

**RICHARD T.C. TULLY, P.A.**

ATTORNEY AT LAW

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FARMINGTON, NEW MEXICO 87499-0268

RICHARD T.C. TULLY  
MICHAEL CUNNINGHAM

505-327-3388

June 20, 1991

Robert G. Stovall, Esq.  
General Counsel  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, NM 87504

Frank T. Chavez  
Supervisor and Oil & Gas Inspector  
New Mexico Oil Conservation Division  
1000 Rio Brazos Road  
Aztec, NM 87410

Ron Fellows  
Area Manager  
Bureau of Land Management  
1235 La Plata Highway  
Farmington, NM 87401

Re: Locke-Taylor Drilling Company  
Tycksen #1 Well, Gallegos Canyon Unit #391 Well,  
and Gallegos Canyon Unit #390 Well  
San Juan County, New Mexico

Gentlemen:

This lawfirm represents Louise Y. Locke who is the owner of the operating rights from the surface to the base of the Pictured Cliffs Formation of the N/2 of Section 23, T-29-N, R-13-W, N.M.P.M., San Juan County, New Mexico. The Howard Tycksen Pooled Unit #1 Well, with a N/2 of Section 23 dedication, is located in the NE/4 of Section 23, and has been producing from the Fruitland Formation since April 19, 1954 (over 37 years). The N/2 of Section 23 from the surface to the base of the Pictured Cliffs Formation and the Howard Tycksen Pooled Unit #1 Well have never been committed to the Gallegos Canyon Unit.

BHP Petroleum (Americas) Inc. has filed Applications for Permit to Drill the Gallegos Canyon Unit #391 and #390 Wells, with both wells to be Fruitland Formation wells.

Robert G. Stovall, Esq.  
Frank T. Chavez  
Ron Fellows  
June 20, 1991  
PAGE TWO

BHP has located the Gallegos Canyon Unit #391 Well in the NE/4 of Section 23; the Well has been drilled to total depth, but not completed; and it has an E/2 of Section 23 dedication. The Gallegos Canyon Unit #390 Well has been located in the SW/4 of Section 23; it has a W/2 of Section 23 dedication; but we do not know the status of the drilling of this well.

The wellhead for the Gallegos Canyon Unit #391 Well is located approximately 130 feet from the wellhead of the Howard Tycksen Pooled Unit #1 Well, and approximately 100 feet from the meterhouse of the Howard Tycksen Pooled Unit #1 Well.

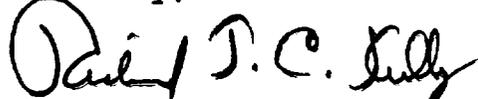
Our client has notified BHP of the trespass in the NE/4 of Section 23, but the attempts to negotiate a settlement have come to a standstill. BHP does recognize the ownership of Louise Y. Locke from the surface to the base of the Pictured Cliffs Formation in the N/2 of Section 23.

The Fruitland Formation ownership of our client in the N/2 of Section 23 brings into question the E/2 and the W/2 dedications of the Gallegos Canyon Unit #391 and #390 Wells because our client owns 100% of the N/2, or 50% in the E/2 and 50% in the W/2 of Section 23.

This letter is to request the NMOCD and the BLM to cease all further operations of BHP for the Gallegos Canyon Unit #391 and #390 Wells until this trespass matter is resolved. In particular, our client is concerned that if BHP completes the Gallegos Canyon #391 Well in the NE/4 that these activities and operations will adversely affect the Howard Tycksen Pooled Unit #1 Well.

Please advise if we can provide further information or assistance in securing the cessation of any further operations of BHP for these two wells until the trespass matter is resolved.

Sincerely,

  
Richard T. C. Tully

RTCT:sak

cc: Louise Y. Locke  
c/o Don Locke  
139-1/2 East 2nd Street  
Rifle, CO 81650

S155/52532L

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

July 1, 1991

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

Richard T.C. Tully, P.A.  
Attorney at Law  
P. O. Box 268  
Farmington, New Mexico, New Mexico 87499-0268

Re: Louise Locke-BHP Petroleum Inc. Dispute  
Gallegos Canyon Unit #391 and #390 Wells

*Cases 10345  
and 10346*

Dear Mr. Tully:

I am in receipt of your letter of June 20, 1991, regarding the apparent dispute between Ms. Locke and BHP Petroleum (Americas) Inc. BHP has applied to the Oil Conservation Division for an order force pooling interests in the proration units for these wells. If Ms. Locke owns an interest in those lands, she should receive notice from BHP regarding the hearing, which I understand is docketed for July 11th.

The Division is not presently in a position, based upon the information available, to require the cessation of operations on these wells. It would appear that you would have a legal remedy if in fact BHP is operating illegally and trespassing on Mrs. Locke's lands.

Sincerely,

A handwritten signature in cursive script that reads "Robert G. Stovall".

ROBERT G. STOVALL,  
General Counsel

RGS/dr

cc: Frank Chavez - Aztec

Ron Fellows  
Area Manager  
Bureau of Land Management  
1235 La Plata Highway  
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William F. Carr

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July 5, 1991

HAND-DELIVERED

**RECEIVED**

William J. LeMay, Director  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87503

JUL 05 1991

OIL CONSERVATION DIV.  
SANTA FE

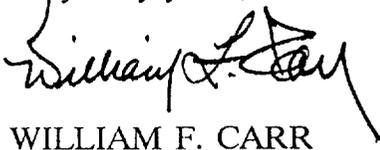
Re: Oil Conservation Division Case Nos. 10345 and 10346  
In the Matter of the Applications of BHP (Americas) Inc. for Compulsory  
Pooling, San Juan County, New Mexico

Dear Mr. LeMay:

Louise Locke d/b/a Locke-Taylor Drilling Company respectfully requests that the above-captioned cases which are currently set on the Division docket for the July 11, 1991 hearings be continued to the July 25, 1991 Examiner docket. Jim Bruce, attorney for BHP consents to this two week continuance.

Your attention to this matter is appreciated.

Very truly yours,

  
WILLIAM F. CARR

WFC:mlh

cc: Richard T. C. Tully, Esq.  
James Bruce, Esq.

HINKLE, COX, EATON, COFFIELD & HENSLEY

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August 1, 1991

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Mr. Robert Stovall  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, NM 87504

RE: Case Nos. 10345 and 10346; Applications of BHP Petroleum (Americas) Inc. for Compulsory Pooling, San Juan County, New Mexico.

