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ATTORNEYS AND COUNSELORS AT LAW

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April 4, 2003

**VIA HAND DELIVERY**

Mr. Michael Stogner  
Hearing Examiner, Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: ***NMOCD Case No. 13004; Application of the New Mexico Oil Conservation Division, Through the Environmental Bureau Chief, for an Order Determining the Responsible Party or Parties and Ordering the Responsible Party or Parties to Conduct Division-Approved Corrective Action With Respect to a Hydrocarbon Release; Lea County, New Mexico.***

Dear Mr. Stogner:

This matter is set for hearing next Thursday, April 10, 2003. Prior to the last scheduled hearing on March 13, 2003, you held a prehearing conference, at the conclusion of which you asked the responding parties to meet and develop a proposed interim disposition of this case.

Accordingly, enclosed please find a proposed Stipulated Conditional Dismissal. The Stipulation provides that Samedan will voluntarily develop and implement a site investigation plan, with specific deadlines for conducting such activity. In the interim, the case will be dismissed so that the investigation may be conducted in a non-adversarial context. The case may be re-filed if the matter is not resolved voluntarily to the Division's satisfaction.

By separate letter delivered concurrently herewith, I have asked for the Environmental Bureau's concurrence in the requested Stipulated Conditional Dismissal. I make no representation as to the Bureau's position on the enclosed document.

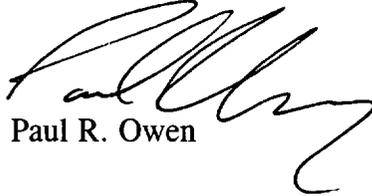
It is my understanding that because of the agreement represented by the enclosed document, none of the responding parties is filing a Prehearing Statement today for next Thursday's hearing.

If the enclosed document meets with your approval, the responding parties will appreciate the Division's execution and entry of the proposed Stipulated Conditional Dismissal.

Mr. Michael Stogner  
Oil Conservation Division  
April 4, 2003  
Page 2

Please let me know if you have any questions.

Very truly yours,



Paul R. Owen

cc: Arnold J. Johnson, Esq. (via facsimile)  
J. Scott Hall, Esq. (via facsimile)  
W. Thomas Kellahin, Esq. (via facsimile)  
David Brooks, Esq. (via hand delivery)

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

**APPLICATION OF THE NEW MEXICO  
OIL CONSERVATION DIVISION,  
THROUGH THE ENVIRONMENTAL  
BUREAU CHIEF, FOR AN ORDER  
DETERMINING THE RESPONSIBLE  
PARTY OR PARTIES AND ORDERING  
THE RESPONSIBLE PARTY OR  
PARTIES TO CONDUCT DIVISION-  
APPROVED CORRECTIVE ACTION  
WITH RESPECT TO A HYDROCARBON  
RELEASE; LEA COUNTY, NEW  
MEXICO.**

**CASE NO. 13004**

**STIPULATED CONDITIONAL DISMISSAL**

The responding parties, Samedan Oil Corporation, Occidental Permian Ltd., and Shell Exploration and Production Company, all by and through undersigned counsel, submit this Stipulated Conditional Dismissal. Based on one party's commitment to commencing site investigation, this matter should be dismissed and re-filed if the matter is not voluntarily resolved:

The parties stipulate as follows:

1. Within seven (7) days of the Division's entry of this Stipulated Conditional Dismissal, Samedan Oil Corporation will submit to the Environmental Bureau of the New Mexico Oil Conservation Division ("Bureau") a plan to investigate the extent of contamination ("site investigation plan") associated with the mobile home site identified by the Bureau in the field notes taken by Mr. Bill Olson of the Bureau on January 25, 2000, and attached hereto as Exhibit "A."

2. Within 21 days of the Bureau's approval of the site investigation plan, Samedan will perform such work as is necessary to implement the site investigation plan.

3. Within 28 days of the Bureau's approval of the site investigation plan, Samedan will submit the results of the site investigation plan to the Bureau.

4. If, within 90 days of the Division's receipt of the results of the site investigation plan, one or all of the parties have not initiated such steps to remediate any hydrocarbon contamination revealed by the results of the site investigation plan, then this case may be re-filed.

