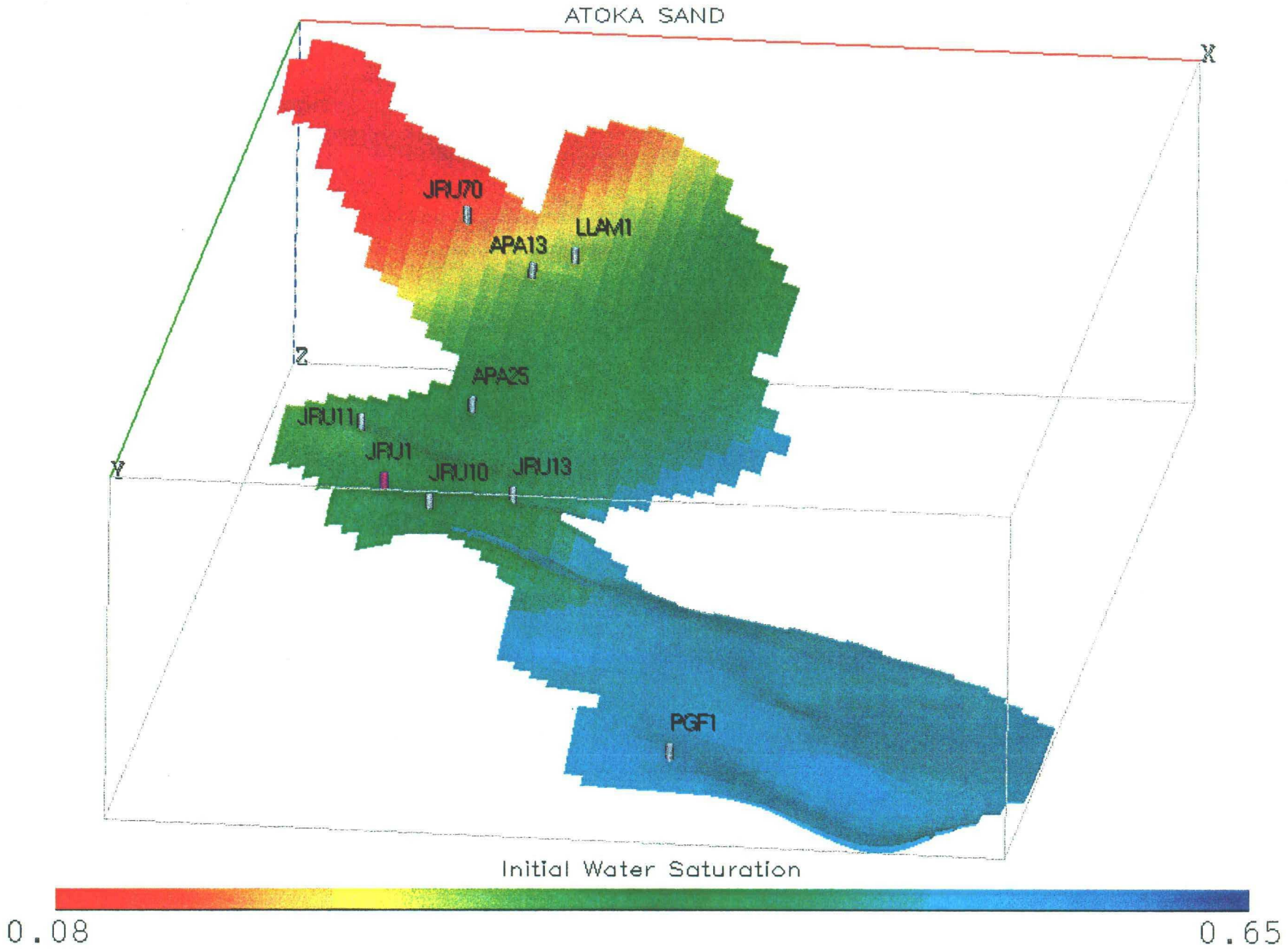
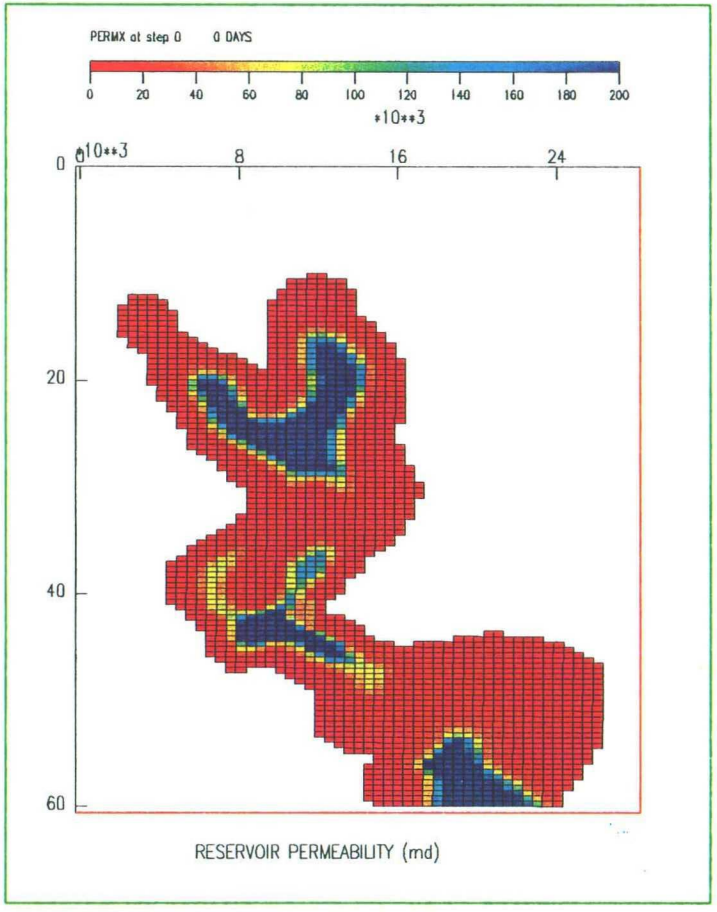
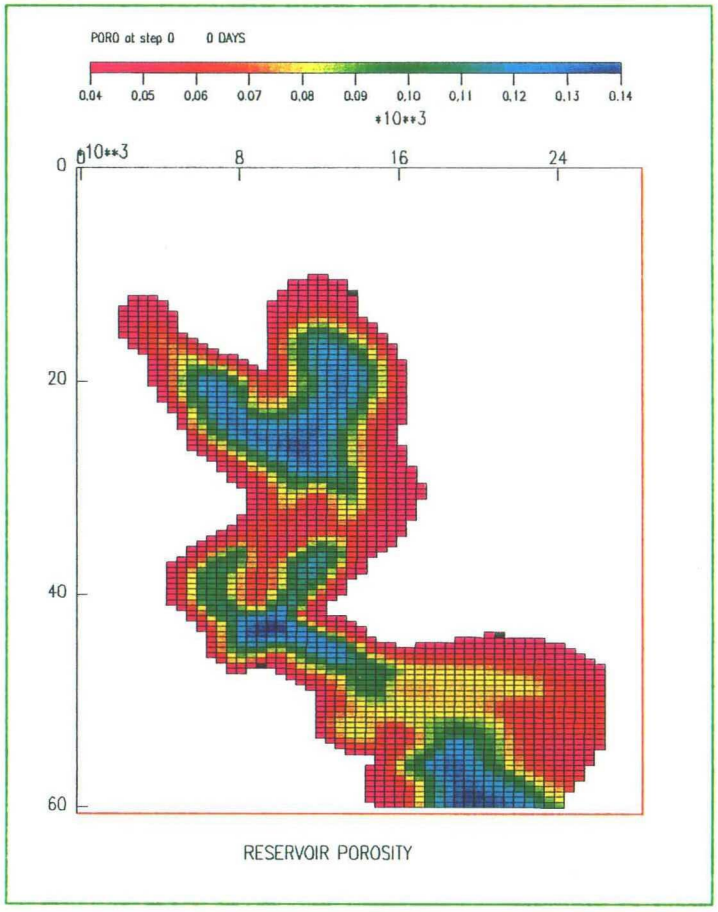
JAMES RANCH UNIT

Figure 1





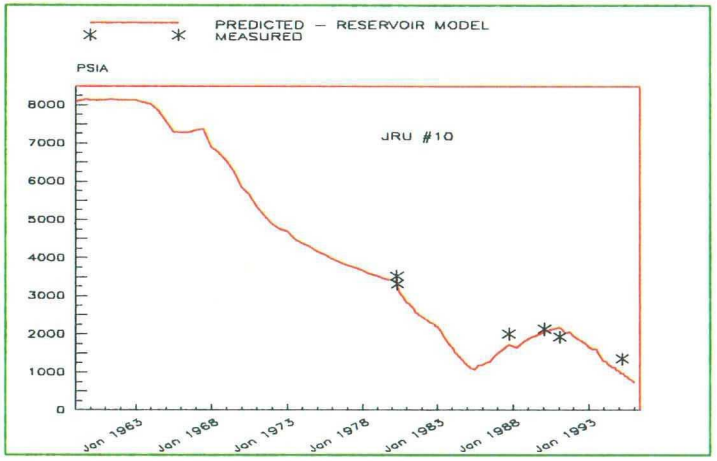
RESERVOIR PERMEABILITY (md)

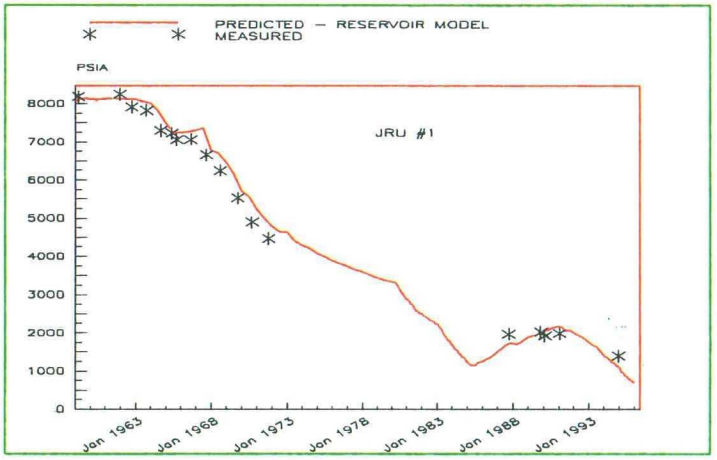


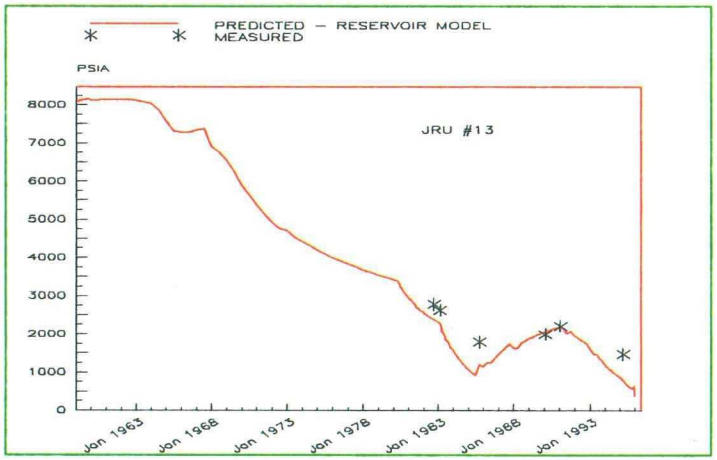
RESERVOIR POROSITY

JAMES RANCH UNIT — ATOKA SAND

Figure 3

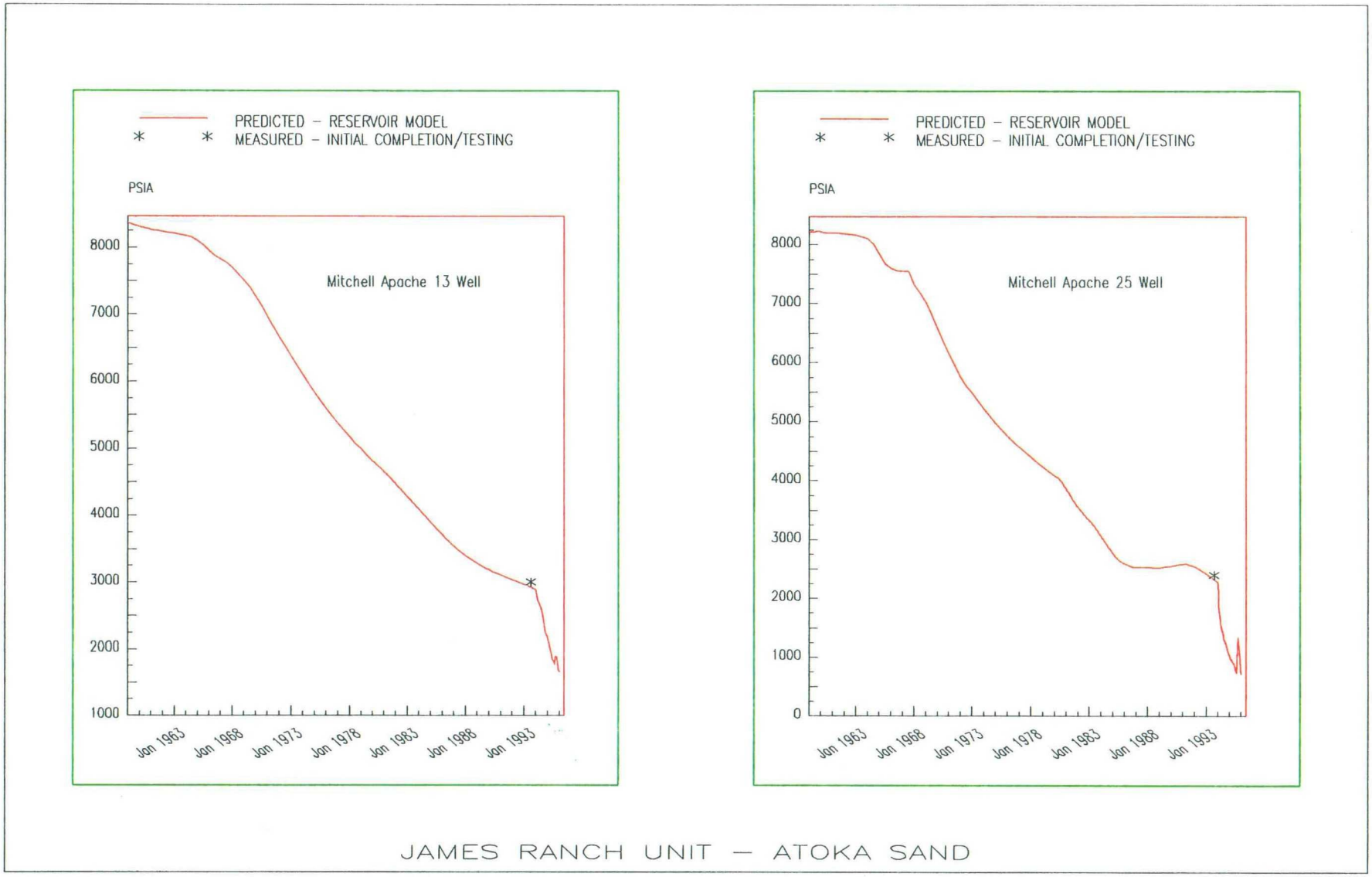






JAMES RANCH UNIT – ATOKA SAND

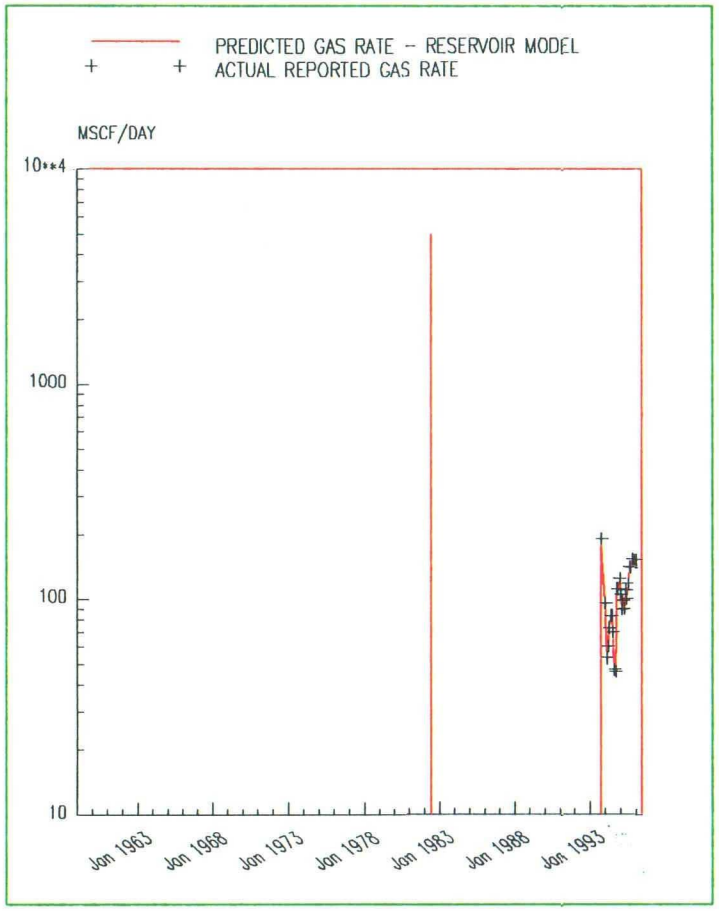
Figure 4

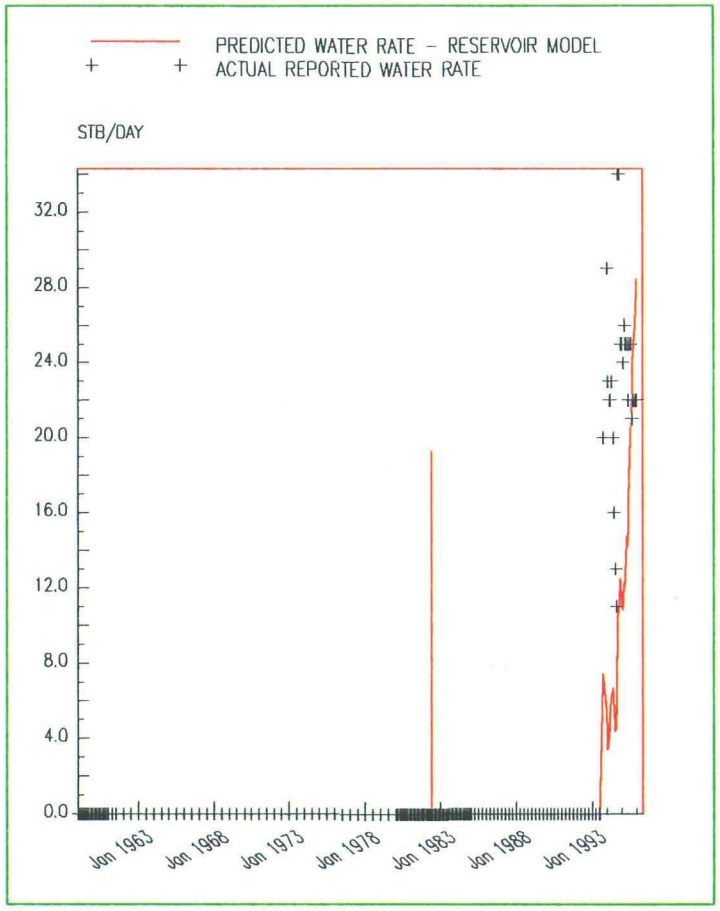


JAMES RANCH UNIT – ATOKA SAND

Figure 5

PURE GOLD C #1 PERFORMANCE





JAMES RANCH UNIT - ATOKA SAND

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

IN REPLY REFER TO:
James Ranch Unit
NM-70965
3180 (06200)

JUL 17 1996

Mr. Pete Martinez
Office of the Commissioner of Public Lands
State of New Mexico
P.O. Box 1148
Santa Fe, NM 87504-1148

Dear Mr. Martinez:

Our office has completed an Original-Gas-in-Place (OGIP) study with regard to the pending revisions of the James Ranch Unit Participating Areas as submitted by Bass Enterprises and challenged by Enron. Enron submitted Net Sand (h) and Porosity (ø) maps as indicative of their interpretation of the Atoka Reservoir. These maps were used to create a Porosity-Feet (øh) map. This map was then planimetered to obtain surface area with the product representing Porosity-Acre-Feet or pore volume. After extensive calculations, the OGIP calculation were in the range of 57 to 65 BCF of gas. Bass also calculated OGIP on the order of 60 to 65 BCF.

Additionally, estimated of the Estimated Ultimate Recoverable (EUR) and OGIP of the 10 best wells in the Atoka reservoir was done using decline curve analysis and assuming a standard 80% recovery factor. The EUR shows an estimated 55.7 BCF while the OGIP shows 69.7 BCF. A comparison of the two determinations of OGIP indicates that the entire Atoka reservoir as shown on Enron's maps is productive with a high probability that portions of the reservoir have been drained. This, however, does not exclude those portions from being included in a participating area.

Based on this analysis, we do not feel that there is sufficient data presented to amend or rescind our original approval on the application for the Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. If you have any questions, please feel free to give me a call at 505-627-0298.

Sincerely,

(Orig Sgd) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

cc: Mr. Bill Carr
Campbell, Carr & Berge, P.A.
P.O. Box 2208
Santa Fe, NM 87504-2208

Mr. Patrick Tower
Enron Oil and Gas Company
P.O. Box 2267
Midland, TX 79702

Mr. Wayne Bailey
Bass Enterprises Production Company
201 Main Street
Fort Worth, TX 76102-3131

Mr. Jim Haas
Losee, Carson, Haas & Carroll, P.A.
P.O. Box 1720
Artesia, NM 88211-1720

NM(93200, R. Wymer)

TFerguson:tf:07/17/96

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

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

MICHAEL H. FELDEWERT
TANYA M. TRUJILLO
PAUL R. OWEN

JACK M. CAMPBELL
OF COUNSEL

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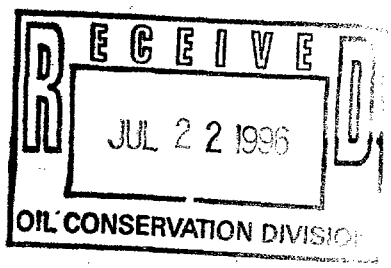
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

July 22, 1996



HAND DELIVERED

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

11602

RE: Request of Enron Oil and Gas Company for hearing on the application of Bass Enterprises Production Co. for approval of the Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico.

Dear Mr. LeMay:

R-279 (1953)

The James Ranch Unit Agreement was approved by Oil Conservation Commission Order No. R-2979 as a proper agreement to prevent waste and protect the correlative rights of the owners of interests therein. Enron has relied upon the Division's exercise of continuing jurisdiction over this unit to protect its correlative rights in the unit area.

By letter dated April 3, 1996, Enron wrote the Division concerning Bass Enterprises Production Company's proposed Third and Fourth Revisions to the Atoka Participating Area in the James Ranch Unit and the Division's February 22, 1996 approval of the Bass proposal. As you will recall, Enron advised the Division at that time that it had not received notice from Bass of the proposed revisions to the Atoka Participating area as required by the James Ranch Unit Agreement and requested that the Division either withdraw its approval of these proposed expansions or set the Bass applications for hearing.

If the Division does not withdraw its approval of these applications for expansion of the Atoka Participating Area, Enron's request for a hearing on these applications is timely. Having not received the required notice of these proposed expansions, Enron entitled to have these applications set for hearing to assure its due process rights are fully protected. Setting these applications for hearing would be consistent with prior Division actions where due process rights have been violated. Furthermore, Enron received notice of the Bass applications on March 14, 1996 and objected thereto on April 3, 1996. No Division rule provides less than twenty days to a party adversely affected by a Division decision to seek further review of that action.

On April 3, 1996, Enron advised the Division that it would need until June 19, 1996 to prepare for a hearing on these applications. This was the date set for BLM review of Enron's data. As you are aware, that review has occurred and the BLM has advised on that it will not amend or rescind its original approval of the Bass applications.

Enron Oil and Gas Company therefore requests that the hearing on the Applications of Bass Enterprises Production Company for approval of the Third and Fourth Revisions to the Atoka Participating Area in the James Ranch Unit be set at the earliest possible date and that notice of this hearing be provided in accordance with law and the rules of the Division.

Attached hereto is a copy of a legal advertisement for this hearing.

Your attention to this request is appreciated.

Very truly yours,

WILLIAM F. CARR
PAUL R. OWEN
Attorneys for Enron Oil and Gas Company

cc: New Mexico Commissioner of Public Lands
Attention: Pete Martinez (via hand delivery)

Bureau of Land Management
Attention: Tony L. Ferguson

Enron Oil and Gas Company
Attention: Patrick J. Tower

Mr. Jim Haas, Esq.
Losee, Carson, Haas & Carroll, P.A.
Post Office Box 1720
Artesia, New Mexico 88211-1720

State of New Mexico
Commissioner of Public Lands

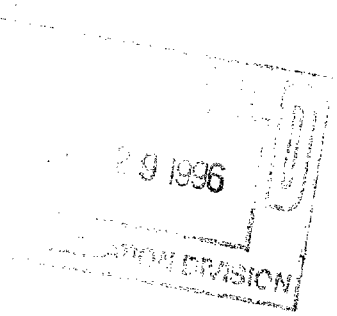
AY POWELL, M.S., D.V.M.
COMMISSIONER

310 OLD SANTA FE TRAIL P.O. BOX 1148

SANTA FE, NEW MEXICO 87504-1148

(505) 827-5760
FAX (505) 827-5766

July 25, 1996



Bass Enterprises Production Co.
201 Main Street
Fort Worth, Texas 76102-3131

Attn: Mr. J. Wayne Bailey

Re: Application for Approval
Third and Fourth Revisions to Atoka Participating Area
James Ranch Unit
Eddy County, New Mexico

Dear Mr. Bailey:

We are in receipt of your application letter of February 8, 1996, requesting approval of the Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit, Eddy County, New Mexico.

The New Mexico Oil Conservation Division approved the above referenced expansions on February 22, 1996.

The Bureau of Land Management advised this office of their approval to these expansions by their letter of March 4, 1996.

The Commissioner of Public Lands concurs with the New Mexico Oil Conservation Division's and the Bureau of Land Management's decisions, and has this date also approved the Third and Fourth Revisions to the Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico.

The third revision is effective December 1, 1982 and is based upon data submitted from the Pure Gold "C" Well No. 1 and data submitted from the James Ranch Unit Well No. 7. This revision contains 1,683.13 acres more or less and is described as follows:

Township 22 South, Range 30 East

Section 36: W/2SW/4

Township 23 South, Range 31 East

Section 5: Lot 4, SW/4NW/4, W/2SW/4

Township 23 South, Range 31 East (Continued)

Section 6:	All
Section 8:	W/2
Section 17:	NW/4

The fourth revision is effective July 1, 1993 and is based upon data submitted for the Apache "13" Well No. 1. This revision contains 238.54 acres more or less and is described as follows:

Township 22 South, Range 30 East

Section 12:	S/2SW/4, N/2SE/4, SW/4SE/4

Township 22 South, Range 31 East

Section 7:	Lot 2

If you have any questions, or if we may be of further help, please contact Pete Martinez at (505) 827-5791.

Very truly yours,

RAY POWELL, M.S., D.V.M.
COMMISSIONER OF PUBLIC LANDS

BY:
LARRY KEHOE, Director
Oil, Gas and Minerals Division
(505) 827-5744

RP/LK/pm

cc: Reader File
BLM-Attn: Mr. Armando Lopez
OCD-Attn: Mr. Roy Johnson
TRD-Attn: Mr. Valdean Severson
Enron Oil and Gas Company: Attn: Mr. Patrick J. Tower
Campbell, Carr, Berge & Sheridan, P.A.: Attn: Mr. William F. Carr

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

311 WEST QUAY AVENUE
P. O. BOX 1720
ARTESIA, NEW MEXICO 88211-1720

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(505) 746-3505

FACSIMILE
(505) 746-6316

MARY LYNN BOGLE
ERNEST L. CARROLL
JOEL M. CARSON
DEAN B. CROSS
JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

9 August 1996

FACSIMILE AND MAIL **505/827-8177**

Ms. Florene Davidson
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

Cases 11602 and 11603

Re: No. R-279, In the Matter of the Appeal of Enron Oil and Gas Company of the Division's Approval of the Third and Fourth Revisions of the Atoka Participating Area of the James Ranch Unit, Eddy County, New Mexico

Dear Ms. Davidson:

Enclosed is the Motion of Bass Enterprises Production Co. for continuance of the hearing in the captioned matter set for August 22, 1996. You indicated by telephone that you would see that the proper party would receive the Motion for further handling. This is the same matter referred to in Bill Carr's letter of July 23, 1996.

Thank you for your assistance in this matter.

Respectfully yours,

James E. Haas

JEH:scp
Enclosure

cc: Mr. William F. Carr (w/enc.)
Bass Enterprises Production Co.

BEFORE THE OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPEAL OF ENRON OIL AND GAS COMPANY OF THE DIVISION'S APPROVAL OF THE THIRD AND FOURTH REVISIONS OF THE ATOKA PARTICIPATING AREA OF THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO Order No. R-279

MOTION FOR CONTINUANCE

COMES NOW, BASS ENTERPRISES PRODUCTION CO. ("Bass") by and through counsel undersigned, Losee, Carson, Haas & Carroll, P. A. (James E. Haas), and moves for a continuance of the August 22, 1996 Examiner Hearing of the captioned application for the following reasons:

1. Lead counsel for Bass, Ernest L. Carroll, is unavailable on the date set for the hearing, being currently engaged in the hearing before the Interior Board of Land Appeals as to oil and gas development of the Secretarial Potash Reserve located in Eddy County, New Mexico;

2. Bass was not served notice of said hearing and was unaware of its setting until the setting was discovered by an employee of Bass who had called an employee of the Division on another matter;

3. Insufficient time exists for Bass to prepare its case and appear on the hearing date set;

4. There are certain jurisdictional and procedural matters to be determined before a hearing on the merits of Enron's appeal

of the Division's approval dated February 22, 1996 of the third and fourth revisions of the Atoka Participating Area of the James Ranch Unit.

WHEREFORE, Bass respectfully requests that the Division continue the Examiner hearing of the above case to the next available hearing date after October 1, 1996.

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
505/746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be faxed a true and correct copy of the foregoing to all counsel of record this August 9, 1996.