Dear Mr. Stovall:

During my closing argument, I cited several legal principles. Because of their importance to these cases, I am providing the following factual outline and citation to authority.

I. FACTS.

Louise Y. Locke owns the working interest in the N $\frac{1}{2}$  of Section 23-29 North-13 West from the surface to the base of the Pictured Cliffs formation. BHP is either the working interest owner or the operator of the S $\frac{1}{2}$  of Section 23 from the surface to the base of the Pictured Cliffs formation.

The S $\frac{1}{2}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$  of Section 23 are committed (both working and royalty interests) to the Gallegos Canyon Unit ("GCU"). In addition, the working interest of the lease covering the E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and 13 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23 is committed to the GCU.<sup>1</sup> (See BHP Exhibit Nos. 2 and 3.) BHP is sub-operator of the GCU for depths from the surface to the base of the Pictured Cliffs formation. As a result, BHP had the right to

<sup>1</sup> The GCU was approved by Oil Conservation Commission Order No. R-68.

Mr. Robert Stovall  
August 1, 1991  
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drill the GCU No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23. (See BHP Exhibit Nos. 3 and 4.)

II. AUTHORITY.

A. A Lessee Does Not Need a Lessor's Permission to Unitize The Lease Working Interest.

A Lessee can voluntarily pool or unitize the working interest of a lease without the lessor's permission.<sup>2</sup> Bruce v. Ohio Oil Co., 169 F. 2d 709 (10th Cir. 1948), cert. denied 336 U.S. 913 (1949); B. Kramer & P. Martin, The Law of Pooling and Unitization, §23.01 (3d ed.). Kramer & Martin stated that where a state conservation agency has approved a voluntary unitization agreement, non-consenting interest owners are not allowed to interfere with the unit operator acting pursuant to the unit agreement and agency order. Id. at pp. 23-10 and 23-11. Accord, Tide Water Associated Oil Co. v. Stott, 159 F. 2d 174 (5th Cir. 1946), cert. denied 331 U.S. 817 (1947); Syverson v. North Dakota State Industrial Com'n, 111 N.W. 2d 128 (N.D. 1961). Thus, the working interest of the lease covering the drillsite of the No. 391 Well was validly committed to the GCU, and BHP (as unit suboperator) has the right to drill the No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23.

B. The OCD Can Authorize the Drilling of a Well on a Non-Operator's Lease.

Even if the drillsite lease had not been committed to the GCU, the Division could authorize drilling the No. 391 Well on Louise Locke's lease.

The operator designated under a pooling order is authorized to drill at the designated well location even though he owns no interest in the tract designated as the well site. Texas Oil & Gas Corp. v. Rein, 534 P.2d 1277 (Okla. 1974) (based upon language in Oklahoma's compulsory pooling statute virtually identical to New Mexico's statute); Nunez v. Wainoco Oil & Gas Company, 488 So.2d 955, 91 O&GR 246 (La. 1986). In Nunez, a well unit was formed pursuant to statewide rules and a well was commenced on the operator's (Wainoco's) lease. A subsequent directional survey determined that the bore hole was bottomed on the Nunez tract, which was in the well unit. Wainoco subsequently obtained approval of the well location from the

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<sup>2</sup> A pooling clause in a lease only affects or restricts the lessee's power to pool the royalty interest. See Jones v. Killingsworth, 403 S.W. 2d 325 (Tex. 1965); 4 H. Williams, Oil and Gas Law, §670.8(9).

Mr. Robert Stovall  
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Page 3

Commissioner of Conservation, but Nunez sued Wainoco for trespass. The court held that the Commissioner had the authority and duty to designate the unit well. Furthermore, the court held that when a unit is created by order of the Commissioner, a legally actionable trespass has not occurred. 91 O&GR at 265.<sup>3</sup> Nunez's interest was protected because he received his proportionate share of hydrocarbons produced from the well. Similarly, in the present cases, Louise Locke's entire interest in the N $\frac{1}{2}$  of Section 23 will be committed to two wells, thus protecting her correlative rights.

C. Pooling Can Occur After Drilling.

New Mexico's compulsory pooling statute specifically provides for pooling when an owner "has drilled or proposes to drill" a well. N.M. Stat. Ann. (1987 Repl.) §70-2-17(C). Therefore, pooling after drilling has commenced is proper.<sup>4</sup> Because New Mexico law expressly provides for pooling after drilling, a pooling order should not be a prerequisite to drilling on a properly designated well unit, even on a non-operator's lease.

D. A Compulsory Pooling Order Supersedes the Locke "Pooling Designation."

There is a "Pooling Designation" covering the N $\frac{1}{2}$  of Section 23, which Louise Locke apparently claims bars the formation of standup units. This is incorrect, for the following reasons:

- (a) BHP, as operator of the all but 27 acres in the E $\frac{1}{2}$  of Section 23, could designate a standup unit because no Fruitland coal well was ever drilled and dedicated to the N $\frac{1}{2}$  of the section; and
- (b) A compulsory pooling order supersedes the Pooling Designation.

The laws in existence at the time of making a contract become part of such contract, as if expressly referred to or incorporated therein. Montoya v. Postal Credit Union, 630 F.2d

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<sup>3</sup> At 91 O&GR at 257, the Court noted that Louisiana's conservation laws are modeled on "the best features of the New Mexico law."

<sup>4</sup> The courts have held that pooling can occur after drilling even where statutes do not expressly provide therefor. See 7 H. Williams & C. Meyers, Oil and Gas Law, §945.

Mr. Robert Stovall  
August 1, 1991  
Page 4

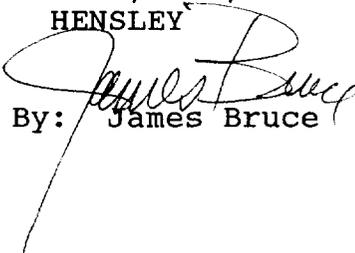
745 (10th Cir. 1980). Oil and gas conservation laws are therefore incorporated into a lease by operation of law. Layton v. Pan American Petroleum Corporation, 383 P.2d 624 (Okla. 1963); Armstrong v. High Crest Oils, Inc., 520 P.2d 1081 (Mont. 1974). Because the New Mexico compulsory pooling statute was enacted in 1935<sup>5</sup>, and the leases owned by Louise Locke were executed in the late 1940's and early 1950's, the statute is part of the leases. Any subsequent instruments executed by the lessors or lessees would also be subject to New Mexico's compulsory pooling statute.

