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October 1, 2001

**HAND DELIVERED**

Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
New Mexico Energy, Minerals and  
Natural Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: Case 12733: Application of the New Mexico Oil Conservation Division for an Order Requiring Operators to Bring Ninety-five (95) Wells into Compliance with Rule 201.B, and Assessing Appropriate Civil Penalties; Eddy and Chaves Counties, New Mexico.

Julian Ard-Acme #1 (API No. 30-005-61891) Section 4, Township 8 South, Range 27 East, NMPM.\*

Dear Ms. Wrotenbery:

Julian Ard hereby requests that the hearing scheduled for October 4, 2001 be continued as it relates to his Acme State Well No.1.

The Julian Ard-Acme Well No. 1 ("Well No. 1") was completed on March 29, 1983 as a shut-in gas well capable of producing from the Pennsylvanian formation. Julian Ard also completed the Julian Ard-Acme Well No. 2 ("Well No. 2") on July 26, 1986 as a well capable of producing oil from the San Andres formation. Both wells are located on State of New Mexico Oil and Gas Lease LG-978-1 ("State Lease"). The wells are not producing because no gas marketing line is available in the immediate area and the cost of laying a pipeline to this lease would be in excess of \$200,000.

On April 1, 1999, the State Land Office gave Mr. Ard Notice of Expiration of this State Lease stating the lease had automatically expired of its own terms. Mr. Ard

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\* The legal description for this well is incorrect in the OCD docket. The well location is correctly described in Exhibit A to the Application.

2001-10-01  
11:00 AM  
10/1/01

Letter to Lori Wrotenbery  
October 1, 2001  
Page 2

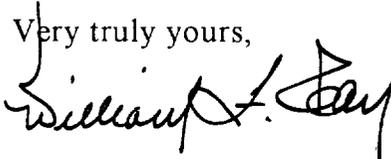
disputed the right of the State Land Office to terminate this State Lease on the grounds that the Well No. 2 was capable of producing in paying quantities and thereafter the Commissioner of Public Lands and Mr. Ard reached an agreement concerning the Extension of this State Lease. A copy of that agreement is enclosed.

In compliance with this Agreement, in June 2001, Julian Ard attempted further development of this State Lease. Although Mr. Ard was unable to obtain commercial production in the Montoya or Wolfcamp formations in this well, there is potential for an Abo completion. Accordingly, Mr. Ard has requested a 270-day extension of the Exploration Period defined in the Agreement with the Commissioner of Public Lands. A copy of Mr. Ard's request for Extension of the Exploration Period is enclosed herewith. To date no response has been received from the Commissioner.

If the Commissioner extends State of New Mexico Oil and Gas Lease LG-947-1 for 270-days as requested, Mr. Ard intends to continue his efforts to develop the Montoya and Wolfcamp formations under these lands. If Mr. Ard obtains commercial production from this lease, it is hoped that the extension of a pipeline to this lease will may be economically possible thereby enabling Mr. Ard to market the gas from the lease -including gas from the State Well No. 1.

Accordingly, Julian Ard requests that the hearing on his State Well No. 1 be continued until such time as Mr. Ard receives a response from the New Mexico Commissioner of Public Lands on his request for a 270-day extension of the "Exploration Period" as defined in the Settlement Agreement dated August 31, 1999. Mr. Ard will immediately notify the Oil Conservation Division of the Commissioner's response to his request for extension of the Exploration Period and will either proceed with his efforts to develop this lease and market gas therefrom, including the State Well No. 1 or, if the Exploration Period is not extended, bring this well into compliance with the provisions of OCD Rule 201.B.

Your attention to this request is appreciated.

Very truly yours,  


William F. Carr  
Attorney for Julian Ard

cc: Mr. C. Mark Maloney  
Post Office Box 2627  
Roswell, New Mexico 88202-2627

**AGREEMENT WITH RESPECT TO  
STATE LEASE LG-978-1, CHAVES COUNTY, NEW MEXICO**

THIS AGREEMENT made and entered into on the below described date, by and between the Commissioner of Public Lands ("Commissioner") and Julian Ard.

**W I T N E S S E T H:**

**RECITALS:**

A. Julian Ard is record title owner of State of New Mexico Oil and Gas Lease LG-978-1 ("Said Lease") covering Lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Section 3, Lots 1, 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$  Section 4, Township 8 South, Range 27 East, N.M.P.M., Chaves County, New Mexico ("Said Lands").

B. Julian Ard completed the Julian Ard-Acme No. 1 Well ("No. 1 Well") on March 29, 1983 as a shut-in gas well capable of producing gas from the Pennsylvanian formation. Julian Ard completed the Julian Ard-Acme No. 2 Well ("No. 2 Well") on July 26, 1986 as a producer of oil from the San Andres formation.

C. On April 1, 1999, the State Land Office gave Notice of Expiration of Said Lease, stating that the lease "automatically expired by its own terms." and refunded to Julian Ard rental and shut-in royalty payments tendered with respect to the January 1, 1999-2000 lease year.