5. If any of the steps required in paragraphs 1 through 4 herein are not taken within the time specified, or within such additional time as agreed to by the Bureau, this case may be re-filed by the Bureau.

6. This Stipulated Conditional Dismissal, and Samedan's agreement to formulate and implement the site investigation plan herein, are not an agreement by Samedan or any other party to take any steps to remediate the alleged contamination associated with the mobile home site identified in Exhibit A.

7. This Stipulated Conditional Dismissal, and any party's taking any steps as outlined herein, are not assumptions of responsibility for any alleged contamination or responsible person status by any party hereto.

8. No party shall use this Stipulated Conditional Dismissal, or any party's taking any steps as outlined herein, as evidence of any other party's responsibility for any alleged contamination or responsible person status.

9. The results of the site investigation plan shall not be binding on any party to determine any party's responsibility for any alleged contamination or responsible person status.

**STIPULATED CONDITIONAL DISMISSAL**

10. This Stipulated Conditional Dismissal is in the best interests of all parties for the following reasons:

a. It allows for the gathering of additional data to supplement the incomplete study commenced by the Environmental Bureau;

b. It may resolve what may otherwise be a lengthy, time consuming and extremely expensive contested hearing;

c. Despite the Environmental Bureau's stated intention that this case not establish a precedent, it may do so unless the case is dismissed without prejudice;

d. It will allow the Division Examiner to maintain jurisdiction and allow the Environmental Bureau to supervise, if necessary, the gathering of additional data, without the perceived bias to any party that may result from continuing the current case; and,

e. It demonstrates to the public that the Division is causing this case to move toward a conclusion.

**IT IS THEREFORE ORDERED THAT:**

Case No. 13004 is hereby Dismissed WITHOUT PREJUDICE to the Bureau to re-file this case under the conditions set forth herein.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

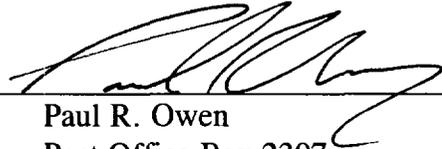
STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

LORI WROTENBERY  
Director

S E A L

AGREED AND STIPULATED:

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CORPORATION

KELLAHIN & KELLAHIN

By \_\_\_\_\_  
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ATTORNEY FOR SHELL  
EXPLORATION AND PRODUCTION  
COMPANY

AGREED AND STIPULATED:

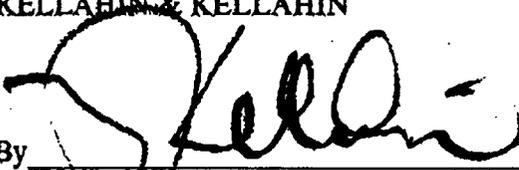
MONTGOMERY & ANDREWS, P.A.

By \_\_\_\_\_

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KELLAHIN & KELLAHIN

By \_\_\_\_\_



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MILLER, STRATVERT, P.A.

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*T. J. Scott Hall*  
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STIPULATED CONDITIONAL DISMISSAL

Page 4

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April 4, 2003

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David Brooks, Esq.  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
1220 South St. Francis Drive  
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Dear Mr. Brooks:

Enclosed please find a proposed Stipulated Conditional Dismissal. As represented by the signature of each party's counsel, the responding parties have agreed to the proposed course of action set forth in the attached document.

The Stipulation provides that Samedan will voluntarily develop and implement a site investigation plan, with specific deadlines for conducting such activity. In the interim, the case will be dismissed so that the investigation may be conducted in a non-adversarial context. The case may be re-filed if the matter is not resolved voluntarily to the Division's satisfaction.

Although you have represented that the Environmental Bureau will not agree to a dismissal of this matter, we urge you to concur in the requested relief. The proposed Stipulated Conditional Dismissal provides a specific time line for action on the property, and does not preclude the Division from taking further action. In addition, by discussing the matter with Mr. Bill Olson, you can confirm that Samedan has already started the process of developing the site investigation plan, and will begin the process of seeking approval of the plan and implementing it as soon as the proposed Stipulated Conditional Dismissal is entered.

Please let me know if you have any questions. Mr. Kellahin, Mr. Hall, and I will make ourselves available at your convenience to discuss the matter if you would like.