The case law and the treatises on pooling uniformly hold that a compulsory pooling order supersedes an existing voluntary or declared unit, at least to the extent that they are in conflict. 5 E. Kuntz, Oil and Gas Law, §77.3; B. Kramer & P. Martin, The Law of Pooling and Unitization, §13.08 (3d ed.); Arkansas Louisiana Gas Co. v. Southwest Nat. Prod. Co., 221 La. 608, 60 So. 2d (1952); Humble Oil & Refining Co. v. Jones, 157 So. 2d. (La. App.), writ ref'd 245 La. 568, 159 So. 2d 284 (1963); Hladik v. Lee, 541 P.2d 196 (Okla. 1975); American Operating Co. v. Railroad Commission, 744 S.W. 2d 149 (Tex. Civ. App. 1987), writ denied. "[W]here private contractual rights are in conflict with the valid orders of the Commissioner of Conservation, the former must yield and are superseded by the latter." Everett v. Phillips Petroleum Co., 218 La. 835, 51 So. 2d 87, at 91-92 (1950). If a state conservation body could not modify private agreements, it would lead to a common source of supply being spaced and developed by the lessor and lessee, rather than by the proper state body. Landowners, Oil, Gas and Royalty Owners v. Corporation Commission, 420 P.2d 542 (Okla. 1966).

As a result, the Pooling Designation may be superseded by compulsory pooling orders designating standup units. The Pooling Designation remains effective as to other formations, such as the Fruitland Sand and the Pictured Cliffs. However, since no Fruitland coal well was ever drilled in the N½ of Section 23 under the auspices of the Pooling Designation, it does not bar BHP from forming standup units in Section 23.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &  
HENSLEY

By:  James Bruce

JB:le

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<sup>5</sup> Laws 1935, ch. 72, §12.

HINKLE, COX, EATON, COFFIELD & HENSLEY

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August 1, 1991

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**FEDERAL EXPRESS**

Mr. Michael E. Stogner  
New Mexico Oil Conservation Division  
State Land Office Building  
Room 206  
Santa Fe, New Mexico 87501

Re: Case Nos. 10,345 and **10,346** (BHP/Louise Locke Compulsory Poolings)

Dear Mr. Stogner:

As you requested, at hearing, enclosed are draft orders in the above cases. BHP is submitting an order for each case.

Also enclosed is a copy of a letter I submitted to the Division's counsel regarding legal issues in the case.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY

*James Bruce*  
By: James Bruce

JB:le  
Enclosures

Work Copy

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

Case No. 10,346  
Order No. R-

APPLICATION OF BHP PETROLEUM  
(AMERICAS) INC. FOR COMPULSORY  
POOLING, SAN JUAN COUNTY, NEW  
MEXICO.

ORDER OF THE DIVISION

(Submitted by BHP)

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 25, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 1991, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) The applicant, BHP Petroleum (Americas) Inc., seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying the E $\frac{1}{2}$  of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, forming a standard 320 acre gas spacing and proration unit for said pool.
- (3) There is one working interest owner in the proposed proration unit who has not agreed to pool her interest.
- (4) Louise Y. Locke d/b/a Locke-Taylor Drilling Company owns the oil and gas leasehold rights from the surface to the base of the Pictured Cliffs formation underlying the N $\frac{1}{2}$  of Section 23.
- (5) Louise Y. Locke is the operator of a well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23 which is completed in the West Kutz-Fruitland Sand Pool, and is spaced on 160 acres. This well is designated to in the Division's records as the Tycksen

Pooled Unit Well No. 1 ("the Tycksen Well"). Said well produces 10-15 mcf/day of gas.

(6) Applicant commenced the drilling of the Gallegos Canyon Unit Well No. 391, located at a standard location in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23, on December 12, 1990, and drilled said well to a depth sufficient to test the Basin-Fruitland Coal Gas Pool.

(7) Because applicant was unable to reach terms with Louise Locke it ceased all operations on the No. 391 well, and said well has not yet been completed.

(8) Louise Y. Locke has protested the application on the following grounds:

(a) The No. 391 Well should be dedicated to a N $\frac{1}{2}$  laydown unit;

(b) Completing the No. 391 Well will harm the Tycksen Well;

(c) BHP has no right to drill the No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23; and

(d) If the application is granted, the penalty should be 23%.

(9) The SE $\frac{1}{4}$  of Section 23 is committed to the Gallegos Canyon Unit ("the GCU"), and applicant is suboperator of the GCU as to formations from the surface to the base of the Pictured Cliffs formation.

(10) In addition, the working interest of the E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and 13 acres in the south part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23 is committed to the GCU, and thus applicant as GCU suboperator has the right to drill and operate the No. 391 Well to test the Basin-Fruitland Coal Gas Pool.

(11) Applicant had the right to orient the spacing and proration unit for the No. 391 Well as an E $\frac{1}{2}$  standup unit, as permitted by Order No. R-8768.

(12) The evidence shows that fractures in the Fruitland coal formation remain within that zone, and pose no hazard to the Tycksen Well. Furthermore, the Tycksen Well could be re-plugged or other steps taken to eliminate any chance of damage to said well by completion of the No. 391 Well.

(13) Louise Y. Locke, although she objects to completing the No. 391 Well, has also made demand upon BHP to complete said well. (BHP Exhibit No. 5.)

(14) BHP's completed Fruitland coal wells in the GCU have initial potentials of from 10 mcf/day to 827 mcf/day. The 10 mcf/day well is located in Section 26, immediately to the south of the No. 391 Well.

(15) BHP operates approximately 180 wells in the GCU, including 19 Fruitland coal wells. Louise Y. Locke operates only the Tycksen Well.

(16) BHP has made a good faith effort to purchase Louise Y. Locke's Fruitland coal rights, or to have her join in the No. 391 Well.

(17) There is no evidence that Louise Y. Locke had any intention to drill a Fruitland coal well in the N $\frac{1}{2}$  of Section 23 prior to commencement of the No. 391 Well.

(18) Economic waste will occur if BHP is not allowed to complete the No. 391 Well.

(19) The Division has jurisdiction to determine unit orientation and well location, and to designate the operator of the well.

(20) Louise Y. Locke's correlative rights will be protected by the approval of this application because she will receive her proportionate share of production from the No. 391 well.

(21) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool resulting from this order, the subject application should be approved by pooling all working interests within said unit.