D. Julian Ard, through his attorneys, wrote letter dated April 27, 1999 disputing the right of the State Land Office to terminate Said Lease, stating as grounds therefore that the lease payment made on December 28, 1998 should be construed as a shut-in payment for the No. 1 Well, rather than as a rental payment for Said Lease, and that the No. 2 Well is capable of producing oil in paying quantities, all as set forth therein.

E. With neither party making any admission or concession regarding the applicable law or facts, the Commissioner and Julian Ard desire to settle their dispute over whether Said Lease has expired in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing, the Commissioner, and Julian Ard do hereby agree as follows:

1. **Definitions:** The following terms shall have the following meanings when used herein:

**Acme No. 1 Spacing Unit:** Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$  Section 4 of Said Lands.

**Acme No. 2 Spacing Unit:** Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$ ) Section 4 of Said Lands.

**Undeveloped Lands:** Lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Section 3, Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 4 of Said Lands.

2. **Said Lease Conditionally Remains in Effect:** Subject to Paragraph 5, the Commissioner agrees that Said Lease has not expired as of the date of this Agreement. Subject to Paragraph 5, the Commissioner further agrees to forever forego his claim that Said Lease automatically expired prior to the date of this Agreement.

3. **Covenant to Partially Relinquish Undeveloped Lands:** Within two years after the execution of this Agreement (hereinafter referred to as the "Exploration Period"), and except as provided further in this Paragraph 3, Julian Ard shall execute and deliver to New Mexico State Land Office ("NMSLO"), upon forms prescribed by the NMSLO, a relinquishment of the Undeveloped Lands. Notwithstanding the foregoing, Julian Ard shall be under no obligation to partially relinquish the Undeveloped Lands if: (1) oil or gas, or both, is being produced in paying quantities from the Undeveloped Lands or lands communitized therewith; or (2) a gas well is completed on the Undeveloped Lands or lands communitized therewith and shut-in pursuant to Paragraph 2 of Said Lease. Nothing in this paragraph 3 imposes upon Julian Ard any obligation to explore, develop, or market beyond that imposed under Said Lease. The Exploration Period may be extended only by actual operations on the Undeveloped Lands or lands communitized therewith, reasonably calculated to obtain production in paying quantities and carried out in accordance with Paragraph 17 of Said Lease.

4. **Submission of Data by Ard:** At the conclusion of the Exploration Period, as set forth in Paragraph 3 above, Julian Ard will submit to the State Land Office all data, information, regulatory reports and all other documents pertaining to his exploration efforts with respect to the Undeveloped Lands. Such information, if clearly marked as confidential, shall be maintained as confidential by the Commissioner, his employees and agents to the extent required under Section 19-1-2.1 NMSA 1978 Comp.; provided, however, where such materials have otherwise been disclosed to a third party who is not obligated to maintain their confidentiality or such materials have become public documents under New Mexico Oil Conservation Division Rule 1105.C, they will no longer be regarded as confidential under the terms of this Agreement.

5. **Proof that Acme No. 1 Well is Capable of Producing Gas in Paying Quantities; Expiration of Said Lease:** Notwithstanding any other provision herein, the parties agree that Said Lease shall have expired in its entirety on December 31, 1998, unless within three months after the date of execution of this Agreement: (1) Julian Ard has proven to the satisfaction of NMSLO, through timely submission of written test data and analysis, that Acme No. 1 Well is capable of producing gas in paying quantities; or (2) oil or gas, or both, is being produced in paying quantities or a well is capable of

producing gas in paying quantities but is shut in under Paragraph 2 of Said Lease from any lands that are subject to Said Lease, or communitized therewith. Within three months of the date of execution of this Agreement, Julian Ard shall submit written test data and analysis to NMSLO with respect to the Acme No. 1 Well. The three-month period may be extended only by actual operations, reasonably calculated to obtain production in paying quantities and carried out in accordance with Paragraph 17 of Said Lease.

**6. Assignments:** In the event that Julian Ard desires during the Exploration Period to assign Said Lease, whether in whole or in part, Julian Ard shall first provide a copy of this Agreement to the proposed assignee. Julian Ard shall submit to the Commissioner, together with the proposed assignment, a written certification attesting that the proposed assignee has been provided a copy of this Agreement and agrees to be bound by its terms.

**7. Repayment of Shut-In and Rentals:** Upon execution of this Agreement, Julian Ard shall pay the State Land Office \$957.97, which payment shall be held in suspense by the Commissioner for a period of three months. The Commissioner shall regard \$478.97 of this payment as rental for lease year 1999-2000. The Commissioner shall regard the remaining \$478.97 of the payment as the shut-in royalty payment for Acme No. 1 Well for lease year 1999-2000. However, in the event that Said Lease expires pursuant to paragraph 5 of this Agreement, the Commissioner shall promptly refund \$957.97 to Julian Ard. In the event Said Lease does not expire pursuant to Paragraph 5 of this Agreement, the entire \$957.97 payment shall be earned by the State of New Mexico and deposited in accordance with law. Provided, however, nothing shall affect the lessor-lessee relationship between the State of New Mexico and Julian Ard with respect to oil and gas produced, saved and marketed from Said Lands during the time period prior to execution of this Agreement even if Said Lease should terminate under the terms of Paragraph 5 above.

