BEFORE THE

OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

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

CASE NO. 10345
ORDER NO. R-9581

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

CASE NO. 10346
ORDER NO. R-9584

MOTION OF LOUISE Y. LOCKE d/b/a TAYLOR DRILLING COMPANY FOR STAY OF OIL CONSERVATION DIVISION ORDERS R-9581 AND R-9584

Louise Y. Locke, d/b/a Locke-Taylor Drilling Company ("Locke") hereby moves the Oil Conservation Commission for an Order staying Oil Conservation Division Order No. R-9581 and Order No. R-9584 and as grounds therefor states:

1. By Order No. R-9581 entered September 11, 1991, the Oil Conservation Division granted the application of BHP Petroleum (Americas), Inc. in Case 10345, compulsory pooling the W/2 of Section 23, Township 29N, Range 13W, San Juan County, New Mexico. The effect of this Order was to force pool the interests of Locke in the W/2 of this section.

2. By Order No. R-9584 entered September 23, 1991, the Oil Conservation Division granted the application of BHP Petroleum (Americas), Inc. in Case 10346, compulsory pooling the E/2 of Section 23, Township 29N, Range 13W, San Juan County,

New Mexico. The effect of this Order was to compulsory pool the interests of Locke in the E/2 of said Section 23.

3. Each of these Division Orders requires that Locke pay the share of well costs attributable to her interest in each well that BHP drills on this acreage or be subject to a 101% risk penalty.

4. On September 30, 1991, BHP submitted to Locke AFE's for each well.

5. These AFE's were prepared seventeen months ago and contain estimates of well costs, although the wells were drilled in December 1990 and actual well costs are known to BHP.

6. Locke has sought clarification of this matter from the Commission and has filed applications for hearing de novo in each case to resolve these questions. To assure that Locke is not a non-consenting party under these Orders while the questions are resolved, she seeks a stay of these Orders.

7. A Commission Order staying Division Orders R=9581 and R-9584 is necessary to protect Locke's interest until these questions are resolved and her appeal prosecuted.

WHEREFORE, Louise Y. Locke, d/b/a Locke-Taylor Drilling Company, moves the New Mexico Oil Conservation Division and Commission for an Order staying Oil Conservation Division Order Nos. R-9581 and R-9584.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.

By _____ for
William F. Carr
Post Office Box 2208
Santa Fe, NM 87504-2208
(505) 988-4421

Attorneys for Louise Y. Locke
d/b/a Locke-Taylor Drilling Co.

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing Motion to Stay was mailed to James D. Bruce, Esq., Hinkle, Cox, Eaton, Coffield and Hensley, 500 Marquette, NW, #800, Albuquerque, New Mexico 87102 this 9th day of October, 1991.

William F. Carr

State of New Mexico
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT
Santa Fe, New Mexico 87505

DRUG FREE
It's a State of Mind!

BRUCE KING
GOVERNOR

January 14, 1992

ANITA LOCKWOOD
CABINET SECRETARY

MATTHEW BACA
DEPUTY SECRETARY

Mr. William F. Carr
Campbell, Carr, Berge
& Sheridan
Attorneys at Law
P. O. Box 2208
Santa Fe, New Mexico 87504-2208

Mr. James Bruce
Hinkle, Cox, Eaton,
Coffield & Hensley
Attorneys at Law
500 Marquette N.W, Suite 900
Albuquerque, New Mexico 87102-2121

RE: Oil Conservation Division Case Nos. 10345 and 10346 - Application of BHP (Americas) Inc. for Compulsory Pooling, San Juan County, New Mexico

Gentlemen:

I am in receipt of the January 13, 1992 letter from William Carr requesting a continuance of the captioned case which is scheduled to be heard before the Oil Conservation Commission on January 16, 1992, and the January 14, 1992 letter from James Bruce opposing this request for continuance. After due deliberation, my decision is to grant the request for continuance. The case will be rescheduled for the Commission docket for February 27, 1992.

Very truly yours,

William J. LeMay, Chairman
Oil Conservation Commission

WJL/sl

VILLAGRA BUILDING - 408 Galisteo
Forestry and Resources Conservation Division
P.O. Box 1948 87504-1948
827-5830

Park and Recreation Division
P.O. Box 1147 87504-1147
827-7465

2040 South Pacheco
Office of the Secretary
827-5950

Administrative Services
827-5925

Energy Conservation & Management
827-5900

Mining and Minerals
827-5970

LAND OFFICE BUILDING - 310 Old Santa Fe Trail
Oil Conservation Division
P.O. Box 2088 87501-2088
827-5800

UNIT AGREEMENT FOR THE DEVELOPMENT AND
OPERATION OF THE GALLEGOS CANYON UNIT AREA
COUNTY OF SAN JUAN
STATE OF NEW MEXICO

RECEIVED
APR 26 1951

CONSERVATION DIVISION
RECEIVED
MAY ~ 1951
GEOLOGICAL SURVEY

I-Sec. No. 84

THIS AGREEMENT, entered into as of the 12th day of November, 1951, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto";

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WITNESSETH:

WHEREAS, the parties hereto are the owners of working, royalty or other oil or gas interests in the unit area subject to this agreement; and

WHEREAS, the term "working interest owner" as used herein and in other contracts between and among the parties relating to the subject lands shall mean and refer only to such an interest committed hereto as may be obligated to bear or share, either in cash or out of production (other than by permitting the use of unitized substances for development, production, repressuring or recycling purposes), a portion or all of the costs or expenses of developing, equipping or operating any land within the Unit Area subject to this agreement. If the working interest in any tract is or shall hereafter be owned by more than one party, the term "working interest owner", when used with respect to such tract, shall refer to all such parties owning the working interest therein; and

WHEREAS, the allotted land mineral leasing act of March 3, 1909, (35 Stat. 783, 25 U. S. C. sec. 396) authorizes the leasing of restricted allotted Indian lands subject to rules and regulations prescribed by the Secretary of the Interior; and

WHEREAS, the act of February 25, 1920, 41 Stat. 437, 30 U.S.C. Sec. 181, et seq., as amended by the Act of August 8, 1946, 60 Stat. 950, authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any oil or gas pool, field, or like area, or any part thereof, for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

WHEREAS, the Commissioner of Public Lands of the State of New Mexico is authorized by an Act of the Legislature (Chap. 88, Laws 1943) to consent to or approve this agreement on behalf of the State of New Mexico, insofar as it covers

and includes lands and mineral interests of the State of New Mexico; and

WHEREAS, the Oil Conservation Commission of the State of New Mexico is authorized by an Act of the Legislature (Chap. 72, Laws 1935) to approve this agreement and the conservation provisions hereof; and

WHEREAS, the parties hereto hold sufficient interests in the Gallegos Canyon Unit Area to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions, and limitations herein set forth;

NOW, THEREFORE, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the unit area and agree severally among themselves as follows:

1. ENABLING ACT AND REGULATIONS: The acts of March 3, 1909, February 25, 1920, and May 11, 1938, as amended, supra, and all valid pertinent regulations, including operating and unit plan regulations, heretofore issued thereunder or valid pertinent and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement, and as to non-Federal land applicable State laws are accepted and made part of this agreement.

2. UNIT AREA: The following described land is hereby designated and recognized as constituting the unit area:

NEW MEXICO PRINCIPAL MERIDIAN

Township 28 North, Range 11 West

Sec. 7-All
Sec. 18-All
Sec. 19-All

Township 28 North, Range 12 West

Secs. 7 to 34, incl.

Township 28 North, Range 13 West

Secs. 11 to 14, incl.
Secs. 23 to 26, incl.
Secs. 35 and 36

Township 29 North, Range 12 West

Sec. 16-SW/4
Secs. 17 to 21, incl.
Sec. 22-W/2, SE/4
Sec. 25-W/2, SE/4
Secs. 26 to 36, incl.

Township 29 North, Range 13 West

Sec. 13-All
Secs. 23 to 26, incl.
Secs. 34 to 36, incl.

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Total Unit Area embraces 39,324.51 acres, more or less.

Exhibit "A" attached hereto is a map showing the unit area and the known ownership of all land and leases in said area. Exhibit "B" attached hereto is a schedule showing the percentage and kind of ownership of oil and gas interests in all land in the unit area. Exhibits "A" and "B" shall be revised by the Unit Operator whenever changes in the unit area or other changes render such revision necessary, but no such revision shall be retroactive. Not less than seven copies of the revised exhibits shall be filed with the Oil and Gas Supervisor, hereinafter referred to as "Supervisor", and two copies with the Commissioner of Public Lands of the State of New Mexico, hereinafter referred to as "State Commissioner".

The above-described unit area shall when practicable be expanded to include therein any additional tracts regarded as reasonably necessary or advisable for the purposes of this agreement, or shall be contracted to exclude lands not within any participating area whenever such expansion or contraction is necessary or advisable to conform with the purposes of this agreement. Such expansion or contraction shall be in the following manner:

(a) Unit Operator, on its own motion or on demand of the Director of the Geological Survey, hereinafter referred to as "Director", or on demand of the State Commissioner, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the unit area, the reasons therefor, and the proposed effective date thereof;

(b) Said notice shall be delivered to the Supervisor, and the Superintendent of the Navajo Indian Reservation, the Commissioner of Indian affairs hereinafter referred to as "Indian Commissioner", and the State Commissioner, and copies thereof mailed to the last known address of each working interest owner, lessee, and lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections;

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the Supervisor and State Commissioner evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with the Unit Operator;

(d) After due consideration of all pertinent information, the Director and State Commissioner shall approve in whole or in part or reject the proposed expansion or contraction. To the extent that it may be approved, such expansion or contraction shall become effective as of the date prescribed in the notice thereof.

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than 6 months between the completion of one well and the beginning of the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of said Supervisor if on Indian or Federal land or the State Commissioner if on State land or patented land, or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities. Nothing in this section shall be deemed to limit the right of the Unit Operator to resign, as provided in Section 4 hereof, after any well drilled under this section is placed in a satisfactory condition for suspension or is plugged and abandoned pursuant to applicable regulations.

Upon application, the Director and the State Commissioner may modify the drilling requirements of this section and grant reasonable extensions of time when in their opinion, such actions are warranted. Upon failure to comply with the drilling provisions of this section, the Director and State Commissioner may, after reasonable notice to the Unit Operator and each working interest owner, lessee, and lessor at their last known addresses, declare this unit agreement terminated.

9. PLAN OF FURTHER DEVELOPMENT AND OPERATION: Within six months after completion of a well capable of producing unitized substances in paying quantities, the Unit Operator shall submit for the approval of the Supervisor, the State Commissioner, and the Commission an acceptable plan of development and operation for the unitized land which, when approved by the Supervisor, the State Commissioner, and the Commission, shall constitute the further drilling and operating obligations of the Unit Operator under this agreement for the period specified therein subject to the Dakota test well provisions of Section 8. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for the approval of the Supervisor, the State Commissioner, and the Commission, a plan for an additional specified period for the development and operation of the unitized land. Any plan submitted pursuant to this section, subject to the Dakota test well provisions of Section 8, shall provide for exploration of the unitized area and for the determination of the commercially productive area thereof in each and every productive formation and shall be as complete and adequate as the Supervisor, the State Commissioner, and the Commission may determine to be necessary for timely development and proper conservation of the oil and gas resources of the unitized area and shall (a) specify the number and locations of any wells to be drilled and the proposed order and time for such drilling; and (b) to the extent practicable specify the operating practices regarded as necessary and advisable

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for proper conservation of natural resources. Separate plans may be submitted for separate productive zones, subject to the approval of the Supervisor, the State Commissioner, and the Commission. Said plan or plans shall be modified or supplemented when necessary to meet changed conditions or to protect the interests of all parties to this agreement. Reasonable diligence shall be exercised in complying with the obligations of the approved plan of development. The Supervisor and State Commissioner are authorized to grant a reasonable extension of the six-month period herein prescribed for submission of an initial plan of development where such action is justified because of unusual conditions or circumstances. After completion hereunder of a well capable of producing oil and gas in paying quantities, subject to the Dakota test well provisions of Section 8, no further wells except such as may be necessary to afford protection against operations not under this agreement or such as may be specifically approved by the Supervisor and the State Commissioner shall be drilled except in accordance with a plan of development approved as herein provided.

