or other interest in the captioned Tract 4 lease and lands. If no interest is actually claimed, Harvey E. Yates, Jr., Trustee of Yates Revocable Trust and Spiral, Inc., must execute and record disclaimers with respect to the captioned Tract 4 lease and lands and each disclaimer should state that it is executed and recorded for the purpose of removing the above described cloud on title. We reserve possible further requirement in the event either or both of Yates Revocable Trust and Spiral, Inc. claims an overriding royalty or other interest in the captioned Tract 4 lease and lands.

(b) Bargo et al.: Page 401 of the county abstract contains Assignment, Bill of Sale and Conveyance dated November 9, 2000, but effective December 1, 2000, recorded in Eddy County Records Book 398, page 1081, wherein Bargo Petroleum Corporation, 700 Louisiana, Suite 3700, Houston, Texas 77002, assigned to Broughton

Petroleum Inc., P.O. Box 1389, Sealy, Texas 77474, all of its interest in State of New Mexico Oil and Gas Lease OG-5809 insofar as it covers NE¼NW¼, S½NW¼, NE¼SW¼ Section 15 of the captioned township and range, for all depths. The assignment also assigns all of assignor's interest in and to "material contracts" as described on Exhibit "A", including Letter Agreement dated March 2, 1964 from Texaco Inc. to Starr Oil & Gas Company, covering all of the lands in Lease OG-5809, including the captioned Tract 4 lands, from the base of the Yates formation to the base of the Morrow formation, and the above described December 23, 1964 Operating Agreement, as amended, among Harvey E. Yates, as operator, and Texaco Inc., et al., as nonoperators. The remaining material contracts to which the assigned operating rights are subject pertain only to W½ Section 15 of the captioned township and range. At the time of execution of this assignment, assignor owned no interest of record in the operating rights in the captioned Tract 4 lands. We believe the intent of this assignment was to only assign operating rights in Lease OG-5809 insofar as it covers lands lying within W½ Section 15, but the fact that the assignment purports to assign interests in contracts affecting the captioned Tract 4 lands as well, indicates the possibility that assignor was attempting to assign a contractual working interest in the captioned Tract 4 lands by virtue of such contracts. See Requirement K below.

Page 411 of the same abstract contains Partial Assignment and Bill of Sale dated December 15, 2000, but effective December 1, 2000, recorded in Eddy County Records Book 401, page 1053, wherein Broughton Petroleum Inc. assigned to Dusty Sanderson, 6405 Kingsbury, Amarillo, Texas 79101, an undivided 50% of the interest in said lease and lands and material contracts it acquired in the assignment described in the immediately preceding paragraph.

Finally, page 415 of the same abstract contains Assignment of Oil and Gas Lease dated February 1, 2001, but effective December 1, 2000, recorded in Eddy County Records Book 405, page 107, wherein Dusty Sanderson assigned all of his interest in the lease and lands and material contracts acquired in the immediately preceding paragraph to the following:

Dusty Sanderson 6405 Kingsbury Amarillo, Texas 79109	37.5%
C. D. LaSusa P.O. Box 1808 Corsicana, Texas 75151	37.5%
Greg Golladay 3503 Edgewood Amarillo, Texas 79109	25.0%

The possible adverse claims to title to the leasehold estate of Tract 4 must be investigated.

REQUIREMENT K: Inquire of the above assignors and assignees whether they actually make a claim to a leasehold interest or contractual working interest in the captioned Tract 4 lands by virtue of the material contracts to which the assigned operating rights in NE¼NW¼, S½NW¼, NE¼SW¼ Section 15 are subject. If no interest is claimed, Broughton Petroleum Inc. and Dusty Sanderson, C. D. LaSusa and Greg Golladay, and their wives, if they are married, must execute and record a disclaimer wherein they disclaim all interest in the captioned Tract 4 lease and lands. Said disclaimer should provide that it is being executed and recorded for the purpose of removing the above described clouds on title. If these owners in fact claim an interest in the captioned Tract 4 lease and lands, we should be advised as to the basis for their claim thereto, and we reserve possible further requirement.