_____
James E. Haas

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

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

MICHAEL H. FELDEWERT
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SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

August 19, 1996

HAND DELIVERED

Mr. David R. Catanach
Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Oil Conservation Division Cases 11602 and 11603:***
Applications of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Dear Mr. Catanach:

By letter and attached Motion for Continuance dated August 9, 1996, Bass Enterprises Production Co. ("Bass") seeks to continue the hearings in the above referenced cases (which it has conveniently restyled for the Division) until after October 1, 1996 to accommodate Bass' lead counsel's trial schedule and to allow time to address "certain jurisdictional and procedural matters."

Enron Oil and Gas Company ("Enron") agrees to a continuance of this matter to the September 5, 1996 Examiner hearing docket. Enron was initially willing to agree to a longer continuance to accommodate Bass. However, following Bass' request for a continuance, it advised Enron by letter dated August 12,1996, that it had notified the gas purchaser of the revised ownership in the Atoka Participating Area and that on September 1, 1996 it would start marketing the gas from this participating area in accordance with their ownership percentage in the expanded participating area. A copy of the Bass August 12, 1996 letter is attached hereto.

Bass is attempting to collect the economic benefits of the expansion of this Atoka Participating Area at the same time it is seeking a delay of the Division's review of the propriety of this expansion. Therefore, a continuance of the hearing for only two weeks is appropriate for it will enable Enron to either obtain from Bass an agreement to delay its actions to redirect the revenue from this participating area until the Oil Conservation Division completes its review of this matter, or seek a stay from the Division of its February 22, 1996 approval of this application.

Your attention to this request for a two week continuance of the hearing on these applications is appreciated.

Very truly yours,

WILLIAM F. CARR
WFC:mlh
Enc.
cc: Patrick J. Tower (w/enc.)
Enron Oil and Gas Company
Post Office Box 2267
Midland, Texas 79705

James E. Haas, Esq. (w/enc.) (**Via Facsimile and Mailed**)
Losee, Carson, Haas, & Carroll, P. A.
Post Office Box 1720
Artesia, New Mexico 88211-1720

BEFORE THE OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPEAL OF ENRON OIL AND GAS COMPANY OF THE DIVISION'S APPROVAL OF THE THIRD AND FOURTH REVISIONS OF THE ATOKA PARTICIPATING AREA OF THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

Order No. R-279

MOTION FOR CONTINUANCE

COMES NOW, BASS ENTERPRISES PRODUCTION CO. ("Bass") by and through counsel undersigned, Losee, Carson, Haas & Carroll, P. A. (James E. Haas), and moves for a continuance of the August 22, 1996 Examiner Hearing of the captioned application for the following reasons:

1. Lead counsel for Bass, Ernest L. Carroll, is unavailable on the date set for the hearing, being currently engaged in the hearing before the Interior Board of Land Appeals as to oil and gas development of the Secretarial Potash Reserve located in Eddy County, New Mexico;

2. Bass was not served notice of said hearing and was unaware of its setting until the setting was discovered by an employee of Bass who had called an employee of the Division on another matter;

3. Insufficient time exists for Bass to prepare its case and appear on the hearing date set;

4. There are certain jurisdictional and procedural matters to be determined before a hearing on the merits of Enron's appeal

of the Division's approval dated February 22, 1996 of the third and fourth revisions of the Atoka Participating Area of the James Ranch Unit.

WHEREFORE, Bass respectfully requests that the Division continue the Examiner hearing of the above case to the next available hearing date after October 1, 1996.

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
505/746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be faxed a true and correct copy of the foregoing to all counsel of record this August 9, 1996.

_____
James E. Haas

BASS ENTERPRISES PRODUCTION CO.
201 MAIN ST.
FORT WORTH, TEXAS 76102-3131
817/390-8400

August 12, 1996

CERTIFIED EXPRESS MAIL/Return Receipt Requested

Enron Oil and Gas Company
P. O.Box 2267
Midland, Texas 79705

Attention: Mr. Patrick Tower

Re: Approval of Third and Fourth Revisions
Atoka Participating Area
James Ranch Area
Eddy County, New Mexico

Gentlemen:

Please find attached hereto copies of applications for the Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit, which have now been approved by the Bureau of Land Management, the New Mexico Oil Conservation Division and the Commissioner of Public Lands. According to the map attached as Exhibit "A' to the Fourth Revision, Bass has prepared the attached Divisions of Interest, which indicate the ownership of costs and production obtained from the wells in the expanded participating area, being James Ranch Nos. 1, 10 and 13 (Third Revision effective December 1, 1982) and from the James Ranch Unit Nos. 1, 10, 13 and 70 (Fourth Revision effective July 1, 1993). As you are aware, production from the above participating area wells has been paid according to incorrect interests since December 1, 1982, therefore Bass will notify its gas purchasers of the revised ownership and that Bass will begin marketing its 70.1271452% share of production effective with September 1, 1996 production. Enron is selling its share of gas on an in-kind basis and its purchase should be notified accordingly. Enron's joint interest billings will be revised to reflect its corrected 29.8728% share of participating area well expenses with costs incurred beginning September 1, 1996.

Also, Bass, as operator, is in the process of conducting a review of its records regarding the above four (4) wells in order to prepare an adjustment of well costs and production revenues effective December 1, 1982, for the Third Revision and July 1, 1993, for the Fourth Revision according to the James Ranch Unit Agreement and Unit Operating Agreement. In that regard, Bass hereby requests Enron to provide a schedule setting forth its in-kind oil and gas sales, as well as corresponding revenue paid to Enron from purchasers for all production commencing December 1, 1982, being the effective date of the Third

Revision as described above. This information will also be used to calculate any necessary adjustments to the owners of production within the Third and Fourth Revisions including royalty and overriding royalty interest owners. Inasmuch as Bass is attempting to complete the above adjustments as soon as possible, your prompt attention to this request is appreciated.

Also, Bass has ordered a Division Order Title Opinion for the above Third and Fourth Revisions, and Enron will be furnished with new Division Orders for the expanded Atoka Participating Area prepared on the basis thereof. Thank you very much and should you have any questions or comments in the above regard, please advise.

Very truly yours,

J. Wayne Bailey

JWB:ca

cc: w/attachment

Mr. Jim Haas
Losee, Carson, Haas & Carroll
P. O. Box 1720
Artesia, NM 88211-1720

Mr. Paul R. Owen
Campbell, Carr, Berge & Sheridan, P.A.
110 N. Guadalupe, Suite 1
Santa Fe, NM 87504

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

ATTORNEYS AT LAW

218 MONTEZUMA POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504-2068

(505) 982-4554 FAX (505) 982-8623

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ROBERT P. TINNIN, JR.
MARSHALL G. MARTIN
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ALBERT L. PITTS
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W. H. BRIAN, JR.*
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CHARLES R. WATSON, JR.*
STEVEN D. ARNOLD
THOMAS D. HAINES, JR.
GREGORY J. NIBERT
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*

LEWIS C. COX, JR. (1924-1993)
CLARENCE E. HINKLE (1901-1985)

OF COUNSEL
O. M. CALHOUN* JOE W. WOOD
RICHARD L. CAZZELL* RAY W. RICHARDS*

AUSTIN AFFILIATION
HOFFMAN & STEPHENS, P.C.
KENNETH R. HOFFMAN*
TOM D. STEPHENS*
RONALD C. SCHULTZ, JR.*
JOSÉ CANO*

THOMAS E. HOOD*
REBECCA NICHOLS JOHNSON
STANLEY K. KOTOVSKY, JR.
ELLEN S. CASEY
MARGARET CARTER LUDEWIG
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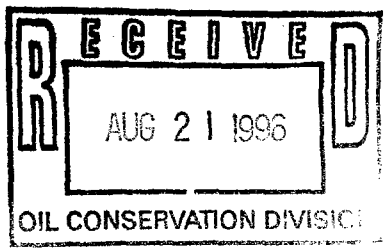
DAVID M. RUSSELL*
ANDREW J. CLOUTIER
STEPHANIE LANDRY
KIRT E. MOELLING*
DIANE FISHER
JULIE P. NEERKEN
WILLIAM P. SLATTERY
CHRISTOPHER M. MOODY
JOHN D. PHILLIPS
EARL R. NORRIS
JAMES A. GILLESPIE
MARGARET R. McNETT
GARY W. LARSON
LISA K. SMITH*
NORMAN D. EWART
DARREN T. GROCE*
MOLLY McINTOSH
MARCIA B. LINCOLN
SCOTT A. SHUART*
PAUL G. NASON
AMY C. WRIGHT*
BRADLEY G. BISHOP*
KAROLYN KING NELSON
ELLEN T. LOUDERBOUGH
JAMES H. WOOD*
NANCY L. STRATTON
TIMOTHY R. BROWN
JAMES C. MARTIN

*NOT LICENSED IN NEW MEXICO

August 20, 1996



Via Hand Delivery

Florene Davidson
New Mexico Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico

Dear Florene:

Enclosed are an original and two copies of an Entry of Appearance in Case 11602 and 11603, filed on behalf of Shell Western E&P Inc.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

James Bruce

ocd.phs

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BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO **CASE NO. 11602**

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO **CASE NO. 11603**

ENTRY OF APPEARANCE

Shell Western E&P Inc. hereby enters its appearance in the above cases.

HINKLE, COX, EATON, COFFIELD
& HENSLEY, L.L.P.

James Bruce
P.O. Box 2068
Santa Fe, NM 87504
(505) 982-4554

Attorneys for Shell Western E&P Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was sent by first class mail this 20th day of August, 1996 to each of the following persons:

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

Rand Carroll
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, NM 87505

W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, NM 87504

James Bruce

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
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August 20, 1996

VIA FACSIMILE AND HAND-DELIVERED
RETURN RECEIPT REQUESTED

William C. Calkins, State Director
United States Department of the Interior
Bureau of Land Management
1474 Rodeo Road
Santa Fe, New Mexico 87505

Re: ***Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. BLM # 3180 (06200) 14-08-001-5558***

Dear Mr Calkins:

Pursuant to 43 CFR §§ 3185.1 and 3165.3(b), Enron Oil & Gas Company ("Enron"), a party adversely affected by an action taken by the United States Department of the Interior, Bureau of Land Management, (the "Department") under 43 CFR §3183.5, hereby requests administrative review of the decision of the Department to approve the application of Bass Enterprises Production Co. for approval of the third and fourth revisions of the Atoka Participating Area, James Ranch Unit (the "Revisions"). The approval of the Department was issued on March 4, 1996, but was not final until the State of New Mexico, Commissioner of Public Lands, granted similar approval on July 25, 1996.

Propriety of this appeal.

Enron is the largest, and except for Bass, the only working interest owner in the current Atoka Participating Area. Enron's interests are severely affected by the revisions. Therefore, Enron may properly seek review of the Department's approval of Bass's application for approval of the Revisions. 43 CFR §§ 3185.1 and 3165.3(b) (1995). This appeal, taken pursuant to 43 CFR §§ 3185.1 and 3165.3(b), is timely, being submitted to the Department within twenty working days of the July 25, 1996 effective date of the Department's approval of Bass's application.

Basis of request for State Director review.

The basis for this request for State Director review is Bass's failure to comply with the explicit provisions of the James Ranch Unit Agreement, which governs all revisions of participating areas within the Unit. The process by which Bass applied for and obtained approval of the Revisions violated several provisions of the Unit Agreement. Accordingly, the Department should have denied approval of the Revisions and directed Bass to comply with the Unit Agreement prior to re-submitting any application for approval of the Revisions.

Article 11 of the Unit Agreement provides that participating areas shall be revised "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 productive in paying quantities . . ." Enron contends that the Revisions do not meet this criteria. Enron proposes to present to the Director documentation and data that supports this contention.

Article 11 of the Unit Agreement requires that participating areas may only be revised "with the consent of the owners of all working interests in the lands within the participating areas" to be revised. Enron's consent to the revisions was never sought or obtained.

Article 25 of the Unit Agreement requires that Bass, as the Unit Operator, must provide notice to any party whose interest may be affected by an agency action prior to appearing before the Department of the Interior, the Commissioner of Public Lands, and the New Mexico Oil Conservation Division. As stated above, Enron is the largest, and except for Bass, the only working interest owner in the current Atoka Participating Area. In order to obtain approval of the revisions, Bass appeared before all three of the above agencies.

Paragraph 26 of the Unit Agreement provides specific methods of providing notice. Enron did not receive notice of the application for the revisions. In fact, it is our understanding that Bass did not provide notice to any party whose interest would be affected by the revisions. Therefore, Bass was required to provide notice to, and obtain consent from, Enron, prior to applying for approval of the revisions. Bass did neither.

Instead, Bass provided notice to Enron ***after*** it had appeared before the BLM, ***after*** the BLM had issued approval of the proposed revisions of the participating area, and ***after*** the BLM directed Bass to provide notice to Enron. The notice provided to Enron was not, as the Unit Agreement provides, before Bass appeared before the BLM. By the time that Enron was provided notice, the BLM had already received the data provided by Bass, had already evaluated that data, and had already decided to approve the proposed revisions.

Immediately upon learning of the pendency of Bass's request for approval of the proposed revisions of the participating area, Enron began evaluating the propriety of those revisions. On June 17, 1996, Enron met with representatives of the BLM at the State Land Office in Santa Fe, and presented data which illustrates that the proposed revisions are not proper under the Unit Agreement. In response to that presentation, Mr. Tony Ferguson of the BLM advised Mr. Pete Martinez of the State of New Mexico Office of the Commissioner of Public Lands that Mr. Ferguson did "not feel that there is sufficient data presented to amend or rescind our [the BLM's] original approval"of the proposed revisions. *Letter from Tony Ferguson to Pete Martinez*, July 17, 1996, at 2.

Enron contends that had the BLM reviewed the data presented by Enron in conjunction and with that presented by Bass, had the BLM had its engineering staff present to hear the evidence and question Enron's witness, and had the BLM given Enron's data equal weight as that presented by Bass, the BLM would not have granted approval to the proposed revisions. The data developed and presented by Enron clearly illustrates that the proposed revisions are improper under the Unit Agreement. By this State Director review, Enron seeks an impartial evaluation of the data pertaining to the proposed revisions.

Request for hearing before the State Director.

Pursuant to 43 CFR § 3165.3(b), Enron requests that it be allowed to submit an oral presentation in support of the State Director's review. Enron states that the technical data

and conclusions to be presented will likely differ from that presented by Bass in support of its application for approval of the Revisions. Therefore, an oral presentation will greatly assist the State Director in his review.

Request for stay of Department approval.

Pursuant to 43 CFR § 4165.3(e)(1), Enron requests that the State Director suspend the operation of the revisions of the participating area until such time that the Director has reviewed the data and received the oral presentation proposed by Enron. In support of this request, Enron further states that Bass has directed the purchasers of the products from the unit to reallocate production proceeds based on the acreage included in the expanded P.A. There will be no prejudice to Bass resulting from a stay, because if the proposed P.A. is ultimately approved following review by the governmental authority, an appropriate readjustment in the production proceeds will be made. The only way to avoid substantial inequities is to effect a stay maintaining the status quo, pending State Director review.

Supporting Documentation.

Pursuant to 43 CFR § 3165.3(b), Enron has attached a summary of the data presented by Enron to the BLM on June 17, 1996. Enron requests that the State Director review the complete data presented on that date, including all maps and other supporting information, which data is in the possession of the BLM. In conjunction with its request for an oral presentation to the State Director, Enron requests that it be allowed to present information which shows that the proposed revisions are inappropriate.

Request for relief.

Enron requests that the State Director review the Department's approval of Bass's application for approval of the revisions, and that the Director rescind the Department's approval of those revisions.

Very truly yours,

William F. Carr
Paul R. Owen

PRO/edr

cc: Patrick Tower
Tony Ferguson
[redacted]
Rick Weimer
Wayne Bailey
Jami Bailey
Solicitor's Office
U.S. Department of the Interior
Bureau of Land Management

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

IN REPLY REFER TO:
James Ranch Unit
NM-70965
3180 (06200)

JUL 17 1996

Mr. Pete Martinez
Office of the Commissioner of Public Lands
State of New Mexico
P.O. Box 1148
Santa Fe, NM 87504-1148

Dear Mr. Martinez:

Our office has completed an Original-Gas-in-Place (OGIP) study with regard to the pending revisions of the James Ranch Unit Participating Areas as submitted by Bass Enterprises and challenged by Enron. Enron submitted Net Sand (h) and Porosity (ø) maps as indicative of their interpretation of the Atoka Reservoir. These maps were used to create a Porosity-Feet (øh) map. This map was then planimetered to obtain surface area with the product representing Porosity-Acre-Feet or pore volume. After extensive calculations, the OGIP calculation were in the range of 57 to 65 BCF of gas. Bass also calculated OGIP on the order of 60 to 65 BCF.

Additionally, estimated of the Estimated Ultimate Recoverable (EUR) and OGIP of the 10 best wells in the Atoka reservoir was done using decline curve analysis and assuming a standard 80% recovery factor. The EUR shows an estimated 55.7 BCF while the OGIP shows 69.7 BCF. A comparison of the two determinations of OGIP indicates that the entire Atoka reservoir as shown on Enron's maps is productive with a high probability that portions of the reservoir have been drained. This, however, does not exclude those portions from being included in a participating area.

Based on this analysis, we do not feel that there is sufficient data presented to amend or rescind our original approval on the application for the Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. If you have any questions, please feel free to give me a call at 505-627-0298.

Sincerely,

(Orig Sdg) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

cc: Mr. Bill Carr
Campbell, Carr & Berge, P.A.
P.O. Box 2208
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Mr. Patrick Tower
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Midland, TX 79702

Mr. Wayne Bailey
Bass Enterprises Production Company
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Fort Worth, TX 76102-3131

Mr. Jim Haas
Losee, Carson, Haas & Carroll, P.A.
P.O. Box 1720
Artesia, NM 88211-1720

NM(93200, R. Wymer)

TFerguson:tf:07/17/96

James Ranch Unit Atoka PA Revision

INTRODUCTION:

Enron Oil & Gas has performed a detailed geologic and engineering study of the James Ranch Atoka sand to determine which acreage should rightfully be included in the Atoka Participating Area and at what date any revision should occur.

Normally Bass Enterprises performs this duty as outlined in the Unit Operating Agreement and did in fact propose the third and fourth revisions to the Atoka PA by letter dated February 22 1996 after their attempt to create a 320 acre PA around the JRU No. 70 was rejected by the BLM. Enron was compelled to perform its study because it was clear that Bass had grossly misinterpreted the commercial extent of the sand by excluding critical Atoka sand tests, basic log calculations showing high water saturations in the southern portion of the field, and seismic data showing Section 35-20S-30E faulted down, which would separate any Atoka sand, if present, from the main Atoka sand reservoir. Bass also made an erroneous assumption that pressure communication implies commerciality. Had Bass considered Enron's findings prior to filing its proposed revisions perhaps the matter could have been resolved before involving the regulatory agencies.

Enron presents the following data and conclusions and believes it will be clear that the Bass proposals are without merit. Enron offers the appropriate "Third Revision" based on all knowledge and information that we have acquired to date.

GEOLOGIC EXHIBITS AND DISCUSSION:

The Atoka sand reservoir of Pennsylvanian age in the James Ranch/Los Medanos area is interpreted as a marine sand body whose trend and producibility was influenced by structural movement during Pennsylvanian time. Three maps being a net Atoka sand isopach, an Atoka sand porosity isopach and a structure map on the Atoka sand were prepared using digitized log analysis data, conventional log correlations and seismic. Also included is Table 1 which outlines the digital data that was used in the geologic maps and other maps used in the engineering discussion.

As interpreted, the Atoka sand lies on the up-thrown side of a faulted structural ridge and follows the fault trend south-southeast. Several lines of seismic were incorporated in defining the fault trace and one line (E72 GSI * JRH-2) through Section 35-23S-30E shows that section down faulted (refer to structure map). The net sand map for the Atoka identifies a continuous sand body from north to south attaining a maximum thickness of 16'. The

Atoka porosity isopach is based on a cut-off of 4% in the sand and illustrates the variability within the reservoir. Based on the two isopach maps there is not a clear correlation between sand thickness and porosity.

ENGINEERING DISCUSSION:

The Engineering portion of the Atoka sand study centered on verifying the geologic interpretation and determining commercial production qualifications.

Table 2 shows the well tests and production to date for the Atoka sand study area. The northern portion of the reservoir is characterized by high flow rate drill stem tests and subsequent proven commercial production. The southern region is characterized by relatively low DST flow rates, produced water, and subsequent proven non-commercial production. Bass reasons that pressure communication between the northern and southern regions proves commerciality. A closer look shows that the communication that does exist is minor. For example, the Pure Gold C-17 No. 1 recorded a FSIP of approximately 7800 psia in 8/82 when the Atoka PA wells were showing pressures of 2,500 - 2,800 psia. When the C-17 No. 1 was production tested in 8/93 it still had over 7,000 psia bottom hole based on recorded SITP of 4,580 psig. This is not significant depletion. After 2.5 years the well has only produced 0.1 BCF and 20,000 BBL water; clearly non-commercial. Very low reservoir permeabilities (< 0.2 md) calculated from build-up tests explains the production results. It should be noted that the C-17 No. 1 calculates 54% water saturation and is directly offset by other water production tests. Had the southern region of the sand had a high mobile gas saturation, the pressures would have been much lower in the south.

The high water saturation portion of the reservoir was first tested in 1973 and 1974 with the drilling of the JRU Nos. 4 and 7. Both calculate above 50% water saturations. The wells are over 150' updip to the Pure Gold C-17 No. 1, the well which Bass credits with proving the area to be commercial 10 years later. As one would expect, given the high water saturations in the No. 4 well, tests failed to establish commercial production. Yet, Bass has deemed this well commercial.

By contrast the northern portion of the field was proven to be effectively communicated with the PA wells by the drilling of the Apache "25" No. 1, Apache "13" No. 1, and JRU No. 70. The pressure differential was less than 1,200 psia over 4 miles away. This is the result of a high mobile gas saturation between the areas. Clearly these pressures, and the subsequent proven commercial production, indicate the direction of effective communication.

A three-dimensional simulation model of the field was developed to validate the above

conclusions and to investigate the limits of commercial production within the Atoka sand. The model was based upon the Atoka sand structure, isopach and porosity maps described earlier.

The data in Table 1 show that there is a good correlation of higher calculated water saturations with increasing depth. Based on this information, a water saturation map was prepared and is shown in Figure 1. Analysis and modeling of initial four-point flow tests from Atoka sand wells showed a good correlation of reservoir permeability to porosity. Using this correlation, a map of reservoir permeability was constructed for the Atoka sand and used in the simulation model. A comparison of the porosity and permeability distributions for the sand is shown in Figure 2.

The key to constructing a rigorous simulation model of the James Ranch Atoka sand is being able to successfully match:

1) The historical pressure performance in the following areas,
   - current Atoka PA (JRU 1, JRU 10, JRU 13 wells)
   - Apache "25" No. 1 and Apache "13" No. 1 region to the north of the Participating Area
   - area of high water saturation to the south of the Participating Area

2) Historical well performance in the same three regions

Figure 3 shows the comparison of predicted pressures (model) and actual pressures measured in the current Atoka Participating Area. In all three wells the match is quite good. Notice that from about 1987 onward, reservoir pressures were approximately 2000 psia or less.

Figure 4 shows a comparison of model predicted reservoir pressure and the actual measured pressures upon initial completion and testing for the Mitchell Apache 13 and 25 wells. These wells are located in the region to the north of the current Atoka Participating Area. Again the match is very good. The reservoir pressure in 1993 is in the range of 2500-3000 psia. This confirms the existence of a high mobile gas saturation and good pressure communication between the current Atoka Participating Area region and this area to the north.

Listed below is the comparison of model and actual pressures for the high water saturation area located to the south of the current Atoka Participating Area. Much of this region is included in the Third and Forth revisions to the Atoka Participating Area proposed by Bass.

Date	Well	Measured (psia)	Model Predicted (psia)
6/82	P.G. C-17 No. 1	FSIP = 7781	7604
10/89	P.G. C-17 No. 2	FSIP = 7356 P* = 7425	7629
4/90	P.G. 8 No. 1	FSIP = 6899	7170
9/93	P.G. C-17 No. 1	P_{est} = 6425	6490

Once again, the model is in excellent agreement with the actual measured data. Of particular importance is the fact that the pressures are significantly higher than the other regions, as discussed earlier. In fact, the pressures are much closer to virgin reservoir pressure than they are to current pressures in the current Atoka Participating Area. This behavior confirms the interpretation that this southern region is an area of high water saturations (> 50%) and low mobile gas saturations. Enron does not dispute the fact that there is some limited pressure communication to the south. However, if the southern area had higher mobile gas saturations, such as those necessary for commercial production, the measured reservoir pressures would be much lower and closer to the pressure in the current Atoka Participating Area.

Finally, the issue of well productivity and commerciality in the area to the south of the Atoka Participating Area needs to be addressed. Clearly, commercial production has been established in the current Atoka Participating Area and the area to the north in the vicinity of the Apache 13 No. 1 and JRU No. 70. These productive rates were matched in the simulation model.

Figure 5 shows a comparison of model predicted and actual data for the Pure Gold C-17 No. 1 well. Notice that the model was able to duplicate the instantaneous 5000 Mcfd rate obtained on the 1982 DST. However, when put on long term production in 1993, the model and the actual field data show the well to be non-commercial. A projected EUR for this well is less than 0.5 Bcf.

Figure 5 also shows that the C-17 No. 1 well produces approximately 30 B/D of water. The simulation model confirms this. This is consistent with the behavior we would expect for a well completed in a transition zone with high water saturations. While the instantaneous DST flow rate is impressive, because of the multi-phase production, the long term performance is very poor. This behavior is shown repeatedly in actual well tests in this southern area.

The reservoir simulation model was also used to investigate well commerciality in the entire region to the south of the current Atoka Participating Area. These tests showed that there is no justification to extend the Participating Area to the south. Calculated water saturations throughout this area are approximately 50% and predicted well performance is non-commercial.

CONCLUSION:

Enron believes the Atoka sands (and similarly Morrow sands) are very risky as a drilling prospect due to the high variation of thickness, porosity, and water saturation in this reservoir. One cannot reasonably quantify undrilled spacing units as proven commercial until they are completed with long term production rates. There are several undrilled spacing units in the southern portion of the field that Bass believes to be commercial. Enron recommends that Bass first drill these spacing units to prove them commercial. There is still approximately 4,000 - 7,000 psig reservoir pressure remaining in that area which is more than adequate to yield commercial production if gas saturated. At that time a PA revision to include that acreage would be warranted.

Enron believes that the only unit acreage justified to be added in the Third Revision is that from the 320 acre spacing unit around the James Ranch Unit No. 70. The date of first production from the JRU No. 70 is the only appropriate date of revision and follows the unit agreement guidelines. Enron appreciates having the opportunity to present its findings and conclusions.

Questions or request for additional data may be addressed to the following Enron personnel:

Geological	Barry Zinz	(915) 686-3732
Land	Patrick Tower	(915) 686-3758
Reservoir Model	Tim Hower	(303) 628-2529
Engineering	Randall Cate	(915) 686-3698

Table 1

James Ranch Unit Atoka PA Revision
Digitized Log Analyses Values; Depth of Top of Sand

Well Name	H (ft.)	ø (%)	SW (%)	Top sand
James "A" No. 1	0.5	5	72	-9,234
James "E" No. 1	0	-	-	-9,265
Troporo Campana No. 1	0	-	-	-9,280
McKnight Campana No. 1	2	-	-	-9,378
JRU No. 70	7.25	11	16	-9,394
Llama "ALL No. 1	5.5	9	34	-9,474
Apache "13" No. 1	8.50	9	7	-9,475
JRU No. 11	10.25	11	33	-9,537
Apache "24" No 1	6.75	6	44	-9,560
Hudson Fed. No. 1	1.0	5	36	-9,564
JRU No. 18	6.25	7	45	-9,568
JRU No. 10	5.5	10	27	-9,582
JRU No. 3	2	8	40	-9,585
Apache "25" No. 1	10.75	7	22	-9,589
JRU No. 4	3.75	6	53	-9,593
JRU No. 1	10.75	11	NA	-9,596
JRU No. 13	6.0	6	NA	-9,613
Apache "25" No. 2	6.0	7	26	-9,614
JRU No. 14	1.0	5	35	-9,676
JRU No. 7	7.75	11	55	-9,727
JRU No. 15	6.0	8	46	-9,765
Pure Gold "C" 17 No. 1	12.5	8	54	-9,879
North Pure Gold "8" No. 1	6.0	9	79	-9,892
Pure Gold "C" 17 No. 2	11.5	13	54	-9,909
Pure Gold "B" No. 2	8.25	13	42	-9,916
Medano "VA" No. 2	14.75	9	53	-9,917
Pure Gold "4" No 1	15.75	7	52	-9,959
Arco St. "16" No. 1	11	8	NA	-10,014

Table 2

Comparison of Commercial vs Non-commercial Well Tests

Well Name	Date	Type	MCFPD	Prod. MMCF as of 11/1/95
		PROVEN COMMERCIAL		
JRU No. 70	3/95	Compl.	9,584	1,058
Apache "13" No. 1	8/93	DST	9,500	--
	9/93	Compl.	10,514	3,718
JRU No. 1	3/58	Compl.	8,945	25,985
JRU No. 10	3/80	DST	10,000	--
	4/80	Compl.	3,948	6,250
JRU No. 13	9/82	Compl.	3,000	6,119
		POSSIBLE COMMERCIAL		
Apache "25" No. 1	10/93	Comp.	1,900	575
	8//93	DST	2,400	--
Llama Fed. No. 1	12/94	Compl.	1,772	296
JRU No. 11	6/81	Compl.	2,100	1,177
		PROVEN NON-COMMERCIAL		
Hudson Fed. No. 1	6/81	Compl.	100-200	0; abandoned
JRU No. 4	7/73	DST	3,400	--
	8/73	Compl.	1,000	0; abandoned

Well Name	Date	Type	MCFPD	Prod. MMCF as of 11/1/95
		PROVEN NON COMMERICAL		
Pure Gold C-17 No.	16/82	DST	5,258	--
	9/93	Compl.	367 + 31 BW	82 MMCF + 19 MBW
Pure Gold "8" No. 1	4/90	DST	1,182 MCF + 461 BW	--
Pure Gold B No. 2	9/93	Compl.	1,000 MCF + 90 BW	248 abandoned 4/95
Medano VA No. 2	8/90	DST	31 BW	--

LAW OFFICES
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311 WEST QUAY AVENUE
P. O. BOX 1720
ARTESIA, NEW MEXICO 88211-1720

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(505) 746-3505
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MARY LYNN BOGLE
ERNEST L. CARROLL
JOEL M. CARSON
DEAN B. CROSS
JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

21 August 1996

FACSIMILE AND MAIL **505/827-8177**

Mr. David R. Catanach
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

Re: Appeal of Enron Oil and Gas Company of Approval of Third and Fourth Revisions of Expansion of Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico

Dear Sir:

We are responding to Enron Oil and Gas Company's ("Enron") letter of August 19, 1996. It is difficult to understand the supposed urgency caused by the reallocation of one month's production when, due to the impending revision(s) of the participating area (which is required by federal regulation), an accounting and reallocation of production for a period of years will be necessary. The prior allocations were to the detriment of Bass Enterprises Production Co., therefore, it is difficult to see why one month's reallocation, which is less favorable to Enron, is a matter of such urgency. September's allocation is a matter which could be easily addressed in the accounting which will be performed.