David Brooks, Esq.  
Oil Conservation Division  
April 4, 2003  
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul R. Owen", with a stylized, cursive script.

Paul R. Owen

cc: Arnold J. Johnson, Esq. (via facsimile)  
J. Scott Hall, Esq. (via facsimile)  
W. Thomas Kellahin, Esq. (via facsimile)  
Mr. Michael Stogner (via hand delivery)

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR AN ORDER DETERMINING THE RESPONSIBLE PARTY OR PARTIES AND ORDERING THE RESPONSIBLE PARTY OR PARTIES TO CONDUCT DIVISION-APPROVED CORRECTIVE ACTION WITH RESPECT TO A HYDROCARBON RELEASE; LEA COUNTY, NEW MEXICO.**

**RECEIVED**

APR 9 2003

Oil Conservation Division

**CASE NO. 13004**

**STIPULATED CONDITIONAL DISMISSAL**

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The parties stipulate as follows:

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4. If, within 90 days of the Division's receipt of the results of the site investigation plan, one or all of the parties have not initiated such steps to remediate any hydrocarbon contamination revealed by the results of the site investigation plan, then this case may be re-filed.

5. If any of the steps required in paragraphs 1 through 4 herein are not taken within the time specified, or within such additional time as agreed to by the Bureau, this case may be re-filed by the Bureau. In the event that this case is refiled, Samedan, Occidental Permian, and Shell agree to pay (with each party paying an equal share) any costs incurred by the Division associated with re-publication of notice in relation to that re-filing.

6. This Stipulated Conditional Dismissal, and Samedan's agreement to formulate and implement the site investigation plan herein, are not an agreement by Samedan or any other party to take any steps to remediate the alleged contamination associated with the mobile home site identified in Exhibit A.

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a. It allows for the gathering of additional data to supplement the incomplete study commenced by the Environmental Bureau;

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c. Despite the Environmental Bureau's stated intention that this case not establish a precedent, it may do so unless the case is dismissed without prejudice;

d. It will allow the Division Examiner to maintain jurisdiction and allow the Environmental Bureau to supervise, if necessary, the gathering of additional data, without the perceived bias to any party that may result from continuing the current case; and,

e. It demonstrates to the public that the Division is causing this case to move toward a conclusion.

**IT IS THEREFORE ORDERED THAT:**

Case No. 13004 is hereby Dismissed WITHOUT PREJUDICE to the Bureau to re-file this case under the conditions set forth herein.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

LORI WROTENBERY  
Director

S E A L

AGREED AND STIPULATED:

NEW MEXICO OIL CONSERVATION  
DIVISION

By David K. Brooks

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ASSISTANT GENERAL COUNSEL,  
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KELLAHIN & KELLAHIN

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ASSISTANT GENERAL COUNSEL,  
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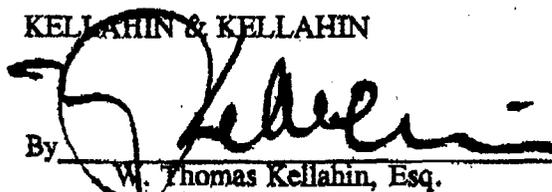
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MILLER, STRATVERT, P.A.

By J. Scott Hall 7-8-03

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COMPANY

Geary Johnson Well (Hobbs, NM)