2. Unreleased Liens:

(a) **Miller - Tract 1:** Page 290 of the county abstract contains Assignment and Pledge of Collateral Security dated October 7, 1983, recorded in Miscellaneous Records Book 228, page 1108, wherein Forrest Miller, a/k/a Forrest C. Miller and Forrest Church Miller, a single man, assigned to Western Commerce Bank, in Carlsbad, New Mexico, all of his overriding royalty interest in the Cedar Hills Com #2 Well and its communitized spacing unit comprising the captioned lands, limited to depths from the base of the Yates formation down to the base of the Morrow formation, to secure certain indebtedness owing to said bank. Since all communitization agreements pertaining to Cedar Hills Com #2 Well have terminated, this instrument, if it is still valid, would apply only to Miller's 1/4 of 1% overriding royalty interest in the captioned Tract 1 lease and lands.

In addition to the foregoing, page 294 of the same abstract contains Notice of Federal Tax Lien under Internal Revenue Laws dated October 2, 1985, recorded in Miscellaneous Records Book 254, page 977, wherein the United States Internal Revenue Service assessed liens totalling \$23,924.23 against Forrest C. Miller for unpaid income taxes for tax years 1979 and 1980. The tax lien has not been released of record, but may have expired.

In the event of production from your proposed drilling operations, it will be necessary to inquire as to validity of the above described unreleased liens before release of runs attributable to the Forrest C. Miller overriding royalty in the captioned Tract 1 lease and lands. This is advisory for drilling purposes since an overriding royalty is affected.

(b) **Phipps - Tract 1:** Page 257 of the county abstract contains Deed of Trust, Mortgage, Assignment of Production, Security Agreement and Financing Statement dated August 15, 1998, recorded in Eddy County Records Book 328, page 509, from Tommy Phipps and wife, Werta J. Phipps to Norwest Bank Texas, N.A. in Midland, Texas. This mortgage secures a Promissory Note dated August 15, 1998 in the principal amount of \$100,000.00 maturing on August 15, 1999. The mortgaged properties are described on Exhibit "A" to this mortgage, but said exhibit does not actually contain descriptions of any specific properties. Rather, it contains a clause stating mortgagors' intent to subject all oil and gas properties of whatsoever nature in which they own an interest to the lien of this mortgage, even though such oil and gas properties may not be accurately described in the mortgage. It is quite possible that this language was used in an effort to subject all of mortgagors' oil and gas properties in Eddy County, including their 1/2 of 1% overriding royalty interest in the captioned Tract 1 lease and lands, to the lien of this mortgage. However, the fact that Exhibit "A" contains no descriptions of mortgaged properties combined with the vague nature of this language does not necessarily lead to this result. In the event of production from your proposed drilling operations, it will be necessary to inquire whether mortgagors and mortgagee in this mortgage intended to subject mortgagors' overriding royalty interest in Tract 1 to the lien of this mortgage. This is advisory for drilling purposes since an overriding royalty interest is affected.

(c) **Texaco - Tract 4:** Page 396 of the county abstract contains Affidavit Securing Lien dated January 12, 2000, recorded in Eddy County Records Book 372, page 378, wherein Diversified Employer Services, Inc. claims a lien against Texaco Inc. under the New Mexico Oil and Gas Mechanic's and Materialman's Lien Statute, to secure unpaid invoices dated between July and November, 1999 in the total amount of \$211,320.21 owing to Diversified Employer Services, Inc. The property described as being subject to the lien is "Texaco Inc.'s Texmack #1, Federal #1 located in Eddy County, New Mexico." In our opinion, this lien is invalid because it failed in every respect to comply with the requirements of the New Mexico Oil and Gas Mechanic's and Materialman's Lien Statute and because we are certain that the well and associated

leasehold interest to which the lien was intended to be asserted do not include the captioned Tract 4 lands. Accordingly, this is advisory.

(d) **Harvey E. Yates Company and Yates Energy Corporation - Tracts 1 - 4:** An Abstracter's Note contained on page 659 of the county abstract states that mortgages, amendments, assignments and/or supplements wherein Harvey E. Yates Company and Yates Energy Corporation appear a party thereto, not specifically pertaining to lands under search but which may contain after acquired property provisions, have been omitted but will be shown upon request. Without examining the mortgages which are the subject of this abstracter's exception, we cannot advise you whether the leasehold interests of Harvey E. Yates Company and Yates Energy Corporation in the captioned Tract 1 through 4 leases and lands are in fact subject to mortgage liens.