(22) The applicant should be designated the operator of the subject well and unit.

(23) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(24) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 156 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(25) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs, but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(26) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(27) \$3300.00 per month while drilling and \$350.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(28) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(29) Upon the failure of the operator of said pooled unit to re-commence drilling or completion operations on the well to which said unit is dedicated on or before \_\_\_\_\_, 1991, the order pooling said unit should become null and void and of no further effect whatsoever.

(30) Should all parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(31) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All working interests in the Basin-Fruitland Coal Gas Pool underlying the E½ of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, are hereby pooled to form a 320 acre gas spacing and proration unit for said pools.

**PROVIDED HOWEVER THAT**, the operator of said unit shall commence completion operations on said well on or before the \_\_\_ day of \_\_\_\_\_, 1991, in the Basin-Fruitland Coal Gas Pool.

**PROVIDED FURTHER THAT**, in the event said operator does not complete the well on or before the \_\_\_ day of \_\_\_\_\_, 1991, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

**PROVIDED FURTHER THAT**, should said well not be completed or abandoned within 120 days after commencement of completion operations, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) BHP Petroleum (Americas) Inc. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to re-commencing operations on said well, the operator shall furnish the Division and each working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed

estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him; and

(B) As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$3300.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges

shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(15) The Division makes no determination regarding the trespass alleged by Louise Y. Locke.

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**

**WILLIAM J. LEMAY  
Director**

**S E A L**

CAMPBELL & BLACK, P.A.  
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10346

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August 2, 1991

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AUG 02 1991

OIL CONSERVATION DIV.  
SANTA FE

Mr. Michael E. Stogner  
Hearing Examiner  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87501

Re: Division Cases 10345 and 10346:  
Applications of BHP Petroleum (Americas) Inc. for Compulsory Pooling, San  
Juan County, New Mexico

Dear Mr. Stogner:

Pursuant to your request of July 25, 1991 I enclose for your consideration two proposed Orders for Louise Y. Locke, d/b/a Locke-Taylor Drilling Company. As you will note, the proposed Order in Case 10345 concerning the W/2 of Section 23, Township 29 North, Range 13 West, pools the lands and, since BHP has already drilled the Gallegos Canyon Unit Well No. 390, imposes no risk penalty on Mrs. Locke's interest. The proposed Order in Case No. 10346 concerning the E/2 of said Section 23, denies the application of BHP.

As you are aware, Locke contends that BHP owns no operating rights in the N/2 of Section 23. Since this question is outside the jurisdiction of the Division and can only be decided by the Courts, we believe you should refrain from entering Orders in these cases until the Court rules. However, if you enter Orders in these cases, we request that they not become effective until the question about BHP's operating rights is resolved.

Should you grant BHP's applications and, furthermore, should you impose a risk penalty on Mrs. Locke's interest in these wells, we recommend that the penalty not exceed 23.3% and that each Order include the following findings:

**FINDING NO.** : BHP requested a standard Fruitland Coal Gas penalty of 156% be imposed on the interest of Locke should she not voluntarily participate in the drilling of the well.

Mr. Michael E. Stogner  
Hearing Examiner  
August 2, 1991  
Page Two

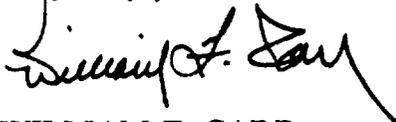
**FINDING NO.**: The 156% penalty that the Division has applied in Orders force pooling tracts in the Basin-Fruitland Coal Gas Pool is based on a penalty calculation presented by Meridian Oil Inc. in early cases involving the pooling of Fruitland Coal Gas interests. Where, unlike this case, the wells had not already been drilled. (See Case No. 9593, Order No. R-8877).

**FINDING NO.**: The calculation used to establish the 156% risk penalty in the Meridian cases assessed a 23.3% penalty for risk associated with completion of Basin-Fruitland Coal Gas Wells. (See, Case No. 9593; Exhibit No. 8).

**FINDING NO.**: The fact that BHP had sufficient opportunity to seek an obtain a force pooling order and establish a risk penalty prior to drilling the subject well, and the fact that BHP drilled the well in one of the thickest portions of the Basin-Fruitland Coal Gas Pool within the Gallegos Canyon Unit, and the fact that BHP had sufficient confidence in the probability of drilling a successful well that it carried Locke's interest at the time the well was drilled, and the fact that completion of the well is the only thing remaining to be done thereon, indicates that the requested risk penalty of 156% is not appropriate in this case, and that a risk penalty of 23.3% should be assessed against the interest of Louise Y. Locke, d/b/a Locke-Taylor Drilling Company in this well.

If you need anything further from Louise Y. Locke, d/b/a Locke-Taylor Drilling Company to proceed with your consideration of these cases, please advise.

Very truly yours,



WILLIAM F. CARR

WFC:mlh

Enc.

cc w.enc.: Richard T.C. Tully, Esq.  
James Bruce, Esq.

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

**RECEIVED**

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

AUG 02 1991

OIL CONSERVATION DIV.  
SANTA FE

Case No. 10346  
Order No. R-\_\_\_\_\_

APPLICATION OF BHP PETROLEUM (AMERICAS)  
INC. FOR COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO.

**LOUISE Y. LOCKE**  
d/b/a **LOCKE-TAYLOR DRILLING COMPANY'S**  
**PROPOSED ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on July 25, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_ day of August, 1991, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

**FINDS THAT:**

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) Division Case Nos. 10345 and 10346 were consolidated at the time of the hearing for the purpose of testimony.
- (3) The applicant, BHP Petroleum (Americas) Inc. ("BHP") seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying the E/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for said pool, to be dedicated to its Gallegos Canyon Unit Well No. 391 drilled at a standard location, 975 feet from the North line and 870 feet from the East line (Unit A) of said Section 23.

(4) Louise Y. Locke d/b/a Locke-Taylor Drilling Company ("Locke"), appeared in opposition to BHP's application asserting that:

- (a) BHP had no right to drill the Gallegos Canyon Unit Well No. 391 in the NE/4 of Section 23, and
- (b) Completion of the Gallegos Canyon Unit Well No. 391 by fracture stimulation will damage her Tycksen Well No. 1.

(5) The evidence established that BHP had no operating rights in the NE/4 of Section 23, Township 29 North, Range 13 West, for this acreage was never effectively committed to the BHP operated Gallegos Canyon Unit. (See, BHP Exhibit No. 2: Lease dated February 20, 1947 from Zimmerman to Charles Newbold; Gallegos Canyon Unit Agreement dated November 1, 1950).