10. PARTICIPATION AFTER DISCOVERY: Upon completion of a well pursuant to the provisions of Section 8 hereof capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the State Commissioner, the Unit Operator shall submit for approval by the Director, the Commissioner, and the Commission a schedule, based on subdivisions of the public-land survey or aliquot parts thereof, of all unitized land then regarded as reasonably proved to be productive of unitized substances in paying quantities; all land in said schedule on approval of the Director, the State Commissioner, and Commission to constitute a participating area, effective as of the date of first production. Said schedule also shall set forth the percentage of unitized substances to be allocated as herein provided to each unitized tract in the participating area so established, and shall govern the allocation of production from and after the date the participating area becomes effective. A separate participating area shall be established in like manner for each separate pool or deposit of unitized substances or for any group thereof produced as a single pool or zone. The participating area or areas so established shall be revised from time to time, subject to like approval, whenever such action appears proper as a result of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be productivein paying quantities, and the percentage of allocation shall also be revised accordingly. The effective date of any revision shall be the first of the month following the date of first authentic knowledge or

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information on which such revision is predicated, unless a more appropriate effective date is specified in the schedule. No land shall be excluded from a participating area on account of depletion of the unitized substances.

It is the intent of this section that a participating area shall represent the area known or reasonably estimated to be productive in paying quantities; but, regardless of any revision of the participating area, nothing herein contained shall be construed as requiring any retroactive apportionment of any sums accrued or paid for production obtained prior to the effective date of revision of the participating area.

In the absence of Agreement at any time between the Unit Operator and the Director, the State Commissioner, and Commission as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established as provided herein, the portion of all payments affected thereby may be impounded in a manner mutually acceptable to the owners of working interests, except royalties due the Indians, the United States, and the State of New Mexico which shall be determined by the Supervisor and the State Commissioner and the amount thereof deposited as directed by the Supervisor as to Indian and Federal lands and deposited with the Commissioner of Public Lands as to State lands to be held as unearned money until a participating area is finally approved and then applied as earned or returned in accordance with a determination of the sum due as Indian, Federal, and State royalty on the basis of such approved participating area.

Whenever it is determined, subject to the approval of the Supervisor as to wells on Indian and Federal land, the State Commissioner as to wells on State land, and the Commission as to patented land, that a well drilled under this agreement is not capable of production in paying quantities and inclusion of the land on which it is situated in a participating area is unwarranted, production from such well shall be allocated to the land on which the well is located so long as that well is not within a participating area established for the pool or deposit from which such production is obtained.

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11. ALLOCATION OF PRODUCTION: All unitized substances produced from each participating area established under this agreement, except any part thereof used for production or development purposes hereunder, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land of the participating area established for such production and, for the purpose of determining any benefits that accrue on an acreage basis,

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each such tract shall have allocated to it such percentage of said production as its area bears to the said participating area. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of said participating area.

12. DEVELOPMENT OR OPERATION ON NON-PARTICIPATING LAND OR FORMATIONS: Any party or parties hereto, other than the Unit Operator, owning or controlling a majority of the working interests in any unitized land not included in a participating area and having thereon a regular well location in accordance with a well-spacing pattern established under an approved plan of development and operation, with appropriate approval, may drill a well at such location at such party's sole risk, cost, and expense to test any formation for which a participating area has not been established or to test any formation for which a participating area has been established if such location is not within said participating area, unless within 90 days of receipt of notice from said party or parties of intention to drill the well the Unit Operator elects and commences to drill such well in like manner as other wells are drilled by the Unit Operator under this agreement.

If such well, by whomsoever drilled, results in production such that the land upon which it is situated may properly be included in a participating area, such participating area shall be established or enlarged as provided in this agreement, and the well shall thereafter be operated by the Unit Operator pursuant to the terms of this agreement as other wells within participating areas, and there shall be a financial adjustment between the parties who financed the well and the working interest owners in the participating area concerning their respective drilling and other investment cost, all as provided in the unit operating agreement.

If any well, by whomsoever drilled, as provided in this section, obtains production insufficient to justify inclusion of the land on which said well is situated in a participating area, such well may be operated and produced by the party drilling the well. If the drilling of such well was financed by parties other than the working interest owners on the well tract, details of financial arrangements and operations as between such parties shall be provided for in the unit operating agreement.

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Wells drilled or produced at the sole expense and for the sole benefit of an owner of working interest other than the Unit Operator shall be operated and produced pursuant to the conservation requirements of this agreement. Royalties

in amount or value of production from any such well shall be paid as specified in the underlying lease and agreements affected.

13. ROYALTIES AND RENTALS: Royalty on each unitized tract shall be paid or delivered by the parties obligated therefor as provided by existing leases, contracts, laws, and regulations at the lease or contract rate upon the unitized substances allocated to the tract. Nothing herein contained shall operate to relieve the lessees of Indian, Federal, or State lands from their obligations under the terms of their respective leases to pay rentals and royalties.

Royalty due the Navajo Indians and the United States shall be computed as provided in the operating regulations and paid in value or delivered in kind as to all unitized substances on the basis of the amounts thereof allocated to unitized Indian and Federal land as provided herein at the rates specified in the respective Indian and Federal leases or at such lower rate or rates as may be authorized by law or regulations; provided that for leases on which the royalty rate depends on the daily average production per well, said average production shall be determined in accordance with the operating regulations as though each participating area were a single consolidated lease.

Unitized substances produced from any participating area and used therein in conformance with good operating practice for drilling, operating, camp, or other production or development purposes or under an approved plan of operation for repressuring or cycling said participating area, or for development outside of such participating area if for the purposes of drilling exploratory wells or for camps or other purposes benefiting the unit as a whole, shall be free from any royalty or other charge except as to any products extracted from unitized substances so used. If Unit Operator introduces gas for which royalties have been paid into any participating area hereunder from sources other than such participating area for use in repressuring, stimulation of production, or increasing ultimate production in conformity with a plan first approved by the Supervisor, a like amount of gas may be sold without payment of royalty as to dry gas but not as to the products extracted therefrom; provided, that gas so introduced shall bear a proportionate and equitable share of plant fuel consumption and shrinkage in the total volume of gas processed from such participating area; and provided further, that such withdrawal shall be at such time as may be provided in the plan of operation or as may otherwise be consented to by the Supervisor as conforming to good petroleum engineering practice; provided, however, that said right of withdrawal royalty free shall terminate upon termination of the unit agreement.

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23. TAXES: The working interest owners shall render and pay for their account and the account of the royalty owners all valid taxes on or measured by the unitized substances in and under or that may be produced, gathered and sold from the land subject to this contract, after the effective date of this agreement, or upon the proceeds or net proceeds derived therefrom. The working interest owners on each tract shall and may charge the proper proportion of said taxes to the royalty owners having interests in said tract, and may currently retain and deduct sufficient of the unitized substances or derivative products, or net proceeds thereof from the allocated share of each royalty owner to secure reimbursement for the taxes so paid. No such taxes shall be charged to the United States or the State of New Mexico or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

24. NON-JOINDER AND SUBSEQUENT JOINDER: If the owner of any interest in a tract within the unit area fails or refuses to subscribe or consent to this agreement, the owner of the working interest in that tract may withdraw said tract from this agreement by written notice to the Director and the Unit Operator prior to the approval of this agreement by the Director. Any oil or gas interests in lands within the unit area not committed hereto prior to submission of this agreement for final approval may thereafter be committed hereto by the owner or owners thereof subscribing or consenting to this agreement and, if the interest is a working interest, by the owner of such interest also subscribing to the Unit Operating Agreement. After operations are commenced hereunder, the right of subsequent joinder, as provided in this section, by a working interest owner is subject to such requirements or approvals, if any, pertaining to such joinder, as may be provided for in the Unit Operating Agreement. After final approval hereof, joinder to this agreement by a non-working interest owner must be consented to in writing by the working interest owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such non-working interest. Prior to final approval hereof, joinder by any owner of non-working interest must be accompanied by appropriate joinder by the owner of the corresponding working interest in order for the interest to be regarded as effectively committed hereto. A subsequent joinder shall be effective as of the first day of the month following the filing with the Supervisor of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this agreement unless objection to such joinder is duly made within 60 days by the Director.

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25. COUNTERPARTS: This agreement may be executed in any number of counterparts no one of which needs to be executed by all parties or may be ratified or consented to by separate instrument in writing specifically referring hereto and shall be binding upon all those parties who have executed such a counterpart, ratification, or consent hereto with the same force and effect as if all such parties had signed the same document and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above described unit area.

26. FAIR EMPLOYMENT: The Unit Operator shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and an identical provision shall be incorporated in all subcontracts.

27. LOSS OF TITLE: In the event title to any tract of unitized land or substantial interest therein shall fail and the true owner cannot be induced to join this unit agreement, so that such tract is not committed to this unit agreement, there shall be such readjustment of participation as may be required on account of such failure of title. In the event of a dispute as to title or as to any interest in unitized land, the Unit Operator may withhold payment or delivery on account thereof without liability for interest until the dispute is finally settled; provided, that as to Federal and State land or leases, no payments of funds due the United States or the State of New Mexico shall be withheld, but such funds shall be deposited as directed by the Supervisor and the Comissioner of Public Lands of the State of New Mexico, respectively, to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

28. NO PARTNERSHIP: It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing in this agreement contained, expressed or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

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IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution.

WITNESS: DATE:

Address: 316 Petroleum Building
Oklahoma City, Oklahoma

UNIT OPERATOR AND WORKING INTEREST OWNER

By Carl A Bilson

By

By

By

WORKING INTEREST OWNERS

ATTEST: DATE:

STANOLIND OIL AND GAS COMPANY

APPROVED

By _____
Assistant Secretary Vice-President

Address: P. O. Box 591, Tulsa, Oklahoma

ATTEST:

_____ _____ By _____
Secretary President

Address: _____

ATTEST:

_____ _____ By _____
Secretary President

Address: _____

ATTEST:

_____ _____ By _____
Secretary President

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Secretary President

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Secretary President

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Secretary President

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_____ _____ By _____
Secretary President

Address: _____

ATTEST:

_____ _____ By _____

Address: _____

17185

STATE OF _____)
COUNTY OF _____)

On this ____ day of _____, 19___, before me appeared _____ _____, to me personally known, who, being by me duly sworn, did say that he is the _____ President of _____ _____ and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and notarial seal this ____ day of _____, 19__.

My Commission expires:

_____

_____
Notary Public

STATE OF _____)
COUNTY OF _____)

On this ____ day of _____, 19___, before me appeared _____ _____, to me personally known, who, being by me duly sworn, did say that he is the _____ President of STANOLIND OIL AND GAS COMPANY _____ and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and notarial seal this ____ day of _____, 19__.

My Commission expires:

_____

_____
Notary Public

STATE OF _____)
COUNTY OF _____)

On this ____ day of _____, 19___, before me appeared _____ _____, to me personally known, who, being by me duly sworn, did say that he is the _____ President of _____ _____ and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and notarial seal this _____ day of _____, 19__

My Commission expires:

_____

_____
Notary Public

STATE OF _____)
COUNTY OF _____)

17485

On this ____ day of _____, 19___, before me appeared _____ _____, to me personally known, who, being by me duly sworn, did say that he is the _____ President of _____ _____ and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and notarial seal this ____ day of _____, 19__

My Commission expires:

_____

_____
Notary Public

(New Mexico)

17485

STATE OF Oklahoma)
)
COUNTY OF Oklahoma)

On this 1st day of November, 1950 before me personally appeared Earl A. Benson and Wm. V. Martin to me known to be the persons described in and who executed and delivered the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 1st day of November, 1950

My Commission expires:

August 3rd, 1953

[signature]
Notary Public

STATE OF ____________)
)
COUNTY OF ____________)

On this ____ day of ____________, 19___, before me personally appeared ____________ to me known to be the person ___ described in and who executed and delivered the foregoing instrument, and acknowledged to me that ___ executed the same as ________ free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of ____________, 19__.

My Commission expires:

____

____
Notary Public

STATE OF ____________)
)
COUNTY OF ____________)

On this ____ day of ____________, 19___, before me personally appeared ____________ to me known to be the person ___ described in and who executed and delivered the foregoing instrument, and acknowledged to me that ___ executed the same as ________ free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of ____________, 19__.

My Commission expires:

____

____
Notary Public

STATE OF ____________)
)
COUNTY OF ____________)

On this ____ day of ____________, 19___, before me personally appeared ____________ to me known to be the person ___ described in and who executed and delivered the foregoing instrument, and acknowledged to me that ___ executed the same as ________ free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of ____________, 19__.

My Commission expires:

____

____
Notary Public

STATE OF ____________)
)
COUNTY OF ____________)

On this ____ day of ____________, 19___, before me personally appeared ____________ to me known to be the person ___ described in and who executed and delivered the foregoing instrument, and acknowledged to me that ___ executed the same as ________ free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of ____________, 19__.