REQUIREMENT L: In the event you desire to acquire an interest in operating rights from Harvey E. Yates Company and/or Yates Energy Corporation in the captioned Tract 1 through 4 lands, we should be advised and we will contact the abstracter to obtain copies of their mortgages which contain the after acquired property provisions. We will then advise you as to whether in our opinion the leasehold interests of Harvey E. Yates Company and/or Yates Energy Corporation are in fact subject to the liens thereof. We reserve possible further requirement.

3. **Decedents' Estates - Tract 1:** Overriding royalty interests in the captioned Tract 1 lands have passed through the estates of certain decedents, some of which we wish to comment on, as follows:

(a) **Forrest C. Miller:** This man owned, as his separate property, 1/4 of 1% overriding royalty interest in the captioned Tract 1 lease and lands. Page 295 of the county abstract contains Heirship Affidavit with respect to the heirship of Forrest C. Miller, deceased, sworn to by David Scott Miller on February 9, 1998 and Marifred Miller Handley on March 5, 1998, recorded in Eddy County Records Book 310, page 947. This affidavit reflects that Forrest C. Miller died testate on January 26, 1985, but that his will was not admitted to probate and that no administration has been conducted on his estate. The affidavit reflects that decedent was survived by his widow, Joann Miller and was previously divorced from a former wife, Marifred Miller Handley. The affidavit reflects that decedent was also survived by four children, Leslyn Johnson (born February 2, 1959), Jay Paul Miller (born July 30, 1960), David S. Miller (born October 8, 1963) and Julie Lara (born October 20, 1968) as his heirs.

Title to the 1/4 of 1% overriding royalty passing through decedent's estate is currently unmarketable. In the event of production from your proposed drilling operations, it will be necessary to suspend the overriding royalty passing through decedent's estate (now credited to "Heirs or Devisees of Forrest C. Miller, deceased," until such time as his will has been probated and his heirship has been determined in an appropriate New Mexico proceeding. This is advisory for drilling purposes since an overriding royalty is affected.

(b) **Harvey E. Yates:** This man owned, as his separate property, 1/2 of 1% overriding royalty in the captioned Tract 1 lands. He died testate on April 19, 1999 and his will was admitted to probate in Chaves County, New Mexico, District Court Cause No. PB-99-42. The Application for Probate filed in this cause reflects that this man was survived by his widow, Lucille Yates, his sons, James H. Yates, Harvey E. Yates, Jr., Fred G. Yates and George M. Yates and his grandchildren, Colleen Yates, Kelly Yates Longley and Shannon Yates Unser, children of Samuel M. Yates, a predeceased son, as his heirs at law. Under the terms of his will, this man devised the residue of his estate, which would include said overriding royalty, to his widow. We have not examined the balance of the estate proceedings, but the proceedings are apparently closed, as evidenced by the November 20, 2000 Blanket Conveyance of Oil and Gas Properties described in Subparagraph V-4(w) above. In the event of production from

your proposed drilling operations, it will be necessary to examine the balance of the probate proceedings to assure that the probate proceeding was properly conducted. This is advisory for drilling purposes since an overriding royalty is affected.

4. Yates Revocable Trust - Tract 1: Louise D. Yates owned, as her separate property, a 1/2 of 1% overriding royalty in the captioned Tract 1 lands. She assigned said override to Yates Revocable Trust by the September 14, 1995 Blanket Conveyance, Assignment and Transfer and Assumption of Liabilities described in Subparagraph V-4(v) above. Assignor and Harvey E. Yates, Jr. executed this instrument as trustees of this trust. We have no further information with respect to this revocable trust, except that Louise D. Yates is now deceased. In the event of production from your proposed drilling operations, it will be necessary to suspend the overriding royalty credited to Harvey E. Yates, Jr., trustee of this trust, until such time as we have been submitted a letter from him certifying that the trust is in full force and effect, that he is sole trustee thereof, and that as trustee thereunder, he has the authority to execute your division order and receive runs attributable to said overriding royalty interest. This is advisory for drilling purposes since an overriding royalty is affected.