(6) BHP drilled the Gallegos Canyon Unit Well No. 391 in December, 1990 at a surface location 121 feet from the Locke Tycksen Well No. 1, without contacting Locke and seeking her voluntary joinder in the well. (Testimony of Reinhardt).

(7) Although the Gallegos Canyon Unit Well No. 391 is located in one of the thickest portions of the Basin-Fruitland Coal Gas Pool in the Gallegos Canyon Unit (See BHP Exhibit No. 9), BHP has delayed completion of the well pending an order pooling the E/2 of Section 23 (testimony of Torbett).

(8) Locke's Tycksen Well No. 1 was drilled in 1952 and is completed in the Fruitland Sand (testimony of Walsh).

(9) The evidence established that BHP's proposed completion of the Gallegos Canyon Unit Well No. 391 by fracture stimulation will result in damage to Locke's Tycksen Well No. 1 for:

- (a) The Gallegos Canyon Unit Well No. 391 is located to the northeast of the Tycksen well which is along the general orientation of the fractures in the pool (testimony of Torbett);

- (b) The fractures will extend to the Tycksen wellbore (testimony of Walsh, Locke Exhibit No. 3); and
- (c) The Tycksen well was completed open hole and is of an age which will cause it to be damaged or lost by the proposed stimulation treatment (testimony of Walsh).

(10) Other well locations are available in the NE/4 of Section 23, for a Fruitland Coal Gas Well which could be completed without damaging the offsetting properties of Locke (testimony of Walsh).

(11) The pooling of the E/2 of Section 23 and the completion of the Gallegos Canyon Unit Well No. 391 as proposed by BHP will damage Locke's offsetting properties, will cause the waste of hydrocarbons in the Fruitland Sands, will impair the correlative rights of Louise Y. Locke, d/b/a Locke-Taylor Drilling Company, and the application of BHP to compulsory pool the E/2 of Section 23 and dedicate it to the Gallegos Canyon Unit Well No. 391 should, therefore, be **denied**.

**IT IS THEREFORE ORDERED THAT:**

(1) The application of BHP Petroleum (Americas) Inc. for an order pooling all mineral interest in the Basin-Fruitland Coal Gas Pool, underlying the E/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for said pool to be dedicated to its Gallegos Canyon Unit Well No. 391, drilled at a standard location 975 feet from the North line and 870 feet from the East line (Unit A) of said Section 23 is hereby **denied**.

Case No. 10346

Order No. R-\_\_\_\_\_

Page 4

(7) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

WILLIAM J. LeMAY  
Director

S E A L

HINKLE, COX, EATON, COFFIELD & HENSLEY DIVISION

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\*NOT LICENSED IN NEW MEXICO

September 9, 1991

Mr. Michael E. Stogner  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87504

Re: Case Nos. 10,345 and 10,346

Dear Mr. Stogner:

As you requested, I checked with my client to verify the overhead rates in the above cases. The drilling rate is \$3,300.00 per month and the producing rate \$350.00 per month.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &  
HENSLEY

By: James Bruce

JB:le  
Enclosures

Case file

HINKLE, COX, EATON, COFFIELD & HENSLEY

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August 1, 1991

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Mr. Robert Stovall  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, NM 87504

RE: Case Nos. 10345 and 10346; Applications of BHP Petroleum  
(Americas) Inc. for Compulsory Pooling, San Juan County, New  
Mexico.

Dear Mr. Stovall:

During my closing argument, I cited several legal principles. Because of their importance to these cases, I am providing the following factual outline and citation to authority.

I. FACTS.

Louise Y. Locke owns the working interest in the N $\frac{1}{2}$  of Section 23-29 North-13 West from the surface to the base of the Pictured Cliffs formation. BHP is either the working interest owner or the operator of the S $\frac{1}{2}$  of Section 23 from the surface to the base of the Pictured Cliffs formation.

The S $\frac{1}{2}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$  of Section 23 are committed (both working and royalty interests) to the Gallegos Canyon Unit ("GCU"). In addition, the working interest of the lease covering the E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and 13 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23 is committed to the GCU.<sup>1</sup> (See BHP Exhibit Nos. 2 and 3.) BHP is sub-operator of the GCU for depths from the surface to the base of the Pictured Cliffs formation. As a result, BHP had the right to

<sup>1</sup> The GCU was approved by Oil Conservation Commission Order No. R-68.

Mr. Robert Stovall  
August 1, 1991  
Page 2

drill the GCU No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23. (See BHP Exhibit Nos. 3 and 4.)

II. AUTHORITY.

A. A Lessee Does Not Need a Lessor's Permission to Unitize The Lease Working Interest.

A Lessee can voluntarily pool or unitize the working interest of a lease without the lessor's permission.<sup>2</sup> Bruce v. Ohio Oil Co., 169 F. 2d 709 (10th Cir. 1948), cert. denied 336 U.S. 913 (1949); B. Kramer & P. Martin, The Law of Pooling and Unitization, §23.01 (3d ed.). Kramer & Martin stated that where a state conservation agency has approved a voluntary unitization agreement, non-consenting interest owners are not allowed to interfere with the unit operator acting pursuant to the unit agreement and agency order. Id. at pp. 23-10 and 23-11. Accord, Tide Water Associated Oil Co. v. Stott, 159 F. 2d 174 (5th Cir. 1946), cert. denied 331 U.S. 817 (1947); Syverson v. North Dakota State Industrial Com'n, 111 N.W. 2d 128 (N.D. 1961). Thus, the working interest of the lease covering the drillsite of the No. 391 Well was validly committed to the GCU, and BHP (as unit suboperator) has the right to drill the No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23.

*I concur*

B. The OCD Can Authorize the Drilling of a Well on a Non-Operator's Lease.

Even if the drillsite lease had not been committed to the GCU, the Division could authorize drilling the No. 391 Well on Louise Locke's lease.