My Commission expires:

____

____
Notary Public

(New Mexico)

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EXHIBIT "B"

SCHEDULE SHOWING THE PERCENTAGE AND KIND OF OWNERSHIP OF OIL AND GAS INTERESTS IN ALL LAND IN THE GALLEGOS CANYON UNIT AGREEMENT

FEDERAL LANDS

TRACT NO.	FEDERAL LEASE NO. (SANTA FE)	DESCRIPTION TWP	R	SEC	SECTION SUBDIVISIONS	NO. ACRES	LEASE OWNER OF RECORD	ROYALTY OWNERS & INTEREST OWNER	RI OR ORRI	INTEREST	WORKING INTEREST OWNER UNDER OPTION AGREEMENT OPERATING AGREEMENT LEASE OR ASSIGNMENT	PERCENTAGE INTEREST
1	0524 (NM) (Lse.App.)	29N	13W	24	- N/2 S/2	160.00	E. B. Todhunter	USA	RI	12½%	E. B. Todhunter	87.5000
2	047019-B 3-6-36 (Producing Lease)	28N	11W	7 18	- Lot 1 SE/4 NE/4, SW/4 SE/4	106.90	Summit Oil Co.	USA	RI	12½%	Summit Oil Co. ~~Southern Union Gas Co.~~	87.5000
3	076444 11-1-45	29N	12W	18	- Lot 3	39.43	Pauline S. McNaughton	USA	RI	12½%	J. J. Hudson	87.5000
4	076444 11-1-45	29N	13W	23 26	- S/2 SW/4, SW/4 SE/4 - NE/4 NE/4	160.00	Pauline S. McNaughton	USA	RI	12½%	J. J. Hudson	87.5000
5	077731 8-1-46	29N	12W	21	- NE/4	160.00	Pauline S. McNaughton	USA	RI	12½%	J. J. Hudson	87.5000
6	077966 2-1-48	28N	13W	23 24 14	- All - All - S/2	1600.00	Carlos Robinson	USA	RI	12½%	Southern Union Gas Co.	87.5000
7	077967 2-1-48	28N	13W	35 36	- All - All	1280.00	Gerald L. Davies	USA	RI	12½%	Southern Union Gas Co.	87.5000
8	078072 2-1-48	28N	13W	11	- All	275.36	W. H. Sloan	USA	RI	12½%	W. H. Sloan	87.5000

April 1951

17185

PATENTED LAND

TRACT No.	LEASE EXPIRATION DATE	DESCRIPTION TWP	R	SEC	SECTION SUBDIVISIONS	NO. ACRES	LEASE OWNER OF RECORD	ROYALTY OWNER & INTEREST OWNER	ORRI	INTEREST	WORKING INTEREST OWNER UNDER OPTION AGREEMENT, OPERATING AGREEMENT, LEASE, ASSIGNMENT OR LAND OWNER	INTEREST
95	Not leased	29N	13W	13 -	SE/4 NW/4, NE/4 SW/4 W/2 SE/4	160.00	Not Leased	Dorothy J Krause Geo. H. Krause	RI	6¼% 6¼%	Dorothy J Krause 1/2 WI Geo. H. Krause 1/2 WI	43.7500 43.7500
96	8-2-58	29N	13W	13 -	NW/4 NW/4	40.00	Stanolind	Enos J Strawn & Dorothy B Strawn	RI	12½%	Stanolind 1/2 WI Benson and Montin 1/2 WI	43.7500 43.7500
97	11-12-58	29N	13W	13 -	NW/4 SW/4	40.00	Stanolind	Jessie Cox Church-hill	RI	12½%	Stanolind 1/2 WI Benson and Montin 1/2WI	43.7500 43.7500
98	12-16-53	29N	13W	13 -	E 1071' SW/4 NW/4	32.00	Stanolind	Arthur Coy & Ruth Coy	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
99	11-29-53	29N	13W	13 -	W/2 SW/4 SW/4	20.00	Stanolind	J B Brown & Vada B Brown	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
100	11-1-58	29N	13W	13 -	E/2 SW/4 SW/4, SE/4 SW/4	60.00	Stanolind	Gladys Booram	RI	6¼%	Stanolind 1/2 WI Benson & Montin 1/2 WI	21.8750 21.8750
	11-1-58	29N	13W	13 -	E/2 SW/4 SW/4, SE/4 SW/4	"	Stanolind	Thomas Kerby & Josephine M. Kerby	RI	6¼%	Stanolind 1/2 WI Benson & Montin 1/2 WI	21.8750 21.8750
101	Not leased	29N	13W	23 -	Begin at a point on N line Sec 23, 40 rds E from NW corner of the NE/4 of said Sec; Thence S 746.8'; Thence E 770'; Thence N 746.8'; Thence W 770' to place of beginning.	12.00	Not Leased	John A. Lee	RI	12½%	John A. Lee	87.5000

PATENTED LAND

TRACT NO	LEASE EXPIRATION DATE	DESCRIPTION TWP	R	SEC	SECTION SUBDIVISION	NO. ACRES	LEASE OWNER OF RECORD	ROYALTY OWNER & INTEREST Owner	RI OR ORRI	INTEREST	WORKING INTEREST OWNER UNDER OPTION AGREEMENT, OPERATING AGREEMENT, LEASE, ASSIGNMENT OR LAND OWNER	INTEREST
102	2-20-57	29N	13W	23	E/2 NE/4, SW/4 NE/4 & 13 acres in S part of NW/4 NE/4	133.00	Stanolind	Helen Zimmerman & R. J. Zimmerman	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
103	Not Leased	29N	13W	23	NW/4, N/2 SW/4	240.00	Not Leased	Wm.S. Allen & Eula L. Allen	RI	12½%	William S. Allen & Eula L. Allen	87.5000
104	Not Leased	29N	13W	23	Begin at NW cor. of the NE/4 of Sec. 23, Thence S 60 rds; Thence E 40 rds;Thence N 60 rds; Thence W 40 rds to beginning.	15.00	Not Leased	A. E. Dustin Est.	RI	12½%	A. E. Dustin Est.	87.5000
105	9-17-52	29N	13W	24	W 12 ac NW/4 NW/4 Sec. 24	12.00	Stanolind	John B. & Wanda Lee Burrell	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
106	3-13-52	29N	13W	24	E 28 ac NW/4 NW/4 Sec. 24	28.00	Stanolind	Owen K McCarty & Cecille F McCarty	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
107	3-8-52	29N	13W	24	NE/4 NW/4	40.00	Stanolind	Jos T & Kathleen Kellenaers	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2 WI	43.7500 43.7500
108	3-8-52	29N	13W	24	S/2 NW/4, SW/4 NE/4	120.00	Stanolind	S. B. Lancaster	RI	12½%	Stanolind 1/2 WI Benson & Montin 1/2WI	43.7500 43.7500
109	Not Leased	29N	13W	24	NW/4 NE/4 less 1/2 ac in extreme SE cor	39.50	Not Leased	Clara Zanolio James F Zanolio Nicholos C Zanolio Josephine Zanolio Mable Zanolio Grace Z. Discus	RI RI RI RI RI RI	62½ of 12½ 7½ of 12½ 7½ of 12½ 7½ of 12½ 7½ of 12½ 7½ of 12½	Clara Zanolio 62½ of James F Zanolio 7½ of Nicholos C Zanolio 7½ Josephine Zanolio 7½ Mable Zanolio 7½ of Grace Z. Discus 7½ of	87.5000 87.5000 87.5000 87.5000 87.5000 87.5000

R E C A P I T U L A T I O N

LANDS	AREA ACRES
TOTAL FEDERAL LAND	24,716.72
TOTAL NAVAJO INDIAN LANDS (Allotted)	4,905.46
TOTAL STATE LANDS	3,186.60
TOTAL PATENTED LANDS	6,515.73
TOTAL UNIT AREA	39,324.51

April 1951

17195

SCHEDULE OF COMMITMENTS
TO THE GALLEGOS CANYON UNITIZATION
August 1, 1951

TRACT NO.	ROYALTY INTERESTS		WORKING INTERESTS	
	Subscribing Owners	Non-Subscribing Owners	Subscribing Owners	Non-Subscribing Owners
1	All	-	All	-
2	"	-	"	-
3	"	-	"	-
4	"	-	"	-
5	"	-	"	-
6	"	-	"	-
7	"	-	"	-
8	-	-	-	W. H. Sloan
9	All	-	All	-
10	"	-	"	-
11	"	-	"	-
11-A	-	-	-	H. K. Beardmore
12	All	-	All	-
13	"	-	"	-
14	"	-	"	-
15	"	-	"	-
16	"	-	"	-
17	-	C. C. Seymour	"	-
18	All	-	"	-
19	"	-	"	-
20	"	-	"	-
21	"	-	"	-
22	"	-	"	-
23	-	-	-	L. N. Hagood
24	All	-	All	-
25	"	-	"	-
26	"	-	"	-
27	"	-	"	-
28	-	-	-	George Siegel
29	All	-	All	-
30	"	-	"	-
31	"	-	"	-
32	"	-	"	-
33	"	-	"	-
34	"	-	"	-
34-A	"	-	"	-
35	"	-	"	-
36	"	-	"	-
37	*	-	"	-
38	All	-	"	-
39	"	-	"	-
40	"	-	"	-
41	"	-	"	-
42	"	-	"	-
43	All except ...	Heirs of Isabelle (Will has not been probated)	"	-
44	All	-	"	-
45	"	-	"	-
46	-	-	-	Skelly Oil Co.
47	All	-	All	-
48	-	Not Leased	-	Not Leased
49	-	" "	-	" "
50	-	" "	-	" "
51	All	-	All	-
52	-	Not Leased	-	Not Leased
53	All	-	All	-
54	"	-	"	-
55	"	-	"	-
56	-	-	-	Skelly Oil Co.
57	-	-	-	Paul T. Purcell
58	All	-	All	-

* Commitments of Indians under this tract are currently being secured. These same Indians have already executed the agreement for Tract No. 45.

TRACT NO.	ROYALTY INTERESTS		WORKING INTERESTS	
	Subscribing Owners	Non-Subscribing Owners	Subscribing Owners	Non-Subscribing Owners
59	All	-	All	-
60	"	-	"	
61	"	-	"	
62	-	Not Leased	-	Not Leased
63	-	" "	-	" "
64	All	-	All	-
65	-	Not Leased	-	Not Leased
66	-	" "	-	" "
67	All	-	All	" "
68	-	Not Leased	-	" "
69	All	-	All	-
70	"	-	"	-
71	"	-	"	-
72	"	-	"	-
73	-	-	-	Clarence Rupp
74	All	-	All	-
75	-	Not Leased	-	Not Leased
76	-	-	-	Skelly Oil Co.
77	-	-	-	Pearl Kercheval
78	All	-	All	-
79	-	-	-	Paton Bros.
80	-	Not Leased	-	Not Leased
81	-	" "	-	" "
82	-	" "	-	" "
83	-	" "	-	" "
84	All	-	All	-
85	"	-	"	-
86	-	-	-	Not Leased
87	-	-	-	" "
88	-	-	-	" "
89	-	-	-	" "
90	All	-	All	" "
91	"	-	"	-
92	"	-	"	-
93	"	-	"	-
94	"	-	"	-
95-A	"	-	"	-
95	"	-	"	-
96	"	-	"	-
97	"	-	"	-
98	"	-	"	-
99	"	-	"	-
100	"	-	"	-
101	-	Not Leased	-	Not Leased
102	-	All	All	-
103	-	Not Leased	-	Not Leased
104	-	" "	-	" "
105	All	-	All	-
106	"	-	"	-
107	"	-	"	-
108	"	-	"	-
109	-	Not Leased	-	Not Leased
110	All	-	All	-
111	"	-	"	-
112	"	-	"	-
113	"	-	"	-
114	-	All	"	-
115	-	"	"	-
116	-		"	-
117	All	-	"	-
118	"	-	"	-
119	"	-	"	-
120	"	-	"	-
121	"	-	"	-
122	"	-	"	-

152-12

TRACT NO.	ROYALTY INTERESTS		WORKING INTERESTS	
	Subscribing Owners	Non-Subscribing Owners	Subscribing Owners	Non-Subscribing Owners
123	All	-	All	-
124	-	All	-	All
125	All	-	All	-
126	"	-	"	-
127	"	-	"	-
128	-	M. H. & Eula Stark	"	-
129	-	G. W. & G. B. Sammons C. C. & Ethelwyn Culpepper	"	-
130	All	-	"	-
131	"	-	"	-
132	"	-	"	-
133	"	-	"	-
134	-	M. H. & Eula Stark	"	-
135	-	" " "	"	-
136	All	-	"	-
137	-	All	"	-
138	-	Not Leased	-	Not Leased
139	-	All	All	-
140	-	Not Leased	-	Not Leased
141	All	-	All	-
142	All except ...	E. A. & Ruth Schreck	"	-
143	"	-	"	-
144	"	-	"	-
145	All except ...	J. B. & Winnie Arrington	"	-
146	All except ...	E. A. & Ruth Schreck	"	-
147	All	-	"	-
148	-	B. H. & Dyvena Crawford	"	-
149	All	-	"	-
150	"	-	"	-
151	"	-	"	-
152	"	-	"	-
153	-	Not Leased	-	Not Leased
154	-	" "	-	" "
155	All	-	All	-
156	-	Not Leased	-	Not Leased
157	-	" "	-	" "

#1118

F 17,185

LIST OF COMPANIES AND INDIVIDUALS WHO HAVE EXECUTED OR RATIFIED, AS WORKING INTEREST OWNERS, THE UNIT AGREEMENT AND UNIT OPERATING AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE GALLEGOS CANYON UNIT AREA, COUNTY OF SAN JUAN, STATE OF NEW MEXICO.