5. Possible Gas Dedication: This opinion does not cover the question of possible dedication of natural gas deposits under prior contracts subject to the jurisdiction of governmental regulatory agencies. Such dedication may survive the expiration of oil and gas leases owned by the party making the dedication. In this connection, the submitted abstracts indicate the existence of the following gas purchase agreements affecting the captioned lands:

(a) The August 16, 1965 Conveyance of Operating Rights from Starr Oil & Gas Company to Landa Oil Company described in Subparagraph V-4(e) above is subject to Gas Purchase Contract between Harvey E. Yates and wife, Louise D. Yates, as seller, and Southern Union Gas Company, as buyer, dated July 6, 1964, apparently covering natural gas produced from the E½ Section 15 communitized unit embracing the captioned Tract 1 through 4 leases and lands, together with now expired State Lease OG-2427 covering SE¼SE¼ Section 15.

(b) Page 245 of the county abstract contains Assignment of Operating Rights from Harvey E. Yates Company to Coronado Exploration Corporation dated June 14, 1978, but effective January 1, 1978, recorded in Miscellaneous Records Book 164, page 365, assigning 14.9711% of assignor's operating rights in Lease K-3977 covering the captioned Tract 1 and other lands subject to the July 6, 1964 Gas Purchase Contract, described in Subparagraph (a) above, to Gas Purchase Contract dated April 1, 1975, between Transwestern Pipeline Company, as buyer, and Harvey E. Yates Company et al., as sellers, and Gas Purchase Contract dated September 1, 1977, between Llano, Inc., as buyer and Harvey E. Yates Company as seller. It is possible that the April 1, 1975 and September 1, 1977 Gas Purchase Contracts pertain to other lands embraced in Lease K-3977, but we cannot verify this.

(c) Page 526 of the county abstract contains Recording Supplement dated June 23, 1976, recorded in Miscellaneous Records Book 139, page 135, and rerecorded in Miscellaneous Records Book 141, page 44, wherein Exxon Company U.S.A., a division of Exxon Corporation, as seller, and Gas Company of New Mexico, a division of Southern Union Gas Company, as buyer, gave notice that they entered into a Gas Purchase Contract covering Exxon's gas sold from E½ Section 15 communitized unit for a period of ten years and from year to year thereafter until terminated upon 60 days advance written notice. The Gas Contract is specifically limited "as to depths to base of the Morrow formation."

This is advisory.

6. Surface - Rights of Way: The materials under examination are not certified as to title to the surface estate of the captioned lands. Abstracter's notes

contained on page 9 of state abstract No. 7474 reflects that the surface was quitclaimed by the State of New Mexico to the United States of America by Quitclaim Deed No. 3043 dated December 18, 1967 and Amended Quitclaim Deed No. 3043-A dated April 9, 1968, which are contained on pages 10 and 12 of said abstract. The quitclaim deeds expressly reserve all minerals of whatsoever kind in the captioned lands and the right to prospect for, mine, produce and remove same and perform any and all acts necessary in connection therewith, upon compliance with conditions and subject to the limitations of the laws of the State of New Mexico and the United States of America. Apparently nothing has been recorded in the Eddy County records reflecting that the United States of America has conveyed surface title to the captioned lands to any third party. It is likely, however, that the surface estate is subject to one or more grazing permits issued by the United States of America. Under Paragraph 11 of the captioned leases, the operator is liable for damages to range, water, crops or tangible improvements caused by its petroleum operations.

The abstracter's notes on page 9 of the same abstract also reflect the existence of Right of Way Deed 666 issued to the Pecos Valley Production Company on December 31, 1934, which crosses W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15. In addition, page 18 of the same abstract contains photocopy of the Bureau of Land Management Master Title Plat for Township 21 South, Range 27 East, N.M.P.M., reflecting the existence of numerous rights of way crossing portions of the captioned lands granted by the United States of America after its acquisition of the surface estate thereof. You must observe all rights of way actually crossing the captioned lands in the conduct of your drilling operations thereon. This is advisory.

7. **Judgment and Lien Search:** The county abstract contains a satisfactory miscellaneous names and judgment and lien searches against all owners in the chain of title to current interest owners in the captioned leases, lands and depths.