The operator designated under a pooling order is authorized to drill at the designated well location even though he owns no interest in the tract designated as the well site. Texas Oil & Gas Corp. v. Rein, 534 P.2d 1277 (Okla. 1974) (based upon language in Oklahoma's compulsory pooling statute virtually identical to New Mexico's statute); Nunez v. Wainoco Oil & Gas Company, 488 So.2d 955, 91 O&GR 246 (La. 1986). In Nunez, a well unit was formed pursuant to statewide rules and a well was commenced on the operator's (Wainoco's) lease. A subsequent directional survey determined that the bore hole was bottomed on the Nunez tract, which was in the well unit. Wainoco subsequently obtained approval of the well location from the

*We have done it before*

---

<sup>2</sup> A pooling clause in a lease only affects or restricts the lessee's power to pool the royalty interest. See Jones v. Killingsworth, 403 S.W. 2d 325 (Tex. 1965); 4 H. Williams, Oil and Gas Law, §670.8(9).

Mr. Robert Stovall  
August 1, 1991  
Page 3

Commissioner of Conservation, but Nunez sued Wainoco for trespass. The court held that the Commissioner had the authority and duty to designate the unit well. Furthermore, the court held that when a unit is created by order of the Commissioner, a legally actionable trespass has not occurred. 91 O&GR at 265.<sup>3</sup> Nunez's interest was protected because he received his proportionate share of hydrocarbons produced from the well. Similarly, in the present cases, Louise Locke's entire interest in the N $\frac{1}{2}$  of Section 23 will be committed to two wells, thus protecting her correlative rights.

C. Pooling Can Occur After Drilling.

New Mexico's compulsory pooling statute specifically provides for pooling when an owner "has drilled or proposes to drill" a well. N.M. Stat. Ann. (1987 Repl.) §70-2-17(C). Therefore, pooling after drilling has commenced is proper.<sup>4</sup> Because New Mexico law expressly provides for pooling after drilling, a pooling order should not be a prerequisite to drilling on a properly designated well unit, even on a non-operator's lease.

*agree*

D. A Compulsory Pooling Order Supersedes the Locke "Pooling Designation."

There is a "Pooling Designation" covering the N $\frac{1}{2}$  of Section 23, which Louise Locke apparently claims bars the formation of standup units. This is incorrect, for the following reasons:

*Many  
must be  
important*

- (a) BHP, as operator of the all but 27 acres in the E $\frac{1}{2}$  of Section 23, could designate a standup unit because no Fruitland coal well was ever drilled and dedicated to the N $\frac{1}{2}$  of the section; and
- (b) A compulsory pooling order supersedes the Pooling Designation.

The laws in existence at the time of making a contract become part of such contract, as if expressly referred to or incorporated therein. Montoya v. Postal Credit Union, 630 F.2d

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<sup>3</sup> At 91 O&GR at 257, the Court noted that Louisiana's conservation laws are modeled on "the best features of the New Mexico law."

<sup>4</sup> The courts have held that pooling can occur after drilling even where statutes do not expressly provide therefor. See 7 H. Williams & C. Meyers, Oil and Gas Law, §945.

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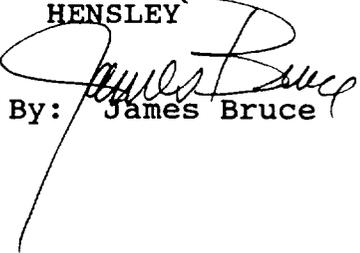
745 (10th Cir. 1980). Oil and gas conservation laws are therefore incorporated into a lease by operation of law. Layton v. Pan American Petroleum Corporation, 383 P.2d 624 (Okla. 1963); Armstrong v. High Crest Oils, Inc., 520 P.2d 1081 (Mont. 1974). Because the New Mexico compulsory pooling statute was enacted in 1935<sup>5</sup>, and the leases owned by Louise Locke were executed in the late 1940's and early 1950's, the statute is part of the leases. Any subsequent instruments executed by the lessors or lessees would also be subject to New Mexico's compulsory pooling statute.

The case law and the treatises on pooling uniformly hold that a compulsory pooling order supersedes an existing voluntary or declared unit, at least to the extent that they are in conflict. 5 E. Kuntz, Oil and Gas Law, §77.3; B. Kramer & P. Martin, The Law of Pooling and Unitization, §13.08 (3d ed.); Arkansas Louisiana Gas Co. v. Southwest Nat. Prod. Co., 221 La. 608, 60 So. 2d (1952); Humble Oil & Refining Co. v. Jones, 157 So. 2d. (La. App.), writ ref'd 245 La. 568, 159 So. 2d 284 (1963); Hladik v. Lee, 541 P.2d 196 (Okla. 1975); American Operating Co. v. Railroad Commission, 744 S.W. 2d 149 (Tex. Civ. App. 1987), writ denied. "[W]here private contractual rights are in conflict with the valid orders of the Commissioner of Conservation, the former must yield and are superseded by the latter." Everett v. Phillips Petroleum Co., 218 La. 835, 51 So. 2d 87, at 91-92 (1950). If a state conservation body could not modify private agreements, it would lead to a common source of supply being spaced and developed by the lessor and lessee, rather than by the proper state body. Landowners, Oil, Gas and Royalty Owners v. Corporation Commission, 420 P.2d 542 (Okla. 1966).

As a result, the Pooling Designation may be superseded by compulsory pooling orders designating standup units. The Pooling Designation remains effective as to other formations, such as the Fruitland Sand and the Pictured Cliffs. However, since no Fruitland coal well was ever drilled in the N½ of Section 23 under the auspices of the Pooling Designation, it does not bar BHP from forming standup units in Section 23.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &  
HENSLEY

By:  James Bruce

JB:le

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<sup>5</sup> Laws 1935, ch. 72, §12.

CERTIFIED MAIL

OIL CONSERVATION DIVISION  
RECEIVED

SEP 30 1991 8 50

September 30, 1991



Mrs. Louise Y. Locke  
c/o Mr. Don Locke  
139 1/2 2nd  
Rifle, Colorado 81650

Gallegos Canyon Unit Wells #390 and #391  
Gallegos Canyon Unit  
San Juan, Colorado

Dear Mrs. Locke:

The New Mexico Energy, Minerals and Natural Resources Department Oil Conservation Division in Order Nos. R-9581 (Case No. 10345) and R-9584 (Case No. 10346) effectively forced pooled all mineral interests underlying the W/2 Section 23 and the E/2 Section 23-T29N, R13W, respectively. The W/2 Section 23 is the approved gas spacing unit and proration unit for the Gallegos Canyon Unit #390 well. The E/2 Section 23 is the approved gas spacing unit and proration unit for the Gallegos Canyon Unit #391 well.