As previously stated in our prior motion, Bass' lead counsel for OCD matters is currently engaged in another matter which should be completed sometime in the middle of September. It should be noted that Bass' letter to the pipeline purchaser affects production after September 1, 1996. When taken in context of the entire issue of revision of the allocation of production and the time periods involved, we believe the issue as to the reallocation of one month's production is de minimis. Furthermore, Bass is merely taking the action that is required according to the James Ranch Unit Agreement.

Enron's objections to the subject revisions, which have been previously rejected by the BLM and State Land Office, are no reason to hold an OCD hearing. In any event, the circumstances do not require Bass to move forward without the services of its attorney in this matter. We believe an attempt to set this matter for hearing prior to the resolution of

the procedural questions, as well as prior to Bass' counsel being available for such proceedings, is inappropriate. Therefore, Bass Enterprises Production Co. reiterates its request that any hearing or meetings concerning the captioned matter be delayed to the end of September.

Respectfully yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

James E. Haas

JEH:scp

cc: Mr. William F. Carr (FAX and mail)
Bass Enterprises Production Co.
Attention Mr. J. Wayne Bailey

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

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MARY LYNN BOGLE
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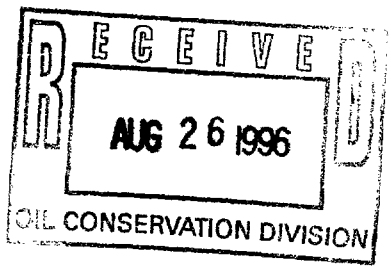
A. J. LOSEE

August 21, 1996



VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Rand Carroll
New Mexico Conservation Division
2040 E. Pacheco
Santa Fe, NM 87504

Dear Mr. Carroll:

This is in answer to your telephone conference of August 19, 1996, in reference to arranging a meeting between the various parties involved in the Third and Fourth Revisions of the Atoka Participating Area for the James Ranch Unit. We returned your phone call, but no reply has been received as of yet.

Our client, Bass Enterprises Production Company, does not feel any further administrative action is necessary, however, in the event the OCD determines otherwise, we would like an opportunity to consult our client on their participation in same.

There is a further complicating factor in that Ernest Carroll, who does the OCD work for this firm, and who has been retained by Bass to handle this matter with the OCD, is currently involved in a trial in Albuquerque which will not end until some time in the middle of September.

Therefore, we would appreciate being informed of what transpires from this date forward.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

James E. Haas

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

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CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
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C. D. MARTIN
ROBERT P. TINNIN, JR.
MARSHALL G. MARTIN
MASTON C. COURTNEY*
DON L. PATTERSON*
DOUGLAS L. LUNSFORD
NICHOLAS J. NOEDING
T. CALDER EZZELL, JR.
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TIMOTHY R. BROWN
JAMES C. MARTIN

*NOT LICENSED IN NEW MEXICO

August 22, 1996

Via Hand Delivery

William C. Calkins
State Director
Bureau of Land Management
1474 Rodeo Road
Santa Fe, New Mexico 87505

Re: Request of Enron Oil & Gas Company for administrative review of approval of the Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico (BLM No. 3180 (06200) 14-08-001-5558)

Dear Mr. Calkins:

Pursuant to 43 CFR §§3185.1 and 3165.3(b), Shell Western E&P Inc., a party adversely affected by a decision of the Bureau of Land Management, Department of Interior, under 43 CFR §3183.5, hereby enters its appearance in the above matter, and adopts and joins in the appeal of Enron Oil & Gas Company.

Very truly yours,

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

James Bruce

James Bruce

Attorneys for Shell Western E&P Inc.

cc: William F. Carr
William J. Lemay ✓
Jami Bailey
Solicitor's Office, Department of Interior
James E. Haas

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

August 22, 1996

VIA FAX

Mr. James Haas
Losee, Carson, Haas & Carroll, P.A.
P.O. Box 1720
Artesia, NM 88211-1720

RE: OCD Case Nos. 11602 and 11603 -- Applications of Bass Enterprises

Dear Mr. Haas:

To follow up on our telephone conversation of yesterday, the above-referenced cases which are on the OCD docket to be heard today have been continued to September 19, 1996.

If you have any questions, please feel free to call me at 505/827-8156.

Sincerely,

Rand Carroll
Legal Counsel

LAW OFFICES

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OF COUNSEL
A. J. LOSEE

4 September 1996

FACSIMILE AND MAIL **505/827-8177**

Ms. Florene Davidson
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

Re: No. R-279, In the Matter of the Appeal of Enron Oil and Gas Company of the Division's Approval of the Third and Fourth Revisions of the Atoka Participating Area of the James Ranch Unit, Eddy County, New Mexico

Dear Ms. Davidson:

Enclosed is the Motion to Stay of Bass Enterprises Production Co. Please see that the proper party receives the motion for further handling.

Thank you for your assistance in this matter.

Respectfully yours,

James E. Haas

JEH:scp
Enclosure

cc: Mr. William F. Carr (w/enc.)
Bass Enterprises Production Co.

BEFORE THE OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY,
MINERALS AND NATURAL RESOURCES

RECEIVED
SEP 9 1996
Oil Conservation Division

IN THE MATTER OF THE APPEAL OF ENRON OIL AND GAS COMPANY OF THE DIVISION'S APPROVAL OF THE THIRD AND FOURTH REVISIONS OF THE ATOKA PARTICIPATING AREA OF THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

Order No. R-279

MOTION TO STAY PROCEEDINGS

COMES NOW, BASS ENTERPRISES PRODUCTION CO. ("Bass") by and through counsel undersigned, Losee, Carson, Haas & Carroll, P. A. (James E. Haas), and moves to stay any further proceedings in the captioned matter for the following reasons:

1. There is currently pending before the State Director of the Bureau of Land Management an appeal of the approval of by the Roswell district office of the BLM of the Third and Fourth Revisions of the Atoka Participating Area of the James Ranch Unit ("Revisions"), said appeal is filed pursuant to § 43 CFR 3185.1 and 3165.3(b) by Enron Oil and Gas Company. The Revisions will be subject to additional extensive technical review by the State Director's Office, and the best interests of all parties would be served by staying any proceedings before the Oil Conservation Division until the State Director has completed his review of the Revisions.

2. Great weight should be given to the fact that 90% of the lands included within the James Ranch Unit are subject to federal oil and gas leases, with the remaining approximately 10% being subject to the leases issued by the State of New Mexico through

the State Land Office. Furthermore, approximately 89% of the acreage in the third and fourth revised participating areas is federal acreage, and 11% of the acreage is subject to leases issued by the office of the Commissioner of Public Lands for the State of New Mexico. Therefore it is appropriate for the Bureau of Land Management to conduct the primary proceedings in this matter.

3. On February 22, 1996, the Division approved the Revisions, which have subsequently been approved by the BLM and Commissioner of Public Lands. As a matter of policy, the Division has not previously required a hearing for revisions of participating areas in federal units. Such a precedent would be detrimental to the efficient and timely operation of units created under the authority of the Mineral Leasing Act of 1920, creating a cumbersome and duplicitous administrative structure.

4. The Oil Conservation Division has jurisdiction over matters relating to the conservation of oil and gas in New Mexico with the basis of its powers being founded on the duty to prevent waste and to protect correlative rights, see Continental Oil Co. v. Oil Conservation Commission, 373 P.2d 809 (NM 1962). The policy reasons for creation of federal exploratory unit agreements and the requirements to which said unit agreements are subject are similar in intent. Unit agreements allow the more efficient and equitable operation and exploration of a reservoir or a prospectively productive area. "The objective of unitization is to provide for the unified development in the operation of an entire geological prospect or producing reservoir so that the exploration, drilling and production can proceed in the most efficient and economical manner by one operator". Law Federal Oil and Gas Leases, § 1801 ([2] page 18-5). The unit agreement itself and all subsequent

operations thereunder are required by statue to be "necessary and advisable in the public interest and is for the purpose of more properly conserving natural resources". See § B Certification-Determination for James Ranch Unit. The criteria utilized by the Bureau of Land Management in reviewing the Revisions at both the District level and the State Directors' level are parallel to those that would be utilized by the Oil Conservation Commission. It is administratively inefficient and economically wasteful to conduct proceedings simultaneously with those being conducted by the Bureau of Land Management pursuant to applicable federal regulation and statute.

WHEREFORE, Bass respectfully requests that all proceedings before the Division relating to the captioned matter be stayed until such time as the review of the State Director of the Bureau of Land Management has been completed and a decision rendered by that office.

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
505/746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be faxed a true and correct copy of the foregoing to all counsel of record this September 4, 1996.

_____
James E. Haas

scp:bass\motion.sta

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

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September 4, 1996

William C. Calkins, State Director
United States Department of the Interior
Bureau of Land Management
Post Office Box 27115
Santa Fe, New Mexico 87502

Re: ***Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. BLM # 3180 (06200) 14-08-001-5558***

Dear Mr Calkins:

This letter is confirmation of a telephone conversation which I had today with Mr. Rick Weimer of your office. In that conversation Mr. Weimer detailed the format of the hearing which your office is granting to Enron in response to Enron's request for a state director review of the Department's Decision to approve the application of Bass Enterprises Production Co. for the above-referenced revisions. Pursuant to 43 C.F.R. §§ 3185.1 and 3165.3(b), Enron requested that review on August 20, 1996.

We are advising Enron on the format of the hearing and how best to proceed with preparation. We understand the format of the hearing to be as follows:

1. Enron and Bass will both be allowed one presentation each, which presentation is to be made to representatives of your office, who are to include an engineer and other personnel who were not involved in the Department's earlier decision to approve the requested revisions;

2. Enron will give its presentation without representatives of Bass present, and Bass will give its presentation without representatives of Enron present;

3. Neither Enron or Bass will be given the opportunity to cross-examine the other party's representatives;

4. Although Mr. Weimer and I did not discuss this point, we assume that Enron will not be allowed to subpoena or otherwise obtain the information upon which Bass bases its presentation. Please let us know if this is not the case;

5. Although Mr. Weimer and I did not discuss this point, we also assume that a record will not be made of either Enron's or Bass's presentation. Please let us know if this is not the case.

We are in the process of discussing with Enron the dates for which representatives of Enron are available for the above presentation. We have attached a letter from Bass to Enron, dated August 12, 1996, in which Bass informs Enron that Bass had notified the gas purchaser of the revised ownership in the Ataka Participating Area that on September 1, 1996, Bass would start marketing the gas from this participating area in accordance with the ownership percentage in the expanded participating area. Because that action severely adversely affects Enron, we would like to make the presentation very soon. We will contact you early next week with possible dates.

Because Bass's marketing of gas from the revised participating area in accordance with the revised ownership percentages adversely affects Enron, and pursuant to 43 C.F.R. § 4165.3(e)(1), Enron restates its request that the State Director suspend the operation of the revisions of the participating area until such time that the Director has reviewed the data and received the oral presentation proposed by Enron.

We appreciate the opportunity to present to you Enron's data in opposition to the proposed revisions. We look forward to the hearing on this matter.

Very truly yours,

William F. Carr
Paul R. Owen

PRO/edr

cc: Patrick Tower
Tony Ferguson
William LeMay
Rick Weimer
Wayne Bailey
Jami Bailey
Solicitor's Office
U.S. Department of the Interior
Bureau of Land Management

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JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

12 September 1996

Mr. William C. Calkins
State Director
United States Department of Interior
Bureau of Land Management
P. O. Box 27115
Santa Fe, New Mexico 87502

Re: Third and fourth Revisions of the
Atoka Participating Area,
James Ranch Unit, Eddy County, New Mexico
Bass Enterprises Production Co., Operator.
BLM No. 3180(O6200) 14-08-001-5558

Dear Sir:

This firm represents Bass Enterprises Production Co. ("Bass"), operator of the James Ranch Unit located in Eddy County, New Mexico, under BLM No. 3180(06200) 14-08-001-5558, and the party who prepared and submitted the application for the captioned revisions ("Revisions") to the Atoka Participating Area.

On August 20, 1996, Enron Oil and Gas Company ("Enron"), through counsel, filed a request for a technical and procedural review pursuant to §§ 3185.1 and 3165.3(b). In view of a number of inaccuracies contained in the petition of Enron, and to request on behalf of Bass an opportunity to present to the State Director's Office its technical data, this document is filed on behalf of Bass.

Burden of Proof

Bass recognizes that Enron has the right to appeal the approval of the Revisions. This is a right granted by regulation. See, 43 CFR 3185.1. However, any appeal should be limited to the substantive issue of whether the technical and geological data support the conclusions of the Roswell District Office. Enron has the burden of proof in this appeal. Davis Oil Co., 53 IBLA 62. It must show that the District Office's decision was either arbitrary, capricious or not supported by technical data. Margaret D. Okie, GS-115-O&G. It is clear from the information recited and from Enron's own studies that this is simply not the case.

Discussion

We would note that prior to the captioned Revisions, Enron was the largest working interest owner in the participating area. However, after the Revisions, which were made pursuant to technical data and pursuant to the requirements of the unit agreement, Bass is the largest working interest owner in the participating area.

Bass takes strong issue with Enron's statement in its August 20, 1996 letter that Bass' application and the ultimate approval of the Revisions were in violation of any provisions of the unit agreement. This statement is untrue. The application was made pursuant to requirements of the unit agreement and with regular consultation with the District Office of the Bureau of Land Management.

Enron attacks the validity of the expansion on the grounds that the action was not the result "of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be productive in paying quantities..." The technical staff of the District Office of the Bureau of Land Management in Roswell subjected the technical data (which was obtained by drilling operations, tests, etc.) submitted by Bass and Enron to a thorough and exhaustive review, and it was only upon completion of this review that approval of the Revisions of the participating area was granted. It should be noted that Enron made technical presentations to BLM personnel on at least two different occasions, being November 2, 1995 and June 17, 1996. Notwithstanding these presentations, Enron was unable to persuade BLM personnel of the viability of its position. The reason for this is simple--the technical data and facts do not support Enron's position.

Bass strongly objects to the statement that ¶ 11 of the unit agreement requires that any participating areas may be revised only with the consent of the owners of all working interests in the lands. This is a total misreading of the unit agreement. Enron is well aware that this misinterpretation is not accepted by the BLM. (See, letter from Tony Ferguson, Assistant District Manager, Bureau of Land Management, dated March 28, 1996 to William F. Carr - copy attached). Enron's consent is not required and it is fallacious to make this statement in view of the letter previously recited and the terms of the unit agreement. The specific language referred to in ¶ 11 in toto reads as follows:

> 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, and any two or more participating areas so established may be combined into one with the consent of the owners of all working interests in the lands within the participating areas so to be

> combined, on approval of the Director, the Commissioner and the Commission.

It is obvious when one reviews the language quoted by Enron in the context of the entire sentence in which it appears the consent referred to is required only when two or more participating areas are combined into one. There are no grounds for Enron's claim that its prior approval was required under the unit agreement.

Enron also misstates the import and intent of ¶ 25 of the unit agreement. The specific language referred to from this article reads as follows:

> Unit Operator shall, after notice to other parties affected, have the right to appear for or on behalf of any and all interests affected hereby before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission and to appeal from orders issued under the regulations of said Department, the Commissioner or Commission, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior, the Commissioner or Commission, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at his own expense to be heard in any such proceeding.

The language quoted shows that there are three situations in which notice is required to be given to the other parties affected. These circumstances are (1) to appeal an order issued by any three of the agencies named; (2) to apply for relief from any of said regulations or (3) in any proceedings relative to operations before the Department of the Interior. The submission of the Revisions of the participating area does not fall into these categories. The application for revision is an administrative matter required of the unit operator pursuant to the unit agreement, which in turn is a contractual agreement entered into between the operator, Bass, and Enron or its predecessors in interest. Furthermore, in previous revisions of the Atoka Participating Area for the James Ranch Unit, notices to the other working interest owners were not required by the District Office.

Ultimately, the BLM District Office required Bass to tender a notice to Enron. (See, letter of Tony Ferguson to William F. Carr dated March 28, 1996, and letter to Bass Enterprises Production Co. dated March 28, 1996.) Bass, although questioning the interpretation, complied with the instructions set out in the BLM's letter and tendered notice to Enron by Certified Express Mail on April 2, 1996. Even if it is assumed that Enron was entitled to notice, it is clear that Enron suffered no prejudice due to lack of the notice, particularly in

light of the prior (November 2, 1995) and subsequent meetings (June 17, 1996) held by Enron with BLM personnel.

The implication from the second paragraph on page 3 of Enron's request that its evaluation of the Revisions commenced subsequent to the receipt of notice is directly contradicted by correspondence between the various administrative agencies, as well as from the BLM's own personnel. Please note in ¶ (4) of the letter dated April 16, 1996 from Tony L. Ferguson, Assistant District Manager, Roswell District Office, to Enron's counsel, referring to a November 2, 1995 meeting of Enron's representatives with the BLM District Office, wherein it is stated: "In fact, Enron left geological maps including structural interpretations of the area with BLM which are consistent with the proposed revisions as presented by BEPCO." [Interlineation added.] In the same paragraph, Mr. Ferguson goes on to note, "Enron contacted BLM personnel requesting a status report on the Atoka Participating Area and were fully informed of the proposed revisions." Please note the last phrase from the same paragraph, "Your statements, however, are incorrect in that the previous meeting on November 2, 1995, with BEPCO and Enron involved proposed revisions of the Atoka Participating Area for the James Ranch Unit # 70 well," inferring they involved discussions of larger scale revisions of the Atoka Participating Area.

We call to the Director's attention a letter dated July 17, 1996 from Mr. Ferguson to Mr. Pete Martinez of the Office of the Commissioner of Public Lands (copy attached). The letter states, once again, that based on Enron's own technical data, the Revisions approved were totally appropriate. Of particular interest is the third sentence of the second paragraph. "A comparison of the two determinations of OGIP [Original-Gas-in-Place] indicates that the entire Atoka reservoir as shown on Enron's maps is productive with a high probability that portions of the reservoir have been drained. This, however, does not exclude those portions from being included in a participating area." [Interlineation added.] It is very clear from the correspondence that Enron was very well apprised of the nature and extent of the proposed Revisions and that Enron's own geological and reservoir studies support the boundaries for the Revisions as ultimately approved by the Bureau of Land Management. For Enron to claim at this point that it was somehow harmed or prejudiced by a lack of notice is disingenuous under the circumstances. The correspondence also directly contradicts the statement in the third paragraph of page 3 of Enron's letter that "... presented data which illustrates that the proposed revisions are not proper under the unit agreement."

Denial of Request for Suspension

Bass urges that Enron's request for a suspension of the Revisions be denied. It is true that Bass has directed the purchasers of production to reallocate the production pursuant to the Revisions. This is totally appropriate and within Bass' authority as the unit operator. Additionally, we believe this is in conjunction with normal BLM procedures. We attach hereto copies of materials offered at the Unitization Workshop held on March 15, 1989 in Lakewood, Colorado, under the auspices of the Colorado State Office of the Bureau of Land Management. One of the questions reviewed at this symposium is set out in the attachment hereto. The question is posed: "If a PA revision is appealed to the IBLA, is it considered final and should costs and revenues be adjusted or wait for a decision on the appeal..." The position taken by the Colorado BLM personnel is that if revision of a participating area by the BLM is appealed, costs and revenues should be handled on the terms of the appealed allocation until a decision is rendered to the contrary by the IBLA. There is a logical consistency to this position in that the burden is upon the party attacking the BLM's decision approving the revisions of the participating area. Also, Bass has been contacted by the Minerals Management Service and is required to provide an adjustment of production royalties and volumes based on the Revisions.

Also, as a practical matter, it is difficult to see what harm Enron will suffer. It is apparent from the evidence submitted by all parties that the Atoka participating area will be revised and that under any probable scenarios that revision will include a reallocation of production and revenues attributable thereto. Therefore, any production reallocated pursuant to the Revisions can be compensated for in the ultimate accounting required by any adjustments.

Request for Appearance

In view of the fact that Bass would be negatively affected by a reversal of the District Office's decision or a remand for further considerations, Bass respectfully requests an opportunity to make a presentation to the State Director's Office of the technical and geological data which is the evidentiary basis in support for the Revisions as approved.

Conclusion

THEREFORE, Bass would urge the Director that there is sufficient technical data to support the decision of the authorized officer approving the Revisions, and that said decision was neither arbitrary nor capricious and did not prejudice Enron's rights, but was in fact reached after Enron had not one, but at least two opportunities to present its data to the

BLM personnel, who in fact found that Enron's data supported the decision of the District Office.

LOSEE, CARSON, HAAS & CARROLL, P.A.

James E. Haas

JEH:scp
Enclosures

cc: Mr. William J. LeMay
Mr. Tony L. Ferguson
Mr. Wayne Bailey
Mr. Pete Martinez

United States Department of the Interior

CO-922
3180

BUREAU OF LAND MANAGEMENT
COLORADO STATE OFFICE
2850 YOUNGFIELD STREET
LAKEWOOD, COLORADO 80215

JUL 7 1989

Dear Unitization Workshop Participants:

On March 15, 1989, this office conducted a two-hour federal unitization workshop at the Sheraton Tech Center. Enclosed are the answers to all the unitization questions raised by workshop participants. Please be advised that the answers to these questions primarily reflect policies and procedures of the Colorado State Office. Other Bureau of Land Management (BLM) offices may answer the questions differently depending on the circumstances encountered in their area.

All workshop evaluations submitted by the participants indicated a desire for a more detailed federal unitization workshop. This office, in conjunction with the Rocky Mountain Mineral Law Foundation (RMMLF) has scheduled a three-day federal oil and gas agreement special institute to be tentatively offered on January 29, 30, and 31, 1990, in Denver, Colorado. A scoping committee of BLM employees and representatives from the RMMLF has drafted an agenda which focuses on the practical application of oil and gas law principles as they relate to federal oil and gas agreements.

This office and the RMMLF are excited about the potential outcome of this type of joint teaching effort between the federal government and the private sector. Lawyers, landmen, engineers, and geologists who work in areas covered by these federal oil and gas agreements are encouraged to attend this special institute. The RMMLF will be issuing announcements detailing the specifics of this special institute later this year.

If you have any questions concerning the enclosure or the upcoming special institute, please feel free to call Bernie Dillon of this office at (303) 236-1787.

Sincerely,

Frank A. Salwerowicz
Deputy State Director
Mineral Resources

Enclosure

4. Can current product prices be used at the time of the determination?

   It is BLM policy to use the most current pricing information available at the time of the determination. We cannot ignore current economic data. This policy can be found in Monsanto Oil Co., 95 IBLA 0112, dated January 6, 1987,

VIII. PARTICIPATING AREAS (PA)

1. Will the BLM ultimately set the size of the PA if they disagree with the operator's proposal?

   Yes. Pursuant to a regional solicitor's opinion dated August 4, 1986, concerning the Madden Deep Unit in Wyoming, there is sufficient case history to establish the fact that BLM has the right to require a certain type of PA configuration in the interest of conservation and fundamental fairness regardless of the operator's proposal. It is the role of the BLM to insure that all interests covering a single pool or zone are receiving their fair share of production.

2. If a PA revision is appealed to the IBLA, is it considered "final" and should costs and revenues be adjusted or wait for a decision on the appeal and hold the monies in an escrow account?

   If a PA determination by the BLM is appealed, costs and revenue should be handled in terms of the appealed allocation until a decision is rendered to the contrary by the IBLA.

3. Is not the circle-tangent method more equitable, for if a party pays for 50% of the well to be drilled then he should take in 50% of the well's production?

   If some other method is used, then the party may receive more than the percentage of risk he took in the well.

   The circle-tangent method is a more favorable method of establishing a PA from industry's perspective. Industry can be assured that the PA size is equivalent to the drilling block. An interest owner who pays for a percentage of the well to be drilled will receive that same percentage of the production.

   The controversy around this issue is that the practice of applying the circle-tangent method to all unit wells does not adequately reflect that area reasonably proven productive of unitized substances in paying quantities. Many people are of the opinion that actual reservoir data should be utilized in determining the size of a participating area.

   In Colorado, we have found that the circle-tangent method is the most equitable approach for all parties involved. Most units in Colorado are gas units comprising areas that have little geologic data and no continuity in reservoir characteristics. Under these

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

IN REPLY REFER TO
SDR 96-026
3165.3 (NM93200)

SEP 16 1996

DJC
CAD FILE
11602

Campbell, Carr, Berge & Sheridan
Attention: Mr. William Carr
P.O. Box 2208
Santa Fe, NM 87504-2208

Re: State Director Review, James Ranch Unit, Third and Fourth Revision of Atoka Participating Area Approval, Roswell District Office

11602/11603

Dear Mr. Carr:

We have received your August 20, 1996, appeal on behalf of Enron Oil and Gas Company (Enron) for the subject State Director Review, and subsequent inquiry dated September 4, 1996. This letter will attempt to answer your request for stay and several statements made in your appeal and subsequent inquiry.

Both Enron and Bass Enterprises Production Company (Bass) have requested an oral presentation in this case. In order to keep the case focused on the issues, we have made a determination that separate oral presentations must be made. This format would preclude cross-examinations by any party.

Our Solicitor's Office has advised us that we should make a record of oral presentations made to the State Director. This record generally consists of notes taken by Bureau employees at the presentation. Any written reports or exhibits submitted by the parties will also be considered part of the oral presentation record. Should you wish to create a more formal record, such as a court reporter, etc., you would have to make, and pay for, such arrangements.

Your appeal and copies of records submitted during the oral presentations are part of the public record. Any request for copies of these records under the Freedom of Information Act must be granted, unless the records are considered proprietary and/or confidential and individually marked as such.

Although you have requested a stay of our Roswell District Office's approval, your appeal and subsequent inquiry do not show that a stay is in the public's interest, nor that it will cause

irreparable harm to your client or the oil and gas resources. If a judgement supporting Enron's contentions is made, an adjustment to the approved allocation can be made at that time. For the reasons cited above, your request for stay cannot be granted at this time.

Please call Rick Wymer at (505) 438-7411, to finalize arrangements for your oral presentation or ask additional questions concerning this appeal. Our review should be completed within ten (10) business days after receipt of written and oral arguments submitted by Enron, Bass of Shell Western.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource Planning,
Use and Protection

cc:

Losee, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

Enron Oil and Gas Company
Attention: Mr. Patrick Tower
P.O. Box 2267
Midland, TX 79702-2267

Hinkle, Cox, Eaton, Coffield & Hensley
Attention: Mr. James Bruce
P.O. Box 2068
Santa Fe, NM 87504-2068

NM060 (Tony Ferguson)

NM Oil Conservation Division
Attention: Mr. David Catanach
2040 S. Pacheco Street
Santa Fe, NM 87505

NM State Land Office
Attention: Ms. Jami Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

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

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

MICHAEL H. FELDEWERT
TANYA M. TRUJILLO
PAUL R. OWEN

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

September 26, 1996

VIA FACSIMILE AND U.S. MAIL

William C. Calkins, State Director
United States Department of the Interior
Bureau of Land Management
Post Office Box 27115
Santa Fe, New Mexico 87502

Re: ***Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. BLM # 3180 (06200) 14-08-001-5558***

Dear Mr Calkins:

We would like to schedule a hearing before you for Enron Oil and Gas Company, as part of your review of the Department's decision to approve the application of Bass Enterprises Production Co. The dates which we propose are October 28, 29, or 30, 1996. We anticipate that Enron's presentation will take one day. Based on your previous letters, we understand that representatives of Bass will not be present during Enron's presentation. We are still in the process of determining whether we will require a formal transcript of that hearing, and we will let you know as soon as possible whether we will be arranging for a court reporter to take such a transcript.

If you have any further observations regarding the format of Enron's presentation, please let us know.