8. **Additional Limitations of Opinion:**

(a) This opinion is limited to certain depths in the captioned lands. This opinion cannot be taken to report title to any interest in the excluded depths.

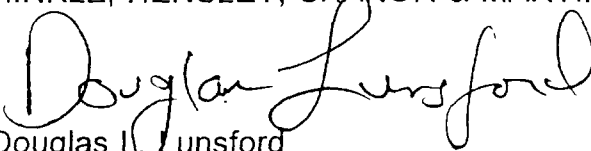
(b) The New Mexico Supreme Court has repealed the "Four Corners" Doctrine in New Mexico. It has declared that parties to documents affecting title to real property which are otherwise unambiguous on their face, may nevertheless introduce unrecorded and unREFERRED-to instruments and oral testimony as evidence to prove that a title document accomplishes a result other than that suggested by a plain reading of the title document and any documents expressly referenced therein. The Supreme Court cases have not directly dealt with the fact situation involving a subsequent bona fide purchaser for value. This opinion does not deal with any ambiguity in a title document not apparent on its face, and the subsequent impact of such ambiguity on title to the affected interest.

(c) This opinion does not deal with any matters not revealed by the materials examined, such as unsubmitted agreements, spacing and proration unit orders or matters which could be determined only by an investigation upon the ground or by a survey of the premises. This opinion does not deal with any question of state or federal securities or environmental laws and regulations or the possible effect thereof on operations on or title to these tracts of land or interests assigned therein. Finally, this title opinion may be relied upon only by the addressee hereof without our express, prior written consent.

SUBJECT ONLY to the foregoing comments and requirements, title to the oil and gas mineral estate of the exact captioned lands and depths, and of the oil and gas leases embracing same, is approved, for drilling purposes, as of the aforesaid closing dates of abstract certificates examined hereby.

Respectfully submitted,

HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.



Douglas L. Lunsford

DLL:hl

*Above mentioned abstracts
enclosed.*

Additional features and a more detailed statement of the features of State of New Mexico Oil and Gas Leases on Form 57:

Term: Primary Term: Five years from date and as long thereafter as oil or gas is produced from said land in paying quantities.

Secondary Term: Paragraph 15 of the lease provides that if the lessee fails to make a commercial discovery of oil or gas during the primary term of five years, then the lessee can continue it for an additional (secondary) term of five years plus customary thereafter clause by paying double the rental provided for the primary term or paying the highest rental prevailing in the rental district at the beginning of the secondary term, whichever rental is higher.

Royalty: Customary 1/8 oil and gas royalty. One-eighth of the cash value of gas, or of the net proceeds derived from the sale of such gas in the field, or 5¢ per m.c.f., whichever is the greater, but see lease for details as to gas royalty. Royalty is due on the 20th day of each month for all royalty from production for the preceding month, and all production records must be available for inspection by lessor, and total production furnished annually upon request. Paragraph 2 of the lease provides for a royalty on a shut-in gas well equal to the annual rental but not less than \$100 per well per year. Such payment must be made on the first rental paying date occurring 90 days after the well is shut in and annually on said rental date thereafter, and such payments will not validate the lease for longer than the unexpired part of the ten year fixed term, if any, plus not more than five years after the end of said ten year term.

Assignments: Under paragraph 7, the official title can be assigned in whole or in part but it is necessary to use the official form required by the State and to file the same in the State Land Office, and the State must approve all assignments of said official title but this is normally given as a matter of course. Said official form of assignment does not permit assignments of undivided interests or of zones or horizons and no overriding royalty, production payment or other burden can be excepted or provided for in said official form. However, these items can be provided for in conveyances to be recorded in the County Clerk's Office, but the State will not approve them and they do not constitute the official approved title to the lease, and rental and default notices under paragraph 13 will not be given to such owners.

Default: If default be made in the lease as to paying the rental or otherwise, the lease is not automatically lost but under paragraph 13 the State must give 30 days notice by registered mail to the owner of the official title of intention to cancel and within this time the default can be cured.

Commence Clause: Paragraph 16 makes this a commence form of lease but a written application therefor must be filed with the lessor on or before the expiration of the ten year term of the lease and a report of the drilling status of the well must be filed every 30 days and there must be no cessation of drilling for more than 20 consecutive days.