The orders provide in part that you, as an uncommitted working interest owner in each spacing and proration unit, shall have a period of thirty days from your receipt of this letter in which to pay to the operator (BHP), your share of the estimated well costs for each well in which you wish to participate as a working interest owner in lieu of paying your share of reasonable well costs (as defined in the order) out of production. Enclosed are two copies each of BHP's estimated well costs for each of the #390 and #391 wells. If you wish to participate as a working interest owner in either or both wells, please advise BHP of your election and provide BHP, within thirty days of your receipt of this letter, certified funds totaling \$66,065.00 for your 50% share of the costs associated with the #390 well and/or \$63,622.50 for your 50% share of the costs associated with the #391 well. Should you elect to participate in both wells, your 50% share of the estimated costs for both wells will be \$129,687.50.

Please advise if BHP can be of any additional assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Donald Reinhardt".

Donald Reinhardt  
Senior Landman

*Stegner*  
*M.S.*  
*Bel...*

Mrs. Louise Y. Locke  
Page two  
September 30, 1991

cc: State of New Mexico  
Energy, Minerals and Natural Resources Department  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87504

Mr. Richard T. C. Tully  
P. O. Box 268  
Farmington, New Mexico 87499-0268

Mr. James Bruce  
Hinkle, Cox, Eaton, Coffield & Hensley  
500 Marquette N. W., Suite 800  
Albuquerque, New Mexico 87102-2121

Mr. Jon Bowden - BHP



**AUTHORITY FOR EXPENDITURE  
Inland Business Unit  
(Drilling, Workovers, Recomp.'s, Etc.)**

Operator BHP PETROLEUM (AMERICAS) INC. AFE No. 9101208

Contract/Agreement No. \_\_\_\_\_ Land Lease No. \_\_\_\_\_ Budget Year 1991

Project must be commenced by: Date \_\_\_\_\_

Lease Name & Well No. Gallegos Canyon Unit No.390	Prospect Name _____ Prospect No. _____	Activity No. <u>NM003000390</u> Focal Area <u>FA106</u>
Field or Area Basin Fruitland Field	Location SE/SW Section 23 T29N - R13W	County and State San Juan, New Mexico
Type of AFE Drill, Complete, Equip	Development ( X ) Exploratory ( ) AAPG Class: _____ Others _____	Formation & Depth Fruitland Coal - ±1470' Well TD - 1640'
Last Well on Lease Yes ( ) No ( )	Expected Production Gas - ( X ) Oil - ( )	
Project Description: (To Include Special Provisions and Remarks) Drill, complete, and equip a 1640 foot Fruitland Coal well at the referenced location.		BHP Interest BPO W.I. <u>100.00</u> NRI <u>76.75</u>  APO W.I. _____ NRI _____

**ESTIMATED COSTS**

COMPANY	WORKING INTEREST OR ALLOCATION %		DRILLING WELLS		OTHER
	To Csg. Pt.	Aft. Csg. Pt.	Dry Hole	Producer	Total Cost
BHP Petroleum	100		43,655	132,130	
<b>Total</b>	<b>100</b>		<b>43,655</b>	<b>132,130</b>	
Less: Contributions			( - 0 - )	( - 0 - )	( )
<b>Net Costs</b>			<b>43,655</b>	<b>132,130</b>	

Prepared by Paul C. Bertoglio *PCB* Date May 14, 1990

Recommended:

Operations	Date	Land	Date	Marketing	Date	Technology	Date
_____	_____	_____	_____	_____	_____	<i>J.C. McLaughlin</i>	<u>5/29/90</u>
<i>Jim Sean</i>	<u>6-4-90</u>	_____	_____	_____	_____	_____	_____

Approved *J.M. Edgerton* Date 6/5/90

Joint Interest Approval: It is recognized that the amounts provided for herein are estimates only.



**DETAILED COST ESTIMATE  
DRILLING, RECOMPLETIONS AND WORKOVERS**

Lease Name & Well No. Gallegos Canyon Unit No. 390

AFE No. 9101208

Location SE/SW Section 23 T29N - R13W

County and State San Juan, New Mexico

**INTANGIBLE DRILLING COSTS**

	Gross Cost To Csg Pt.
<b>CODE 4527-20</b>	
01 Rotary Footage	
<u>1,640</u> ft. @ \$ <u>9.00</u>	\$ <u>14,760</u>
02 Rotary Daywork	
<u>2</u> days WDP @ \$ <u>4,000</u> day	<u>8,000</u>
_____ days WOPD @ \$ _____ day	
03 Drillsite Camp Expense	
05 Rotary Turnkey	
06 Drilling Deals (W.I.)	
07 Rental Tools/Equipment	<u>1,500</u>
08 Rig Move	
09 Inspection Services	
10 Trucking/Boats	<u>2,000</u>
11 Personnel Transportation	
12 Power/Fuel	
13 Drig Mud & Additives	<u>2,000</u>
14 Drill Bits/Reamers	
16 Water	<u>1,200</u>
17 Mud Logging	
18 Open Hole Logs	<u>4,000</u>
20 DST's/Surveys	
22 Cement & Cementing	<u>2,000</u>
24 Cores	
29 Directional Drilling	
30 Engineering & Consulting	
31 Location Dirtwork/Cln Up	<u>2,500</u>
32 Geological	
34 Drig Permits/Bonds	
35 Drig Title Opinion	
36 Stake/Survey Location	<u>500</u>
37 Right of Way/Damages	<u>2,000</u>
38 Well Control Insurance	
40 Overhead - Drig	
41 Material & Supplies	
42 Co. Labor/Supervision	<u>1,200</u>
43 Contract Labor	
44 Other Drilling Costs	
Supplemental	
Total TCP	\$ <u>41,660</u>
BHP Net	\$ <u>41,660</u>

	Gross Completion Costs
<b>CODE 4527-30</b>	
01 Completion Rig	\$ <u>7,500</u>
03 Camp Expense	
04 Wireline Services	
07 Rental Tools/Equipment	<u>1,000</u>
09 Inspection Services	
10 Trucking/Boats	<u>2,000</u>
11 Personnel Transportation	
12 Power/Fuel	
14 Drill Bits/Reamers	
15 Completion Fluids	
16 Water	<u>1,000</u>
18 Cased Hole Logs	
19 Perforate	<u>1,500</u>
20 Well Surveys & Testing	
21 Acidize & Frac	<u>17,500</u>
22 Cement & Cementing	<u>5,000</u>
23 Squeeze Jobs	
30 Engr. & Consulting	
31 Location Dirtwork/Cln. Up	<u>1,500</u>
37 ROW/Damages	
40 Overhead - Completion	
41 Material & Supplies	<u>2,000</u>
42 Co. Labor/Supervision	<u>1,500</u>
43 Contract Labor	
45 Other Completion Costs	
Supplemental	
Total Comp. Costs	\$ <u>40,500</u>
BHP Net	\$ <u>40,500</u>