A. List of subscribers whose executed instruments have been received by Benson and Montin as of April 24, 1951.

Benson and Montin
Stanolind Oil and Gas Co.
Southern Union Gas Co.
Summit Oil Co.
The Texas Co.
Mid Continent Petroleum Corp.
Albuquerque Associated Oil Co.
Nilooo Company
E. H. Colby
Ernest A. Hanson
L. B. Hodges
J. J. Hudson
Elma R. Jones
Emma Louise Krause
Dorothy J. Krause
George Krause
S. B. Lancaster
John A. Owings
Bertha Rahn
Freda Rahn
Otto Schindler
C. C. Seymour
Arthur W. Sunter
E. B. Todhunter
Robb Woods
Charles J. Wright
Mary Roberts Berry
L. M. Johnson
John W. Hjertstedt
Tom Bolack
Phillips Gates
Thelma Gapon

Grace Van Hook Atty
H. K. Riddle

B. List of subscribers whose executed instruments are reported to be in the mail as of April 24, 1951.

T. R. Knowles
Sidney Sher
Texas Pacific Coal and Oil Co.

CERTIFIED TO BE A TRUE COPY
Albert R. Greer

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
10345
Case No. 10346 Exhibit No. _____
Submitted by Locke
Hearing Date 02/27/92

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

IN THE MATTER OF THE APPLICATION OF BHP PETROLEUM (AMERICAS) INC. FOR COMPULSORY POOLING, SAN JUAN COUNTY, NEW MEXICO. **CASE NO. 10,345 (De Novo)**

IN THE MATTER OF THE APPLICATION OF BHP PETROLEUM (AMERICAS) INC. FOR COMPULSORY POOLING, SAN JUAN COUNTY, NEW MEXICO. **CASE NO. 10,346 (De Novo)**

SUMMARY OF PROPOSED TESTIMONY BEFORE THE COMMISSION
(SUBMITTED BY BHP PETROLEUM (AMERICAS) INC.)

Applicant will present the following testimony to the Commission:

A. Land Testimony.

1. The testimony given before the Division will be reaffirmed.

2. Although Benson & Montin once asked the USGS how to withdraw the Zimmerman Lease (the drillsite lease for the GCU No. 391 Well) from the Gallegos Canyon Unit (GCU), the lease was never withdrawn from the GCU. BHP will submit additional documents which show that the Zimmerman Lease was never withdrawn from the GCU, and that the BLM considers the Zimmerman Lease committed to the GCU. In addition, Amoco Production Company considers the Zimmerman Lease to be part of the GCU.

3. An additional 15 acre tract in the NW¼NE¼ of Section 23 is committed (both working and royalty interests) to the GCU.

4. Actual well costs to date for the GCU Nos. 390 and 391 wells.

5. Evidence that Louise Y. Locke never had any plans to drill a coal gas well in the N½ of Section 23.

B. <u>Engineering Testimony</u>.

1. Risk involved in drilling the two wells justifies a 150% non-consent penalty, based on the factors used in OCD Case No. 9593 (which first promulgated the 156% penalty used in many coal gas compulsory poolings).

2. Completing the GCU No. 391 Well will not damage the Tycksen Well, for the following reasons:

(a) Fractures from fracture stimulating the GCU No. 391 Well will not intersect the Tycksen Well;

(b) fractures will remain in the coal seams; and

(c) the plug in the Tycksen Well is sufficient to prevent any communication between zones, even if the fractures do reach the Tycksen Well.

3. Gas analyses will show that gas produced from the Tycksen Well is not coal gas.

4. The valuations placed on Mrs. Locke's interest by her engineers is equivalent to BHP's May 1991 purchase offer.

James Bruce
Attorney for BHP
Petroleum (Americas)
Inc.

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW
500 MARQUETTE NW, SUITE 800
ALBUQUERQUE, NEW MEXICO

TELEPHONE: (505) 768-1500 TELECOPIER: (505) 768-1529

BROADCAST COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAMES: Robert Stovall - OCD
William F. Carr
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FROM: Jim Bruce

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HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

500 MARQUETTE N.W., SUITE 800

ALBUQUERQUE, NEW MEXICO 87102-2121

(505) 768-1500

FAX (505) 768-1529

LEW B. C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY JR.
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JOHN C. CHAMBERS*
GARY D. COMPTON*
MICHAEL A. GROSS

THOMAS O. HAINES, JR.
FRANKLIN H. McCALLUM*
GREGORY J. NIBERT
DAVID T. MARKETTE*
MARK C. DOW
KAREN M. RICHARDSON*
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*
PATRICIA A. MORRIS
MACDONNELL GORDON
REBECCA NICHOLS JOHNSON
WILLIAM P. JOHNSON

STANLEY K. KOTOVSKY, JR.
BETTY H. LITTLE*
RUTH S. MUSGRAVE
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GREGORY S. WHEELER
ANDREW J. CLOUTIER
JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULBETH, JR.
LISA K. SMITH*
JAMES K. SCHLUSTER*

*NOT LICENSED IN NEW MEXICO

OF COUNSEL
O. M. CALHOUN*
MACK EASLEY
JOE W. WOOD
RICHARD S. MORRIS

CLARENCE E. HINKLE (1901-1988)
W. E. BONDURANT, JR. (1913-1973)
ROY C. SNODGRASS, JR. (1914-1987)

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

1700 TEAM BANK BUILDING
POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

218 MONTEZUMA
POST OFFICE BOX 2068
SANTA FE, NEW MEXICO 87504
(505) 982-4554
FAX (505) 982-8623

March 11, 1992

VIA TELECOPY

Mr. Robert Lovall
New Mexico Oil Conservation
Division
State Land Office Building
310 Old Santa Fe Trail
Room 206
Santa Fe, New Mexico 87501
Telecopy No. (505) 827-5741

Mr. William F. Carr
P. O. Box 2208
Santa Fe, New Mexico 87504
Telecopy No. (505) 983-6043

Mr. Richard T. C. Tully
P. O. Box 268
Farmington, NM 87499
Telecopy No. (505) 327-7483

Re: BHP/Louise Locke

Gentlemen:

Enclosed are three additional exhibits which BHP intends to introduce at the hearing in the above matter.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY

By: James Bruce

JB:le
Enclosure

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

218 MONTEZUMA

POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504-2068

(505) 982-4554

FAX (505) 982-8623

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

1700 TEAM BANK BUILDING
POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

500 MARQUETTE N.W., SUITE 800
ALBUQUERQUE, NEW MEXICO 87102-2121
(505) 768-1500
FAX (505) 768-1529

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
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ROY C. SNODGRASS, JR. (1914-1987)

March 6, 1992

HAND DELIVERED

RECEIVED
MAR 06 1992
OIL CONSERVATION DIVISION

Mr. Robert G. Stovall
New Mexico Oil Conservation
Division
State Land Office Building
310 Old Santa Fe Trail
Room 206
Santa Fe, New Mexico 87501

Re: **Case Nos. 10345 (de novo) and 10346 (de novo)**

Dear Mr. Stovall:

Enclosed are the following:

1. An original and three copies of BHP's summary of testimony from the examiner hearing;

2. An original and three copies of BHP's summary of proposed testimony; and

3. BHP's brief on the issues.

Please call me if you need anything further.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY

By: James Bruce

JB:le
Enclosures
cc w/enc: Richard T.C. Tully
William F. Carr

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

IN THE MATTER OF THE APPLICATION OF BHP PETROLEUM (AMERICAS) INC. FOR COMPULSORY POOLING, SAN JUAN COUNTY, NEW MEXICO. **CASE NO. 10,345 (De Novo)**

IN THE MATTER OF THE APPLICATION OF BHP PETROLEUM (AMERICAS) INC. FOR COMPULSORY POOLING, SAN JUAN COUNTY, NEW MEXICO. **CASE NO. 10,346 (De Novo)**

SUMMARY OF TESTIMONY, AND CONTENTIONS OF THE PARTIES (SUBMITTED BY BHP PETROLEUM (AMERICAS) INC.)

I. SUMMARY OF APPLICATIONS.

In Case No. 10,345, Applicant BHP Petroleum (Americas) Inc. ("BHP") seeks to force pool all working interests in the Basin-Fruitland Coal Gas Pool underlying the W½ of Section 23, Township 29 North, Range 13 West, N.M.P.M., and to dedicate said acreage to the Gallegos Canyon Unit ("GCU") No. 390 Well located in the SE¼SW¼ of Section 23.

In Case No. 10,346, BHP seeks to force pool all working interests in the Basin-Fruitland Coal Gas Pool underlying the E½ of Section 23, and to dedicate said acreage to the GCU No. 391 Well located in the NE¼NE¼ of Section 23.

The oil and gas lease working interests not committed to the proposed well units are owned by Louise Y. Locke d/b/a Locke-Taylor Drilling Company, who protested the cases and has requested the de novo hearings.

II. SUMMARY OF TESTIMONY.

The following matters were testified to in the consolidated hearing before the Examiner on July 25, 1991. The

references in parentheses are to transcript page number or exhibit number from the Examiner hearing. (Note: This summary includes the testimony and contentions of both parties.)

Land Testimony:

1. Louise Y. Locke owns 100% of the oil and gas working interest in the N½ of Section 23 from the surface to the base of the Pictured Cliffs formation. (Tr. 6, 28, 29; BHP Exhibit 1.)

2. BHP owns or operates the oil and gas working interest under the S½ of Section 23 from the surface to the base of the Pictured Cliffs formation. BHP owns the working interest under the S½SW¼ and SW¼SE¼ of Section 23 under a farmout agreement from Amoco Production Company. (Tr. 15; BHP Exhibit 1.)

3. Section 23 is within the boundaries of the GCU, a unit formed for oil and gas development which covers approximately 43,000 acres in San Juan County, New Mexico. The Unit Agreement for the GCU was approved by Commission Order No. R-68. (BHP Exhibit 3.)

4. BHP is the suboperator of the GCU for all depths from the surface to the base of the Pictured Cliffs formation. (Tr. 15.)

5. The SE¼ and S½SW¼ of Section 23 are committed to the GCU (both royalty and working interests). (Tr. 16.)

6. The N½SW¼, NW¼, and 27[1] acres in the north part of the NW¼NE¼ of Section 23 are not committed to the GCU.

7. The parties dispute whether the E½NE¼, SW¼NE¼, and 13 acres in the south part of the NW¼NE¼ of Section 23 are committed to the GCU. The leasehold chain of title to this tract is as follows:

(a) 100% of the mineral interest in this tract was leased to Charles Newbold by Helen Zimmerman and husband R.J. Zimmerman by an Oil and Gas Lease ("the Zimmerman Lease") dated February 20, 1947, recorded at Book 125, page 153 of the county records. The lease did not contain a pooling clause.

(b) Charles Newbold and wife Edna Frances Newbold assigned the Zimmerman Lease to Stanolind Oil and Gas Company by an Assignment of Oil and Gas Lease dated February 28, 1947, recorded at Book 125, page 154 of the county records.

(c) Stanolind Oil and Gas Company ratified the Unit Agreement for the GCU by executing the same as a working interest owner in March 1951.

(d) The Zimmermans have never ratified the Unit Agreement for the GCU.

(e) Stanolind Oil and Gas Company assigned an undivided one-half interest in the Zimmerman Lease to Earl A. Benson and Wm. V. Montin by an Assignment dated November 14, 1951, recorded at Book 172, page 277 of the county records.

(f) Earl A. Benson et ux. and Wm. V. Montin et ux. assigned their interests in the Zimmerman Lease to Benson & Montin, Inc. by an Assignment dated January 18, 1952, recorded at Book 175, page 181 of the county records.