Very truly yours,

William F. Carr
Paul R. Owen

PRO/edr

cc: Patrick Tower
Tony Ferguson
William LeMay
Rick Weimer
Jami Bailey
Wayne Bailey
Jami Bailey
Solicitor's Office
U.S. Department of the Interior
Bureau of Land Management

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

October 4, 1996

CASE FILE 11668 DRC

IN REPLY REFER TO
SDR 96-026
3165.3 (NM93200)

Campbell, Carr, Berge & Sheridan
Attention: Mr. William Carr
P.O. Box 2208
Santa Fe, NM 87504-2208

Re: State Director Review, James Ranch Unit, Third and Fourth Revision of Atoka Participating Area Approval, Roswell District Office

Dear Mr. Carr:

We have received your September 26, 1996, letter on behalf of Enron Oil and Gas Company (Enron) for the subject State Director Review. Your oral presentation has been scheduled to begin at 9:00 a.m., October 28, 1996, in our second floor conference room. Please check-in at our reception area and ask for Rick Wymer. The entire day has been set aside, including one hour for lunch, beginning at noon. Our review should be completed within ten (10) business days after receipt of written and oral arguments submitted by Enron, Bass or Shell Western.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource Planning, Use and Protection

cc:
Losee, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

IN REPLY REFER TO:
SDR 96-026
3165.3 (NM93200)

NOV 1996

CASE FILE

Losee, Carson, Haas & Carroll, P.A.
Attention: Mr. James E. Haas
P.O. Box 1720
Artesia, NM 88211-1720

Re: State Director Review, James Ranch Unit, Third and Fourth Revision of Atoka Participating Area Approval, Roswell District Office

Dear Mr. Haas:

We have received your October 17, 1996, letter on behalf of Bass Enterprises Production Company for the subject State Director Review. Your oral presentation has been scheduled to begin at 9:30 a.m. on November 7, 1996, in our third floor conference room. Please check in at our reception area and ask for Rick Wymer. Our review should be completed within ten (10) business days after your presentation.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource
Planning, Use and
Protection

cc:
Campbell, Carr, Berge & Sheridan
Attention: Mr. William Carr
P.O. Box 2208
Santa Fe, NM 87504-2208

Bass Enterprises Production Company
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

Enron Oil and Gas Company
Attention: Mr. Patrick Tower
P.O. Box 2267
Midland, TX 79702-2267

Hinkle, Cox, Eaton, Coffield & Hensley
Attention: Mr. James Bruce
P.O. Box 2068
Santa Fe, NM 87504-2068

New Mexico Oil Conservation Division
Attention: Mr. David Catanach
2040 S. Pacheco Street
Santa Fe, NM 87505

New Mexico State Land Office
Attention: Ms. Jami Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

NM (060, Tony Ferguson)

BEFORE THE OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY,
MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPEAL OF ENRON OIL AND GAS COMPANY OF THE DIVISION'S APPROVAL OF THE THIRD AND FOURTH REVISIONS OF THE ATOKA PARTICIPATING AREA OF THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

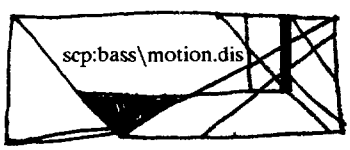
Order No. R-279

MOTION TO DISMISS PROCEEDINGS

COMES NOW, BASS ENTERPRISES PRODUCTION CO. ("Bass"), by and through its counsel, Losee, Carson, Haas & Carroll, P. A. (James E. Haas), and moves to dismiss the proceedings before the Oil Conservation Division ("Division") in the captioned matter. A discussion of pertinent facts regarding this case and basis for dismissal thereof is set forth hereinbelow:

Facts

Bass is the operator of the James Ranch Unit covering various lands in Eddy County, New Mexico, said unit being approved by the Department of the Interior on June 16, 1953, with like approval also being obtained from the Commissioner of Public Lands of the State of New Mexico and the Oil Conservation Commission ("the Division"). On or about February 8, 1996, Bass filed an application with the above agencies for approval of the Third and Fourth Revisions of the Atoka Participating Area ("the Revised PAs") pursuant to Section 11 of the Unit Agreement. The Bureau of Land Management approved the Revised PAs on March 4, 1996. The Division approved the Revised PAs on February 22, 1996. On



June 17, 1996, Enron Oil and Gas Company ("Enron") presented data in opposition to the Revised PAs to personnel of the BLM and the State Land Office. No representative of the Division attended this presentation. The State Land Office approved the Revised PAs on July 25, 1996, making the Revised PAs final (subject to the right of appeal to the BLM). By letters to the Division dated April 3, 1996 and July 22, 1996, Enron objected to the Revised PAs and filed with the Division a request for hearing before an examiner as to the appropriateness of the Revised PAs. On, or about, August 20, 1996, Enron filed a request for review of the BLM District Office's decision with the Office of the State Director of the Bureau of Land Management pursuant to § 43 CFR 3185.1 and 3165.3(b). On or about September 4, 1996, Bass filed with the Division a Motion to Stay Proceedings in this matter, which has been provisionally granted by the Division until such time as a decision is rendered by the State Director of the Bureau of Land Management. Due to the concurrent approval by the above agencies, Bass is obligated to comply with the Federal and State statutory requirements for the reporting of production and royalty income pursuant to the revisions, which are effective December 1, 1982 (Third Revision) and July 1, 1993 (Fourth Revision). The legal, contractual and policy bases for the dismissal of this case by the Division with no further action are set forth below.

1. Federal Jurisdiction and Policy. The James Ranch Unit is a federal exploratory unit created pursuant to the Mineral Leasing Act of 1920 and regulations promulgated thereunder. Approximately 90% of the lands included within the James Ranch Unit are subject to federal oil and gas leases. Approximately 89% of the acreage included in the Third and Fourth Revised Participating Areas is subject to federal oil and gas leases,

with the remainder being subject to leases issued by the Commissioner of Public Lands for the State of New Mexico (13.3%). The Unit Agreement and the operation thereof was and is subject to requirements of the Mineral Leasing Act and regulations promulgated thereunder. The Secretary of Interior is not subject to the jurisdiction of the Division unless the Secretary specifically agrees to be so bound. Kirkpatrick Oil & Gas Co. v. U. S., 675 F.2d 1122 (10th Cir. 1982). Therefore, any decision reached by the Division as to the appropriateness of the Revised PAs contrary to that of the BLM is not binding upon the Secretary, creating a split of authority, making the operator, Bass, subject to possible penalties and assessments from one or both regulatory bodies. Participating area revisions are not granted or approved by the BLM in an arbitrary manner. The BLM has developed specific policies (which can be provided to the Division if requested) regarding participating area issues and maintains a full staff of experienced geologists and engineering professionals who are knowledgeable and responsible for unit administration, including the approval of participating area revisions. The revisions are the result of extensive and exhaustive geological and engineering investigation by the Operator and BLM staff using geological and reservoir information accumulated over the 35-year existence of the Atoka Participating Area.

2. Primary Administration. The specific language of the Unit Agreement shows that it was the intent of the three agencies party to the agreement that the representative of the Department of the Interior, the BLM, would be the primary agency responsible for administering the Unit. The fourth paragraph of the Unit Agreement recites that 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 lands and mineral interests of the State of New Mexico;..." The Commissioner of Public Lands has the power and authority to consent to and approve the agreement on behalf of the State insofar as it affects and includes lands and mineral interests of the State of New Mexico. In the next paragraph of the Unit Agreement, it is further stated that "the Oil Conservation Commission of the State of New Mexico is authorized by law (Chap. 72, Laws 1935, as amended by Chap. 193, Laws 1937, Chap. 166, Laws 1941, and Chap. 168, Laws 1949) to approve this agreement and the conservation provisions hereof;..." The Oil Conservation Commission, predecessor agency to the Division, is given the authority to approve the agreement, which it has done, and the conservation provisions thereof. The unit agreement did not create coequal powers of administration in the three agencies. The Unit Agreement was created pursuant to federal statute and regulation. In light of the percentage of federal leasehold interests located in the unit area, the logical supervising agency is the Department of Interior through its authorized representative, the BLM.

3. Prevention of Waste and Protection of Correlative Rights. By statute, the Division is required to prevent waste and protect correlative rights. See § 70-2-1, et seq., N.M.S.A. 1978; Continental Oil Co. v. Oil Conservation Commission, 373 P.2d 809 (N.M. 1962). The same policy considerations underlie the creation of federal exploratory units. The Mineral Leasing Act of 1920, as amended by the Act of July 3, 1930, provides:

> That for the purpose of more properly conserving the natural resources of any single oil or gas pool or field, permittees and lessees thereof and their representatives may 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 said pool or field, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest....

These same considerations are recited in the Unit Agreement itself in the first paragraph on page 2 thereof, where it is stated, "It is the purpose of the parties hereto to conserve natural resources, prevent waste and secure other benefits attainable through development and operation of the area..." The BLM, as the administrating agency of the unit, is required by statute to address the same concerns as would be addressed by the Division in the exercise of its jurisdiction. The James Ranch Federal Unit was created to prevent waste by promoting full development of a pool or field, yet allowing every leasehold owner to obtain their fair share of production, i.e. protecting correlative rights. The creation of a duplicitous system of hearings and approvals under the auspices of the Division would do nothing to promote the interests of any of the parties to the agreement nor the public at large. For the Division to revisit its prior approval of the Revised PAs would be contrary to long-established procedure established by the three agencies as to the revisions of participating areas. It would be cumbersome, costly and inefficient, and would prevent proper administration of the unit in the event of contradictory decisions by the BLM and the Division.

4. Participating Areas and Revisions are Based on Contract. The Division's execution of the Unit Agreement and approval of the Third and Fourth Revisions fulfill its obligations under the Unit Agreement. The approval by the Division of participating area matters is controlled by the contractual provisions of the Unit Agreement. This is not a matter controlled by rule, statute, Commission order or other governmental edict which calls

for the involvement of numerous procedural requirements. A determination of what is proper in this case can only come from Paragraph 11 of the Unit Agreement entitled "Participating after Discovery", which reads:

> The Unit Operator shall submit for approval by the Director, the Commissioner and the Commission a schedule of all unitized land then regarded to be reasonably proved to be productive in paying quantities...to constitute a participating area.... 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 participating area becomes effective.... 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 productive in paying quantities and the percentage of allocation shall be revised accordingly. The effective date of any revision shall be first of the month in which is obtained the knowledge or information on which such information is predicted, unless a more appropriate effective date is specified on the schedule. No land shall be excluded from a participating area on account of depletion of unitized substances". [Interlineation added.]

Nowhere in the Unit Agreement is there a contractual requirement that the Unit operator give notice to any of the other working interest owners, lessees or lessors who might be affected. There is no requirement that any information for the revision of a Participating Area be first submitted to the other working interest owners, lessees or lessors. Nowhere in paragraph 11 are the working interest owners, lessees or lessors given a contractual right to a hearing before the Division. For Enron to assert rights, they must be granted to Enron in the Unit Agreement. They are not granted in the Unit Agreement, therefore, Enron has no claim to them. It is a basic premise of contract law that an adversely affected party cannot rewrite a contract at some later date, nor can one unilaterally add to the contractual burdens and responsibilities to the other parties.

5. Division Policy. To the best of Bass' knowledge, in the 40+-year existence of the James Ranch Unit, no hearing has ever been held before the Division on the appropriateness of a revision of a participating area in a federal unit. All parties have recognized the right of the Division to refuse to consent to the revision of a participating area. In this case, consent has been granted. Bass has been adversely affected by other participating area revisions in the James Ranch Unit and has never appealed to the BLM or other agency inasmuch as Bass recognizes the finality of the consent issued by the Division for the reasons stated herein. As a matter of policy, the Division has not previously allowed hearings for revisions of participating areas in federal units. Bass as operator is entitled to rely upon a policy created through long precedent and custom. Hobbs Gas Co. v. New Mexico Public Service Co., 115 N.M. 678 (1993), Peabody Coal Co. v. Andrus, 477 F. Supp. 120 (D. Wyo. 1979). A sudden change of this policy, caused by the complaint of a single unsatisfied owner, would be detrimental to the timely and efficient operation of exploratory units created under the authority of the Mineral Leasing Act of 1920. Therefore, the administration and operation of the James Ranch Unit should be subject to the overall jurisdiction of the BLM.

6. Working Interest Owner Consent is Not Necessary. Enron has asserted that all affected working interest owners must consent to the revisions. The BLM has ruled otherwise. The BLM stated this policy in writing (see attached letter dated March 28, 1996). In the interest of fairness and completion of data acquisition, the BLM and State Land Office heard on June 17, 1996 Enron's geological presentation objecting to the Revised PAs

and made their own careful technical review thereof. The agencies found no reason to rescind or amend approval of the revisions as submitted by Bass.

The Division has already granted its consent to the revisions. The revisions are currently being reviewed by the BLM State Director under the Department of Interior's administrative appeal process. If the review results in a reversal of the BLM's approval, the Division and State Land Office should likewise reconsider and reissue their approvals based on further evaluation of the revisions by the BLM. Even in such an instance, a Division hearing would serve no constructive purpose whatsoever.

Conclusion

Therefore, for the reasons set forth herein, Bass respectfully requests that Enron's request for a hearing, and the proceedings before the Division in captioned matter be dismissed, with prejudice.

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____
James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
505/746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this November 27, 1996.

_____
James E. Haas

scp:bass\motion.dis

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Roswell District Office
1717 West Second Street
Roswell, New Mexico 88201

IN REPLY REFER TO:
James Ranch Unit
NM-70965

MAR 28 1996

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

Dear Mr. Carr:

We have received your letters on behalf of Enron Oil and Gas Company (Enron) dated March 19, 1996, and March 21, 1996, protesting the Application for Approval of the Third and Fourth Revisions of the Initial Atoka Participating Area as submitted by Bass Enterprises Company (Bass). We have also received the copy of your correspondence with Bass dated March 25, 1996. After a thorough review, which included coordination with the BLM Solicitor's Office, we have the following information to report regarding your protests.

Article 11 of the James Ranch Unit Agreement dated April 22, 1953 states that:

> Upon completion of a well capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the Commissioner, the Unit Operator shall submit for approval by the Director, the Commissioner and the Commission a schedule, based on sub-divisions 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 Commissioner and the 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, and any two or more participating areas so established may be combined into one with the consent of the owners of all working interests in the lands within the participating areas so to be combined, on approval of the Director, the Commissioner and the Commission. 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 productive in paying quantities, and the percentage of allocation shall also be revised accordingly. ...

Your protest states that "Pursuant to Article 11 of the James Ranch Unit Agreement dated April 22, 1953, no participating area shall be revised <u>without the consent of the owners of all working interests</u> within the participating area." The consent of the owners of all working interests in the lands within the participating areas is only required when two or more participating areas so established are being combined. The consent of the working interest owners should not be confused with like approval. The language in Article 11 regarding approval is specific to the Director, the

Commissioner and the Commission. The language is also specific to when two or more existing participating areas are proposed for combining. This is clearly not the case in regard to the Third and Fourth Revisions of the Initial Atoka. Therefore, the Third and Fourth Revisions of the Initial Atoka Participating Area do not require consent of the working interests since they are not combining two or more existing participating areas.

Your letter of March 21, 1996 , added an additional protest under Article 25 of the Unit Agreement that requires Bass, as the Unit Operator, provide notice to any party whose interest may be affected by an agency action prior to appearing before the Department of the Interior, the Commissioner of Public Lands, and the New Mexico Oil Conservation Division. Article 25 states that.

> Unit Operator shall, after notice to other parties affected, have the right to appear for or on behalf of any and all interests affected before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission and to appeal from orders under the regulations of said Department, the Commissioner or Commission, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior, the Commissioner or Commission, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at his own expense to be heard in any such proceedings.

The Bureau of Land Management (BLM) recognizes that notice to other parties affected is required under Article 25 of the James Ranch Unit Agreement. The BLM also recognizes that the Unit Operating Agreement specifically addresses the notification and approval of actions involving the Unit Operator and Working Interest Owners. The BLM, therefore believes that sufficient controls are in place to address operational conflicts between the working interest owners and the Unit Operator.

In response to your protest, we have notified Bass of their responsibilities as Unit Operator under Articles 25 and 26. We are also enclosing a copy of our correspondence and instructions to Bass for your records. One of the major benefits of unitization is the streamlining of the approval process and the ability to work exclusively with and through the Unit Operator. Finally, the BLM requests that Enron and Bass work out an agreement to follow for future revisions that will allow for a more mutually beneficial approach to approval actions.

If you have any questions, please feel free to give me a call at (505) 627-0298.

Sincerely,

(Orig Sdg) Tony L Ferguson

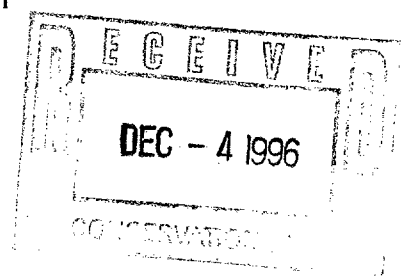
Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure
1 - Copy of Bass Letter Dated March 28, 1996 (2 pages)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

December 3, 1996



IN REPLY REFER TO:
SDR 96-26
NMNM 70965
3165.3 (NM932)

12/5 Carr will respond

CERTIFIED - RETURN RECEIPT REQUESTED
Z 091 155 642

Decision

Mr. William Carr	:	
Campbell, Carr, Berge	:	Third and Fourth Revisions
& Sheridan, P.A.	:	to the Atoka Participating
P.O. Box 2208	:	Area, James Ranch Unit
Santa Fe, NM 87504-2208	:	

Decision Upheld

On March 4, 1996, the Assistant District Manager, Minerals Support Team, Roswell District Office (RDO), approved the third and fourth revisions to the Atoka participating area of the James Ranch Unit (JRU). The approval was conditioned on concurrent approval by the New Mexico Oil Conservation Division (NMOCD) and the New Mexico State Land Office (NMSLO). The NMOCD had already approved both revisions in their order dated February 22, 1996. Enron Oil and Gas Company (Enron), majority working interest owner in the JRU, requested and was allowed to present evidence to the RDO and the NMSLO. By letter dated July 17, 1996, to the NMSLO, the RDO indicated that they had conducted a review of additional information submitted by Enron Oil and Gas Company (Enron) and reiterated their prior approval. On July 25, 1996, approval by the NMSLO made the revision effective. On August 22, 1996, the firm of Campbell, Carr, Berge & Sheridan (representing Enron) filed a timely request for a State Director Review of RDO's decision. The law firm of Hinkle, Cox, Eaton, Coffield & Hensley, by letter dated August 22, 1996, entered its appearance for Shell Western E&P, Inc., as a party adversely affected by the RDO decision. Shell Western E&P, Inc. (Shell Western), is an affected party to the decision because they were an interest owner in the JRU on the effective date of the participating area revisions. Enron's and Shell Western's appeals the State Director included requests for an oral presentation.

Enron and Shell Western both state that they were never provided notice of the revision applications as required by Articles 25 and 26 of the Unit Agreement. Article 25 of the Unit Agreement gives Bass the right to appear before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission on issues related to operations on the JRU. Article 26 sets out the method by which notices must be delivered. The question at issue in this argument is whether or not Bass is required to notify all interested parties prior to each and every appearance before one or more of the agencies mentioned. It is our opinion that the appearance authority granted by Article 25 was conveyed to the unit operator at the time the Unit Agreement was ratified. Bass is not required by the Unit Agreement to notify interested parties when fulfilling their obligation to revise participating areas (Article 11).

Shell Western makes several arguments why a retroactive effective date is improper. Section 11 of the Unit Agreement states that "The effective date of any revision shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, unless a more appropriate effective date is specified in the schedule." The record indicates the third and fourth revisions to the Atoka Participating Area were made effective December 1982 and July 1993, respectively. In their oral presentation, Bass submitted drilling information and mapping from 1982. The material presented indicates that the information supporting their revision application was available in early 1982. It is our opinion that the Unit Agreement allows for a retroactive effective date and that the evidence presented by Bass supports the date approved by the RDO.

Enron argues that critical well tests were excluded or misinterpreted by Bass and the RDO. The record indicates that all well tests and logs from each and every well in the area of the Atoka participating area was reviewed and considered by both Bass and the RDO. Even though raw well information submitted by Enron and Bass was exactly the same or very similar, their final interpretations are significantly different. Both interpretations generally show a north-south trending reservoir, but the areal extent of the reservoir is interpreted differently, particularly in the area of section 35 and the southern end of the Atoka reservoir. Based on the fact that all of the well information was reviewed by the RDO and that evidence submitted by Enron was in the form of a differing interpretation of the very same data, it is reasonable to conclude that the original Bass application is a reasonable representation of the areal extent of the productive Atoka sand in the JRU.

Another point of contention raised by Enron is that Bass and the RDO did not correctly consider well economics for wells with high water saturations, particularly in the southern area of the Atoka

Office of the Solicitor as shown on Form 1842-1; and (2) on the Roswell District Manager, Roswell District Office, 2909 West Second Street, Roswell, NM 88201.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource Planning,
Use and Protection

cc:
NM(060,Tony Ferguson)

Losee, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

Enron Oil and Gas Company
Attention: Mr. Patrick Tower
P.O. Box 2267
Midland, TX 79702-2267

Hinkle, Cox, Eaton, Coffield & Hensley
Attention: Mr. James Bruce
P.O. Box 2068
Santa Fe, NM 87504-2068

New Mexico Oil Conservation Division
Attention: Mr. David Catanach
2040 S. Pacheco Street
Santa Fe, NM 87505

New Mexico State Land Office
Attention: Ms. Jami Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

311 WEST QUAY AVENUE
P. O. BOX 1720
ARTESIA, NEW MEXICO 88211-1720

TELEPHONE
(505) 746-3505

FACSIMILE
(505) 746-6316

MARY LYNN BOGLE
ERNEST L. CARROLL
JOEL M. CARSON
DEAN B. CROSS
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OF COUNSEL
A. J. LOSEE

December 6, 1996

Mr. William J. LeMay, Director
New Mexico Oil Conservation Division
2040 S. Pacheco
P. O. Box 6429
Santa Fe, New Mexico 87505-5472

Re: Third and Fourth Revisions of Atoka Participating Area, James Ranch Unit, Eddy County, New Mexico/NMOCD No. R-279

Dear Mr. LeMay:

Please find attached hereto a decision dated December 3, 1996, by Richard A. Whitley, Deputy State Director of the Bureau of Land Management upholding the previously approved revisions of the Third and Fourth Participating Areas of the James Ranch Unit, Eddy County, New Mexico. In light of this decision, we respectfully request that the Division grant the Motion to Dismiss previously filed by this office on November 27, 1996. It is not known at this time if Enron will pursue a further appeal to the Interior Board of Land Appeals, but we see no advantage to this matter remaining pending before the Oil Conservation Division.

We would appreciate your consideration in this matter.

Respectfully yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

James E. Haas

JEH:kth
Encl.

cc w/encl: Mr. Rand Carroll, Legal Bureau
Mr. Wayne Bailey

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

December 3, 1996

IN REPLY REFER TO:
SDR 96-26
NMNM 70965
3165.3 (NM932)

CERTIFIED - RETURN RECEIPT REQUESTED
Z 091 155 642

Decision

Mr. William Carr	:	
Campbell, Carr, Berge	:	Third and Fourth Revisions
& Sheridan, P.A.	:	to the Atoka Participating
P.O. Box 2208	:	Area, James Ranch Unit
Santa Fe, NM 87504-2208	:	

Decision Upheld

On March 4, 1996, the Assistant District Manager, Minerals Support Team, Roswell District Office (RDO), approved the third and fourth revisions to the Atoka participating area of the James Ranch Unit (JRU). The approval was conditioned on concurrent approval by the New Mexico Oil Conservation Division (NMOCD) and the New Mexico State Land Office (NMSLO). The NMOCD had already approved both revisions in their order dated February 22, 1996. Enron Oil and Gas Company (Enron), majority working interest owner in the JRU, requested and was allowed to present evidence to the RDO and the NMSLO. By letter dated July 17, 1996, to the NMSLO, the RDO indicated that they had conducted a review of additional information submitted by Enron Oil and Gas Company (Enron) and reiterated their prior approval. On July 25, 1996, approval by the NMSLO made the revision effective. On August 22, 1996, the firm of Campbell, Carr, Berge & Sheridan (representing Enron) filed a timely request for a State Director Review of RDO's decision. The law firm of Hinkle, Cox, Eaton, Coffield & Hensley, by letter dated August 22, 1996, entered its appearance for Shell Western E&P, Inc., as a party adversely affected by the RDO decision. Shell Western E&P, Inc. (Shell Western), is an affected party to the decision because they were an interest owner in the JRU on the effective date of the participating area revisions. Enron's and Shell Western's appeals the State Director included requests for an oral presentation.

Enron and Shell Western presented oral arguments and supporting evidence on October 28, 1996. By letter dated September 12, 1996, Bass Enterprises Production Company (Bass), the Unit Operator of the James Ranch Unit, filed arguments in support of RDO's decision and also requested an oral presentation. Bass made their oral presentation of on November 7, 1996.

Enron and Shell Western argued that RDO's approval should be rescinded. Their arguments were lengthy but focus on the following items:

1. Bass violated Federal regulations (43 CFR 3180).

2. Enron's consent to the revisions was never obtained as required by Article 11 of the Unit Agreement.

3. Enron and Shell Western were never provided notice of the revision applications as required by Articles 25 and 26 of the Unit Agreement.

4. The retroactive nature of the decision is improper because:

   a. Equities must favor the party seeking retroactive relief;

   b. There must be substantial evidence to support the retroactive provision of the decision; and

   c. A retroactive effective date is not permissible any earlier than the date of application.

5. The lands do not meet the criteria necessary for participating area expansion defined in Article 11 of the James Ranch Unit Agreement (Unit Agreement). Specifically, the revisions include land that is not "... reasonably proved productive in paying quantities...." Bass has misinterpreted the commercial extent of the Atoka Sand by:

   a. Excluding or misinterpreting some critical well tests;

   b. Ignoring wells with high water saturations; and

   c. Failing to recognize faulting in the area.

Enron argues that Bass violated regulations contained in 43 CFR 3180. This argument is without merit because these regulations merely set the standards by which units are formed. Bass must meet the terms and conditions of the Unit Agreement.

Enron misinterprets the notice requirements in Article 11 of the Unit Agreement. The section quoted pertains specifically to the combination of two or more participating areas and not additions to an existing participating area.

Enron and Shell Western both state that they were never provided notice of the revision applications as required by Articles 25 and 26 of the Unit Agreement. Article 25 of the Unit Agreement gives Bass the right to appear before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission on issues related to operations on the JRU. Article 26 sets out the method by which notices must be delivered. The question at issue in this argument is whether or not Bass is required to notify all interested parties prior to each and every appearance before one or more of the agencies mentioned. It is our opinion that the appearance authority granted by Article 25 was conveyed to the unit operator at the time the Unit Agreement was ratified. Bass is not required by the Unit Agreement to notify interested parties when fulfilling their obligation to revise participating areas (Article 11).

Shell Western makes several arguments why a retroactive effective date is improper. Section 11 of the Unit Agreement states that "The effective date of any revision shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, unless a more appropriate effective date is specified in the schedule." The record indicates the third and fourth revisions to the Atoka Participating Area were made effective December 1982 and July 1993, respectively. In their oral presentation, Bass submitted drilling information and mapping from 1982. The material presented indicates that the information supporting their revision application was available in early 1982. It is our opinion that the Unit Agreement allows for a retroactive effective date and that the evidence presented by Bass supports the date approved by the RDO.

Enron argues that critical well tests were excluded or misinterpreted by Bass and the RDO. The record indicates that all well tests and logs from each and every well in the area of the Atoka participating area was reviewed and considered by both Bass and the RDO. Even though raw well information submitted by Enron and Bass was exactly the same or very similar, their final interpretations are significantly different. Both interpretations generally show a north-south trending reservoir, but the areal extent of the reservoir is interpreted differently, particularly in the area of section 35 and the southern end of the Atoka reservoir. Based on the fact that all of the well information was reviewed by the RDO and that evidence submitted by Enron was in the form of a differing interpretation of the very same data, it is reasonable to conclude that the original Bass application is a reasonable representation of the areal extent of the productive Atoka sand in the JRU.

Another point of contention raised by Enron is that Bass and the RDO did not correctly consider well economics for wells with high water saturations, particularly in the southern area of the Atoka

reservoir at the JRU. Wells with high water saturations indicate less reservoir gas in the vicinity of the wells. Enron claims that high water saturations in those wells, now and when they were originally drilled, makes it impossible for these wells to meet the paying quantities requirement in Article 11 of the Unit Agreement. The record indicates that Bass and the RDO believe water saturations are higher in the southern area, although they interpret slight lower values than does Enron. Bass presented drill stem test and log information that they feel indicates that presence of economic production potential at the time the wells were drilled. Enron counters this data by stating that the tests were flawed or inadequate. Article 11 of the Unit Agreement requires the unit operator to "...include additional land then regarded as reasonably proven to be productive in paying quantities...." It is our opinion, based on the evidence in the record, that Bass has reasonably demonstrated that paying quantities existed in the southern area of the Atoka reservoir in December 1982.

Enron states that faulting exists in the JRU. Faulting would be a barrier to the Atoka sand reservoir and would limit the areal extent of the participating area revisions, particularly in the area of section 35 of the JRU. Enron's interpretation is in direct conflict with opinions expressed by Bass and opinions by a experts in BLM and the NMSLO. It is our opinion that Enron has not proven the existence of faulting in the JRU.

It must be noted for the record that the RDO decision was independently reviewed by the NMOCD and the NMSLO. Both of these State agencies reviewed similar data and decided to approve the application as submitted. A protest filed by Enron is currently pending a hearing before the NMOCD.

Based on the previous discussion, Enron has not proved with a preponderance of the evidence, that the RDO decision was made in error. Therefore, the March 4, 1996, decision of the Assistant District Manager, Minerals Support Team, Roswell District Office, to approve the third and fourth revisions to the Atoka participating area of the JRU is considered reasonable and must be upheld.

Enron has the right to appeal this decision to the Interior Board of Land Appeals, in accordance with the regulations in Title 43 CFR Parts 4.400 and 3165.4, as well as Form 1842-1 (copies enclosed). If an appeal is taken, Enron's Notice of Appeal must be timely filed in this office so that the case file can be transmitted to the Interior Board of Land Appeals. See the enclosed Form 1842-1 for instructions to follow pertaining to the filing of a Notice of Appeal. To avoid summary dismissal of any appeal, Enron must comply fully with all the requirements of the regulations. A copy of any Notice of Appeal and any statement of reasons, written arguments, or briefs, must be served; (1) on the

Office of the Solicitor as shown on Form 1842-1; and (2) on the Roswell District Manager, Roswell District Office, 2909 West Second Street, Roswell, NM 88201.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource Planning,
Use and Protection

cc:
NM(060,Tony Ferguson)

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Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
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Enron Oil and Gas Company
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Hinkle, Cox, Eaton, Coffield & Hensley
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Santa Fe, NM 87504-2068

New Mexico Oil Conservation Division
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Santa Fe, NM 87505

New Mexico State Land Office
Attention: Ms. Jami Bailey
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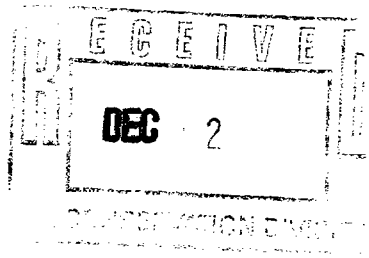


December 12, 1996

VIA HAND DELIVERY

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: Enron Oil & Gas Company's Motion to Rescind Approval, Motion for Setting and Response to Bass's Motion to Dismiss Proceedings

NMOCD Case No. 11602, Application of Bass Enterprises Production Company for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico;

NMOCD Case No. 11603, Application of Bass Enterprises Production Company for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Dear Mr. LeMay:

Attached please find Enron Oil & Gas Company's Motion to Rescind Approval, Motion for Setting and Response to Bass's Motion to Dismiss Proceedings, and Memorandum in support thereof, in the above-captioned cases.

As you are aware, many years ago, as part of the Division's correlative rights jurisdiction, the Division undertook review of federal units, and has actively engaged in such review ever since. Operators in New Mexico have come to rely on that function of the Division. You cannot now walk away from that responsibility.

BEFORE THE
OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11602

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11603

ENRON OIL & GAS COMPANY'S
MOTION TO RESCIND APPROVAL,
MOTION FOR SETTING
AND RESPONSE TO BASS' MOTION TO DISMISS PROCEEDINGS

Enron Oil and Gas Company moves the Division to rescind its approval of the Third and Fourth revisions (the "Revisions") to the Atoka Participating Area of the James Ranch Unit, Eddy County, New Mexico, moves the Division to set this matter for hearing, and responds to the Motion to Dismiss of Bass Enterprises Production Company, as follows:

1. The Division's statutory basis and jurisdiction is the prevention of waste and the protection of correlative rights. The Revisions significantly impair Enron's correlative rights. Before the Division may affect Enron's correlative rights, it must afford Enron due process of law, including notice and the opportunity to be heard, and other protections. The

Division did not provide Enron those protections. Therefore, the Division must rescind its approval of the Revisions and provide Enron a hearing on the merits of the Revisions before an impartial fact finder.