	X-on Hd	Comp. Costs
<b>CODE 4515-20</b>		
01 Installation Costs		\$ <u>1,500</u>
02 Sucker Rods		<u>1,500</u>
03 Btm Hole Pump		<u>1,200</u>
04 Pumping Unit		<u>5,000</u>
05 Prime Mover		<u>7,500</u>
06 Wellhead/Tree		<u>2,500</u>
07 Casing:		
<u>1,640</u> ft 4 1/2" 10.5# J-55		
@\$ <u>5.00</u> ft		
_____ ft		
@\$ _____ ft		
_____ ft		
@\$ _____ ft		<u>8,200</u>
08 Tubing:		
<u>1,525</u> ft 2 3/8" 4.7# J-55		
@\$ <u>3.00</u> ft		<u>4,575</u>
09 Hyd. & Other Pmp Equip.		
20 Packers		
23 Other Well Equipment		

	X-on Hand	TCP
<b>CODE 4515-10</b>		
01 Installation Cost		\$ <u>250</u>
06 Casinghead		<u>500</u>
07 Cond./Surface Csg		
<u>120</u> ft 7" 23# K-55		
@\$ <u>10.37</u> ft		<u>1,245</u>
10 Inter./Liner Csg		
_____ ft		
@\$ _____ ft		
_____ ft		
@\$ _____ ft		
Supplemental		
Total Tangible TCP		\$ <u>1,995</u>
BHP Net		\$ <u>1,995</u>
Total Drilling Cost TCP		\$ <u>43,655</u>
BHP Net Cost TCP		\$ <u>43,655</u>

	Gross Completion Costs
<b>CODE 4515-21</b>	
01 Installation Costs	\$ <u>5,000</u>
11 Tanks	<u>1,500</u>
12 Buildings	
13 Compressors	
14 Elec Line & Equip.	
15 Sepr. & Treaters	<u>2,500</u>
16 Line Pipe	<u>5,000</u>
17 Dehy. Equipment	
18 Other Lse Equipment	
19 Misc Valves & Ftg.	<u>2,000</u>
Supplemental	
Total Tang Comp. Cost	\$ <u>47,975</u>
BHP NET	\$ <u>47,975</u>

TOTAL WELL COSTS GROSS \$ 132,130  
BHP NET \$ 132,130

PREPARED BY: Paul C. Bertoglio



**AUTHORITY FOR EXPENDITURE  
Inland Business Unit  
(Drilling, Workovers, Recomp.'s, Etc.)**

Operator BHP PETROLEUM (AMERICAS) INC. AFE No. 9101209

Contract/Agreement No. C-EXRM02634 Land Lease No. \_\_\_\_\_ Budget Year 1991  
C-EXRM02709

Project must be commenced by: Date December 31, 1990

Lease Name & Well No. Gallegos Canyon Unit No.391 Prospect Name Gallegos Canyon Activity No. NM003100391  
 Prospect No. PR350028 Focal Area FA 202

Field or Area Basin Fruitland Field Location NE/NE Section 23 T29N - R13W County and State San Juan, New Mexico  
 Type of AFE Drill, Complete, Equip Development ( X ) Formation & Depth Fruitland Coal - ±1170' Expected Production  
 Exploratory ( ) Well TD - 1350' Gas - ( X )  
 Last Well on Lease Yes ( ) No ( ) AAPG Class: \_\_\_\_\_ Others \_\_\_\_\_ Oil - ( )

Project Description: (To Include Special Provisions and Remarks)  
Drill, complete, and equip a 1350 foot Fruitland Coal well at the referenced location.  
 \*Interest subject to partner elections.

BHP Interest  
 BPO  
 \* W.I. 62.50  
 NRI 48.75  
 APO  
 W.I. \_\_\_\_\_  
 NRI \_\_\_\_\_

**ESTIMATED COSTS**

COMPANY	WORKING INTEREST OR ALLOCATION %		DRILLING WELLS		OTHER
	To Csg. Pt.	Aft. Csg. Pt.	Dry Hole	Producer	
BHP Petroleum	62.50		25,653	79,528	Total Cost
Meridian Oil Production, Inc.	37.50		15,392	47,717	
<b>Total</b>	<b>100.00</b>		<b>41,045</b>	<b>127,245</b>	
Less: Contributions			( - 0 - )	( - 0 - )	( )
<b>Net Costs</b>			<b>41,045</b>	<b>127,245</b>	

Prepared by Paul C. Bertoglio *PCB* Date May 14, 1990

Recommended:  
 Operations \_\_\_\_\_ Date \_\_\_\_\_ Land \_\_\_\_\_ Date \_\_\_\_\_ Marketing \_\_\_\_\_ Date \_\_\_\_\_ Technology SLC/M/2/90 Date 5/29/90  
JLM/Lean 6-4-90 \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_

Approved JM Edgington 6/5/90  
 Date

Joint Interest Approval - It is recognized that the amounts provided for herein are estimates only and approval of this



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JUN 02 1991

BEFORE THE

OIL CONSERVATION DIVISION

OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY AND MINERALS

IN THE MATTER OF THE APPLICATION  
OF BHP PETROLEUM (AMERICAS) INC.  
FOR COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO.

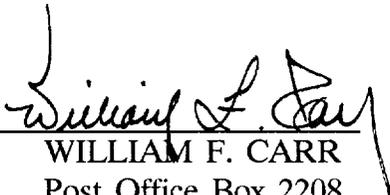
CASE NO. 10346

ENTRY OF APPEARANCE

COMES NOW CAMPBELL & BLACK, P.A., and hereby enters its appearance in  
the above-referenced case on behalf of Louise Y. Locke, d/b/a Locke-Taylor Drilling  
Company.

Respectfully submitted,

CAMPBELL & BLACK, P.A.

By:   
WILLIAM F. CARR  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Telephone: (505) 988-4421

ATTORNEYS FOR LOUISE Y. LOCKE  
d/b/a LOCKE-TAYLOR  
DRILLING COMPANY