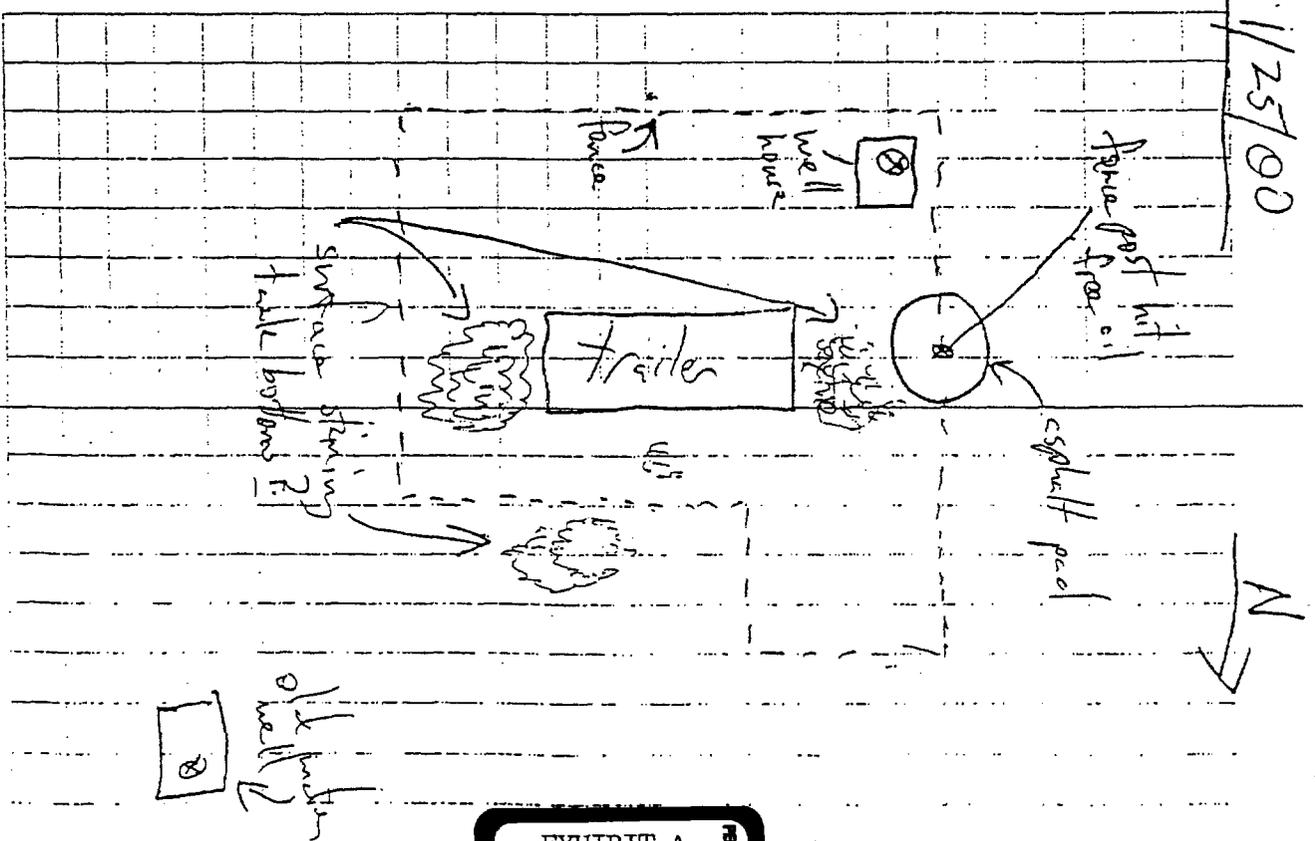
arrived at 0940 with Roger Anderson  
Lynne King } OGD  
Deke Ford }  
Donna Williams }

met with Geary Johnson (landowner) about complaint  
T/yr in property, rental to gardening  
water well in south-west corner of property  
Some trunk bottom's spread on surface  
Dirt photos (1-5) ~~at~~  
Hit free oil in space and hole in old  
asphalt pad for fuel delivery

Attune wells adjacent to site (separating #6)  
One well - North Hobbs (GSA) Unit  
# 28-332  
Unit G, Sec 26, T16S, R38E

Sampled water well  
Sample id 0001250950  
Samples - 8021 (BTEX)  
- carbon pain.  
- metals