**8. No Alteration of Existing Lease Terms:** This Agreement does not modify or alter Said Lease in any way and specifically does not affect any implied covenant to further develop Said Lands then covered by Said Lease. This Agreement constitutes a stand-alone contract between the Commissioner and Julian Ard; provided, however, that this Agreement shall bind and benefit the assigns and successors of Julian Ard under Said Lease to the same extent that Julian Ard is bound and benefited hereunder.

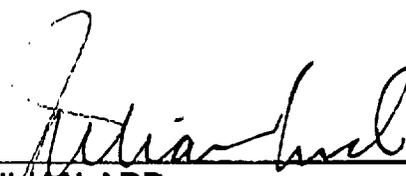
**9. Letter as to Lease Standing:** Julian Ard may, at anytime after execution of this Agreement by both parties hereto, request a letter stating that Said Lease does in fact exist and that all rental and shut-in royalty payments have been made. The Commissioner shall issue such letter to Julian Ard under and in accordance with the State Land Office policy then in existence with respect to issuance of such letters to lessees of State of New Mexico oil and gas leases.

10. **Venue:** Any legal action regarding this Agreement shall be brought exclusively in the First Judicial District, Santa Fe, New Mexico.

EXECUTED in three counterparts AND EFFECTIVE this 31 day of August, 1999.

COMMISSIONER OF PUBLIC LANDS

By   
Ray Powell, M.S., D.V.M.

  
JULIAN ARD

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**JULIAN ARD**

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August 28, 2001

New Mexico State Land Office  
P.O. Box 1148  
Santa Fe, New Mexico 87504-1108Attn: Hon. Ray Powell, M.S., D.V.M.  
Commissioner of Public LandsRe: SLO Settlement Agreement dated August 31, 1999  
Julian Ard Acme State Lease  
LG-978  
Chaves County, New Mexico

Dear Commissioner Powell:

Reference is made to the above captioned Settlement Agreement negotiated between your Legal Department and Mr. Doug Lunsford of the law firm of Hinkle, Hensley, Shanor & Martin, L.L.P. in Roswell on our behalf in 1999.

Paragraphs (3) and (4) of the referenced Agreement, titled Covenant to Partially Relinquish Undeveloped Lands and Submission of Data by Ard, respectively, require us to relinquish the undeveloped lands, as defined by the Agreement, and to submit to your office at the end of the two year "Exploration Period" as defined in the Agreement, "all data, information, regulatory reports and all other documents pertaining to his efforts with respect to the Undeveloped Lands".

Specifically with reference to Paragraph (4) referenced above, enclosed please find the following:

Data/Information:	Log (6/29/01) Daily Drilling Reports (6/25/01 - 7/23/01)
Regulatory Reports:	Application For Permit To Drill, Re-Enter, Deepen, Plugback, Or Add A Zone (6/5/01) Sundry Notices And Reports On Wells (Plug & Abandon) (7/23/01)
Other Documents:	Location Damage Check \$3,000.00 (6/5/01) Authorization For Expenditure (5/17/01) Summary of Well Costs (8/17/01)

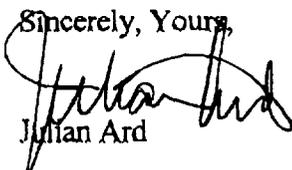
September 4, 2001

As can be seen from the above enclosed materials, we have attempted further development of the referenced Lease in compliance with both the letter and intent of our Agreement, however, have thus far been unable to obtain commercial production on the Undeveloped Lands. This is due in large part to the still current unavailability of a gas marketing line in the immediate area of this lease. Although we were unsuccessful in the Montoya and Wolfcamp Formation, which were two primary objectives of our well drilled in July, there appeared to be a chance for an Abo completion. After conferring with off-set owners to our lease, including John Yates in Artesia, it was apparent that there was sufficient doubt as to the reserves and quality of the Abo to not justify running pipe and attempting a completion, especially given the added incremental costs of laying the pipeline (\$200,000 or more).

We hereby ask that you review the enclosed materials and, given the efforts we have made thus far, agree to extend the two year "Exploration Period" as defined in our Agreement for an additional 270 days. We do feel that we have the potential still for successful Montoya or Wolfcamp production on these lands, but there has not been enough time for us to gather sufficient support for another well to date.

If you agree to our request after your review of the foregoing and the enclosures, please advise at your earliest convenience and we will amend the Agreement accordingly and proceed with further development efforts. If not, please advise and we will relinquish these Undeveloped Lands in accordance with our Agreement.

Sincerely, Yours,



Julian Ard