(g) Benson & Montin, Inc. assigned its interest in the Zimmerman Lease to Earl A. Benson and Wm. V. Montin by an Assignment dated July 15, 1952, recorded at Book 203, page 121 of the county records.

The assignments described in paragraphs (e), (f), and (g) all state that the Zimmerman Lease is subject to the

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[1]BHP will present evidence at the de novo hearing that an additional 15 acre tract in the NW¼NE¼ of Section 15 is committed to the GCU.

Unit Agreement and the Unit Operating Agreement for the GCU.

(h) Stanolind Oil and Gas Company, Earl A. Benson et ux., and Wm. V. Montin et ux. assigned all their interest in the Zimmerman Lease, from the surface to the base of the Pictured Cliffs formation, to Lloyd D. Locke and Lloyd B. Taylor by an Assignment dated January 23, 1953, recorded at Book 224, page 107 of the county records. The assignment states in paragraph 8 thereof:

> Assignors have heretofore, as owners of the aforesaid lease, executed that certain Unit Agreement for the Development and Operation of the Gallegos Canyon Area dated November 1, 1950, formed under the Act of Congress approved February 25, 1920, wherein Earl A. Benson and Wm. V. Montin are named Unit Operators, and Assignors have also executed that certain Unit Accounting Agreement under said Unit Agreement dated January 15, 1951. The land covered by said lease is within the boundaries of the unit area of said Unit Agreement, but is not yet within any participating area formed or designated thereunder. The lessors of said lease have refused to execute said Unit Agreement. Assignors make no representation or warranty as to whether the said lease acreage is or is not committed to or affected by said Unit Agreement or Unit Accounting Agreement by reason of the execution by Assignors of the instruments above referred to, or either of them, and Assignees accept this Assignment without prejudice to their right to contend that the lease acreage herein assigned is acquired free from the provisions of said Unit Agreement and Unit Accounting[2] Agreement, but in the event said lease acreage shall be found to be subject to the terms of said agreements, Assignees accept said lease acreage subject to all the terms and provisions of said agreements.

(i) Lloyd B. Taylor, Lloyd D. Locke, Stanolind Oil and Gas Company, Earl A. Benson, and William V. Montin entered into a Pooling Designation executed in 1953 and 1954, recorded at Book 270, page 23 of the county records, to form the N½ of

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[2]Apparently the parties meant "Unit Operating Agreement."

Section 23, above the base of the Pictured Cliffs formation, into a drilling unit.

(j) The Zimmerman Lease was amended in 1954 to include a pooling clause.

(k) Lloyd B. Taylor and wife Mildred B. Taylor deeded their interest in the Zimmerman Lease to Lloyd D. Locke and wife Louise Y. Locke by a Deed dated November 8, 1954, recorded at Book 265, page 80 of the county records.

(l) Lloyd D. Locke deeded his interest in the Zimmerman Lease to Louise Y. Locke by a Deed dated December 23, 1954, recorded at Book 265, page 81 of the county records.

(BHP Exhibits 2, 2A; Tr. 16-18, 30, 31, 37, 51, 52, 55, 56.)

8. The Bureau of Land Management permits unit drilling on a tract where only the working interest of a fee lease is committed to a unit. (Tr. 18, 19; BHP Exhibit 4.)

9. In June 1990 BHP prepared authorities for expenditures for the GCU Nos. 390 and 391 Wells. (BHP Exhibits 6, 7.)

10. The Amoco-BHP farmout required BHP to drill 15 wells in the GCU during 1990. Two of those wells were the GCU Nos. 390 and 391 Wells. (Tr. 24, 27, 28.)

11. BHP obtained well permits for the GCU Nos. 390 and 391 Wells in August 1990. The permits did not state that the interests of all owners had been consolidated by communitization or compulsory pooling. (Tr. 46; See Locke Exhibit A.)

12. BHP first learned that Louise Y. Locke owned the working interest in the NW¼ of Section 23 (surface to base of

Pictured Cliffs formation) in September 1990. The actions of the parties thereafter are as follows:

(a) After locating Louise Y. Locke, BHP's landman called her son, Don Locke, in October 1990, and subsequently offered in writing to purchase Louise Y. Locke's oil and gas interests in the NW¼ of Section 23. (Tr. 19-21; BHP Exhibit 5.)

(b) BHP's landman had several telephone conversations with Don Locke, and was subsequently informed that Louise Y. Locke was represented by an attorney. (Id.)

(c) In December 1990 BHP commenced the GCU No. 390 and GCU No. 391 Wells. (Tr. 42-43.)

(d) As of December 1990 BHP did not know that Louise Y. Locke owned the working interest in the NE¼ of Section 23. Based on the materials it had received from Amoco Production Company, BHP believed that Amoco owned the NE¼ of Section 23 and that the Zimmerman Lease was committed to the GCU. (Tr. 29, 43, 44, 62, 63.)

(e) BHP did not obtain Louise Y. Locke's consent or commitment to either well before commencing drilling.

(f) In February 1991 BHP received a letter from Louise Y. Locke's attorney making various demands, including that the GCU No. 391 Well be completed in the Fruitland coal formation and turned over to Louise Y. Locke. (Tr. 21; BHP Exhibit 5.)

(g) BHP suspended operations on the GCU Nos. 390 and 391 wells after it received the demand letter, and the wells have not been completed. (Tr. 50.)

(h) After receiving the demand letter, BHP verified Louise Y. Locke's ownership in the entire N½ of Section 23. (Tr. 21.)

(i) BHP subsequently made an offer to buy a portion of Louise Y. Locke's working interest in the N½ of Section 23. Its offer was $450/acre with a 7.5% overriding royalty, for the Fruitland coal rights only. The Fruitland sand and Pictured Cliff rights would remain in Louise Y. Locke. BHP did not offer Louise Y. Locke a farmout because she did not seem interested in one, and it is easier for BHP to administer a lease without reversionary interests. (Tr. 21-23; BHP Exhibit 5.)

(j) AFE's for the GCU Nos. 390 and 391 Wells were provided to Louise Y. Locke by letter dated May 29, 1991, which provided Ms. Locke the opportunity to join in the wells. (BHP Exhibit 5; Tr. 21.)

13. BHP, when it commenced drilling the subject wells, designated the W½ of Section 23 as the spacing unit for the GCU No. 390 Well, and the E½ of Section 23 as the spacing unit for the GCU No. 391 Well. BHP oriented the units for the GCU No. 390 and No. 391 Wells as standup units because it had oriented its other well units in the area as standup units. (Tr. 61, 62.)

14. BHP requested overhead rates of $3,300 while drilling and $350 for a producing well. (Tr. 25, 26.)

15. Louise Y. Locke has sued BHP for, among other things, trespass and conversion. (Tr. 5, 6.)

Engineering Testimony:

16. Louise Y. Locke is the operator of the Howard Tycksen Pooled Unit No. 1 Well ("the Tycksen Well"), which is located in the NE¼NE¼ of Section 23. The Tycksen Well was drilled in 1952 and originally tested the Pictured Cliffs formation, which was dry, and was then completed uphole in the West Kutz-Fruitland Pool. (Locke Exhibit 2; See the Division's well file on the Tycksen Well.)

17. In October 1988 the vertical limits of the West Kutz-Fruitland Pool were contracted to include only the sandstone interval of the Fruitland formation, and this pool has been re-named the West Kutz-Fruitland Sand Pool. Spacing for the West Kutz-Fruitland Sand Pool is 160 acres. (Tr. 89; See Order Nos. R-8769 and R-8768.)

18. The Tycksen Well is producing from the Fruitland sand and has been doing so since 1954. The Tycksen Well was producing 10-15 MCF/day. The Tycksen Well was not a commercial well for unit purposes and is not considered a GCU well. (Tr. 39-41, 81, 85, 86.)

19. The Tycksen Well produces from an open hole completion at approximately 925 feet subsurface. (Locke Exhibit 2.)

20. At the location of the Tycksen Well and the GCU No. 391 Well, the top of the Fruitland sand is 896 feet subsurface and the bottom is at 919 feet subsurface, and the top of the Fruitland coal is 1152 feet subsurface and the bottom is at 1182 feet subsurface. (Tr. 79; Locke Exhibit 2).

21. The Tycksen Well has a cement plug set from 1230 feet to approximately 1070 feet subsurface. (Tr. 79; Locke Exhibit 2.)

22. BHP proposes to complete the GCU Nos. 390 and 391 Wells in the Basin-Fruitland Coal Gas Pool at an approximate depth of 1150 feet subsurface. BHP proposes to complete the wells by perforating and fracture stimulating them. The perforations are to be confined to the Fruitland coal formation. (Tr. 73, 75; See Applications.)

23. The GCU No. 391 Well is located approximately 130 feet east of the Tycksen Well. (BHP Exhibit 1; Locke Exhibit 1; Tr. 82.)

24. The fracture orientation in the coal seams in this area of the GCU is southwest-northeast. (Tr. 99.)

25. Louise Y. Locke's engineer testified that fracturing the GCU No. 391 Well will damage the producing interval of the Tycksen Well, causing loss of production and reserves. The engineer testified that the cement plug in the Tycksen well cannot withstand the fracture stimulation of the GCU No. 391 Well. (Tr. 80-82.)

26. BHP's engineer testified that fractures in the Fruitland coal remain within that zone, and pose no hazard to the Tycksen Well. (Tr. 98-100.)

27. The GCU No. 390 and No. 391 Wells are being drilled in an area of the GCU which has the thickest coal seams. (Tr. 74.)

28. Initial production rates on Fruitland coal wells within the GCU vary significantly and cannot be related directly to coal thickness. Initial production rates on BHP's 17 Fruitland coal wells within the GCU vary from 10 MCF/day to 827 MCF/day. (Tr. 66, 67; BHP Exhibit 9.)

29. BHP's engineer recommended that the penalty for the non-consenting interest owner in the GCU Nos. 390 and 391 Wells be cost plus 156%, based on the risk in completing a commercial well, gas prices, and on the standard penalty used for Fruitland coal wells by the Division and the Commission. (Tr. 66-68, 70.)

30. Louise Y. Locke's engineer recommended that if the applications are granted no penalty should be assessed, or if a penalty is granted, it should be a maximum of 23% based on costs of completion only. (Tr. 78, 84.)

III. <u>CONTENTIONS OF THE PARTIES</u>.

A. <u>Louise Y. Locke</u>: Louise Y. Locke contends:

1. BHP owns no working interest in the NE¼NE¼ of Section 23, and therefore has no right to drill the GCU No. 391 Well thereon.

2. The NE¼NE¼ of Section 23 is not committed to the GCU, and therefore BHP as suboperator of the GCU has no right to drill the GCU No. 391 Well thereon.

As a result of the above contentions, and because of the pending lawsuit, the applications should be dismissed or stayed pending resolution of the lawsuit.

3. The unit for the GCU No. 391 Well should be the N½ of Section 23, and the Unit for the GCU No. 390 Well should be the S½ of Section 23.

4. The Commission should not allow BHP to complete the GCU No. 391 Well because fracture stimulation will damage the Tycksen Well.

5. If the Commission grants BHP's applications, a maximum penalty of costs plus 23% should be assessed against Louise Y. Locke in the drilling of the two wells because of (i) BHP's delay in seeking joinder of the Locke interests, and (ii) the lack of risk.

B. BHP: BHP contends:

1. The working interest of the Zimmerman Lease, the drillsite for the GCU No. 391 Well (the NE¼NE¼ of Section 23), is committed to the GCU. As GCU suboperator for the Fruitland coal formation, BHP has the right to drill a well thereon.

2. Even if the working interest of the Zimmerman Lease is not committed to the GCU, the Commission has the

authority and jurisdiction to authorize BHP to drill a well on the Zimmerman Lease.

3. The Commission can pool interests before or after a well is drilled.

4. BHP, as operator, could in its discretion, under Order No. R-8768, form standup units rather than laydown units.

5. The Commission has the authority to authorize standup units.

6. Because Louise Y. Locke never drilled a Fruitland coal well with a designated unit consisting of the N½ of Section 23, standup units are proper.

7. Louise Y. Locke's correlative rights will be protected because she will receive her proportionate share of production from the GCU No. 390 and GCU No. 391 Wells.

8. The Tycksen Well will not be damaged by the completion of the GCU No. 391 Well.

9. If the applications are granted, a penalty of costs plus 156% should be assessed against Louise Y. Locke if she goes non-consent under the orders.

James Bruce
Attorney for BHP
Petroleum (Americas)
Inc.