Rework Clause: Paragraph 17 provides for reworking and additional drilling operations if production ceases after the end of the ten year fixed term. Written notice of intention to commence such operations must be given the lessor within 30 days after the cessation of such production, and the operations must be commenced within 60 days after said cessation, and progress reports must be given as stated in paragraph 16 above.

Additional Features: Paragraph 5 permits a release of the lease in whole or in part. Paragraph 8 provides that if producing wells from adjacent lands are draining the leased premises then the lessee will drill such offsets as a reasonably prudent operator under the same or similar circumstances. Paragraph 11 provides that surface damages for location rights are owed grazing lessees, and under paragraph 9 if the State has made a surface patent or contract to sell the surface then a surface damage bond or the consent of the surface owner must be obtained before drilling.

FORM 72

LESSOR: State of New Mexico, by its Commissioner of Public Lands

TERM: Primary Term: Five years from date and as long thereafter as oil or gas is produced from said land in paying quantities.

Secondary term: Paragraph 15 of the lease provides that if the lessee fails to make a commercial discovery of oil or gas during the primary term of five years, then the lessee can continue it for an additional (secondary) term of five years plus customary thereafter clause by paying double the rental provided for the primary term or paying the highest rental prevailing in the rental district at the beginning of the secondary term, whichever rental is higher.

ROYALTY: Customary 1/8 oil and gas royalty. The State has the option to take oil or gas royalty in kind. One-eighth of the cash value of gas, or of the net proceeds derived from the sale of such gas in the field, or 5¢ per *m.c.f.*, whichever is the greater, but see lease for details as to gas royalty. Royalty is due on the 20th day of each month for all royalty from production for the preceding month, and all production records must be available for inspection by lessor, and total production furnished annually upon request. Paragraph 2 of the lease provides for a royalty on a shut-in gas well equal to the annual rental but not less than \$100 per well per year. Such payment must be made on the first rental paying date occurring 90 days after the well is shut-in and annually on said rental date thereafter, and such payments will not validate the lease for longer than the unexpired part of the ten year fixed term, if any, plus not more than five years after the end of said ten year term.

ASSIGNMENTS: Under paragraph 7, the official title can be assigned in whole or in part but it is necessary to use the official form required by the State and to file the same in the State Land Office, and the State must approve all assignments of said official title but this is normally given as a matter of course. Said official form of assignment does not permit assignments of undivided interests or of zones or horizons and no overriding royalty, production payment or other burden can be excepted or provided for in said official form. However, these items can be provided for in conveyances to be recorded in the County Clerk's Office, but the State will not approve them and they do not constitute the official approved title to the lease, and rental and default notices under paragraph 13 will not be given to such owners.

DEFAULT: If default be made in the lease as to paying the rental or otherwise, the leased is not automatically lost but under paragraph 13 the State must give 30 days notice by registered mail to the owner of the official title of intention to cancel and within this time the default can be cured.

COMMENCE CLAUSE: Paragraph 16 makes this a commence form of lease but a written application therefor must be filed with the lessor on or before the expiration of the ten year term of the lease and a report of the drilling status of the well must be filed every 30 days and there must be no cessation of drilling for more than 20 consecutive days. If on any such commenced well the lessee loses or junks the hole or well and is unable to complete said operations, then within 20 days after the abandonment of the operations, he can commence another well within 330 feet of the lost or junked hole and it may be drilled on the same terms as the original commenced well.

REWORK CLAUSE: Paragraph 17 provides for reworking and additional drilling operations if production ceases after the end of the ten year fixed term. Written notice of intention to commence such operations must be given the lessor within 30 days after the cessation of such production, and the operations must be commenced within 60 days after said cessation, and progress reports must be given as stated in paragraph 16 above.

ADDITIONAL FEATURES: Paragraph 5 permits a release of the lease in whole or in part. Paragraph 8 provides that if producing wells from adjacent lands are draining the leased premises then the lessee will drill such offsets as a reasonably prudent operator under the same or similar circumstances. Paragraph 11 provides that surface damages for location rights are owed grazing lessees, and under paragraph 9 if the State has made a surface patent or contract to sell the surface then a surface damage bond or the consent of the surface owner must be obtained before drilling.