2. In its Order approving the James Ranch Unit, the Division assumed the obligation of ensuring that the procedures outlined in the Unit Agreement are followed by Bass, the designated unit operator. Bass did not follow the procedures of the Unit Agreement. Under the statutes creating the Division and the Divisions rules and regulations, the Division must rescind its approval of the Revisions and provide Enron a hearing on the merits of the Revisions before an impartial fact finder.

3. Bass has represented to the Division that the BLM has primary jurisdiction over the dispute, that the BLM's procedures discharge the Division's duties, that the dispute is a contractual one not properly resolved before the Division, that the Division has an established policy of not hearing similar disputes, and that working interest owner consent is not needed prior to revising a participating area. None of these representations are correct. In fact, the majority of the production from the current and revised participating area is from state lands. The BLM recognizes that its jurisdiction over the Revisions is concurrent with the Division's, and that without the Division's approval, the BLM's approval is insufficient to effect the Revisions. The BLM's procedures do not discharge the Division's duties--the BLM is charged with protecting the "public interest," while the Division is charged with

preventing waste and protecting correlative rights. If the Division does not protect Enron's correlative rights, no other agency will. The BLM's procedures did not and cannot protect Enron's due process rights, as the Division is required to do through its statutory duty to protect Enron's constitutionally-protected property rights. Rather than having a policy of not reviewing Unit Agreement disputes, the Division has expressly accepted the responsibility of supervising Unit Agreement administration, and in any case cannot avoid its constitutional and statutory responsibilities. Finally, Bass has admitted, and Enron will prove, that Bass was required to and failed to provide notice to and consult with Enron prior to requesting approval of the Revisions.

Therefore, because the Division is obligated to provide Enron with notice and an opportunity to present, to an impartial fact finder, its objections to the Revisions, Enron respectfully requests an Order rescinding the Division's approval of the Revisions, setting Bass's requests for approval for hearing, and denying Bass's Motion to Dismiss.

Respectfully submitted,

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

By: _____
WILLIAM F. CARR
PAUL R. OWEN
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR ENRON OIL & GAS COMPANY

CERTIFICATE OF MAILING

I hereby certify that I have caused to be mailed on this 12th day of December, 1996 a true and correct copy of the foregoing pleading to the following counsel of record:

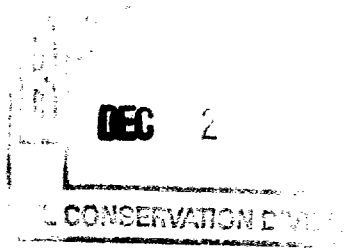
James E. Haas, Esq.
Losee, Carson, Haas & Carroll, P.A.
Post Office Box 1720
Artesia, NM 88211-1720

and further certify that I have caused to be hand-delivered a copy of same to:

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87501

_____
William F. Carr

BEFORE THE
OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES



APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11602

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11603

MEMORANDUM IN SUPPORT OF ENRON OIL & GAS COMPANY'S MOTION TO RESCIND APPROVAL, MOTION FOR SETTING AND RESPONSE TO BASS' MOTION TO DISMISS PROCEEDINGS

These cases are before the Division on the Applications of Bass Enterprises Production Co. for approval of the Third and Fourth Revisions of the Atoka Participating Area ("the Revisions") in the James Ranch Unit, Eddy County, New Mexico. Bass is the Unit Operator of the Unit. In performing its duties as Operator, Bass must comply with (1) the duties imposed on it by the Constitutions of the United States and State of New Mexico; (2) the regulatory and statutory requirements of the New Mexico Oil Conservation Division and Commission (hereinafter collectively referred to as "the Division") and other regulatory

agencies; and (3) the contractual provisions of the Unit Agreement. In applying for approval of the Revisions, Bass complied with none of these requirements.

To meet its statutory and constitutional duties, the Division must rescind its approval of the Revisions.

BACKGROUND

On November 27, 1996, Bass filed its Motion to Dismiss Proceedings before the Division. This motion is an attempt to (1) deprive Enron of the hearing on the Revisions it is entitled to as a matter of law, (2) avoid Division review of the impact of the Revisions on the correlative rights of Enron, and (3) invite the Division to join with Bass in depriving Enron of constitutionally protected property interests without due process of law.

The following facts are relevant to the issues presented by Enron's Motion to Rescind Approval, Motion for Setting and Bass' Motion to Dismiss Proceedings:

1. The James Ranch Unit is a voluntary Unit comprised of State and Federal lands located in Eddy County, New Mexico.
2. Prior to forming the James Ranch Unit, the Unit Agreement was submitted to the Oil Conservation Division for review and approval.
3. A hearing was held before the Division to review the proposed Unit Agreement on February 17, 1953.
4. By Order Number R-279, dated March 17, 1953, the New Mexico Oil

Conservation Commission approved the formation of the James Ranch Unit and found that "the James Ranch Unit Agreement Plan shall be, and hereby is, approved in principal as a proper conservation measure . . . ."

5. Since Bass became operator of the Unit it has proposed revisions to the boundaries of the participating area in the James Ranch Unit **after reviewing these proposals with other working interest owners in the unit.** For example, Enron was supplied with copies of the supporting data which was submitted to government agencies when their approvals were sought of the First and Second Revisions to the Atoka Participating Area, and the creation and expansion of the Bone Springs Participating Area in this Unit. Bass now embarks on a new course where it provides neither notice nor information to those for whom it operates.

6. As operator of the James Ranch Unit, on February 8, 1996, Bass made Application for Approval of the Third and Fourth Revisions of the Initial Atoka Participating Area. **Bass gave no notice to Enron of these proposed expansions as required by paragraph 25 of the Unit Agreement thereby denying Enron an opportunity to present its evidence before the agency decisions were rendered.** The information upon which Bass relies for the recommended Third Revision dates back to **December 1, 1982.**

7. Although 75% of the acreage in the Atoka Participating Area prior to revision is federal land, **67% of the field production has come from State lands.** After the Revisions, **55% of the total field production comes from State lands.**

8. On February 22, 1996, based on only the data submitted by Bass, which data contradicts the recent testimony of Bass before the Division (Case 11019 *de novo*), the Oil Conservation Division approved Bass' proposed revisions to the Atoka Participating Area.

9. Enron first learned of these proposed revisions on March 14, 1996.

10. On March 19, 1996, Enron filed a written protest to these proposed revisions with the Oil Conservation Division.

11. Enron also wrote the Division on March 27, 1996 and requested that it rescind its approval of these expansions of this Participating Area since they were proposed in violation of the provisions of the Unit Agreement.

12. On April 3, 1996, Enron requested that these Applications be set for hearing before a Division Examiner.

13. The applications were scheduled for hearing on August 22, 1996.

14. On August 20, 1996 Bass filed its Motion to Stay Proceedings and the Division continued these cases pending a decision the State Director of the

Bureau of Land Management on Enron's challenge to the Revisions before that agency.

15. On December 3, 1996, the State Director of the Bureau of Land Management entered its Decision upholding the decision of the Roswell District Office. This decision failed to address the geological and engineering evidence presented by Enron and placed the burden on Enron to show that the decision of the District Office was in error instead of requiring Bass to justify the Revision. This opinion referenced the technical review of Bass' evidence made by the Division and noted that a hearing was currently pending before the Division to consider the protest of Enron.

16. Based on the revised Atoka, Bass has made adjustments in the volume of Atoka production allocated to Enron since 1982 and on December 9, 1996, wrote to Enron demanding data and/or payment for 3,186,274 mcf of natural gas and $339,058.68 in revenue for condensate.

ARGUMENT

I.

ENRON IS HAS A RIGHT TO A HEARING PRIOR TO THE DIVISION'S APPROVAL OF THE REVISIONS UNDER THE DUE PROCESS CLAUSE OF THE CONSTITUTIONS OF NEW MEXICO AND THE UNITED STATES

Enron owns substantial oil and gas interests in the James Ranch Unit. In fact, Enron is the largest, and except for Bass, the only working interest owner in the current Atoka Participating Area. Enron's oil and gas interests in the James Ranch Unit and the Atoka Participating Area are subject to all of the protections afforded by the New Mexico and United States Constitutions. ***Uhden v. New Mexico Oil Conservation Comm'n***, 112 N.M. 528, 530, 817 P.2d 721, 723 (1991).

A. Interest Protected

By approving the Revisions, the Division has severely affected Enron's correlative rights. Correlative rights are defined by New Mexico Statute as:

> "the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool, and, for such purpose, to use his just and equitable share of the reservoir energy....

NMSA 1978, § 70-2-33(H) (Repl. Pamp. 1987). Most of the land which Bass proposes to

include in the Participating Area through the Revisions is owned by Bass. If those lands are included, the production from the participating area which has been attributed to Enron's interest since 1982 and all future production will be substantially reduced. By so reducing the production attributable to the interests of Enron, the Division and Bass have severely reduced Enron's just and equitable share of the hydrocarbons from the Participating Area without hearing, and have thereby directly affected the correlative rights of Enron. By modifying the method of allocation of the proceeds from unit production under the Unit Agreement, and reducing its interest in this production by millions of dollars, the Division has impaired the correlative rights of Enron. ***See Clark Oil Producing Co. v. Hodel***, 667 F.Supp. 281 (E.D. La. 1987).

In New Mexico an interest in oil and gas is a constitutionally protected property right. ***Uhden***, 112 N.M. at 530, 817 P.2d at 723. Furthermore, correlative rights are unique property rights. ***Cowling v. Board of Oil, Gas and Mining***, 830 P.2d 220, 225 (Utah 1991). When the Division affects a party's correlative rights, it must ensure that such action complies with its duties to protect that party's constitutionally-protected property rights. ***Uhden***, 112 N.M. at 530, 817 P.2d at 723; ***Santa Fe Exploration Co. v. Oil Conservation Comm'n***, 114 N.M. 103, 113, 835 P.2d, 819, 829.

B. Specific Procedures Required.

At a bare minimum, in order to protect Enron's constitutionally-protected property rights and afford Enron due process of law, the Division must ensure that Enron had notice of the proposed Division action, and had an opportunity to be heard regarding that action. ***Santa Fe***, 114 N.M. at 109, 835 P.2d at 825. However, the Division's responsibilities do not end with simply ensuring notice to Enron and an opportunity for Enron to be heard. Due process requires that the hearing officer must not have a predisposition regarding the outcome of the proposed action. ***Id.*** In this case, approval has already been issued. The Division may not simply allow Enron to present its objections to the merits of the Revisions and decide whether to rescind the Division's approval. Instead, the Division must rescind its approval, ensure that Enron is provided notice ***prior to*** Bass's request for approval, and allow Enron to present its objections to the merits of the Revisions.

The federal courts have decided that the New Mexico Oil Conservation Commission proceedings are entitled to recognition as valid proceedings by the federal courts. ***Amoco Production Co. v. Heimann***, 904 F.2d 1405, 1415-17 (10th Cir. 1990). However, that approval is premised upon the presumption that the Commission's proceedings meet due process standards which include: notice to adversely affected parties; the ability of such adversely affected parties to institute hearings and make their objections known; the ability of such adversely affected parties to present evidence and cross-examine witnesses in the

context of a hearing that generally complies with the rules of evidence and that is held in public on the record; and the requirement that Commission "make written findings of fact that sufficient support in the record." ***Id.***

The procedures of the Division which the federal courts have recognized as worthy of recognition are those proceedings which provide Enron with its constitutional right to due process before its protected property rights are affected. "At a minimum, procedural due process requires that before being deprived of life, liberty, or property, a person or entity be given notice of the possible deprivation and an opportunity to defend." ***Santa Fe***, 114 N.M. at 109, 835 P.2d at 825. "Administrative proceedings must conform to fundamental principles of justice and the requirements of due process of law." ***Uhden***, 112 N.M. at 530, 817 P.2d at 723. Enron is entitled to "'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" ***Id.*** (*quoting* ***Mullane***, 339 U.S. at 314). Furthermore, "[t]he right to confront and cross-examine witnesses applies to administrative proceedings where an interest protected by the Due Process Clause is at stake." ***Doe v. United States Civil Service Comm'n***, 483 F.Supp. 539, 579 (S.D.N.Y. 1980) (*citing* ***Morrisey v. Brewer***, 408 U.S. 471, 489 (1972). Finally, Enron is entitled to present its objections to a fact finder which has not already decided to approve the Revisions. ***Santa Fe***, 114 N.M. at 109, 835 P.2d at 825.

In this case, the approval of the Division was issued, and Enron's correlative rights were restricted, without meeting any of the requirements of due process. Enron was not notified of the requested approval of the Revisions. Enron has not been allowed access to the evidence which Bass presented in support of the requested approval. Enron has not been allowed to present evidence in opposition to the Revisions. No public hearing on the record has been held. Enron has not been allowed to cross-examine any witnesses which Bass might offer in support of the Revisions. Finally, the Division has issued its approval, and has thus deprived Enron of an impartial fact finder. In short, the Division's approval of the Revisions must be rescinded, and if Bass thereafter persists in its quest for approval of the Revisions, Enron must given notice and provided with the opportunity to be heard before an impartial and unprejudiced fact finder.

C. BLM Procedures Are Inadequate.

The Division has continued indefinitely Enron's request for a hearing on this matter, in which hearing Enron desires to present evidence in support of its request that the Division disapprove the Revisions. The Division's continuance of this matter is premised upon the fact that the United States Department of the Interior, Bureau of Land Management, is currently engaged in a review of the propriety of the Revisions. That review is not sufficient to satisfy the Division's duties to ensure that Enron's constitutionally protected property

rights are adequately protected.[1]

The BLM has taken the position that Enron's due process rights are not implicated by these proceedings, and that the BLM is not obligated to ensure that the proceedings comport with the requirements of due process. *See* Letter from Tony Ferguson to Paul Owen, 4/16/96 at 1, paragraph numbered 1 (attached hereto as Exhibit A). That position is premised upon the BLM's determination that the Unit Agreement is a private contract, and the BLM therefore has no duty to provide due process in the operation of the Unit under the Agreement. The BLM review did not provide notice prior to approving the Revisions, did not allow an opportunity to be heard before the decision was made to approve the expansions, permitted no opportunity to review the evidence Bass presented in support of its application, did not permit Enron the opportunity to cross examine the Bass witnesses, and did not provide an impartial fact finder.[2]

1

Bass takes the position that the Division may not exercise its statutory-mandated jurisdiction over this matter because the BLM is engaged in a parallel review. *Motion to Dismiss* at 3-5. However, the BLM recognizes that its approval is expressly conditioned upon similar approval from the Division. *See* letter from Tony Ferguson to Bass, 3/4/96, at ¶ 1 (attached hereto as Exhibit B). *See also* Exhibit A at 1, ¶ 3. There is no "primary jurisdiction" of this matter in the BLM because the BLM's jurisdiction basis is different from that of the Division. *See* footnote 3, ***infra***. Similarly, in contrast to Bass' representations, *see Motion to Dismiss* at 5, there is no overlap in procedure or jurisdiction. The Division is the only agency charged with protecting correlative rights, and the only agency with procedures sufficient to protect those rights in accordance with due process standards.

2

The decisions of the BLM following the review by the District Office and the State Director both concluded that Enron had not met its burden and proven that the approvals of the Revisions should be rescinded. Due process requires that the burden be on the applicant seeking expansion of the Participating Area. To put the burden of proof on Enron to rescind a previously approved order, on its face, presumes the

The Division did not meet its obligation to protect correlative rights nor can it transfer this duty to the unit operator. ***Santa Fe***, 114 N.M. at 113, 835 P.2d at 829. Instead, because Enron's constitutionally protected correlative rights are affected, ***see Cowling***, 830 P.2d at 225; ***Uhden***, 112 N.M. at 530, 817 P.2d at 723, the Division must ensure that Enron is provided due process before the Revisions are approved. ***Mullane***, 339 U.S. at 314, ***Uhden***, 112 N.M. at 530, 817 P.2d at 723; ***Santa Fe***, 114 N.M. at 108-09, 835 P.2d at 824-25.

The Division cannot meet its obligation to protect correlative rights by deferring to the review procedures of the BLM. First, the Unit Agreement places specific responsibilities on the Division, which the Division accepted by approving the Agreement. Second, although Bass contends that the BLM and Division "address the same concerns," the jurisdiction of the Division is different than the jurisdiction of the BLM. The Division is charged with the protection of the correlative rights of "the owner of each property in a pool," NMSA 1978, § 70-2-33 (H), whereas the BLM is charged with looking after the "public interest" in mineral development, 30 USCA § 226(j).[3] Third, as noted above, the Division is the only

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approvals are correct and denies Enron its constitutional right to an impartial fact finder. ***Santa Fe***, 114 N.M. at 109, 835 P.2d at 825.

[3] It is essential to understand the difference in the jurisdictional basis of the BLM and the OCD. The BLM is only charged with protecting the public interest. 30 USCA § 226(j). The BLM is not in the business of protecting correlative rights. In contrast, the OCD is the ***only*** agency whose reason for existence is the prevention of waste and protection of correlative rights. NMSA 1978, § 70-2-33(H). If the OCD does not discharge its statutory duty of protecting Enron's correlative rights, no other agency will.

agency that has an established hearing process where the due process rights of interest owners can be protected.[4]

Since there are no established procedures for hearings before the BLM, the Division has taken the position that its procedures should be utilized and accepted by the BLM in matters which come before it. Recently, the Division has played an important leadership role in the passage of a Joint Resolution of the Interstate Oil and Gas Compact Commission which provides in part:

> WHEREAS the best interests of the BLM are also served by utilizing a long established, comprehensive and effective state administrative procedure which provides an opportunity for the BLM, the public and for all interested parties to participate in hearings and decisions on this subject...
>
> NOW, THEREFORE, IT IS RESOLVED THAT:
>
> THE STATES OF NEW MEXICO, COLORADO, WYOMING AND CALIFORNIA SHALL ENTER INTO JOINT POWERS AGREEMENTS WITH THE UNITED STATES BUREAU OF LAND MANAGEMENT WHICH OBLIGATES THE BLM TO APPROVE OIL AND GAS OPERATIONS ON FEDERAL OR INDIAN OIL AND GAS LEASES WITHIN THE BLM JURISDICTION **BY RELYING UPON ORDERS AND DECISIONS ISSUED BY APPLICABLE STATE OIL CONSERVATION COMMISSIONS.**

To deny Enron a hearing on its request for review of this expansion of this Participating Area

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Bass in its Motion to Dismiss, argues that the BLM has developed specific policies and procedures for dealing with participating area issues. However, Bass does not, and cannot, represent that those policies and procedures protect Enron's correlative rights at all, and especially not with constitutionally-mandated due process.

requires the Division to run away from the very resolution the passage of which it secured.

The BLM recognizes the importance of the Division hearing process. It has been turning to the Division when it is confronted with issues where hearings are required. In a recent BLM decision concerning a tract on the Ute Mountain Ute Reservation, the BLM stated:

> Lacking a cooperative agreement between the Ute Mountain Ute Tribe (Tribe), the BLM, the States of Colorado and New Mexico, governing establishment of spacing on Ute Mountain Ute Indian Lands, **BLM utilizes the existing oil and gas hearing process of the Colorado Oil and Gas Conservation Commission and the New Mexico Oil Conservation Division for the purposes of notification, public hearing, and receiving recommendations from the respective state bodies.**

BLM Order No. UMU-1, July 13, 1995. It is also important that in this case, the BLM State Director's recent Decision upholding the Revisions noted that there was a hearing pending before the Division on Enron's objection.[5]

Only if the prior approvals of the Revisions are rescinded and the applications set for hearing before an impartial fact finder can the due process rights of Enron be protected. In this hearing Enron will show that much of the land to be included in the revised Participating Area is non-productive or is fault separated from the commercial portion of the reservoir. In

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Once again, it is essential to understand that the BLM recognizes the requirement of an independent review by the Division. Without that independent review, there will be no protection of Enron's due process rights.

this hearing Enron will be able to cross examine Bass' witnesses about the commercially productive nature of the proposed southern extension of the Participating Area and show that the reason no wells have been drilled in this area for fifteen years is that it is not reasonably proved to be productive in paying quantities. Paying quantities is defined in Section 9 of the James Ranch Unit Agreement as "quantities sufficient to repay the costs of drilling, and producing operations, with a reasonable profit."[6]

Unless the prior approval of the Revisions is rescinded and the Bass applications set for hearing, Enron's constitutionally-protected interests in oil and gas properties are taken by Division action without due process of law in violation of the Constitutions of the State of New Mexico and the United States, the statutory charge of the Division, and the Division approved unit agreement.

II.

ENRON HAS A RIGHT TO A HEARING BEFORE THE DIVISION UNDER THE NEW MEXICO OIL AND GAS ACT

Under the Oil and Gas Act, there are specific criteria which must be met prior to the Division's approval of a proposed expansion of a participating area. The Commission's

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Similarly, a reviewing court has defined "paying quantities" as a "profit, even small, over operating expenses. Whether ascertaining whether or not, under all relevant circumstances, a reasonably prudent operator would continue to operate a well in the manner in which it is being operated for the purpose of making a profit and not merely for speculation. ***Ballanfonte v. Kimbell***, 373 S.W.2d 119, 120 (Tex.App. 1963). Bass has not, and cannot, prove to the Division that the lands to be included through the Revisions are capable of producing in paying quantities.

statutory duties, and the reasons for its existence, are to "[P]revent waste . . . and protect correlative rights." NMSA 1978, § 70-2-33(H). All actions taken by the Division, must serve those duties.

Oil Conservation Division approval was a condition precedent to formation of the James Ranch Unit. To comply with this requirement, the unit agreement was reviewed by the Division in a public hearing and Order No. R-279 was entered approving the agreement. This order found that the procedures contained in the Unit Agreement met the Commission's statutory duties to prevent waste and protect correlative rights. Accordingly, the parties to the unit agreement rely on the determination of the Division that the agreement, through the procedural provisions contained therein, protected correlative rights.

When the Division approved the formation of the James Ranch Unit Agreement, it did not waive its rights or duties to protect correlative rights as they relate to Unit operations. To the contrary, Section 3 of this Order provides:

> [N]otwithstanding any of the provisions contained in said unit agreement this approval shall not be considered as waiving or relinquishing in any manner any right, duties or obligations which are now, or may hereafter, be vested in the New Mexico Oil Conservation Commission by law relative to the supervision and control of operations for exploration and development of any lands committed to said James Ranch Agreement, or relative to the production of oil or gas therefrom.

When the Unit Operator exercises its duties under this Commission approved Unit Agreement, and in a fashion consistent with the procedures set forth therein, it does so under

the guise of the authority of the New Mexico Oil Conservation Commission. ***See Crest Resources and Exploration Corp. v. Corp. Comm'n***, 617 P.2d 215, 217 (Okla. 1980 (designated unit operator's actions are exercise of delegated authority of Corporation Commission).

In its Motion to Dismiss Proceedings, Bass erroneously contends that Enron is only entitled to a hearing on the Revisions if that right to hearing is granted by the unit agreement. Surely it does not seriously contend that the powers of the Division are conferred on it by private agreements. The Division is a creature of statute and its duty to protect correlative rights is conferred on it by the Oil and Gas Act. ***Continental Oil Co. v. Oil Conservation Comm'n***, 70 N.M. 310, 323, 373 P.2d 809, 817 (1962). This duty is not a discretionary responsibility of the Division. It is a mandatory obligation upon which all Commission actions rest. When a party to the James Ranch Unit complains that its correlative rights are impaired by unit operations, the Division is required by statute and the provisions of Division Order No. R-279 to hear that complaint. Actions of another regulatory agency do not relieve the Division of that responsibility or act as a substitute for a hearing on this issue. Furthermore, once the Division approved the Unit Agreement and asserted continuing jurisdiction over the conduct of unit operations, the owners of interest therein are entitled to rely on these operations being consistent with Division rules **and procedures**. These procedures include a right to notice and hearing when property rights are being affected.

Santa Fe, 114 N.M. at 109, 835 P.2d at 825. In other words, these procedures guarantee due process of law.

By approving this Unit Agreement, the Division did not abandon its statutory duties. ***Santa Fe***, 114 N.M. at 113, 835 P.2d at 829 (1992). The contrary is true. Division Order R-279 approving the Unit Agreement and the Constitutions and laws of the United States and State of New Mexico require the Division to exercise its continuing jurisdiction over Bass as Unit Operator. The Division must now act to ensure that Bass's actions under the Unit Agreement comply with the Division's statutorily-imposed duties, including the protection of correlative rights. ***Santa Fe***, 114 N.M. at 113, 835 P.2d at 829.

III.

ENRON HAS A RIGHT TO A HEARING UNDER THE UNIT AGREEMENT

The Unit Agreement provides that working interest owners affected by a proposed revision of a Participating Area shall consent to the proposed revision prior to the revision being submitted to the Division for agency approval. The relevant portions of Section 11 provide:

> 11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the Commissioner, the Unit Operator shall submit for approval by the Director, the Commissioner and the Commission (Division) a schedule, based on sub-divisions 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 Commissioner and the Commission to constitute a participating area, effective as of the date of first production... 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, and any two or more participating areas so established may be combined into one **with the consent of the owners of all working interest in the lands so combined,** on approval of the Director, the Commissioner and the Commission (Division). 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 productive in paying quantities, and the percentage of allocation shall be revised accordingly.

Section 11 of the Unit Agreement, when read with the Notice provisions of Section 25, which are discussed below, clearly requires "like approval" or "consent of the owners of working interest in the lands so combined" prior to submission of proposed revisions of participating areas to government agencies.

Had Bass sought the consent of Enron before submitting the Revisions to agencies for approval, as it had in the past and as is required by the Unit Agreement, the issues now before the Division would have been resolved between the parties as they have in the past.

Enron relied on the past practice of Bass and the notice and consent provisions of the Unit Agreement for the expansion of existing participating areas. Enron submits that the Division also could rely on Bass obtaining the consent of other affected owners in the Revised Participating Areas before submitting the Revision for approval. Accordingly, when Division-endorsed proper procedures are followed by the operator, there should be no need

for a hearing. This case, however, presents an unprecedented matter to the Division. Bass failed to follow proper procedures in bringing the Revisions before the Division for approval. Had these procedures been followed by Bass in this case it would not be now suggesting that Enron's right to a hearing is causing it accounting problems. Bass also would not be suggesting that the BLM is "the primary agency" in the review process for proposed participating revisions in federal units--an argument that runs in the face of the unambiguous review provisions of the Unit Agreement.

Paragraph 25 of the Unit Agreement provides that the "Unit Operator shall, **after notice to other parties affected**, have the right to appear for or on behalf of any and all interests affected hereby before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission . . . ." Upon notice of **the proposed Revisions**, ***any party affected has the right to appear and be heard in any proceedings involving approval of the proposed Revisions***. (emphasis added).

When this contractual provision, approved by the Division, is considered with the basic precept of constitutional law, that no interest in property may be affected by a governmental agency without prior notice and an opportunity to be heard, ***Mullane v. Central Hanover Bank & Trust Co.***, 339 U.S. 306 (1950); ***Uhden v. Oil Conservation Commission***, 112 N.M. 528, 817 P.2d 721 (1991), it is clear that under the Unit Agreement, Enron is entitled to a hearing on the Revisions proposed by Bass.

III.

CONCLUSION

The Division has been charged with preventing waste and protecting correlative rights. In doing so, it must comply with its statutory duties and satisfy the requirements of the New Mexico and United States Constitutions. When the Division issued its approval of the Revisions, it failed to discharge those statutory and constitutional duties. The Division must rescind its approval of the Revisions, and must provide Enron with all necessary statutory and constitutional protections in any future proceedings on this matter.

Respectfully submitted,

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

By: _____
WILLIAM F. CARR
PAUL R. OWEN
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR ENRON OIL &
GAS COMPANY

CERTIFICATE OF MAILING

I hereby certify that I have caused to be mailed on this 12th day of December, 1996 a true and correct copy of the foregoing pleading to the following counsel of record:

James E. Haas, Esq.
Losee, Carson, Haas & Carroll, P.A.
Post Office Box 1720
Artesia, NM 88211-1720

and further certify that I have caused to be hand-delivered a copy of same to:

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87501

_____
William F. Carr

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

IN REPLY REFER TO:
James Ranch Unit
NM-70965

APR 1 6 1996

Mr. Paul Owen
Campbell, Carr & Berge, P.A
P.O. Box 2208
Santa Fe, New Mexico 87504-2208

Dear Mr. Owen:

We received your letter on behalf of Enron Oil and Gas Company (Enron) dated April 8, 1996 regarding the continued protest of the application of Bass Enterprises Production Company (BEPCO) for approval of the Third and Fourth Revisions to the Atoka Participating Area in the James Ranch Unit. After careful review and coordination with our solicitor, we would like to respond to the following issues that have been raised:

(1) Due process rights

The James Ranch Unit Agreement is viewed as a contract between the Bureau of Land Management and the Unit Operator. In this case, the Unit Operator (BEPCO) is totally responsible for meeting all the requirements of the Unit Agreement. Any technical or philosophical differences between the Unit Operator and working interest owners must be resolved outside the Unit Agreement. The Unit Agreement contains no provisions for resolution of differences. This matter is normally addressed through a Unit Operating Agreement of which the BLM is not a party. Therefore, the issue of due process rights will not be considered by the BLM and we recommend that a solution be sought outside of the Unit Agreement arguments.

(2) Notification requirements

As per the Unit Agreement language, there are no requirements for the Unit Operator to provide working interests owners any supporting data when notification is served. If there are no objections from BEPCO, the BLM will allow Enron to review the technical data that has been submitted thus far. If Enron wishes to pursue this, please provide the BLM with some type of approval from BEPCO or have BEPCO contact the BLM by telephone.

(3) Approval conditions and rescinding of BLM approval

We are enclosing a copy of the approval letter that was sent to BEPCO from the BLM dated March 4, 1996, which states "...This approval is conditioned on concurrent approval from the New Mexico Oil Conservation Division and the New Mexico Commissioner of Public Lands." This statement is consistent with the Unit Agreement language in Article 11 regarding approvals and the BLM's approval in this situation, is not viewed as a final agency decision until all approving offices have approved. As you are aware, the BLM has requested the Commissioner of Public Lands to suspend any additional processing on this application. The BLM ordered BEPCO to notify Enron and BEPCO has provided documentation of this to the BLM. As per the language in Article 25 on

appearances, we will allow Enron to make a presentation to all three agencies regarding the proposed Third and Fourth Revisions to the Atoka Participating Area. This presentation, however, will not afford Enron the opportunity to cross-examine BEPCO, but to present technical data only. Therefore the BLM will not reconsider its approval dated March 4, 1996, until after such appearance, at which time we will review the information presented and allow the approval to stand or amend as necessary.