HINKLE, COX, EATON, COFFIELD & HENSLEY
ATTORNEYS AT LAW
500 MARQUETTE N.W., SUITE 800
ALBUQUERQUE, NEW MEXICO 87102-2121
(505) 768-1500
FAX (505) 768-1529

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY, JR.
MARSHALL G. MARTIN
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
JOHN J. KELLY
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD R. WILFONG*
THOMAS J. McBRIDE
STEVEN D. ARNOLD
JAMES J. WECHSLER
NANCY S. CUSACK
JEFFREY L. FORNACIARI
JEFFREY D. HEWETT
JAMES BRUCE
JERRY F. SHACKELFORD*
JEFFREY W. HELLBERG*
ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
GARY D. COMPTON*
MICHAEL A. GROSS

THOMAS D. HAINES, JR.
FRANKLIN H. McCALLUM*
GREGORY J. NIBERT
DAVID T. MARKETTE*
MARK C. DOW
KAREN M. RICHARDSON*
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*
PATRICIA A. MORRIS
MACDONNELL GORDON
REBECCA NICHOLS JOHNSON
WILLIAM P. JOHNSON

STANLEY K. KOTOVSKY, JR.
BETTY H. LITTLE*
RUTH S. MUSGRAVE
HOWARD R. THOMAS
ELLEN S. CASEY
S. BARRY PAISNER
MARGARET CARTER LUDEWIG
MARTIN MEYERS
GREGORY S. WHEELER
ANDREW J. CLOUTIER
JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULSETH, JR.
LISA K. SMITH*
JAMES K. SCHUSTER*

*NOT LICENSED IN NEW MEXICO

OF COUNSEL
O. M. CALHOUN*
MACK EASLEY
JOE W. WOOD
RICHARD S. MORRIS

CLARENCE E. HINKLE (1901-1985)
W. E. BONDURANT, JR. (1913-1973)
ROY C. SNODGRASS, JR. (1914-1987)

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

1700 TEAM BANK BUILDING
POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

218 MONTEZUMA
POST OFFICE BOX 2068
SANTA FE, NEW MEXICO 87504
(505) 982-4554
FAX (505) 982-8623

92 JAN 15 AM 8 55

January 14, 1992

VIA TELECOPY
Mr. William J. Lemay
Director
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504
Telecopy No. (505) 827-5741

Re: Case Nos. 10,345 and 10,346 (Applications of BHP Petroleum (Americas) Inc. for Compulsory Pooling, San Juan County, New Mexico)

Dear Mr. Lemay:

BHP Petroleum opposes the request of Louise Locke to continue the De Novo hearings in the above matters, scheduled for January 16, 1992. The reasons for opposing this request are as follows:

1. The hearings on this matter were continued once at the request of Louise Locke, without opposition from BHP. Another continuance will merely delay resolution of these matters.

2. Contrary to what Louise Locke asserts, the facts in this case are the same as they were at the time of the Examiner Hearing.

3. BHP is ready to present its witnesses in full. BHP's direct testimony is scheduled to take at most 40 minutes. In the prior hearing, Louise Locke's sole witness testified on direct and cross-examination for less than one-half hour. Thus, this is not an extremely long case.

4. The undersigned counsel for BHP Petroleum did suggest using a summary of the Examiner Hearing, only in the interests of saving time for the Commission. Since Louise Locke's counsel

does not agree to this procedure, BHP Petroleum is ready and willing to go forward and present all of its case again.

5. There is no contention by Louise Locke that she is unable to go forward on the 16th, but rather that she merely does not want to go forward on the 16th. That is an insufficient reason.

For the foregoing reasons, BHP Petroleum opposes the request for a continuance and asks that these cases go forward on the 16th.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY

By: James Bruce

JB:le

cc: William F. Carr (Via Telecopy)
Telecopy No. (505) 983-6043

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

218 MONTEZUMA

POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504-2068

(505) 982-4554

FAX (505) 982-8623

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

2800 CLAYDESTA CENTER
6 DESTA DRIVE
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

1700 TEAM BANK BUILDING
POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

500 MARQUETTE N.W., SUITE 800
POST OFFICE BOX 2043
ALBUQUERQUE, NEW MEXICO 87103
(505) 768-1500
FAX (505) 768-1529

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY, JR.
ROBERT P. TINNIN, JR.
MARSHALL G. MARTIN
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
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NICHOLAS J. NOEDING
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GREGORY S. WHEELER
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JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULSETH, JR.
MARGARET R. McNETT
BRIAN T. CARTWRIGHT*
LISA K. SMITH*
JAMES KENT SCHUSTER*
ROBERT H. BETHEA*
BRADLEY W. HOWARD
CHARLES A. SUTTON*
NORMAN D. EWART
DARREN T. GROCE*
MOLLY McINTOSH

*NOT LICENSED IN NEW MEXICO

CLARENCE E. HINKLE (1901-1985)
W. E. BONDURANT, JR. (1913-1973)
ROY C. SNODGRASS, JR. (1914-1987)

OF COUNSEL
O. M. CALHOUN*
MACK EASLEY
JOE W. WOOD
RICHARD S. MORRIS

WASHINGTON, D.C.
SPECIAL COUNSEL
ALAN J. STATMAN

March 23, 1992

HAND DELIVERED

Mr. William Lemay
Chairman
New Mexico Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

Mr. Gary Carlson
Member
Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

Re: **OCC Case Nos. 10,345 and 10,346 (De Novo Applications of BHP Petroleum (Americas) Inc. for Compulsory Pooling)**

Gentlemen:

Enclosed to each of you are copies of BHP's proposed orders in the above cases.

Also, because of the length of the hearing, BHP made only an abbreviated closing argument. BHP sets forth below what it sees as the primary issues in these cases. BHP does not set forth any legal citations supporting its case. However, in a letter addressed to Mr. Robert Stovall, dated March 6, 1992, BHP set forth legal authority for its position. If you desire a copy of that letter, please contact us and we will immediately provide you with a copy.

CLOSING ARGUMENT

1. The Zimmerman Lease (GCU Tract 102) Is Committed to the Unit.

Despite Louise Locke's assertions, Tract 102, the drillsite for the GCU No. 391 Well, is committed to the Gallegos Canyon Unit. There is no doubt as to this issue because the BLM has held in two recent letters that Tract 102 is committed to the GCU, and that unit drilling is allowed on that tract. (BHP Exhibit 4A and Locke Exhibit Q.)

This is further evidenced by the following facts:

(a) In March 1951 Stanolind Oil and Gas Company owned 100% of the working interest of the Zimmerman Lease. (BHP Exhibit 2.)

(b) In March 1951 Stanolind signed the unit agreement for the GCU and thus committed the working interest of Tract 102 to the unit. Stanolind had the authority to do so regardless of the absence or presence of a pooling clause in the Zimmerman Lease. (See March 6, 1992 letter to Mr. Stovall.)

(c) In July 1951 the Director of the USGS approved the GCU. The unit had previously been approved by the Oil Conservation Commission and the Commissioner of Public Lands. (BHP Exhibit 3.)

(d) Article 24 of the unit agreement provides that, where only the working interest of a tract has been committed to the unit, the tract may be withdrawn from the unit by written notice prior to approval of the unit by the Director of the USGS. This was never done.

(e) In November 1952, Benson & Montin requested information on how to withdraw Tract 102 from the GCU. This was after approval of the GCU by the USGS, and thus was ineffective to withdraw the tract from the unit. In addition, no further action was ever taken by any party to withdraw the tract from the unit.

(f) Tract descriptions of the GCU in 1954 and 1960 show that Tract 102 remained committed to the unit. (BHP Exhibits 4B and 4C.) In addition, Stanolind (later Pan American Petroleum Corporation) always treated Tract 102 as committed to the unit. (See BHP Exhibit 4D, the 1962 Declaration of Unitization by Pan American, which states Tracts 102 and 104 (the Dustin Lease in the NW¼NE¼ of Section 23) are committed to the GCU.)

As a result, Tract 102 is committed to the GCU,[1] and BHP as suboperator had the right to drill a well on the Zimmerman Lease.

2. BHP Negotiated in Good Faith.

BHP offered $450/acre and a 7.5% overriding royalty to purchase Louise Locke's Fruitland Coal interests in the N½ of Section 23, which was its highest offer in the GCU. (BHP purchased the working interest in the N½SW¼ of Section 23, from the surface to the base of the Pictured Cliffs formation, for $350/acre and a 2% override.) The purchase offer made to Louise Locke was worth about $200,000, which is the value placed on her interest by her own engineer. This is clearly a good faith effort to get Louise Locke's interest committed to the wells, as required by statute.[2] Apparently Louise Locke has never received a better offer.

3. GCU No. 391 Well.

As noted above, BHP had the right to drill this well on GCU Tract 102, and it made a good faith effort to get Louise Locke's interest joined in the well. Furthermore, an E½ standup unit was proper. The pool rules allow standup units, at the operator's discretion. BHP formed a standup unit because all of its surrounding Fruitland Coal wells were standups. (See Locke Exhibit I.) Finally, 308 acres out of the 320 acres in the E½ of Section 23 are committed to the GCU. Thus BHP requests the Commission to approve the E½ unit.

4. GCU No. 390 Well.

This well was drilled on a lease farmed out to BHP by Amoco. Also, the lease is committed to the GCU. Thus there is no dispute as to BHP's right to drill this well, and to form a W½ standup unit.

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[1] Mr. Tully at hearing insisted Article 24 of the unit agreement does not provide for joinder to the unit solely by a working interest owner. That is incorrect. The fourth sentence of Article 24 provides:

> After final approval hereof, joinder to this agreement by a non-working interest owner must be consented to in writing by the working interest owner committed hereto...

(Emphasis added.) This language makes it clear that a working interest owner of a tract could commit the working interest alone to the unit.

[2] Mr. Tully complained that BHP never offered farmout terms. However, during eight months of negotiations Louise Locke never asked for farmout terms. In fact, Mrs. Locke's only demand was for BHP to complete the GCU No. 391 Well at its own expense. (BHP Exhibit 5, Tully-BHP letter dated February 22, 1991.)

As to both wells, Mrs. Locke is entitled by statute to her proportionate share of production. Thus her correlative rights are protected.

5. The Locke Pooling Designation Does Not Affect These Cases.

Mr. Tully argued that the Pooling Designation prevents BHP from drilling the two wells. That is incorrect. First, Louise Locke never drilled a Fruitland Coal well, and had no intent to do so.[3] Furthermore, even if it had any effect, a compulsory pooling order supersedes the Pooling Designation. (See March 6, 1992 letter to Mr. Stovall.)

6. No Damage Will Occur to the Tycksen Well.

BHP's engineer testified that the Tycksen Well will not be damaged by recompleting the No. 391 Well, for the following reasons:

(a) Fractures don't grow out of the coal.

(b) Due to the fracture orientation in this area, fractures will not intersect the Tycksen Well.

(c) Even if a fracture intersected the Tycksen Well, the fracture will take the path of least resistance, which is the coal, and not the cement plug in the Tycksen Well.

(d) Even if a fracture intersected the Tycksen Well, fluid will not migrate through the existing cement plug.

(e) The proposed fracture fluid is used by BHP on its Fruitland Sand wells and is not harmful to a Fruitland Sand well.

Any other assertion is pure speculation. In fact, Louise Locke's engineer testified that the wellbore of the Tycksen Well is a sound wellbore which could be recompleted to a deeper formation.[4] Thus harm is extremely unlikely.

---

[3] It is uncertain why the Pooling Designation covers 320 acres, even though the Fruitland Sand formation, in which the Tycksen Well is completed, is and always has been spaced on 160 acres. However, the Tycksen Well was initially drilled to the Pictured Cliffs formation. At that time, the Pictured Cliffs formation was spaced on 320 acres. See Commission Order No. R-172 (rescinded by Order No. R-172-B). Apparently the unit designation was never corrected when the well was completed uphole. (See Testimony of Ewell Walsh on July 25, 1991, at page 89 of the transcript.)

[4] We also note that Louise Locke's attorney previously demanded that BHP complete the No. 391 Well.

Based on the foregoing, BHP requests that the compulsory pooling applications be approved and that BHP be designated as operator of both wells.

Jon Bowden
BHP PETROLEUM (AMERICAS) INC.
5847 San Felipe, Ste 3600
Houston, Texas 77057

HINKLE, COX, EATON, COFFIELD & HENSLEY

By: James Bruce
Attorneys for Applicant

cc: w/encs: Richard T. C. Tully
William F. Carr

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY

PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT

JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

March 23, 1992

HAND-DELIVERED

William J. LeMay, Chairman
Oil Conservation Commission
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87503

Mr. Gary Carlson
Oil Conservation Commission
c/o State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87503

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

Gentlemen:

Pursuant to your request at the March 13, 1992 hearing on the above referenced matters, enclosed are the proposed orders of Louise Y. Locke d/b/a Locke-Taylor Drilling Company. As you will note, we have enclosed three alternative orders in Case 10346. One proposed order dismisses BHP's application pending a judicial determination of the ownership of the operating rights in the N/2 of Section 23. Another proposed order dismisses this application because of the potential damage that could result to offsetting property owners from BHP's proposal. A third proposed order grants BHP's application with a risk penalty of no more than 10%.