DISCOVERY FORM
(Enacted by 1985 Legislature)

LESSOR: State of New Mexico, by its Commissioner of Public Lands.

TERM: Primary Term: Five years from date and as long thereafter as oil or gas is produced from said land in paying quantities.

ROYALTY: 1/6 oil and gas royalty. The State has the option to take oil or gas royalty in kind. One-sixth of the cash value of gas, such value to be equal to the net proceeds derived from the sale of such gas in the field; but see lease for details as to gas royalty. Royalty is due on the 20th day of each month for all royalty from production for the preceding month, and all production records must be available for inspection by lessor, and total production furnished annually upon request. Paragraph 2 of the lease provides for a royalty on a shut-in gas well equal to twice the annual rental but not less than \$320.00 per well year. Provided, however, any such annual royalty for any year beginning on or after ten years from the date of lease shall equal four times the annual rental due by lessee under the terms of the lease, but not less than \$2,000.00 per well per year; provided further, no annual royalty shall be payable if equivalent amounts are timely paid pursuant to another lease issued by lessor and if such other lease includes lands communitized with lands embraced in this lease for the purpose of prorationally sharing in the shut-in well. Such royalty payment must be made on the first rental paying date occurring 90 days after the well is shut-in and annually on said rental date thereafter. After the end of the fixed primary term, such payments will not extend the lease for any period of more than ten years unless for good cause shown the Commissioner, in his discretion, grants a continuance.

ASSIGNMENTS: Under Paragraph 7, the official title can be assigned in whole or in part but it is necessary to use the official form required by the State and to file the same in the State Land Office, and the State must approve all assignments of said official title but this is normally given as a matter of course. Said official form of assignment does not permit assignments of undivided interests or of zones or horizons and no overriding royalty, production payment or other burden can be excepted or provided for in said official form. However, these items can be provided for in conveyances to be recorded in the County Clerk's Office, but the State will not approve them, they do not constitute the official approved title to the lease, and rental and default notices under Paragraph 13 will not be given to such owners.

DEFAULT: If default be made in the lease as to paying the rental or otherwise, the lease is not automatically lost but under Paragraph 13 the State must give 30 days notice by registered mail to the owner of the official title of intention to cancel and within this time the default can be cured.

COMMENCE CLAUSE: Paragraph 14 makes this a commence form of lease but a written application therefor must be filed with the lessor on or before the expiration of the five year term of the lease and a report of the drilling status of the well must be filed every 30 days and there must be no cessation of drilling for more than 20 consecutive days. If on any such commenced well the lessee loses or junks the hole or well and is unable to complete said operations, then within 20 days after the abandonment of the operations, he can commence another well within 330 feet of the lost or junked hole and it may be drilled on the same terms as the original commenced well.

REWORK CLAUSE: Paragraph 15 provides for reworking and additional drilling operations if production ceases after the end of the five year fixed term. Written notice of intention to commence such operations must be given the lessor within 30 days after the cessation of such production, and the operations must be commenced within 60 days after said cessation, and progress reports must be given as stated in Paragraph 14 above.

ADDITIONAL FEATURES: Paragraph 5 permits a release of the lease in whole or in part. Paragraph 8 provides that if producing wells from adjacent lands are draining the leased premises then the lessee will drill such offsets as a reasonably prudent operator under the same or similar circumstances. Paragraph 11 provides that surface damages for location rights are owed grazing lessees, and under Paragraph 9 if the State has made a surface patent or contract to sell the surface then a surface damage bond or the consent of the surface owner must be obtained before drilling. Paragraph 17 provides that lessee irrevocably consents to lessor exercising its right to take in kind its royalty share of oil or gas and such consent is a consent to the termination of any supplier/purchaser relationship between lessor and lessee deemed to exist under federal regulations. Paragraph 18 reserves to lessor a continuing option to purchase at any time and from time to time at the market price the oil and gas produced from the lease premises. Paragraph 20 reserves to lessor the right to execute leases for geothermal resource development and operation thereon, the right to sell or dispose of geothermal resources of such lands and the right to grant rights-of-way and easements for these purposes.