(4) Clarification of prior meetings with Enron

A review of BLM records indicates that representatives from Enron appeared before the BLM on November 2, 1995, regarding proposed revisions to the Atoka Participating Area. In fact, Enron left geological maps including structural interpretations of the area with BLM which are consistent with the proposed revisions as presented by BEPCO. These maps had also been utilized in a hearing before the New Mexico Oil Conservation Division. Enron contacted BLM personnel requesting a status report on the Atoka Participating Area and were fully informed of the proposed revisions. Enron requested that BLM allow them an opportunity to present technical data and BLM allowed Enron to appear. Your statements on page 3 of the letter dated April 8th are correct in that the actual applications from BEPCO for the Revisions were submitted on February 8, 1996. Your statements, however, are incorrect in that the previous meeting on November 2, 1995, with BEPCO and Enron involved proposed revisions to the Atoka Participating Area for the James Ranch Unit #70 well.

(5) State Director Review

The Roswell District Office of the BLM has the delegated authority to approve and administer the Unitization program for the Roswell District. By this letter, we are requesting that the New Mexico State Office of the BLM reconsider its acceptance of your appeal and request for a State Director Review dated March 27, 1996. We feel that an appeal and request for State Director Review by Enron is premature at this time in that the approval is not final until all three agencies grant approval. We deem that to date there has been no affect on Enron and any appeal rights would only be appropriate after the approval is finalized by the office of the Commissioner of Public Lands. Enron would then have the opportunity, if so chosen, to file an appeal asking for a State Director Review.

If there are any questions or you would like to schedule a time for appearing as addressed in issue (4) please give me a call at 505-627-0298.

Sincerely,

Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure

OFFICIAL FILE COPY

Ferguson 3/4/96

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

J. Lewis 3/4/96

IN REPLY REFER TO:
3180 (06200)
14-08-001-5558

MAR 4 1996

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102-3131

Re: Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico

Gentlemen:

Your application of February 8, 1996, requesting approvals of the Third and Fourth Revision of the Atoka Participating Area, James Ranch Unit, are hereby approved on this date and are effective December 1, 1982, and July 1, 1993, repectively. This approval is conditioned on concurrent approval from the New Mexico Oil Conservation Division and the New Mexico Commissioner of Public Lands.

The Third Revision of the Atoka Participating Area contains 1,683.13 acres more or less and is described as follows:

T. 22 S., R. 30 E., NMPM, Eddy County, New Mexico

sec. 35, E½;
sec. 36, W½SW¼.

T. 23 S., R. 31 E., NMPM, Eddy County

sec. 5, Lot 4; SW¼NW¼ and W½SW¼;
sec. 6, all;
sec. 8, W½;
sec. 17, NW¼.

The third revision is based on DST data from the Pure Gold "C" No. 1 well and well data from the James Ranch Unit No. 7 well located in the SE¼SW¼, sec. 17, and the SW¼NE¼, sec. 7, T. 23 R., 31 E., NMPM, Eddy County, repectively. The DST data from the Pure Gold "C" No. 1 well, provided positive data as to the extent of the reservoir as did the well data from the J. R. U. no. 7 well. This data supported BEPCO's mapping of the reservoir in late 1982.

The Fourth Revision of the Atoka Particpating Area contains 238.54 acres more or less and is described as follows:

T. 22 S., R. 30 E., NMPM, Eddy County

sec. 12, S½SW¼, N½SE¼ and SW¼SE¼

T. 22 S., R. 31 E., NMPM, Eddy County

sec. 7, lot 2.

The fourth revision is based on well log correlations and DST data obtained from the drilling of the Apache "13" No. 1 well located in the NE¼NE¼, sec 13, T. 22 S., R. 30 E., NMPM. The date of the DST was July 23, 1993, and the DST provided positive data as to the extent of the reservoir.

Copies of the approved applications are being distributed to the appropriate offices and one copy is returned herewith. You are requested to furnish all interested principals with the appropriate evidence of this approval.

If you have any questions please contact John S. Simitz at (505) 627-0288 or the Division of Minerals at (505) 627-0272.

Sincerely,

(Orig Sdg) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure

cc:
Commissioner of Public Lands
MMS (3110)
NM (94354)
NM (06200, B. Lopez)
NM (06780, E. Inman)

OFFICIAL FILE COPY

Ferguson 3/4/96

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

3/4/96

IN REPLY REFER TO:
3180 (06200)
14-08-001-5558

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sec. 12, S½SW¼, N½SE¼ and SW¼SE¼

T. 22 S., R. 31 E., NMPM, Eddy County

sec. 7, lot 2.

The fourth revision is based on well log correlations and DST data obtained from the drilling of the Apache "13" No. 1 well located in the NE¼NE¼, sec 13, T. 22 S., R. 30 E., NMPM. The date of the DST was July 23, 1993, and the DST provided positive data as to the extent of the reservoir.

Exhibit B

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If you have any questions please contact John S. Simitz at (505) 627-0288 or the Division of Minerals at (505) 627-0272.

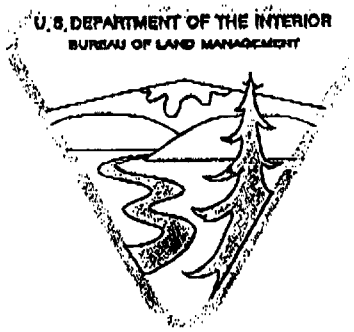
Sincerely,

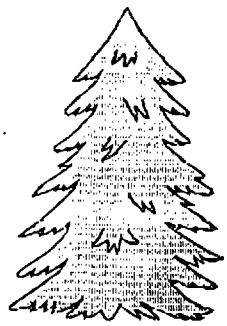
(Orig Sgd) Tony L. Ferguson

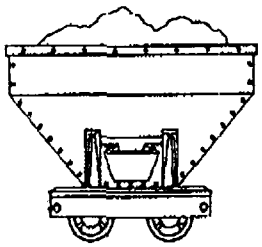
Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure

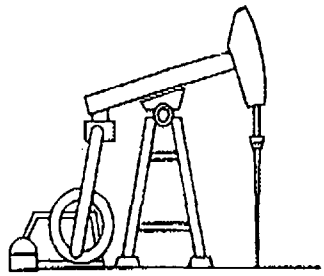
cc:
Commissioner of Public Lands
MMS (3110)
NM (94354)
NM (06200, B. Lopez)
NM (06780, E. Inman)







Bureau of Land Management
New Mexico State Office
Division of Resource Planning,
Use and Protection
NM (932)



Commercial # (505) 438-7450
FAX # (505) 438-7456

To: RAND CARROLL Office: NMOCD

Phone No. 827-8156 Fax No. 827-8177
No. of pages to follow: 9 (NINE)

From RICK WYMER Ph 438- Date 1/7/92

Message/Instruction:
Re: JAMES RANCH UNIT PA Appeal

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Enron Oil and Gas Company
Shell Western E&P, Inc.
State Director Decision Date: December 3, 1996
Appeal Docket No.: _____

NOTICE OF APPEAL, STATEMENT OF REASONS, PETITION FOR STAY AND REQUEST FOR HEARING

Pursuant to 43 C.F.R. § 4.411 (1995), Enron Oil and Gas Company and Shell Western E&P, Inc. ("Shell") (collectively "Appellants"), by and through counsel, Campbell, Carr, Berge & Sheridan, P.A., and Kellahin & Kellahin, hereby file this Notice of Appeal with the New Mexico State Office of the United States Department of the Interior, Bureau of Land Management, appealing that certain Decision ("Decision") dated December 3, 1996, issued by Richard A. Whitley, Deputy State Director, Division of Resource Planning, Use and Protection, New Mexico State Office of the United States Department of the Interior, Bureau of Land Management, and received by Enron on December 4, 1996, pursuant to approval of the third and fourth revisions (the "Revisions") to the Atoka participating area of the James Ranch Unit, Eddy County New Mexico, which approval was issued by the Assistant District Manager, Minerals Support Team, Roswell District Office, on March 4, 1996, and which approval was requested by Bass Enterprises and Production Company ("Bass").

In support of this Notice of Appeal, Appellants submit the following Initial Statement of Reasons for Appeal and for Stay. In accordance with 43 C.F.R. § 4.412 (1995), Appellants will submit additional Statements of Reasons for Appeal and in support of their

Petition for Stay within 30 days of service of this Notice of Appeal upon the New Mexico State Office of the Bureau. This Initial Statement of Reasons for Appeal and Stay shall not be deemed as a waiver of any reasons for appeal or stay which may be developed and presented subsequent to this Initial Statement.

Initial Statement of Reasons for Appeal

1. The Decision must be reversed because Bass, the designated Unit Operator, failed to comply with the explicit provisions of the James Ranch Unit Agreement, which governs all revisions of participating areas within the Unit. The process by which Bass applied for and obtained approval of the Revisions violated several provisions of the Unit Agreement. Accordingly, the State Director should have rescinded approval of the Revisions and directed Bass to comply with the Unit Agreement prior to re-submitting any application for approval of the Revisions.

2. The approval of the Revisions was issued in violation of federal regulations governing Onshore Oil and Gas Unit Agreements, 43 C.F.R. § 3180 *et. seq.*

3. The Revisions do not meet the standard that must be met for a participating area to be expanded, which standard is that the "additional land to be included [must be] reasonably proved to be productive in paying quantities." *Unit Agreement for the Development and Operation of the James Ranch Unit Area, Eddy County, New Mexico,*

Approved by the Acting Director of the United States Geological Survey, June 16, 1953, at 11.

4. The effective date of the Revisions is improperly retroactive. ***Application of Farmers Irrigation District***, 194 N.W.2d 788 (Neb. 1972); ***Union Oil Co. of California v. Brown***, 641 P.2d 1106 (Okla. 1982); ***Union Texas Petroleum v. Corp. Comm'n***, 651 P.2d 652 (Okla. 1982), ***cert. denied***, 459 U.S. 837.

5. Approval of the Revisions was issued in violation of Appellants' right to due process of law prior to the impediment upon Appellants' property interests that was created by the Revisions. The Revisions affect Appellants' correlative rights, which are constitutionally-protected property rights. ***Uhden v. New Mexico Oil Conservation Comm'n***, 112 N.M. 528, 530, 817 P.2d 721, 723 (1991). ***Cowling v. Board of Oil, Gas and Mining***, 830 P.2d 220, 225 (Utah 1991). Appellants are entitled to present their objections to a factfinder who is not predisposed to approval of the Revisions, at which presentation Appellants are entitled to cross-examine Bass's witnesses. ***Doe v. United States Civil Service Comm'n***, 483 F.Supp. 539, 579 (S.D.N.Y. 1980) (*citing* ***Morrisey v. Brewer***, 408 U.S. 471, 489 (1972).

Request for Documents

Appellants hereby request copies of any documentation pertaining to the Revisions that is controlled or possessed by the New Mexico State Office of the BLM, including any

documents, maps, or data filed by Bass in support of its request for approval of the revisions, any documents supporting the March 4, 1996, approval of the Revisions by the Assistant District Manager, Minerals Support Team, Roswell District Office, and any documents supporting the December 3, 1996 Decision issued by Richard A. Whitley, Deputy State Director, Division of Resource Planning, Use and Protection, New Mexico State Office of the United States Department of the Interior, Bureau of Land Management.

Petition for Stay
and Initial Statement of Reasons For Stay

Pursuant to 43 C.F.R. § 4.21(b) (1995), Appellants request that the requirements of the Decision be suspended pending the outcome of this Appeal. In support of this Request, Appellants state:

1. The effective date of the Revisions will require reallocation of all production, and the parties' share of that production, since 1982, causing the parties and the federal and state governments to incur significant costs associated with tracing the proceeds of production from the subject lands, and to recall substantial sums which have already been allocated, received, paid and spent. In contrast, if the Bureau issues a stay, a delay in the onset of that reallocation will be minimally disruptive.

2. The likelihood of Appellants' success on the merits is high. Approval of the Revisions was issued in violation of the provisions of the Unit Agreement governing unit operations, as well as the statutes and rules prescribing the procedures to be followed when

a participating area is revised. The Revisions do not meet the regulatory or contractual standards prescribed for such Revisions. Approval of the Revisions may not be applied retroactively. Finally, approval of the Revisions was issued in violation of Appellants' due process rights. Given the blatant disregard for Appellants' rights, the Decision must be reversed.

3. Should the stay not be granted, Appellants will suffer immediate and irreparable harm. Bass has already demanded that Appellants pay to Bass amounts due to Bass after production from the affected lands is reallocated due to the Revisions. That demand has the effect of diverting Appellants' resources from viable production options, which will not be developed otherwise, and of implicating federal and state royalty and tax obligations. Because of applicable statutes of limitations, Appellants may not be able to recoup royalties paid to governmental entities, but may be obligated to pay additional royalties and taxes to other governmental entities based on the reallocated production.

4. Public interest favors granting the stay. By seeking and obtaining approval of the Revisions without consulting the other affected interest owners, Bass has turned the Bureau into a forum for the denial of interest owners' contractual, regulatory, statutory, and constitutional rights. Should the Bureau not grant a stay, and allow the approval to stand, any other Operator will conceive and submit Revisions which are solely in the Operator's best interest, at the expense of the other interest owners. The contractual, regulatory,

statutory, and constitutional framework for the operation of unitized substances will be rendered meaningless. The Bureau must recognize its essential role in the approval of Revisions, and must stay the improper approval rendered below.

Request for Hearing

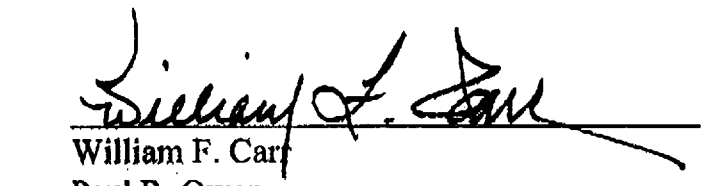
Pursuant to 43 C.F.R. § 4.415 (1995), Appellants hereby request assignment of this case to an administrative law judge for a hearing in order to present evidence on the issues of fact described above.

Therefore, Appellants respectfully request that the Interior Board of Land Appeals grant:

1. Appellants' appeal and vacate the Decision which is the subject of this appeal;
2. Appellants' request for documents;
3. The request for stay of the effect of the Decision;
4. The request for referral of this case to an administrative law judge for a hearing on the factual issues presented in this case; and
5. Such other relief as the IBLA deems appropriate.

Respectfully submitted this 2nd day of January, 1997.

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



William F. Carr
Paul R. Owen
Post Office Box 2208
Santa Fe, NM 87504-2208
(505) 988-4421

KELLAHIN & KELLAHIN

W. Thomas Kellahin
Post Office Box 2265
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(505) 982-4285

Attorneys for Shell Western E&P, Inc.

COPY

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Enron Oil and Gas Company
Shell Western E&P, Inc.
State Director Decision Date: December 3, 1996
Appeal Docket No.: _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of Enron Oil and Gas Company and Shell Western E&P, Inc.'s Notice of Appeal, Statement of Reasons, and Petition for Stay and Request for Hearing was served, via hand delivery, upon the U.S. Department of Interior, Bureau of Land Management, 1474 Rodeo Road, Santa Fe, New Mexico 87505; U.S. Department of Interior, Bureau of Land Management, Field Solicitor, 150 Washington Avenue, Suite 207, Santa Fe, New Mexico 87501; and, via certified U.S. mail, to James E. Haas, Esq., Losee, Carson, Haas & Carroll, P.A, Post Office Box 1720, Artesia, New Mexico 88211-1720, this 2nd day of January, 1997.

Respectfully submitted,

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

William F. Carr
Paul R. Owen
Post Office Box 2208
Santa Fe, NM 87504-2208
(505) 988-4421

Attorneys for Enron Oil and Gas Company

KELLAHIN & KELLAHIN

W. Thomas Kellahin
Post Office Box 2265
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(505) 982-4285

Attorneys for Shell Western E&P, Inc.

CERTIFICATE OF SERVICE
Page 2

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
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POST OFFICE BOX 2265
SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED SPECIALIST IN THE AREA OF NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

January 21, 1997

HAND DELIVERED

Mr. William J. LeMay
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: ***NMOCD Case 11602***
Application of Bass Enterprises Production Company for approval of the third expansion of the Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico.

Re: NMOCD Case 11603
Application of Bass Enterprises Production Company for approval of the fourth expansion of the Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico.

Dear Mr. LeMay:

On behalf of Shell Western Exploration and Production, Inc. ("Shell"), an adversely affecting interest owner, please find enclosed our Entry of Appearance in opposition to the applicant in the referenced cases.

Very truly yours,

W. Thomas Kellahin

cfx: ***James Haas, Esq.***
attorney for applicant
William F. Carr, Esq.
attorney for Enron
Shell Wester E & P, Inc.
Attn: Robert L. Sykes, Esq.

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

IN THE MATTER OF THE APPLICATIONS OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE THIRD AND FOURTH EXPANSIONS OF THE ATOKA PARTICIPATING AREA FOR THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

CASE NO. 11602
CASE NO. 11603

ENTRY OF APPEARANCE

Comes now SHELL WESTERN EXPLORATION & PRODUCTION, INC ("Shell"), by its attorneys, Kellahin and Kellahin, and enters their appearance in this case as an adversely affected and interested party in opposition to the applicant.

W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF MAILING

I certify that a copy of this pleading was transmitted by facsimile to counsel for applicant this 21st day of January, 1997.

W. Thomas Kellahin

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

January 24, 1997

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

James E. Haas, Esq.
Losee, Carson, Haas & Carroll, P.A.
P.O. Box 1720
Artesia, NM 88211-1720

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
P.O. Box 2265
Santa Fe, NM 87504-2204

RE: OCD Case Nos. 11602 and 11603--Applications of Bass Enterprises Production Company for expansions of the Atoka Participating Area for the James Ranch Unit

Gentlemen:

The above-referenced cases have been continued for a number of months and are now currently set to be heard on February 6, 1997. It is the Division's intent to hear the pending motions and, if the Motion to Dismiss is not granted, the technical evidence on that date. Besides the Motion to Dismiss filed by Bass, also pending are a Motion to Rescind Approval and a Motion for Setting filed by Enron in this matter.

If you have any questions regarding this matter, please feel free to call me at 505/827-8156.

Sincerely,

Rand Carroll
Legal Counsel

cc: William J. Lemay, OCD Director
Michael E. Stogner, OCD Hearing Examiner

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

JAN 28 RCVD

IN REPLY REFER TO:
SDR 96-026
3165.3 (NM93200)

JAN 27 1997

Campbell, Carr, Berge & Sheridan
Attention: Mr. William Carr
P.O. Box 2208
Santa Fe, NM 87504-2208

Re: Request for Documents; Appeal of Enron Oil and Gas Company (Enron) and Shell Western E&P, Incorporated (Shell); James Ranch Unit; Third and Fourth Revision of Atoka Participating Area Approval; Roswell District Office

Dear Mr. Carr:

We are in receipt of your January 2, 1997, Notice of Appeal, Statement of Reasons, Petition for Stay and Request for Hearing for the subject appeal. Your notice requested that we provide copies of any documentation pertaining to the subject participating area revisions that are in our office or our Roswell District Office files.

Please note that most of the case file has been marked as Proprietary or Confidential by both Enron and Bass. We are holding these records Confidential as per 43 CFR 3162.8. An abbreviated list of the items considered Confidential is as follows:

1. Enron's presentation before the New Mexico State Land Office dated June 17, 1996.

2. Enron and Shell Western's joint oral presentation dated October 28, 1996.

3. Bass' oral presentation dated November 7, 1996.

4. The entire BLM Roswell District Office case file.

We have enclosed copies of the balance of the case file. We have provided the Interior Board of Land Appeals a complete copy of the administrative record, which includes all Confidential records.

Please direct any questions concerning this matter to Rick Wymer at (505) 438-8765.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource
Planning, Use and Protection

cc:
Losee, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

Enron Oil and Gas Company
Attention: Mr. Patrick Tower
P.O. Box 2267
Midland, TX 79702-2267

Hinkle, Cox, Eaton, Coffield & Hensley
Attention: Mr. James Bruce
P.O. Box 2068
Santa Fe, NM 87504-2068

New Mexico Oil Conservation Division
Attention: Mr. David Catanach
2040 South Pacheco Street
Santa Fe, NM 87505

New Mexico State Land Office
Attention: Ms. Jami Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

2/19 Wed @ 3:00

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

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

MICHAEL H. FELDEWERT
TANYA M. TRUJILLO
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JACK M. CAMPBELL
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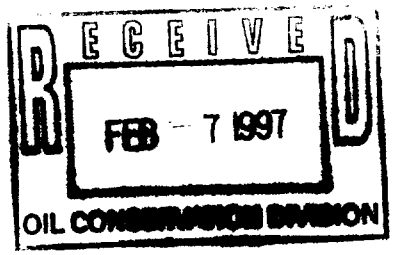
February 7, 1997



HAND DELIVERED

Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Oil Conservation Division Cases 11602 and 11603***
Applications of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Dear Mr. Stogner:

This letter confirms the action taken at the February 6, 1997 Examiner Hearing whereby all pending motions in the above-referenced cases will be heard at 3:00 p.m. on February 19, 1997 at the Oil Conservation Division's Offices in Santa Fe, New Mexico.

Very truly yours,

WILLIAM F. CARR
WFC:mlh
cc: A. J. Losee, Esq.

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
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POST OFFICE BOX 2265
SANTA FE, NEW MEXICO 87504-2265

W THOMAS KELLAHIN*
*NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED SPECIALIST IN THE AREA OF NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

February 10, 1997

HAND DELIVERED

Mr. William J. LeMay
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: ***NMOCD Case 11602***
Application of Bass Enterprises Production Company for approval of the third expansion of the Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico.

Re: NMOCD Case 11603
Application of Bass Enterprises Production Company for approval of the fourth expansion of the Atoka Participating Area for the James Ranch Unit, Eddy County, New Mexico.

Dear Mr. LeMay:

At the request of Shell Western Exploration and Production, Inc. ("Shell") I am enclosing Notice that Mr. William F. Carr, Esq. is replacing me as Shell's attorney in the referenced cases.

Very truly yours,

W. Thomas Kellahin

cfx: ***Jerry Losee, Esq.***
attorney for applicant
William F. Carr, Esq.
attorney for Enron
Shell Western E & P, Inc.
Attn: Robert L. Sykes, Esq.

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

IN THE MATTER OF THE APPLICATIONS OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE THIRD AND FOURTH EXPANSIONS OF THE ATOKA PARTICIPATING AREA FOR THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

CASE NO. 11602
CASE NO. 11603

NOTICE OF SUBSTITUTION OF COUNSEL

You are hereby notified that William F. Carr, Esq. is entering his appearance and is being substituted as attorney for Shell Western Exploration and Production, Inc. ("Shell") to replace W. Thomas Kellahin, Esq. who is hereby withdrawing as attorney for Shell.

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan
P. O. Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF MAILING

I certify that a copy of this pleading was transmitted by facsimile to counsel for applicant this 10th day of February 10, 1997.

W. Thomas Kellahin

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

MARY LYNN BOGLE
ERNEST L. CARROLL
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DEAN B. CROSS
JAMES E. HAAS

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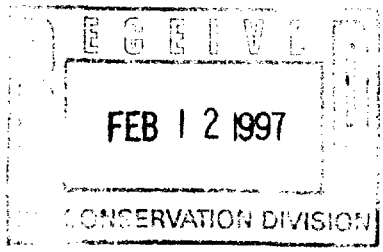
11 February 1997



EXPRESS MAIL

Mr. William J. LeMay, Director
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Division Case No. 11602, Bass Enterprises Production Co.

Dear Mr. LeMay:

Enclosed is the Response of Bass Enterprises Production Co. to Enron Oil & Gas Company's Motion to Rescind Approval, Motion for Setting, and Response to Bass' Motion to Dismiss Proceedings, with attached Memorandum filed on behalf of Bass Enterprises Production Co.

We believe these materials will shed a great deal of light on the issues to be heard by the Division on February 20.

Respectfully yours,

James E. Haas

JEH:scp
Enclosures

cc: Mr. Michael Stogner, Engineering Bureau (Express Mail)
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Mr. Rand Carroll, Legal Bureau (Express Mail)
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

cc: Mr. J. Wayne Bailey
Bass Enterprises Production Co.
201 Main Street, 27th Floor
Fort Worth, Texas 76102

BEFORE THE
OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR THE APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO.	:	CASE 11602
IN THE MATTER OF THE APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR THE APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO.	:	CASE 11603

RESPONSE OF BASS ENTERPRISES PRODUCTION CO. TO ENRON OIL & GAS COMPANY'S MOTION TO RESCIND APPROVAL, MOTION FOR SETTING, AND RESPONSE TO BASS' MOTION TO DISMISS PROCEEDINGS

Bass Enterprises Production Co. ("Bass") presents its Response ("Response") of Bass Enterprises Production Co. to Enron Oil & Gas Company's ("Enron") Motion to Rescind Approval, Motion for Setting, and Response to Bass' Motion to Dismiss Proceedings ("Enron's Motion" or "Motion"), apparently filed before the Oil Conservation Division ("Division") on December 12, 1996. For the reasons set forth herein and in the memorandum attached hereto, Bass requests that Enron's Motion filed on December 12, 1996, be denied in all things, and that the appeals of the approval of the Third and Fourth Revisions of the James Ranch Unit, Atoka Participating Area ("Revisions") of the Division dated March 22, 1996, be dismissed for the reasons hereinafter set forth.

I. INTRODUCTION

Enron has gone to great efforts to paint this dispute as a justified effort to protect its correlative rights which Enron claims have been unjustifiably impaired by the Revisions. Enron is partially correct as to the focus of this dispute. It does indeed involve the impairment of correlative rights. However, the correlative rights which have been impaired are those of Bass. The Revisions correct the impairment of Bass' correlative rights, which has existed for over 20 years.

The first well in the James Ranch Unit Atoka Participating Area was the James Ranch Unit No. 1 well drilled in Section 36 in the late 1950s. The initial Atoka participating area for this well was 320 acres. As of late 1996, this well had produced more than 25 bcf of gas. As will be subsequently shown, engineering and geological data indicate that the greatest quantity of gas which could have underlain the participating area for this well is approximately 3.5 bcf of gas. Enron has enjoyed the fruits of other owners' production without compensation to them for more than 20 years since the date of the Second Revision. The Revisions remedy this injustice and protect the correlative rights of all parties in the Atoka participating area, not just those of Enron. As Enron has often stated, it is the duty of the Division to protect correlative rights. The best method by which the Division could protect correlative rights in this matter is to dismiss the appeals of Enron.

II. RESPONSE

1. Enron Oil & Gas Company ("Enron") claims that the Revisions significantly impair Enron's correlative rights. Under Section 70-2-33(H) of the New Mexico Oil and Gas Act, correlative rights are defined as,

> The opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool and, for such purpose, to use his just and equitable share of the reservoir energy. [Interlineation added.]

For the Revisions to impair Enron's correlative rights, they must deprive Enron of its fair share of production from the Atoka formation. On three different occasions, Enron has failed to satisfy technical personnel of the Bureau of Land Management that it is deprived of its fair share of production under the Revisions. First, the boundaries of the participating area are required under Section 11 of the James Ranch Unit Agreement ("Unit Agreement") to include all lands, "reasonably proved or believed to be capable of production in commercial quantities." This is the criteria used to prepare the Revisions. Establishing which lands were capable of production in commercial quantities is based upon extensive geological and engineering study. Enron's own data is supportive of the of the Revisions! See **letter of Tony Ferguson, Assistant District Manager, Roswell District Office, Bureau of Land Management ("BLM") dated July 17, 1996** (hereafter "Ferguson July 17 letter) (copy attached to Memorandum). There has been no denial of Enron's correlative rights. If anyone's correlative rights have been impaired, it is those

of Bass due to the huge quantities of gas drained by the James Ranch Unit No. 1 well from adjoining tracts without compensation. See ¶ 3(a)(iii) below.

2. Bass scrupulously followed the procedures set out in the Unit Agreement for the revision of the Participating Areas. Enron continues to raise facetious arguments claiming a right to prior notice of any revisions of the Participating Area. This claim has been rejected by other administrative agencies reviewing the matter. Enron has no right of prior review and approval of any revisions of the participating areas. See **letter of Tony Ferguson, Assistant District Manager of the BLM, dated April 16, 1996** (hereafter, "Ferguson's April 16 letter"), and **Decision of Richard A. Whitley, Assistant Deputy Director of BLM, Santa Fe, New Mexico, dated December 3, 1996**, hereafter "State Director's Decision" (copies attached to Memorandum).

3. a)(i) The James Ranch Unit is a federal exploratory unit. Roughly 90% of the acreage encompassed by the original boundaries of the Unit Agreement were subject to federal oil and gas leases. The remaining 10% are subject to leases administered by the State Land Office of the State of New Mexico. The dictates of the Mineral Leasing Act of 1920, the Unit Agreement itself as approved by the Oil Conservation Division, and simple logic require that the BLM be the primary administrating agency for the Unit.

(ii) Many years ago, the Division's predecessor, the Commission, determined that the Unit Agreement, "will in principle tend to promote the conservation of oil and gas and the prevention of waste." See Oil Conservation Commission Order No. R-279 in Case No. 472 (Fact Finding 2). The very basis for the Commission's

approval of the Unit Agreement in 1953 was the fact that the agreement prevented waste and therefore implicitly protected the correlative rights of the signatories to the Unit Agreement.