Also enclosed is Mr. Tully's written closing argument and a letter requesting a ruling on Locke's pending motion for a continuance.

Very truly yours,

William F. Carr
Attorney for Louise Y. Locke d/b/a
Locke-Taylor Drilling Company

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

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY

PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT

JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLACE
SUITE I - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

March 23, 1992

HAND-DELIVERED

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

Re: Oil Conservation Division Case No. 10346 (**De Novo**)
Application of BHP (Americas) Inc. for Compulsory Pooling, San Juan County, New Mexico

Dear Mr. LeMay:

At the conclusion of the March 12, 1992 Commission hearing in the above-referenced cases, Rick Tully on behalf of Louise Y. Locke, renewed our motion for a continuation of each of these cases until the United States District Court for the District of New Mexico can determine the ownership of the operating rights in the N/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico. Without ruling on this motion the Commission concluded the hearing but left the record open in this case for ten (10) days. The purpose of this letter is to request a ruling on this motion.

As you are aware, the Oil Conservation Commission was created by the Oil and Gas Act and its powers are expressly defined and limited by statute. See, ***Continental Oil v. Oil Conservation Commission, 70 N.M. 310, 373 P.2d 809 (1962)***. The enumeration of powers section of the act specifically authorizes the Commission "to identify the ownership of oil or gas producing ... properties ...". See N.M.Stat.Ann. § 70-2-12 B (8) (1978 Comp.). It does not, however, authorize the Commission to determine the ownership of these properties and this power rests exclusively within the jurisdiction of the Courts.

If the Commission enters orders pooling the interest of Mrs. Locke, it must first decide who owns the operating rights and therefore has the right to drill in the N/2 of Section 23. This determination of whether or not BHP has operating rights in this acreage and therefore "the right to drill" is a statutory precondition to a pooling order. See, N.M.Stat.Ann. § 70-2-17, (1978 Comp.). The case before the Commission involves a bona fide dispute on the status of these operating rights. Although the U.S. District Court in a trespass action filed by Mrs. Locke will determine who owns these rights, BHP asks the Commission to make this determination in this pooling case.

Louise Locke has requested that these cases be continued. If the Commission makes this review, and pools these lands it will have addressed and decided the ownership question in the N/2 of this section, something which it is not empowered to do. Furthermore, it will have based its decision on documents which even Don Reinhardt, BHP's land witness, was unwilling to rely on in trying to unravel the ownership of this particular tract.

Your decision will not put this issue at rest. The question will be resolved by the District Court in the trespass action and should your decision be inconsistent with that of the court, the parties will return to you for an additional hearings and corrective orders.

Fifteen months have passed since the subject wells were drilled. BHP has not expressed any desire to complete the wells in the immediate future and, in view of the fact that only five months remain until this issue will be resolved by the Court, we submit it is in the interest of all parties, as well as the Commission, to grant the motion of Louise Locke and continue this case. In the alternative, the Commission may keep the case under advisement for the next five months. Only when the District Court rules will you know if the Commission can pool the lands, or whether the pooling action must fail because BHP has no right to drill a well in the NE/4 of Section 23.

We request that the Commission rule on Mrs. Locke's motion and grant a continuance of this hearing until the ownership of the N/2 of Section 23, Township 29 North, Range 13 West is determined in a proper form.

Respectfully submitted,

WILLIAM F. CARR

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

RICHARD T.C. TULLY, P.A.
ATTORNEY AT LAW
111 NORTH ORCHARD AVENUE
POST OFFICE BOX 268
FARMINGTON, NEW MEXICO 87499-0268

RICHARD T.C. TULLY
MICHAEL CUNNINGHAM

505-327-3388

March 23, 1992

William J. LeMay, Chairman
New Mexico Oil Conservation Commission
P. O. Box 2088
Santa Fe, NM 87504-2088

Re: Applications of BHP Petroleum (Americas) Inc.
Case Nos. 10345 and 10346

Dear Chairman LeMay:

Please recall Louise Y. Locke d/b/a Locke-Taylor Drilling Company elected to submit her closing argument at the conclusion of the March 12, 1992 hearing by submission of a written statement.

This letter shall serve as the closing argument of Mrs. Locke. Concurrently herewith our co-counsel, William F. Carr, Esq., is also submitting a written statement requesting a ruling of Mrs. Locke's motion for continuation of the above-captioned cases.

I.

It is the position of Louise Y. Locke that BHP Petroleum (Americas) Inc. did not have the right to drill on the Zimmerman Oil and Gas Lease, identified as Tract #102 of the Gallegos Canyon Unit ("GCU").

First, under the express provisions of the GCU Agreement (BHP Exhibit 3), the failure of the royalty interest owners to commit their interests to the GCU did not effectively commit Tract #102 to the GCU. The attempt by BHP to use guidelines adopted by the Bureau of Land Management at a later date to say Tract #102 is "partially committed" is contrary to the express provisions of the GCU Agreement.

Second, the GCU Unit Operator and the working interest owners of Tract #102 requested withdrawal of Tract #102 from the GCU, and the U. S. Geological Survey recognized such withdrawal by its Memorandum dated November 24, 1952. See Locke Exhibits A and B.

Third, assuming but not acknowledging Tract #102 was not withdrawn, the actions and conduct of the U. S. Geological Survey and the GCU Operator in not making a determination as to the commerciality of the Tycksen #1 Well; not including the Tycksen #1 Well in the Pictured Cliffs nor the Fruitland Participating Areas; not renaming the Tycksen #1 Well as a GCU well; and not taking over the operations of the Tycksen #1 Well shows the N/2 of Section 23 was not committed to the GCU. There is no doubt the Tycksen #1 Well is a commercial well located within the GCU boundaries, and it is reasonable to assume this well and these lands were and are not committed to the GCU.

Fourth, the execution by the GCU Unit Operator and the working interest owners of the Assignment to Locke-Taylor (BHP Exhibit #2); the Pooling Designation (Locke Exhibit C); and the Amendment to the Zimmerman Oil and Gas Lease adding a pooling clause (Locke Exhibit D) were subsequent modifications to the GCU showing the lack of commitment of the N/2 of Section 23 from the surface to the base of the Pictured Cliffs Formation.

These instruments show conclusively that: (a) Locke-Taylor could and did contend this well and lands were not committed to the GCU; (b) the Unit Operator and the working interest owners recognized and acknowledged the working interest of Locke-Taylor from the surface to the base of the Pictured Cliffs Formation; (c) Locke-Taylor at its option could pool or unitize any or all of its lands or formations; and (d) at no time did Locke-Taylor commit its interests or the interests of the royalty interest owners to the GCU.

All of the above issues require a determination of legal issues. These issues are presently before the United States District Court of New Mexico, and they should be resolved in this court proceeding.

The New Mexico Oil Conservation Division under NMSA 70-2-12(B)(8) is authorized to "identify" the ownership of oil and gas producing leases, properties, and wells. The evidence presented at the March 12 hearing shows there is a genuine legal issue of whether the Zimmerman Oil and Gas Lease (Tract #102) is committed to the GCU. It is respectfully submitted that the New Mexico Oil Conservation Commission can now identify there is a question as to the commitment of Tract #102 to the GCU, and allow this issue to be resolved by the federal district court in only a few months.

Please note under this statute the NMOCC is authorized to "identify" the ownership of leases, properties, and wells. It is not authorized to "determine" this ownership. The legal determination of whether the commitment of Tract #102 to the GCU should be made in the court proceeding.

II.

It was obvious during the testimony of Don Reinhardt at the hearing that BHP did not attempt to negotiate with Mrs. Locke in good faith.

BHP knew Mrs. Locke owned at least the NW/4 of Section 23 in August and September, 1990, but it only attempted to purchase her interests in late October, 1990. See Locke Exhibit 5. BHP never presented AFE's to Mrs. Locke to join in the drilling of the wells until May 29, 1991. BHP Exhibit 5. Less than two weeks later BHP filed the subject force pooling applications on June 13, 1991.

BHP assumed whatever risk there was in drilling these wells because it provided copies of instruments showing Mrs. Locke's ownership in the N/2 of Section 23 to Mrs. Locke's son and her attorney on December 11, 1990. Locke Exhibits M-1 and M-2. Notwithstanding this knowledge, BHP spudded both the GCU #391 Well and the GCU #390 Well within one week of December 11, 1990 without divulging to Mrs. Locke the immediate commitment of the drilling of these wells.

Further, BHP did not and has not offered any farmout agreement terms at any time during this proceeding.

If the NMOCC issues force pooling orders under these facts and circumstances, it will be approving of BHP's unilateral, arbitrary, and illegal actions.

III.

There is a dispute between the expert petroleum engineering witnesses of BHP and Mrs. Locke on whether the stimulation or fracing of the GCU #391 Well will damage the Tycksen #1 Well. The expert witness for BHP testified that the fracing of the GCU #391 Well will not intersect the wellbore of the Tycksen #1 Well. Two expert witnesses for Mrs. Locke have testified that the fracing of the GCU #391 will probably intersect the wellbore of the Tycksen #1 Well, and damage the Fruitland Sand interval.

One of Mrs. Locke's expert witnesses (Dave Simmons) also testified there is a good possibility the fracture treatment of the GCU #391 will pollute or contaminate the fresh ground water zones around the Tycksen #1 Well due to Mr. Simmon's personal knowledge of the ground water in the immediate area of the Tycksen #1 Well.

At the March 12 hearing, BHP's expert petroleum engineer witness and Mrs. Locke's petroleum engineer both agreed that the damage to the Tycksen #1 Well will only become known when the GCU #391 Well is fraced. It is obvious this difference of opinion is a factual determination that should be resolved by the federal district court and jury by judging the credibility of the witnesses and the evidence offered.

IV.

BHP assumed any and all of the risk for the drilling these wells when it had knowledge of the title claim of Mrs. Locke, and the location and existence of the Tycksen #1 Well prior to drilling. Even with this knowledge BHP proceeded to drill these wells, and it should not now be heard to request a risk penalty to be assessed against Mrs. Locke. The risk factors cited by BHP to support its claims for a risk penalty are not relevant nor applicable. In particular, the request for a risk factor due to the "marketing" is ludicrous.

BHP drilled these wells without checking title; it was not forced to drill these wells to secure the coal tax credit because there was a question whether BHP qualified for the tax credit; it was not obligated to drill these wells under the Amoco farmout because it has secured relief or could secure relief from these drilling obligations from Amoco Production Company. There was no compelling reason for BHP to proceed with drilling these wells without clearing title, and addressing the probable damage to the Tycksen #1 Well.

In Conclusion, BHP's request to force pool Mrs. Locke's interests in the N/2 of Section 23 after these two wells have been drilled should be denied. To do otherwise would result in the NMOCC condoning these actions of BHP, and possibly estop Mrs. Locke from proceeding with her legitimate and valid claims in the federal district court.

Respectfully submitted,

Richard T. C. Tully

RTCT:sak

S175/52532L

cc: Louise Y. Locke
c/o Don Locke
113 W. 3rd
Rifle, CO 81650

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan, P.A.
P. O. Box 2208
Santa Fe, NM 87504

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

ALTERNATIVE NO. 1: DISMISSAL PENDING JUDICIAL DETERMINATION OF OWNERSHIP OF OPERATING RIGHTS.

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. 10346 (De Novo)
Order No. R-9584-A

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 COMMISSION

BY THE DIVISION:

This cause came on for hearing at 9:00 a.m. on March 12, 1992, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this _____ day of March, 1992, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearings, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission 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 and recommended that the application be denied because BHP has no right to drill the Gallegos Canyon Unit Well No. 391 in the NE/4 of Section 23, and the Commission therefore lacks jurisdiction to pool this acreage.

(5) The following evidence established that BHP had no operating rights in the NE/4 of Section 23, Township 29 North, Range 13 West:

(a) The Locke acreage was never committed to the BHP operated Gallegos Canyon Unit for the royalty interest owners in this lease failed to join in the attempted commitment as required by the Unit Agreement (See, BHP Exhibit No. 3);

(b) If there had been an effective commitment of the Locke acreage to the unit, it was withdrawn at the request of the operator and the working interest owners as recognized by the BLM in its memorandum dated November 24, 1952 (See, Locke Exhibits A and B); and

(c) All actions of the parties prior to the drilling of the Gallegos Canyon Unit Well 391 in December, 1991 confirmed their understanding that this acreage was not committed to the unit.