1/25/00



Bill Olson Field Book # 5

EXHIBIT A  
Stip. Conditna  
Dismissal  
OGD Case #1300

0/25/02 Gary Johnson Residence

arrived at 1100 hrs with Gary Johnson  
met with Mike Newell, Sanderson, Newell

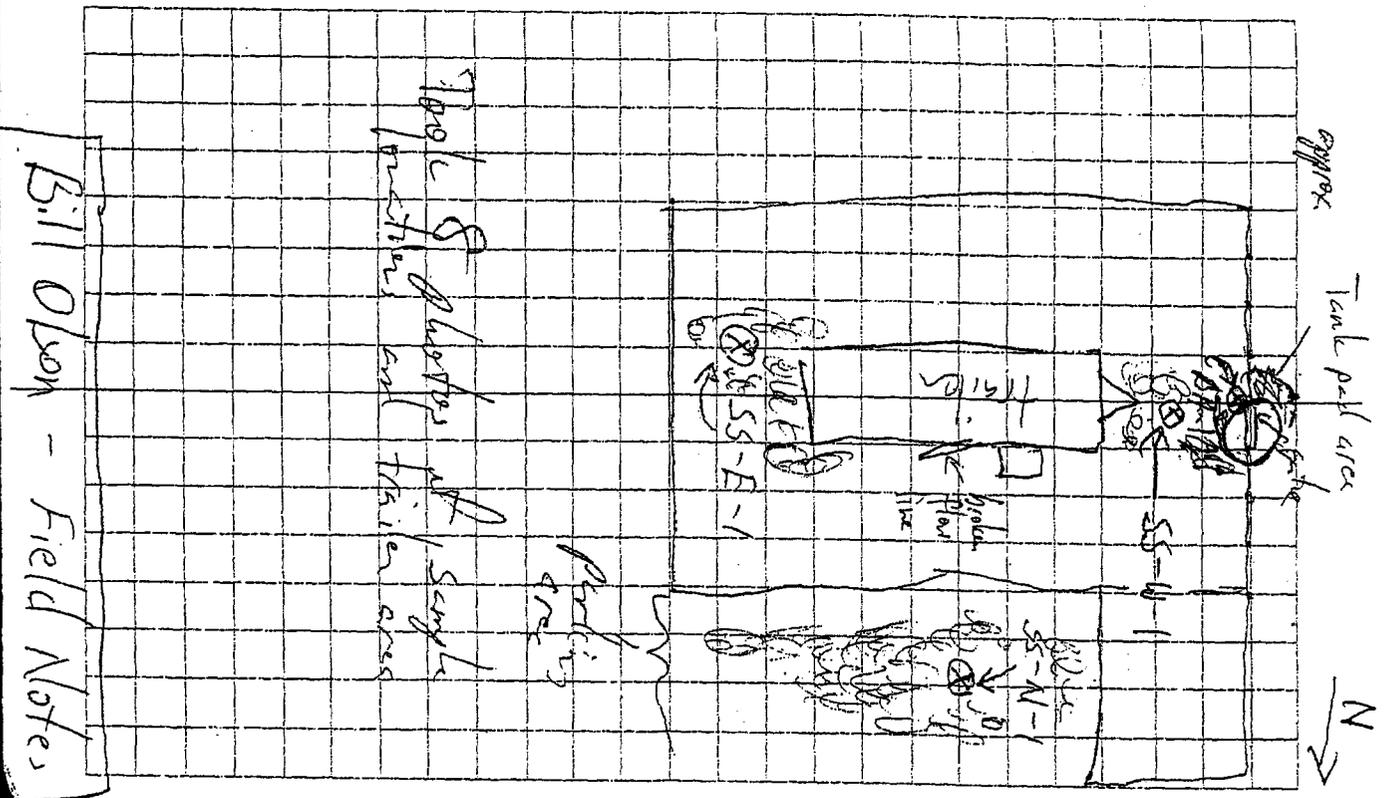
Patrick McManon, Cox & McManon  
McManon provided site series photos of site  
100% samples of surface contamination  
from old tank battery on property

BH-1 - 6 inch  
sampled hole in area expected to be  
heavily contaminated by Mr. Johnson

Sample depth 6"  
Sample block, heavy, grey, He oven  
Sample id - 0206251150  
Samples - BTEX  
TAP  
metals

BH-1 - 1 ft

Sample depth 1 ft  
Sample block, heavy, grey, He oven  
Sample id - 0206251150  
Samples - BTEX  
TAP  
metals



SS-W-1

West side of trailer "

surface sample 1-2

sample block, asphalt, HC odor

sample id - 0206251240

sample - BTX

TPH  
metals

SS-N-1

North side of trailer in

parking area "

surface sample 1-2

sample block, asphalt, HC odor

sample id - 0206251305

SS-E-1

East side of trailer "

surface sample 1-2

sample block, asphalt, HC odor

sample id - 0206251250

samples - BTX

TPH  
metals