(iii) Enron claims that the majority of production from the current Revised Participating Area is from state land. The Shell State No. 1 Well has produced over 25 bcf of gas since being drilled in the late 1950's. However, every geological and engineering study performed indicates that this well has drained an area far larger than the 320 acres encompassed within the initial Atoka Participating Area. The reason this well has been able to produce such huge amounts of gas is that it has drained gas from adjoining lands subject to federal leases without compensation to the leasehold owners thereof. Since Enron owns no interest in these adjacent lands, this is not a concern to Enron. The Revisions are an attempt to comply with the requirements of the Unit Agreement that each and every owner of a lease capable of production in paying quantities receives his fair share of production. Prior to the enactment and approval of the Third and Fourth Revisions, Enron has received <u>far more</u> than its fair share of the production. This is a violation of the terms of the Unit Agreement and of the correlative rights of owners other than Enron.

b) The Unit Agreement states and there is no disagreement that the approval of the Division as well as that of the State Land Office is required to approve a revision of a participating area. The exact parameters and boundaries of a participating area or a revision thereof are set by the Unit Agreement itself pursuant to the requirements of paragraph 11 previously quoted. It is not determined or set by the BLM, nor by the

Division. Each agency has the power of approval or disapproval, nothing more. In the event an interest owner in the Unit, including the unit operator who submitted the revision, disagrees with the collective decision of the three administrative agencies, the affected owner has the right to appeal the decision to the State Director of the BLM. There is no separate and independent right to hearing before the Division or any other agency.

c) Enron has no due process rights under the contract at issue. The long practice of the Division has been to refrain from holding separate hearings on revisions of participating areas of federal exploratory units. Bass is the Unit Operator for three Federal Units in New Mexico containing approximately 33 participating areas. Also, Bass is a non-operator in at least five other Federal Units in the State containing approximately seven participating areas. The earliest participating area was formed in 1965 and the most recent participating area was formed in 1996. In all of Bass' experience with participating areas as both Operator and Non-Operator, the Division has never held a hearing in order to approve a participating area (or revision thereof). Bass is entitled to rely upon a policy created through long precedent and custom. **Hobbs Gas Co. v. New Mexico Public Co., 115 NM 678 (1993); Peabody Coal Co. v. Andrus, 477 F. Supp. 120 (D. Wyo. 1979).** Therefore, in addition to the facts involved in these cases, the approval of other agencies, and the lack of success by Enron in its appeals to other agencies, the long established practice of the Division precludes an unhappy party to make unfounded claims and demanding a hearing for same, subjecting the Unit Operator to further expense and delays in the completion of its duties. Enron is merely

attempting to cause delays and avoid its responsibility to reimburse Bass for amounts owed under the Revisions.

Enron erroneously states that Bass has admitted that Bass is required and failed to provide notice to and consult with Enron prior to requesting approval of the Revisions. This is totally false. Bass has consistently maintained that it was not required to and did not have a policy of providing nor was it required to provide non-operators notice of proposed revisions of participating areas prior to application. See **Motion to Dismiss of Bass Enterprises Production Co. filed on November 27, 1996; p. 6.** Bass' position on this matter has been vindicated. See **State Director's Decision, p. 3.**

d) Enron is not entitled to prior notice or right of approval of proposed revisions of the Participating Area, nor is it entitled to a hearing on this issue before the Division. See **State Director's Decision, p. 3.** Any disputes between Bass and Enron are matters of contract interpretation, and the appropriate forum for resolving same is a court of ~~law.~~ Enron is simply attempting to create confusion and disagreement between the administrative agencies which are parties to the Unit Agreement and to avoid its obligation to reimburse Bass for amounts due, due to Enron's violation of Bass' correlative rights.

THEREFORE, for the reasons set out above and hereinafter set forth, Bass respectfully requests that Enron's motion be denied in all things and that Enron's appeals of the Division's approval of the Third and Fourth Revisions be dismissed with prejudice.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
(505)746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this February 11, 1997.

_____
James E. Haas

BEFORE THE
OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR THE APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO.	:	CASE 11602
IN THE MATTER OF THE APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR THE APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO.	:	CASE 11603

MEMORANDUM IN RESPONSE TO ENRON OIL & GAS COMPANY'S MEMORANDUM IN SUPPORT OF ITS MOTION TO RESCIND APPROVAL, MOTION FOR SETTING, AND RESPONSE TO BASS' MOTION TO DISMISS PROCEEDINGS

This memorandum will respond to the allegations and statements made by Enron Oil & Gas Company ("Enron") in its Memorandum in support of Enron Oil & Gas Company's Motion to Rescind Approval, Motion for Setting, and Response to Bass' Motion to Dismiss Proceedings as filed on December 12, 1996 ("Memorandum").

The James Ranch Unit Agreement ("Agreement" or "Unit Agreement") is a contract for the development of approximately 20,650 acres of land located in Eddy County, New Mexico. The Agreement was entered into in 1953 by Richardson & Bass, a general partnership (predecessor-in-interest to Bass Enterprises Production Co.), Belco Petroleum Corporation (predecessor-in-interest to Enron Oil & Gas Company), and

other parties. The preamble of the Agreement sets out the purpose and intent of the parties in entering into the Agreement. This preamble states,

> 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 areas subject to this agreement under the terms, conditions and limitations herein set forth. [Interlineation added.]

See **Unit Agreement, p. 2, first paragraph.** The parties entered into the Agreement with the obvious intent of providing for the orderly development of the lands encompassed therein in the most efficient and economical manner possible. By forming the Unit, the parties abolished the need for each party to drill as many wells as possible upon its acreage in order to prevent its acreage from being drained by production from adjoining wells, thereby preventing economic waste. The mechanism for attaining this goal is set out in paragraph 11 of the Unit Agreement, which provides for the creation of participating areas upon the drilling of a well capable of producing in sufficient quantities to repay the cost of drilling, completing, equipping and operating same. Each participating area is to include, "all unitized land then regarded as reasonably proved to be productive of unitized substances in paying quantities. . ." See **Unit Agreement, p. 11.** The Agreement further provides that a participating area or areas so established, may be revised from time to time, "whenever such action appears proper as the result of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be productive in paying quantities. . . ." **Unit Agreement, supra.**

This is the mechanism adopted in the Unit Agreement to protect the correlative rights of each interest owner and signatory thereto. The unit operator is given the

authority to submit revisions to participating areas, without prior consent or approval of the non-operators. See **Ferguson April 16 letter.** Paragraph 11 provides: "Upon completion of a well capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the Commissioner, the unit operator shall submit for approval by the Director, the Commissioner and the Commission, a schedule based on the subdivision of the public lands survey." (Interlineation added.)

It is necessary to adopt the Revisions in order to protect the correlative rights of Bass in the Atoka Participating Area. The Shell State No. 1 well has produced over 25 bcf of gas since the date of first production. However, geological and engineering data indicates that this well could have produced less than 3.5 bcf from the initial 320-acre participating area assigned to this well. See **Testimony of George Hillis, p. 68**, testimony provided before the Office of the State Director of the BLM (copy attached). It is clear that the additional 20 bcf+ of gas produced by the James Ranch Unit No. 1 well has been drained from other lands without compensation to the leasehold owners thereof. This is a violation of the correlative rights of the owners of these adjacent lands, primarily Bass. The Revisions are an attempt to comply with the requirements of the Unit Agreement that each and every owner of a lease capable of production in paying quantities receives his fair share of production. The Revisions are an attempt to correct the violation of Bass' correlative rights which has occurred over a long period of time. It is imperative that this continued violation of Bass' correlative rights be ameliorated once and for all. The Division could best prevent further violation of Bass' correlative rights by dismissing Enron's Motion in all things.

RESPONSE TO BACKGROUND

Enron continues to make unfounded allegations as to the intent of Bass as operator in this matter. Bass has done nothing more than fulfill its obligations as mandated by the Unit Agreement and Unit Operating Agreement. The Division approved the Third and Fourth Revisions ("Revisions") on February 22, 1996. If the Division found the Revisions to be inappropriate or not in compliance with the Unit Agreement, it could have refused to approve the Revisions. It did not. The issues Enron continues to raise are matters of contractual interpretation. The Division should not be asked to adjudicate what are essentially questions of contractual interpretation outside the statutorily vested jurisdiction of the Division.

The following additions, corrections, or clarifications are presented to the "facts" set out by Enron in its Memorandum under "Background".

Paragraph 1. The James Ranch Unit is a federal exploratory unit created under contract consisting initially of 10.3% state acreage and 89.7% federal acreage and is located in Eddy County, New Mexico.

Paragraph 5. Bass is without knowledge of the allegations which are described as "facts" in this paragraph. The only correspondence which Bass can locate in its files regarding prior revisions of the Atoka Participating Area is a 1982 letter from a representative of Bass to Belco Petroleum Corporation (Enron is the immediate successor to Belco Petroleum Corporation) which provided notice of the Second Revision of the Participating Area (copy attached). It is important to note that this letter states that the described revision had already

been sent to the Minerals Management Service for approval as of the date of the letter. It is clear from the chronological order of occurrences, i.e., submission to the Minerals Management Service, then notice to Enron's predecessor-in-interest, Belco Petroleum Corp., that neither Belco's consent nor approval was sought. There does not appear to be a factual basis for Enron's claim. Bass' actions in the Third and Fourth Revisions have been totally consistent with the actions of Bass as the operator of not only this unit but other federal units in New Mexico. See, **¶ 6 of Response.**

Paragraph 6. The following statement is presented as fact: "Bass gave no notice to Enron of those proposed expansions required in paragraph 25 of the Unit Agreement." The District Office of the BLM required Bass to provide notice of the proposed expansions after Bass' initial requests for administrative approval, which was done. See **letter of Tony Ferguson, Assistant District Manager, Roswell Office, dated March 28, 1996** ("Ferguson March 28 letter) (copy attached). However, the State Director ultimately found that Enron is not entitled to notice under paragraph 25 prior to the submission of the Revisions for administrative approval. See **State Director's Decision, p. 3.** Enron obviously had constructive notice and knowledge that the Revisions were being prepared as evidenced by its letter to Bass dated April 10, 1995 regarding the James Ranch Unit No. 70 well. See **letter from Gary L. Thomas, Vice President and General Land Manager of Enron Oil and Gas Company dated April 10, 1995** (copy

attached). Also, Enron had private meetings with the BLM concerning the Revisions on November 2, 1995.

Paragraph 7. This statement, is incomplete and therefore misleading. This statement is true on a historical volumetric basis. The Shell James Ranch No. 1 Well has produced over 25 bcf of gas. However, engineering and geological testimony and research show that this has been possible only because this well has drained a considerable area outside of the First Revised Participating Area, which was formed after completion of the James Ranch Unit No. 1. See **Hillis Testimony, p. 68.** It is only by draining gas from beneath the lands of Bass and other parties, i.e., violating their correlative rights, that this well, in which Enron owns a majority interest, has been able to produce such large amounts of gas. If this well had been restricted to the amount of gas in place under the 320-acre proration unit for this well, the total amount of recoverable gas in place under the First Participating Area would be less than 3.5 bcf. See **Hillis Testimony, p. 68.**

Paragraph 8. This statement is correct insofar as set out. However, Enron fails to inform the Commission that Enron technical personnel presented engineering data to personnel of the Roswell District Office of the BLM and representatives of the State Land Office on June 19, 1996, prior to State Land Office approval. Notwithstanding this presentation opportunity, Enron was unable to convince the agencies of the validity of its position. This presentation was in addition to presentations of Enron personnel to BLM personnel on November 2, 1995. The BLM found that the general geological and engineering data of Enron

coincided with that presented by Bass. See **Ferguson April 16 letter, ¶ 4, and Ferguson July 17 letter.**

Paragraph 9. This statement is totally false. Enron was aware of the general outlines of the proposed revisions long before March 14, 1996. In fact, in a meeting with BLM personnel in the Roswell District Office on November 2, 1995, Enron lobbied for its own boundaries for the Atoka Participating Area in opposition to those being considered for submission by Bass. See **Ferguson April 16 letter, p. 2, ¶ 4**, stating:

> A review of the BLM records indicates that representatives from Enron appeared before the BLM on November 2, 1995, regarding proposed revisions to the Atoka Participating Area. In fact, Enron left geological maps including structural interpretations of the area with BLM which are consistent with the proposed revisions as presented by BEPCo (Bass Enterprises Production Co.).... Enron contacted BLM personnel requesting a status report on the Atoka Participating Area and were fully informed of the proposed revisions. Enron requested that BLM allow them an opportunity to present technical data and BLM allowed Enron to appear....

Paragraph 15. Engineering and geological personnel of Enron and their counsel were given the better part of a day to present their technical data to representatives of the State Director's Office on October 28, 1996. Their efforts were unavailing. See **State Director's Decision**. The statement in the State Director's Decision that a hearing was currently pending before the Division is without significance. Since this date, Enron has filed its Notice of Appeal with the Interior Board of Land Appeals, the only appropriate forum for any dispute over the revision of the Atoka Participating Area.

Paragraph 16. This statement is correct insofar as it goes, but otherwise incomplete. Enron has provided no data, and has paid none of the revenue owed for past production under the Third and Fourth Revisions. Simultaneously, Bass has received demand letters from the Minerals Management Service for back royalty and interest thereon. Bass will be forced to make these payments out of its own funds, to its detriment, while Enron attempts to disrupt what has been a standardized and regular process for the administration of federal units.

ARGUMENT

I. The Dispute Between Bass and Enron is One of Private Contract and No Due Process Rights Inure to Enron Thereunder

Bass is the operator of the James Ranch Unit, located in Eddy County, New Mexico, and is the largest interest owner in the Atoka Participating Area. Bass or its corporate predecessors have been the operator of the James Ranch Unit since its creation over 40 years ago. The original owners in the leases in the Atoka Participating Area were Richardson & Bass, Belco Petroleum Corporation and Shell Oil Company. The rights and interests of the parties to the Unit Agreement are determined by and subject to the requirements and provisions of the Unit Agreement and the James Ranch Unit Operating Agreement, contracts between private parties and a framework of applicable federal regulation and statute.

Enron implies that Bass is somehow responsible for changing the allocation of proceeds of unit production under the Unit Agreement. To the contrary, the allocation of proceeds of production is ordained by the formula incorporated in the Unit Agreement over 40 years ago and which has been in force and effect ever since. Under

Section 12 of the Unit Agreement, all production from a participating area is allocated on a surface acreage basis. See **Section 12, p. 13, Unit Agreement.**

The Atoka Participating Area has been revised in accordance with the requirements of Section 11 of the Unit Agreement. The Third and Fourth Revisions are based upon the data from an exhaustive engineering and geological review by Bass, and said revisions have now withstood review by the Roswell District Office of the Bureau of Land Management and the Office of the State Director of the Bureau of Land Management. See **Decision dated March 4, 1996 by Tony Ferguson, Assistant District Manager, Roswell District Office (copy attached), Ferguson July 17 letter, and State Director's Decision.** The criteria for reformation of the Participating Area are set out in the Unit Agreement, i.e., the inclusion of all lands deemed to be capable of production in paying quantities. See **Unit Agreement, Section 11, p. 11.** Ownership of the underlying leases is not a factor in determination of the boundaries of the Third or Fourth Revisions. In fact, the Revisions are in accord with the definition of correlative rights as quoted by Enron from 70-2-33(H) of New Mexico Oil and Gas Act,

> The opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool, and for such purpose, to use his just and equitable share of the reservoir energy... [Interlineation added.]

Bass has not impaired the correlative rights of Enron. It has only acted in compliance with the requirements of the Unit Agreement. The Revisions are required to allow each owner of a lease in the area capable of production in paying quantities to obtain its fair

share production from the pool or formation. Enron's own data presented to representatives of the BLM and the State Land Office on June 19, 1996, indicate very little variation in total recoverable reserves or gas in place for the revised Atoka Participating Areas. See **Ferguson April 16 letter and Ferguson July 17 letter.**

The Third and Fourth Revisions protect the correlative rights of all parties, not just those of Enron. This protection is necessitated as Enron has produced over 25 bcf of gas from the Shell State No. 1, notwithstanding that all technical testimony indicates that said well could have produced no more than 3.5 bcf of gas from the 320-acre area encompassed within the first Participating Area. It is necessary to protect the correlative rights of the offsetting leaseholders as to the additional 20+ bcf of gas which were produced from adjoining lands without compensation. Each party is entitled to its fair share of production from the leases which are deemed to be capable of production in paying quantities. See **Unit Agreement, Section 11, p. 11.** By including the additional lands in the Third and Fourth Revisions, waste is prevented, i.e. wells which would otherwise be required to be drilled for these owners to obtain their fair share of the gas in the pool need not be drilled and for the reasons previously enumerated, the correlative rights of all parties will be protected.

Enron is attempting to create a right of hearing where one does not exist, nor has it ever previously existed. See **Response, p. 6.** Enron claims that the approval of the Division of a proposed Participating Area requires notice to it and hearing of same. This is incorrect. The Division has the right of affirmation or denial. Paragraph 11 of the Unit Agreement provides that:

> Upon completion of a well capable of producing unitized substances in paying quantities or assumed...the unit operator shall submit for approval by the Director, the Commissioner and the Commission a schedule, based on subdivisions of the public-lands survey or aliquot parts thereof, of all unitized lands 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 Commissioner and the Commission to constitute a participating area effective as of the first date of production.... 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 reasonable proved to be productive in paying quantities, and the percentage of allocation shall also be revised accordingly. (Interlineation added.)

See **Unit Agreement, p. 11.** Neither the BLM nor the Division has the right to unilaterally promulgate revised Participating Areas or to amend proposals which are submitted by the operator under the Unit Agreement. Neither the Unit Agreement nor the regulations of the BLM or of the Oil Conservation Division nor the long-established policies allow or provide for hearings before the Division on revisions of participating areas of federal exploratory units. A review of the decisions of various state jurisdictions and of the Interior Board of Land Appeals finds no cases holding that revisions of participating areas in a federal unit require or even allow hearings before the state agency administering oil and gas conservation matters. Enron would not be arguing that such a right to hearing existed if same was being pressed by Bass as operator upon the denial by the BLM of a proposed Participating Area.

Enron spends a great deal of time "setting out the procedures" which should be afforded Enron. See **pp. 8-10 of Memorandum.** However, Enron ignores the fact that the James Ranch Unit Agreement is a contract between private parties. The actions performed by Bass' unit operator are pursuant to the contract between the parties.

There is no due process right owed between parties to a contract, unless the contract so specifically requires. Enron's rights under this contract were set upon its execution many years ago. Enron should not be allowed to attempt to rewrite the contract at this late date.

Enron has had two opportunities to present its proposals to factfinders which had not already approved the revisions, the District Office of the BLM, Roswell, New Mexico, on November 2, 1995, and the Office of the State Director of the BLM. Enron was unable to persuade either agency that its position is correct. See **Ferguson April 16 letter, Ferguson July 17 letter and State Director's Decision**. There is a simple explanation. Enron's data does not support the position it is advocating. See **Ferguson April 16 letter and Ferguson July 17 letter**. This lack of technical support highlights the lack of factual foundation of Enron's allegations.

Enron complains at great length that the approval of the Division was issued to the detriment of Enron's correlative rights. It is difficult to understand Enron's position that its correlative rights have been impaired. By its own admission, correlative rights require that each owner in the pool be allowed to obtain their fair share of production and that same is to be obtained without the occurrence of waste. See **Section 70-2-33(H)**. In fact, Enron has received far more than its fair share of production under the First and Second Revisions of the Atoka Participating Area. The Third Revision is an attempt to protect correlative rights, but not those of Enron, which do not need protecting. It is the correlative rights of Bass which need protecting due to the huge amounts of gas produced by the James Ranch Unit No. 1 well from lands for which the

leasehold owners thereof received no compensation. Enron will receive its share of production under the Third and Fourth Revisions on the exact same basis as every other owner in the Participating Area, i.e., the number of surface acres of the leases contributed by Enron divided by the total acreage included in the Third and Fourth Revised Participating Area determine Enron's interest in production. Enron is being treated as required by the Unit Agreement, and its own geological and technical data support the Revisions as adopted. See **Ferguson April 16 letter and Ferguson July 17 letter.**

Enron has received the following which are described as hallmarks of "due process" by Enron: (1) notice of the request for approval of the revisions prior to the adoption of same by the three administrative agencies involved; (2) Enron was allowed to present evidence in opposition to the revisions on two occasions prior to their final adoption on June 25, 1996. Enron had a third opportunity to present its version of the revisions in the hearing before the State Director of the BLM. Furthermore, appeals to the Interior Board of Land Appeals which Enron has already filed have been held to satisfy due process requirements. Santa Fe Pacific Railroad Co., **90 IBLA 200 (1986).**

Neither party has been allowed to cross-examine the witnesses of the other. It is difficult to see what benefit would be derived by Enron or anyone else from such cross-examination. In view of the similarity of the data presented by both Bass and Enron, little, if any, additional substantive information is likely to be brought to light. Enron has already received one hearing before an impartial factfinder, i.e., the State Director of

the BLM and has failed to carry the burden of persuading this body that the prior decision of the District Office was in error. See **State Director's Decision.**

Enron is now engaged in "forum-shopping" in a frantic attempt to overturn the decision of the BLM or at least create conflict between two of the agencies which share some portions of the administration of the James Ranch Unit and operations thereunder. This attempt should be resisted by all agencies involved. Enron should not be allowed to subvert the procedures of the Division in the furtherance of its own narrow economic agenda.[1]

II. BLM Procedures Provide Adequate Protection to All Parties and are the Only Regulatory Framework for Administration of the James Ranch Unit

Enron erroneously states that the proceedings before the BLM do not adequately protect "Enron's constitutionally protected property rights." Enron continues to insist that the Division is charged with protecting its correlative rights which have somehow been "impaired." As previously stated, there are correlative rights in the Participating Area which require protection. However, it is not the correlative rights of Enron which need protecting. Under the First and Second Revised Participating Areas, Enron has enjoyed a share in production far in excess of that which the engineering and geological data indicate is appropriate. Enron has been allowed to produce and receive compensation for more than 20 bcf of gas drained from adjacent lands without

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[1]Enron recites a number of cases relating to correlative rights. See Cowling v. Board of Oil, Gas and Mining, 830 P.2d 220 (Utah 1991), Uhden, Id. and Santa Fe Exploration Co. v. Oil Conservation Comm'n, 114 N.M. 103, 835 P.2d 819. The propositions for which these cases are recited are not germane to the issues before the Division at this time.

compensation to the owners thereof. It is the owners of those leases covering the adjacent lands, i.e., Bass, which require protection. The BLM has correctly found that Enron has no due process rights in regard to the revisions of the Participating Area. See **Ferguson April 16 letter.** Also, the appeal to the Interior Board of Land Appeals currently being pursued by Enron has been held as satisfying due process requirements. See Santa Fe Pacific Co., Id.

The Unit Agreement is a contract between non-governmental entities for development of the area encompassed thereby. See **Ferguson April 16 letter.** The procedural panoply to which Enron insists it is entitled is not applicable in this instance. As previously described, Enron presented its case to the personnel of the BLM on November 2, 1995 and to the BLM and the State Land Office on June 17, 1996. Notwithstanding this opportunity, Enron was unable to convince these agencies that the proposed revisions were erroneous and not based on sound technical data and analysis. Enron's own data supported the revisions as submitted by Bass. See **Ferguson April 16 letter and Ferguson July 17 letter.**

Enron insists that the burden of approval for the revision of the Participating Area should be borne by Bass. Enron forgets, or conveniently ignores, that Bass bore the burden of proof when the revisions were originally submitted to the Division. After the District Office of the BLM, the State Land Office and the Division approved the Revisions, the burden of proof shifts to the party appealing the administrative decisions, Enron. Bass met its burden of proof. Enron has failed to meet its burden in every instance. See **Ferguson July 17 letter and State Director's Decision.**

Enron continues to obfuscate the nature of the "correlative rights" which it insists are being impaired by the Division's refusal to hold hearings on the expansion of the Atoka Participating Area. "Correlative rights" are not a tangible property right in and of themselves. They are an "opportunity only so far as practicable to the owner in a pool to produce without waste his just and equitable share of oil or gas in a pool," quoting Section 70-21-33, subpart (H) NMSA (1978). The evidence clearly indicates that the only correlative rights being impaired are those of Bass, and that the Third and Fourth Revisions adopted in compliance with the Unit Agreement are the means by which to remedy the impairment of Bass' correlative rights in the Atoka Participating Area.

There are two methods by which the requirements of §70-21-33(H) can be fulfilled in the current situation. Either the owners of the leases in the areas which are being drained by the existing wells drill additional wells to obtain their fair share of the reserves in the area, or production from existing wells is allocated pursuant to the formula set out in the James Ranch Unit Agreement.

It is clear that the first option does not fulfill the entire definition of "correlative rights." Although the drilling of such wells would provide the opportunity to each owner to produce its fair share of the reservoir, the drilling of these wells would constitute "waste" because the wells are unnecessary to produce the economically recoverable gas in place. By expansion of the Atoka Participating Area, all owners of leases containing gas producible in paying quantities will receive their fair share of production without the drilling of additional wells. This is the exact definition of correlative rights so often cited by Enron. Enron's correlative rights are being protected in full conformance with the

statute. Enron is simply unhappy with the economic outcome of the protection. Enron's correlative rights are not the only ones entitled to protection. The correlative rights of all interest owners in the James Ranch Unit are entitled to protection.

Contrary to Enron's assertion, the Division has not deferred its obligation to protect correlative rights to the BLM. The Unit Agreement itself contains sufficient safeguards to protect correlative rights. See **Oil Conservation Commission Order dated March 17, 1953**, approving James Ranch Unit Agreement. At the inception of the James Ranch Unit Agreement that the Commission, now the Division, fulfilled its obligation to protect correlative rights by ensuring that sufficient safeguards were built in the Unit Agreement to protect the correlative rights of all the parties thereto.

Notwithstanding the joint resolution of the Interstate Oil and Gas Compact Commission cited by Enron it is Memorandum, Congress has vested the responsibility for development of federal oil and gas leases in the Department of Interior. **30 U.S.C. §§ 81-263 (1982).** Orders of state administrative agencies are applicable to federal leases only upon the Secretary of Interior's approval. **Kirkpatrick Oil and Gas Company v. United States, 675 F.2d 1122 (10th Cir. 1982).** The New Mexico BLM has not entered into the Joint Powers Agreements recommended by the Joint Resolution.[2] Although the BLM and the Division have a long history of cooperation in New Mexico, the ultimate responsibility for administration of federal lands lies with the duly designated representatives of the Department of Interior.

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[2]Telephone conference with Tony Ferguson, Assistant District Manager, Roswell District Office, Bureau of Land Management.

The Unit Agreement is a contract between private parties. Enron has no due process rights to be protected thereunder. Enron is simply trying to overturn a revision of the Participating Area made in full conformance with the provisions of the Unit Agreement because it dislikes the economic impact of the decision. It should be noted that at least part of the lands included within the Participating Area, i.e., Section 12, were originally requested by Enron to be included in the Participating Area. See **Thomas letter**. It is only upon the inclusion of additional lands which have been proved to be capable of production in paying quantities, thereby reducing Enron's interest, that Enron began its vociferous attack upon the Third and Fourth Revisions. There is nothing to recommend Enron's request to the Division and it should be denied.

III. There is no Right to Hearing Before the Division Under the New Mexico Oil and Gas Act, or Under the James Ranch Unit Agreement

The Unit Agreement requires the approval of the Department of Interior, Commissioner of Public Lands, and Oil Conservation Division as a prerequisite to the ultimate effectiveness of the unit. See **Unit Agreement, ¶ 1**. As noted by Enron, Order No. R-279 was entered by the Commission approving the Unit Agreement on behalf of the Oil Conservation Commission. The order specifically finds that the proposed unit plan will, "tend to promote the conservation of oil and gas and the prevention of waste. See **Order No. R-279, Finding ¶ (2)**. The Commission did specifically reserve certain rights pursuant to Section 3 of the order. However, these rights are limited to, "supervision and control of operations." The writ of the Commission under the original agreement goes no further nor does the retention of powers cited attempt to add anything further. It is admitted that certain aspects of operations on the unit are subject

to the ongoing supervision of the Division. These include the filing of notices, application for drilling of wells, location of wells from exterior boundaries of the unit, etc. However, this is a limited area of authority in contrast to the decision of **Crest Resources and Exploration Corp. v. Corp. Comm'n, 617 P.2d 215 (Okla. 1980)**, cited by Enron. Crest involves the actions of an operator pursuant to a forced pooling order issued by the Oklahoma Corporation Commission. In Crest, the Oklahoma Corporation Commission was the only administrative agency involved and is vested with paramount authority under Oklahoma statute. Additionally, only fee lands were involved in Crest. In the instant case there are three administrative agencies involved with paramount authority being vested in the Bureau of Land Management as the representative of the Department of Interior and with the authority of the Division (for the most part, the right of consent under certain limited circumstances) being limited to the area described in the Unit Agreement.

Enron attempts to create the perception that the Division has a coequal voice in the administration of the unit with the Department of the Interior and the Office of the Commissioner of Public Lands. This is not accurate. Careful reading of the Unit Agreement indicates that most decisions under the Unit Agreement are made pursuant to application by the unit operator to "the oil and gas Supervisor with the BLM or the Commissioner of Public Lands 'Commissioner'" See, **p. 3, ¶ 1(b)(c)(d), p. 4; Sec. 5, ¶ 1, p. 5; Sec. 5, ¶ 1, p. 6; Sec. 6, (b), p. 7.** In fact, the first mention of the Commission, i.e., Division, in an administrative capacity is in Sec. 9, p. 8, where approval of a location of the initial well under the Unit Agreement is required of the Commission if the well is

located on state or private lands. Since there are no private lands in the James Ranch Unit and less than 10% is State of New Mexico land, this reduces the Commission's role. In the Unit Agreement, only the Director, i.e., the BLM and the Commissioner, may modify the drilling requirements under Sec. 9 of the Unit Agreement. Likewise, under this same section, only the Director and the Commissioner have the power to declare the Unit Agreement terminated. See **Sec. 9, ¶ 2, p. 9, Unit Agreement**. The only area under which the Division is given a significant voice is under Sec. 10, dealing with plans of further development and operation and under Sec. 11, participation after discovery or, in other words, the creation and revision of participating areas. In each case the Division is one of the agencies to approve or disapprove. The Division has already approved the Third and Fourth Revisions. Enron is attempting to create a parallel framework of regulatory oversight where one was never intended or previously existed.

Enron claims that it is entitled to a right to notice in hearing when its property rights are being affected. A revision of the participating areas was done in accordance with a contract between the parties. The administering agency, the BLM, has no right to unilaterally propose or require revisions of participating areas. Only the unit operator, under the unit agreement, is required to make such proposals. See **Section 11, ¶ 1 of the Unit Agreement**. None of the administrative agencies have the power to amend proposed participating areas. The only power given to the agencies is the right to refuse or approve. Enron has no right to due process of law at this stage of the proceedings. Once approval of an application is obtained from all three agencies, Enron is entitled to notice thereof with a right to hearing at the next appellate level, i.e., the State Director's

Office. This notice was given and Enron availed itself of the right to appeal. This right is no greater or no less than that granted to the unit operator. The unit operator has only the right to appeal a decision of the Roswell District Office in the event an application for the revision of the participating area is denied. Enron is attempting to fabricate extraordinary rights and remedies in its effort to overturn the decision of the BLM.

The Division has performed its statutorily mandated obligation under the Unit Agreement. The correlative rights of all parties are protected by the Revisions. No further action is required. A parallel set of hearings and appeals by the Division would place the unit operator in the potentially untenable position of complying with conflicting directives. It is this conflict that the parties to the Unit Agreement sought to preclude by placing the greatest portion of the responsibility for administration of the Unit in the Department of the Interior. This was a logical and equitable decision in view of the large percentage of federal leasehold ownership contained in the unit area.