(6) Whether or not the Locke interest was committed to the Gallegos Canyon Unit will determine if BHP had a right to drill the Gallegos Canyon Unit Well No. 391 or was merely a trespasser in the NE/4 of Section 23. It also will determine whether or not, under the Oil and Gas Act, BHP's application falls within the Commission's jurisdiction.

(7) This ownership question will be decided by the United States District Court in a trespass action currently pending before that court.

(8) Since any Commission decision on the application of BHP requires the Commission to effectively determine the ownership of the operating rights in the NW/4 of Section 29, and since determination of property interests is a matter exclusively within the jurisdiction of the courts, the application of BHP is premature and should be denied without prejudice to the right of either party to file a compulsory pooling application once the ownership of the operating rights in the N/2 of Section 29 is determined in a proper form.

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**.

(2) That after the ownership of the operating rights in the N/2 of said Section 23 are determined in a proper form, any party owning the operating rights in the acreage may bring a new application seeking the pooling of the mineral interests under these lands.

(3) 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

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

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

Case No. 10345 (De Novo)
Order No. R-9581-A

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 COMMISSION

BY THE DIVISION:

This cause came on for hearing at 9:00 a.m. on March 12, 1992, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico hereinafter referred to as the "Commission."

NOW, on this _____ day of March, 1992, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearings, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission 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 W/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. 390 located at a previously approved unorthodox coal gas well location, 245 feet from the South line and 1530 feet from the West line (Unit N) of said Section 23.

(4) Louise Y. Locke d/b/a Locke-Taylor Drilling Company ("Locke"), the owner of the working interest under the NW/4 of said Section 23 has not agreed to pool her interest and appeared in opposition to the application.

(5) By letter dated October 31, 1990 BHP offered to purchase Locke's interest in the NW/4 of Section 23. The evidence established that this was a the only effort by BHP to obtain Locke's voluntary joinder in the Gallegos Canyon Well No. 390 prior to drilling the well and Locke was not provided with an AFE for this well until May 29, 1991.

(6) BHP drilled the Gallegos Canyon Unit Well No. 390 in December, 1990.

(7) In June 1991, more than six months after the drilling of the Gallegos Canyon Unit Well No. 390, BHP filed an application with the Division seeking an Order pooling the Locke interest in the NW/4 of Section 23, and asked the Division to impose a 150% penalty on Locke for the risk associated with the drilling of this well (testimony of Torbett).

(8) The evidence established that the Gallegos Canyon Unit Well No. 390 is drilled in one of the thickest portions of the Basin-Fruitland Coal Gas Pool in the Gallegos Canyon Unit. (See BHP Exhibit No. 9; testimony of Torbett at July 25, 1992 Examiner hearing).

(9) Although it drilled a number of Fruitland Coal Wells in this unit in 1990, (testimony of Reinhardt) BHP has delayed completion of this well because it failed to obtain joinder of the interest owners in the acreage dedicated to the well prior to drilling (testimony of Torbett at July 25, 1992 Examiner hearing).

(10) By drilling the Gallegos Canyon Unit Well No. 390 without having first obtained voluntary joinder of the owners of interest in the acreage to be dedicated to the well, or by first seeking a compulsory pooling order, BHP has assumed the risk of drilling the well and no risk penalty should be imposed on Locke's interest in the W/2 of Section 23.

(11) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense her just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(13) Locke should be afforded the opportunity to pay her share of estimated well costs to the operator in lieu of paying her share of reasonable well costs out of production.

(14) The fact that BHP had sufficient opportunity to seek and obtain a forced pooling order and establish a risk penalty prior to drilling the subject well, and the fact that BHP drilled the well on one of the thickest portions of the Basin-Fruitland Coal Gas Pool, within the Gallegos Canyon Unit, and the fact that BHP had enough confidence in the probability of drilling a successful well that it carried Locke's interest at the time the well was drilled indicates that the requested risk penalty of 150% is not appropriate in this case and that no risk penalty should be assessed against the interest of Louise Y. Locke d/b/a Locke-Taylor Drilling Company in the W/2 of Section 23.

(15) If Locke does not pay her share of estimated well costs, she should have withheld from production her share of the reasonable wells costs.

[ALTERNATIVE TO PARAGRAPHS 14 and 15]

(14) In support of a 150% risk penalty BHP presented a "Risk Penalty Analysis" which allocated risk to various aspects of completing this well (BHP Exhibit 11).

(15) The "Geological Risk" and "Reservoir Risk" set forth on BHP's Risk Penalty Analysis should not be allowed for BHP obtained information on the geology and reservoir characteristics of the Fruitland Coal in this area from pilot project wells in the immediate vicinity of the Gallegos Canyon Unit Well No. 390. Because BHP had the data on the geology and the reservoir, it unilaterally elected not to obtain additional information on the formation while drilling this well by running micro logs on the formation or testing drilling samples or side-wall cores (Testimony of Torbett).

(16) The "Economic Risk" set forth on BHP's Risk Penalty Analysis should not be allowed for it is based on marketing, pricing and demand considerations which are not proper risk items for the Commission to consider since they are not risk items incurred "in the drilling" of this well. (See N.M.Stat.Ann. § 70-2-17 C, (1978 Comp.)). Furthermore, these risk items should not be allowed for they are matters which are partially within the control of BHP (Testimony of Torbett).

(17) The 10% "Operations Risk" set forth on BHP's Risk Penalty Analysis for "Completion Operations - Mechanical", should be allowed as a reasonable charge for the risk assumed in completing this well. If Mrs. Locke does not voluntarily join by paying her proportionate share of this well's estimated drilling and completion costs, she should have withheld from production her share of reasonable well costs plus a 10% charge for risk.

(16) Locke 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.

(17) Following determination of reasonable well costs, if Locke has paid her share of estimated costs, she 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.

(18) $_____ per month while producing should be fixed as the reasonable charge for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to Locke's 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 Locke's working interest.

(19) Should BHP and Locke reach voluntary agreement for the development of this tract subsequent to entry of this order, this order shall thereafter be of no further effect.

(20) The operator of the well and unit shall notify the Director of the Division, in writing, of any subsequent voluntary agreement of BHP and Locke for the development of the W/2 of Section 23.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interest, whatever they may be, in the Basin-Fruitland Coal Gas Pool, underlying the W/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, are hereby pooled forming a standard 320-acre gas spacing and proration unit for said pool to be dedicated to the applicant's Gallegos Canyon Unit Well No. 390 located at a previously approved unorthodox coal gas well location 245 feet from the South line and 1530 feet from the West line (Unit N) of said Section 23.

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

(3) Within thirty (30) days of the effective date of this order, the operator shall furnish the Division and Locke an itemized schedule of well costs.

(4) Within thirty (30) days from the date the schedule of well costs is furnished to Locke, she shall have the right to pay her share of well costs to the operator in lieu of paying her share of reasonable well costs out of production, and only remain liable for future operating costs.

(5) The operator shall furnish Locke an itemized schedule of actual costs within ninety (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 forty-five (45) days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said forty-five (45) day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within sixty (60) days following determination of reasonable well costs, if Locke has paid her share of estimated well costs in advance as provided above, she shall pay to the operator her pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator her pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold from production the pro rata share of reasonable well costs attributable to Locke's working interest if she has not paid her share of estimated well costs within thirty (30) days from the date the schedule of well costs is furnished to her.

[ALTERNATIVE TO PARAGRAPH 7]

(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, 10 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) $_____ per month while producing is hereby fixed as the reasonable charge for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to Locke's 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 Locke's working interest.

(10) 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.

(11) All proceeds from production from the subject well which are not disbursed for any reason shall immediately 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 thirty (30) days from the date of first deposit with said escrow agent.

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

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

(14) Jurisdiction is hereby 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, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY

ANNIE-LAURIE COOGAN
PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT

JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

October 9, 1991

RECEIVED
OCT 10 1991
OIL CONSERVATION DIVISION

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals & Natural Resources
State Land Office Building
Santa Fe, New Mexico 87501

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

Dear Mr. LeMay:

By Order No. R-9581 entered by the Division on September 11, 1991, the Oil Conservation Division granted the application of BHP in Case 10345 compulsory pooling the W/2 of Section 23, Township 29N, Range 13W, San Juan County, New Mexico. In companion Case No. 10346, the Division entered Order No. R-9584 on September 23, 1991, granting the application of BHP compulsory pooling the E/2 of said Section 23.

I appeared for Louise Y. Locke d/b/a Locke-Taylor Drilling Company ("Locke") in opposition to the BHP applications.

Each of the above-referenced Division Orders provide that Locke shall have thirty days from receipt of an AFE from BHP to pay her share of estimated well costs for each well in which she desires to participate. Failing to pay, Locke is subject to a 101% risk penalty set by the Division Orders.

On September 30, 1991, BHP supplied AFE's to Locke showing that her share of estimated well costs for the two wells involved in these cases would be $129,687.50.

The purpose of this letter is to request clarification from the Division as to the funds Mrs. Locke is required to pay by these Orders to avoid a risk penalty. The reason for the current confusion is that, although each well was drilled in December, 1990, the AFE's

supplied by BHP are dated May 14, 1990, seven months before the wells were drilled.

It seems only reasonable to us that Locke should not be required to pay her share based upon a seventeen-month old AFE prepared months before the wells were drilled. Instead, we believe the actual costs incurred in these wells should be utilized where those numbers are known and estimates of costs utilized only for activities not yet performed.

Accordingly, we request that the Division advise us of the appropriate basis to be used in determining what costs Locke should pay to avoid the risk penalty imposed by these OCD Orders.

Very truly yours,

William F. Carr

WFC:bh

cc: Richard T. Tully, Esq.

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

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

Case No. 10,345
Order No. R-9581-A

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

RECEIVED

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OIL CONSERVATION DIVISION

BHP'S PROPOSED
ORDER OF THE COMMISSION

BY THE DIVISION:

This cause came on for hearing at 9:00 a.m. on March 12, 1992, at Santa Fe, New Mexico, before the Commission.

NOW, on this _____ day of _____, 1992, the Commission, having considered the testimony, the record, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission 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 W½ 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 as to the Basin-Fruitland Coal Gas Pool underlying the N½ of Section 23.

(5) Louise Y. Locke objected to this application, claiming that Section 23 should be developed on a laydown unit basis, and that if the application is granted the maximum risk penalty should be 23%.

(6) The applicant owns the oil and gas leasehold rights as to the Basin-Fruitland Coal Gas Pool underlying the SW¼ of Section 23.

(7) All of Section 23 is within the Basin-Fruitland Coal Gas Pool which is governed by special rules and regulations as promulgated by Division Order No. R-8768, as amended. Said rules provide for 320 acre spacing and restricted well locations to either the NE¼ or SW¼ of a section.

(8) The applicant commenced the drilling of the Gallegos Canyon Unit Well No. 390, located in the SE¼SW¼ of Section 23, on December 19, 1990, and drilled said well to a depth sufficient to test the Basin-Fruitland Coal Gas Pool.

(9) The applicant has the right to drill a well at an approved non-standard gas well location in the SE¼SW¼ of Section 23 (Division Administrative Order NSL-2896).

(10) The applicant oriented the spacing and proration unit for said well as a W½ standup unit because its other Fruitland Coal wells in the area were designated as standup units.

(11) Due to a dispute with Louise Y. Locke over a well in the NE¼ of Section 23, the applicant ceased all operations on the No. 390 Well, and said well has not yet been completed.

(12) The S½SW¼ of Section 23 is committed to the Gallegos Canyon Unit ("the GCU"), and the applicant is the suboperator of the GCU as to formations from the surface to the base of the Pictured Cliffs formation, which includes the Fruitland Coal interval. Thus, the applicant as GCU suboperator has the right to drill and operate the No. 390 well in the Basin-Fruitland Coal Gas Pool. Furthermore, the applicant has the right to orient the spacing and proration unit as a W½ standup unit, as permitted by Order No. R-8768, as amended.

(13) 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. 390 well.

(14) 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.

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

(16) 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.

(17) 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 150 percent thereof as a reasonable charge for the risk involved in the drilling and completing of the well.

(18) 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.

(19) 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.

(20) $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.

(21) 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.

(22) 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 _____, 1992, the order pooling said unit should become null and void and of no further effect whatsoever.

(23) 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.

(24) The operator of the well and unit should notify the Director of the Division in writing of the subsequent volun-

tary 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 W½ 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 _____, 1992, 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 _____, 1992, 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, 150 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) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

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