IV. There is No Right to Hearing Under the Unit Agreement Prior to Administrative Approval.

Enron spends a great deal of time and effort attempting to fabricate a right to notice of proposed revisions of a participating area under the language of the Unit Agreement. A clear reading of the Unit Agreement shows that there is no such right. Rather than repeat all of § 11 as set out in Enron's Brief, only the pertinent language is repeated below:

> 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, and any two or more participating areas

> so established may be combined into one with the consent of the owners of all working interest in the lands so combined, on approval of the Director, the Commissioner and the Commission (Division). 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 productive in paying quantities, and the percentage of allocation shall be revised accordingly. (Interlineation added.)

The language set out very clearly bifurcates situations requiring "approval" as opposed to those which require "consent". The situation requiring "consent" is when two or more participating areas are combined into one particular area. This combination clearly calls for the "consent" of the owners of the working interests in the lands combined, and the "approval" of the Director, Commissioner and Commission. The next sentence requires participating areas so established shall be revised from time to time subject to like "approval". "Approval" is the specific language utilized when referring to the administrative agencies. The term "approval" has no nexus to the owners of working interests in the lands so combined. This argument has been rejected as being totally without merit in each review of the question. See **Ferguson March 28 letter and State Director's Decision, p. 2.** Bass is not required to obtain the prior approval of Enron prior to submitting revisions for participating areas under the James Ranch Unit. See **Ferguson March 28 letter and State Director's Decision, p. 3.** This is in accordance with federal regulation of exploratory units. See **43 C.F.R. 3186.1, Sec. 11.**

Bass has no knowledge of the reference by Enron to the past practice of Bass in regards to notice of revision of participating areas. A review of Bass' records indicates that in prior revisions, no prior notice or consent was obtained from the other working

interest owners in the area. The only correspondence found was forwarded to other working interest owners after submission to the administering federal agency, the Mineral Management Service. Neither the Unit Agreement nor any pertinent federal regulation or statute requires the prior consent of any nonoperating parties to the revision of a participating area.

Bass complied with the requirements set out in the Unit Agreement in proposing the Third and Fourth Revisions. The Division has approved the revisions. Enron has now been unsuccessful in two appeals attacking the appropriateness of the Revisions. It is quite clear that Enron is simply "forum shopping" in an attempt to create a conflict between the various administering agencies. Enron has a clearly-delineated path for review of its purported injustices. That path is through the administrative appeal system of the Department of the Interior. Enron has appealed the verdict of the Assistant State Director of the Bureau of Land Management upholding the decision approving the Third and Fourth Revisions to the Interior Board of Land Appeals.

Enron attempts to create an additional right of notice and appearance prior to and submission of the proposed revisions in the Participating Area to the District Office of the Bureau of Land Management under ¶ 25 of the Unit Agreement. This section provides:

> APPEARANCES. Unit Operator shall after notice to other parties affected, have the right to appear for or on behalf of any and all interests affected hereby before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior, the Commissioner or Commission, or any other legally constituted authority; provided however,

that any other interested party shall also have the right at his own expense to be heard in any such proceeding.

The language of ¶ 25 gives Enron or any other non-operator the right to "appear" before the agencies delineated. The submission of the revisions for administrative appeal is not an "appearance." See **State Director's Decision, p. 3.** Section 25 does not create, contractually, constitutionally or otherwise, in Enron a right of veto over applications for revisions of participating areas. It should be noted that the applications were not arbitrarily drawn to the benefit or detriment of any leasehold owner. The boundaries of the Third and Fourth Revisions were drawn after an exhaustive study of the geological and engineering data for Atoka Participating Area. These revisions have been judged by the District Office of the BLM and the Office of the State Director of the BLM to include all "additional land then regarded as reasonably proved to be productive in paying quantities,..." thereby protecting the correlative rights of all parties. This is Bass' obligation under the Unit Agreement.

CONCLUSION

A review of the pertinent data and documentation shows that Enron is attempting to create a right to hearing and review before the Division in the hopes of creating a conflict between the Bureau of Land Management and the Division. If a conflict is created, Enron can then offer an alternative to the Third and Fourth Revisions more favorable to itself as a "compromise."

The conceptual underpinning of creation of participating areas, which has been conveniently ignored by Enron, is the protection of correlative rights by including in the participating areas all lands which are deemed to be productive of production in paying

quantities. By including all lands which are deemed to be capable of production in paying quantities, the agreement protects the correlative rights of all parties owning interests within the participating areas.

The boundaries of Third and Fourth Revisions are based on geological and engineering data previously mentioned. The Revisions and the data upon which they are based have now withstood a careful scrutiny by the technical staffs of the District Office of the Bureau of Land Management and the Office of the State Director of the Bureau of Land Management. In each instance, Enron's geological interpretation of the area was found to be quite similar and supportive of the revisions requested by Bass. See **Ferguson April 16 letter, ¶ 4, and Ferguson July 17 letter.**

There has been a great deal of verbiage from Enron claiming that it is "defending" its "correlative rights." However, as has been shown in these materials, the correlative rights which need protection are not those of Enron. Enron has enjoyed the illicit fruits of other owners' gas for over 20 years. The Revisions are an attempt to correct this impairment of correlative rights. The correlative rights which have been impaired are those of Bass and other leasehold owners in the tracts surrounding the James Ranch Unit No. 1 well. As previously noted, this well has produced over 25 bcf of gas, notwithstanding that less than 3.5 bcf of gas was present in place for the acreage assigned to this well in the First Participating Area. It is only through adoption and approval of the Revisions that this injustice can be remedied. The Division should not allow itself to be made a party to such a gross subversion of the spirit and letter of the Unit Agreement and the statutorily mandated obligations of the Division.

Enron should not be allowed to subvert the procedures for exploratory units by fabricating nonexistent rights to hearings when same are not provided for by the Unit Agreement, federal regulation, the rules and regulations of the Division, or the past policies of the Division. Therefore, Enron's application should be dismissed in all things with prejudice.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

James E. Haas
P. O. Box 1720
Artesia, New Mexico 88211-1720
(505)746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this February 11, 1997.

_____
James E. Haas

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

IN REPLY REFER TO:
James Ranch Unit
NM-70965
3180 (06200)

JUL 17 1996

Mr. Pete Martinez
Office of the Commissioner of Public Lands
State of New Mexico
P.O. Box 1148
Santa Fe, NM 87504-1148

Dear Mr. Martinez:

Our office has completed an Original-Gas-in-Place (OGIP) study with regard to the pending revisions of the James Ranch Unit Participating Areas as submitted by Bass Enterprises and challenged by Enron. Enron submitted Net Sand (h) and Porosity (ø) maps as indicative of their interpretation of the Atoka Reservoir. These maps were used to create a Porosity-Feet (øh) map. This map was then planimetered to obtain surface area with the product representing Porosity-Acre-Feet or pore volume. After extensive calculations, the OGIP calculation were in the range of 57 to 65 BCF of gas. Bass also calculated OGIP on the order of 60 to 65 BCF.

Additionally, estimated of the Estimated Ultimate Recoverable (EUR) and OGIP of the 10 best wells in the Atoka reservoir was done using decline curve analysis and assuming a standard 80% recovery factor. The EUR shows an estimated 55.7 BCF while the OGIP shows 69.7 BCF. A comparison of the two determinations of OGIP indicates that the entire Atoka reservoir as shown on Enron's maps is productive with a high probability that portions of the reservoir have been drained. This, however, does not exclude those portions from being included in a participating area.

Based on this analysis, we do not feel that there is sufficient data presented to amend or rescind our original approval on the application for the Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico. If you have any questions, please feel free to give me a call at 505-627-0298.

Sincerely,

(Orig Sgd) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

cc: Mr. Bill Carr
Campbell, Carr & Berge, P.A.
P.O. Box 2208
Santa Fe, NM 87504-2208

Mr. Patrick Tower
Enron Oil and Gas Company
P.O. Box 2267
Midland, TX 79702

Mr. Wayne Bailey
Bass Enterprises Production Company
201 Main Street
Fort Worth, TX 76102-3131

Mr. Jim Haas
Losee, Carson, Haas & Carroll, P.A.
P.O. Box 1720
Artesia, NM 88211-1720

NM(93200, R. Wymer)

TFerguson:tf:07/17/96

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

IN REPLY REFER TO:
James Ranch Unit
NM-70965

Mr. Paul Owen
Campbell, Carr & Berge, P.A
P.O. Box 2208
Santa Fe, New Mexico 87504-2208

Dear Mr. Owen:

We received your letter on behalf of Enron Oil and Gas Company (Enron) dated April 8, 1996 regarding the continued protest of the application of Bass Enterprises Production Company (BEPCO) for approval of the Third and Fourth Revisions to the Atoka Participating Area in the James Ranch Unit. After careful review and coordination with our solicitor, we would like to respond to the following issues that have been raised:

(1) Due process rights

The James Ranch Unit Agreement is viewed as a contract between the Bureau of Land Management and the Unit Operator. In this case, the Unit Operator (BEPCO) is totally responsible for meeting all the requirements of the Unit Agreement. Any technical or philosophical differences between the Unit Operator and working interest owners must be resolved outside the Unit Agreement. The Unit Agreement contains no provisions for resolution of differences. This matter is normally addressed through a Unit Operating Agreement of which the BLM is not a party. Therefore, the issue of due process rights will not be considered by the BLM and we recommend that a solution be sought outside of the Unit Agreement arguments.

(2) Notification requirements

As per the Unit Agreement language, there are no requirements for the Unit Operator to provide working interests owners any supporting data when notification is served. If there are no objections from BEPCO, the BLM will allow Enron to review the technical data that has been submitted thus far. If Enron wishes to pursue this, please provide the BLM with some type of approval from BEPCO or have BEPCO contact the BLM by telephone.

(3) Approval conditions and rescinding of BLM approval

We are enclosing a copy of the approval letter that was sent to BEPCO from the BLM dated March 4, 1996, which states "...This approval is conditioned on concurrent approval from the New Mexico Oil Conservation Division and the New Mexico Commissioner of Public Lands." This statement is consistent with the Unit Agreement language in Article 11 regarding approvals and the BLM's approval in this situation, is not viewed as a final agency decision until all approving offices have approved. As you are aware, the BLM has requested the Commissioner of Public Lands to suspend any additional processing on this application. The BLM ordered BEPCO to notify Enron and BEPCO has provided documentation of this to the BLM. As per the language in Article 25 on

appearances, we will allow Enron to make a presentation to all three agencies regarding the proposed Third and Fourth Revisions to the Atoka Participating Area. This presentation, however, will not afford Enron the opportunity to cross-examine BEPCO, but to present technical data only. Therefore the BLM will not reconsider its approval dated March 4, 1996, until after such appearance, at which time we will review the information presented and allow the approval to stand or amend as necessary.

(4) Clarification of prior meetings with Enron

A review of BLM records indicates that representatives from Enron appeared before the BLM on November 2, 1995, regarding proposed revisions to the Atoka Participating Area. In fact, Enron left geological maps including structural interpretations of the area with BLM which are consistent with the proposed revisions as presented by BEPCO. These maps had also been utilized in a hearing before the New Mexico Oil Conservation Division. Enron contacted BLM personnel requesting a status report on the Atoka Participating Area and were fully informed of the proposed revisions. Enron requested that BLM allow them an opportunity to present technical data and BLM allowed Enron to appear. Your statements on page 3 of the letter dated April 8th are correct in that the actual applications from BEPCO for the Revisions were submitted on February 8, 1996. Your statements, however, are incorrect in that the previous meeting on November 2, 1995, with BEPCO and Enron involved proposed revisions to the Atoka Participating Area for the James Ranch Unit #70 well.

(5) State Director Review

The Roswell District Office of the BLM has the delegated authority to approve and administer the Unitization program for the Roswell District. By this letter, we are requesting that the New Mexico State Office of the BLM reconsider its acceptance of your appeal and request for a State Director Review dated March 27, 1996. We feel that an appeal and request for State Director Review by Enron is premature at this time in that the approval is not final until all three agencies grant approval. We deem that to date there has been no affect on Enron and any appeal rights would only be appropriate after the approval is finalized by the office of the Commissioner of Public Lands. Enron would then have the opportunity, if so chosen, to file an appeal asking for a State Director Review.

If there are any questions or you would like to schedule a time for appearing as addressed in issue (4) please give me a call at 505-627-0298.

Sincerely,

(Orig Sdg) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure

cc:
Commissioner of Public Lands
State of New Mexico
Attn: Mr. Pete Martinez
P.O. Box 1148
Santa Fe, NM 87504-1148

New Mexico Oil Conservation Division
Attn: Mr. Bill LeMay
2040 South Pacheco Street
Santa Fe, NM 87505

Enron Oil & Gas Company
Attn: Mr. Patrick Tower
P.O. Box 1720
Midland, TX 79702

Bass Enterprises Production Co.
Attn: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102-3131

Losee, Carson, Haas & Carroll, P.A.
Attn: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

NM(93200, R. Wymer)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P. O. Box 27115
Santa Fe, New Mexico 87502-0115

December 3, 1996

IN REPLY REFER TO:
SDR 96-26
NMNM 70965
3165.3 (NM932)

CERTIFIED - RETURN RECEIPT REQUESTED
Z 091 155 642

Decision

Mr. William Carr	:	
Campbell, Carr, Berge	:	Third and Fourth Revisions
& Sheridan, P.A.	:	to the Atoka Participating
P.O. Box 2208	:	Area, James Ranch Unit
Santa Fe, NM 87504-2208	:	

Decision Upheld

On March 4, 1996, the Assistant District Manager, Minerals Support Team, Roswell District Office (RDO), approved the third and fourth revisions to the Atoka participating area of the James Ranch Unit (JRU). The approval was conditioned on concurrent approval by the New Mexico Oil Conservation Division (NMOCD) and the New Mexico State Land Office (NMSLO). The NMOCD had already approved both revisions in their order dated February 22, 1996. Enron Oil and Gas Company (Enron), majority working interest owner in the JRU, requested and was allowed to present evidence to the RDO and the NMSLO. By letter dated July 17, 1996, to the NMSLO, the RDO indicated that they had conducted a review of additional information submitted by Enron Oil and Gas Company (Enron) and reiterated their prior approval. On July 25, 1996, approval by the NMSLO made the revision effective. On August 22, 1996, the firm of Campbell, Carr, Berge & Sheridan (representing Enron) filed a timely request for a State Director Review of RDO's decision. The law firm of Hinkle, Cox, Eaton, Coffield & Hensley, by letter dated August 22, 1996, entered its appearance for Shell Western E&P, Inc., as a party adversely affected by the RDO decision. Shell Western E&P, Inc. (Shell Western), is an affected party to the decision because they were an interest owner in the JRU on the effective date of the participating area revisions. Enron's and Shell Western's appeals the State Director included requests for an oral presentation.

Enron and Shell Western presented oral arguments and supporting evidence on October 28, 1996. By letter dated September 12, 1996, Bass Enterprises Production Company (Bass), the Unit Operator of the James Ranch Unit, filed arguments in support of RDO's decision and also requested an oral presentation. Bass made their oral presentation of on November 7, 1996.

Enron and Shell Western argued that RDO's approval should be rescinded. Their arguments were lengthy but focus on the following items:

1. Bass violated Federal regulations (43 CFR 3180).

2. Enron's consent to the revisions was never obtained as required by Article 11 of the Unit Agreement.

3. Enron and Shell Western were never provided notice of the revision applications as required by Articles 25 and 26 of the Unit Agreement.

4. The retroactive nature of the decision is improper because:

   a. Equities must favor the party seeking retroactive relief;

   b. There must be substantial evidence to support the retroactive provision of the decision; and

   c. A retroactive effective date is not permissible any earlier than the date of application.

5. The lands do not meet the criteria necessary for participating area expansion defined in Article 11 of the James Ranch Unit Agreement (Unit Agreement). Specifically, the revisions include land that is not "... reasonably proved productive in paying quantities...." Bass has misinterpreted the commercial extent of the Atoka Sand by:

   a. Excluding or misinterpreting some critical well tests;

   b. Ignoring wells with high water saturations; and

   c. Failing to recognize faulting in the area.

Enron argues that Bass violated regulations contained in 43 CFR 3180. This argument is without merit because these regulations merely set the standards by which units are formed. Bass must meet the terms and conditions of the Unit Agreement.

Enron misinterprets the notice requirements in Article 11 of the Unit Agreement. The section quoted pertains specifically to the combination of two or more participating areas and not additions to an existing participating area.

Enron and Shell Western both state that they were never provided notice of the revision applications as required by Articles 25 and 26 of the Unit Agreement. Article 25 of the Unit Agreement gives Bass the right to appear before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission on issues related to operations on the JRU. Article 26 sets out the method by which notices must be delivered. The question at issue in this argument is whether or not Bass is required to notify all interested parties prior to each and every appearance before one or more of the agencies mentioned. It is our opinion that the appearance authority granted by Article 25 was conveyed to the unit operator at the time the Unit Agreement was ratified. Bass is not required by the Unit Agreement to notify interested parties when fulfilling their obligation to revise participating areas (Article 11).

Shell Western makes several arguments why a retroactive effective date is improper. Section 11 of the Unit Agreement states that "The effective date of any revision shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, unless a more appropriate effective date is specified in the schedule." The record indicates the third and fourth revisions to the Atoka Participating Area were made effective December 1982 and July 1993, respectively. In their oral presentation, Bass submitted drilling information and mapping from 1982. The material presented indicates that the information supporting their revision application was available in early 1982. It is our opinion that the Unit Agreement allows for a retroactive effective date and that the evidence presented by Bass supports the date approved by the RDO.

Enron argues that critical well tests were excluded or misinterpreted by Bass and the RDO. The record indicates that all well tests and logs from each and every well in the area of the Atoka participating area was reviewed and considered by both Bass and the RDO. Even though raw well information submitted by Enron and Bass was exactly the same or very similar, their final interpretations are significantly different. Both interpretations generally show a north-south trending reservoir, but the areal extent of the reservoir is interpreted differently, particularly in the area of section 35 and the southern end of the Atoka reservoir. Based on the fact that all of the well information was reviewed by the RDO and that evidence submitted by Enron was in the form of a differing interpretation of the very same data, it is reasonable to conclude that the original Bass application is a reasonable representation of the areal extent of the productive Atoka sand in the JRU.

Another point of contention raised by Enron is that Bass and the RDO did not correctly consider well economics for wells with high water saturations, particularly in the southern area of the Atoka

reservoir at the JRU. Wells with high water saturations indicate less reservoir gas in the vicinity of the wells. Enron claims that high water saturations in those wells, now and when they were originally drilled, makes it impossible for these wells to meet the paying quantities requirement in Article 11 of the Unit Agreement. The record indicates that Bass and the RDO believe water saturations are higher in the southern area, although they interpret slight lower values than does Enron. Bass presented drill stem test and log information that they feel indicates that presence of economic production potential at the time the wells were drilled. Enron counters this data by stating that the tests were flawed or inadequate. Article 11 of the Unit Agreement requires the unit operator to "...include additional land then regarded as reasonably proven to be productive in paying quantities...." It is our opinion, based on the evidence in the record, that Bass has reasonably demonstrated that paying quantities existed in the southern area of the Atoka reservoir in December 1982.

Enron states that faulting exists in the JRU. Faulting would be a barrier to the Atoka sand reservoir and would limit the areal extent of the participating area revisions, particularly in the area of section 35 of the JRU. Enron's interpretation is in direct conflict with opinions expressed by Bass and opinions by a experts in BLM and the NMSLO. It is our opinion that Enron has not proven the existence of faulting in the JRU.

It must be noted for the record that the RDO decision was independently reviewed by the NMOCD and the NMSLO. Both of these State agencies reviewed similar data and decided to approve the application as submitted. A protest filed by Enron is currently pending a hearing before the NMOCD.

Based on the previous discussion, Enron has not proved with a preponderance of the evidence that the RDO decision was made in error. Therefore, the March 4, 1996, decision of the Assistant District Manager, Minerals Support Team, Roswell District Office, to approve the third and fourth revisions to the Atoka participating area of the JRU is considered reasonable and must be upheld.

Enron has the right to appeal this decision to the Interior Board of Land Appeals, in accordance with the regulations in Title 43 CFR Parts 4.400 and 3165.4, as well as Form 1842-1 (copies enclosed). If an appeal is taken, Enron's Notice of Appeal must be timely filed in this office so that the case file can be transmitted to the Interior Board of Land Appeals. See the enclosed Form 1842-1 for instructions to follow pertaining to the filing of a Notice of Appeal. To avoid summary dismissal of any appeal, Enron must comply fully with all the requirements of the regulations. A copy of any Notice of Appeal and any statement of reasons, written arguments, or briefs, must be served; (1) on the

Office of the Solicitor as shown on Form 1842-1; and (2) on the Roswell District Manager, Roswell District Office, 2909 West Second Street, Roswell, NM 88201.

Sincerely,

Richard A. Whitley
Deputy State Director
Division of Resource Planning,
Use and Protection

cc:
NM(060,Tony Ferguson)

Losee, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 88211-1720

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102

Enron Oil and Gas Company
Attention: Mr. Patrick Tower
P.O. Box 2267
Midland, TX 79702-2267

Hinkle, Cox, Eaton, Coffield & Hensley
Attention: Mr. James Bruce
P.O. Box 2068
Santa Fe, NM 87504-2068

New Mexico Oil Conservation Division
Attention: Mr. David Catanach
2040 S. Pacheco Street
Santa Fe, NM 87505

New Mexico State Land Office
Attention: Ms. Jami Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

ORAL PRESENTATION

BY BASS ENTERPRISES PRODUCTION COMPANY

FOR STATE DIRECTOR REVIEW

BEFORE THE OFFICE OF STATE DIRECTOR OF

THE BUREAU OF LAND MANAGEMENT

THIRD FLOOR CONFERENCE ROOM

474 ROBEO ROAD

SANTA FE, NEW MEXICO

THURSDAY NOVEMBER 7, 19--

REPORTED BY: AMY ANDERSON, NM CCR #271
Bean & Associates Inc.
Professional Court Reporting Service
500 Marquette, Northwest, Suite 280
Albuquerque, New Mexico 87101

2016-20 AMY

APPEARANCES

For the Bureau of Land Management:

Mr. Richard E. Wymer

Mr. Stephen D. Salzman

For Bass Enterprises:

Mr. J. Wayne Bailey

Mr. George A. Hillis

Mr. Stephen Neuse

Mr. James E. Haas

INDEX

effective at that time. So we really don't -- and told the BLM in Roswell -- have any problem, at least then with the '82 data, at least when we first became aware and acknowledged the fact that gas was moving.

The last page is just conclusions. This reservoir is unique. It is a sand bar 11, 12 miles long, one, one-and-a-half miles wide. By pressure and volumetrics and P/Z data, they clearly demonstrate the gas had to come from the north and south of the discovery well. In reality, if nobody else had ever drilled another well in this sandbar, I believe that James Ranch 1 essentially would have recovered most of these gas reserves, if not all of the commercial gas reserves.

The original participating area contained 3.16 BCF, but by the time the second commercial well was completed in the field, Number 10, the Number 1 well had produced 21.39 BCF of gas. And the first revision should have been thought about in 1974 based on the data from the 4 and the 7. Based upon BEPCo's reservoir mapping, the production history on the James Ranch 11, the reservoir pressure data we have from the north, the Atoka Sand does proceed west of the 1 before it turns north to the Livingston Ranch field.

And finally, the Pure Gold C1, that critical well in '82 flowing 5.26 million on a drill-stem test with no water encountered pressure around 600 psi below reservoir -- virgin

PA file

BASS ENTERPRISES PRODUCTION CO.
FORT WORTH NATIONAL BANK BUILDING
FORT WORTH, TEXAS 76102

September 16, 1982

BELCO PETROLEUM CORP.
Suite 100
10000 Old Katy Rd.
Houston, Texas 77055
Attention: Dell Hunt

SHELL OIL CO.
P. O. Box 2463
Houston, Texas 77001
Attention: Georgia Stanley

Re: James Ranch Wells #1 and #10
Atoka Participating Area
Eddy County, New Mexico

Gentlemen:

Attached for your review and use, we enclose a copy of the "Application for Approval of the First Revision of the Initial Participating Area of the Atoka Formation in the James Ranch Unit", which has been submitted to the Mineral Management Service for approval. Our application essentially provides well and production information which establishes the James Ranch Well #10 as a commercially producing well, and recommends that the Initial Participating Area for the James Ranch Well #1 be enlarged to embrace an additional 240 acres under the James Ranch #10 Well to establish a 600.54 acre Participating Area for the Atoka Formation effective May 1, 1980.

In accordance with the James Ranch Unit and Unit Operating Agreements, Bass plans to takeover the operations of the James Ranch Wells #1 and #10 effective January 1, 1983. The adjustment of the tangibles and intangible costs will be made in accordance with Section 9 of the James Ranch Unit Operating Agreement. For this purpose, it is recommended that January 1, 1982, be designated as the date in which Bass will make an inventory of all equipment on the premises of the enlarged Participating Area. Our Accounting Department will be contacting you to obtain necessary information in order to compute the revenue and cost allocation from May 1, 1980, on the enlarged Participating Area basis, and to obtain intangible well costs on both wells for the adjustment as prescribed by the Unit Operating Agreement.

If you should have any questions regarding our proposed procedure for the transition of operations and the adjustment of costs, please advise us of same at your convenience. For your information and use, we are also enclosing a copy of the James Ranch Unit Operating Agreement dated April 22, 1953.

Sincerely,

JENS HANSEN
Division Landman

JH:ep

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Roswell District Office
1717 West Second Street
Roswell, New Mexico 88201

IN REPLY REFER TO:
James Ranch Unit
NM-70965

MAR 28 1996

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

Dear Mr. Carr:

We have received your letters on behalf of Enron Oil and Gas Company (Enron) dated March 19, 1996, and March 21, 1996, protesting the Application for Approval of the Third and Fourth Revisions of the Initial Atoka Participating Area as submitted by Bass Enterprises Company (Bass). We have also received the copy of your correspondence with Bass dated March 25, 1996. After a thorough review, which included coordination with the BLM Solicitor's Office, we have the following information to report regarding your protests.

Article 11 of the James Ranch Unit Agreement dated April 22, 1953 states that:

> Upon completion of a well capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the Commissioner, the Unit Operator shall submit for approval by the Director, the Commissioner and the Commission a schedule, based on sub-divisions 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 Commissioner and the 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, and any two or more participating areas so established may be combined into one with the consent of the owners of all working interests in the lands within the participating areas so to be combined, on approval of the Director, the Commissioner and the Commission. 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 productive in paying quantities, and the percentage of allocation shall also be revised accordingly. ...

Your protest states that "Pursuant to Article 11 of the James Ranch Unit Agreement dated April 22, 1953, no participating area shall be revised <u>without the consent of the owners of all working interests</u> within the participating area." The consent of the owners of all working interests in the lands within the participating areas is only required when two or more participating areas so established are being combined. The consent of the working interest owners should not be confused with like approval. The language in Article 11 regarding approval is specific to the Director, the

Commissioner and the Commission. The language is also specific to when two or more existing participating areas are proposed for combining. This is clearly not the case in regard to the Third and Fourth Revisions of the Initial Atoka. Therefore, the Third and Fourth Revisions of the Initial Atoka Participating Area do not require consent of the working interests since they are not combining two or more existing participating areas.

Your letter of March 21, 1996 , added an additional protest under Article 25 of the Unit Agreement that requires Bass, as the Unit Operator, provide notice to any party whose interest may be affected by an agency action prior to appearing before the Department of the Interior, the Commissioner of Public Lands, and the New Mexico Oil Conservation Division. Article 25 states that.

> Unit Operator shall, after notice to other parties affected, have the right to appear for or on behalf of any and all interests affected before the Department of the Interior, the Commissioner of Public Lands and the New Mexico Oil Conservation Commission and to appeal from orders under the regulations of said Department, the Commissioner or Commission, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior, the Commissioner or Commission, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at his own expense to be heard in any such proceedings.

The Bureau of Land Management (BLM) recognizes that notice to other parties affected is required under Article 25 of the James Ranch Unit Agreement. The BLM also recognizes that the Unit Operating Agreement specifically addresses the notification and approval of actions involving the Unit Operator and Working Interest Owners. The BLM, therefore believes that sufficient controls are in place to address operational conflicts between the working interest owners and the Unit Operator.

In response to your protest, we have notified Bass of their responsibilities as Unit Operator under Articles 25 and 26. We are also enclosing a copy of our correspondence and instructions to Bass for your records. One of the major benefits of unitization is the streamlining of the approval process and the ability to work exclusively with and through the Unit Operator. Finally, the BLM requests that Enron and Bass work out an agreement to follow for future revisions that will allow for a more mutually beneficial approach to approval actions.

If you have any questions, please feel free to give me a call at (505) 627-0298.

Sincerely,

(Orig Sdg) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure
1 - Copy of Bass Letter Dated March 28, 1996 (2 pages)

OFFICIAL FILE COPY

Ferguson 3/4/96

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ROSWELL DISTRICT OFFICE
1717 West Second Street
Roswell, New Mexico 88202

J. Stark 3/4/96

IN REPLY REFER TO:
3180 (06200)
14-08-001-5558

MAR 4 1996

Bass Enterprises Production Co.
Attention: Mr. Wayne Bailey
201 Main Street
Fort Worth, TX 76102-3131

Re: Third and Fourth Revisions to the Atoka Participating Area, James Ranch Unit Area, Eddy County, New Mexico

Gentlemen:

Your application of February 8, 1996, requesting approvals of the Third and Fourth Revision of the Atoka Participating Area, James Ranch Unit, are hereby approved on this date and are effective December 1, 1982, and July 1, 1993, repectively. This approval is conditioned on concurrent approval from the New Mexico Oil Conservation Division and the New Mexico Commissioner of Public Lands.

The Third Revision of the Atoka Participating Area contains 1,683.13 acres more or less and is described as follows:

T. 22 S., R. 30 E., NMPM, Eddy County, New Mexico

sec. 35, E½;
sec. 36, W½SW¼.

T. 23 S., R. 31 E., NMPM, Eddy County

sec. 5, Lot 4; SW¼NW¼ and W½SW¼;
sec. 6, all;
sec. 8, W½;
sec. 17, NW¼.

The third revision is based on DST data from the Pure Gold "C" No. 1 well and well data from the James Ranch Unit No. 7 well located in the SE¼SW¼, sec. 17, and the SW¼NE¼, sec. 7, T. 23 R., 31 E., NMPM, Eddy County, repectively. The DST data from the Pure Gold "C" No. 1 well, provided positive data as to the extent of the reservoir as did the well data from the J. R. U. no. 7 well. This data supported BEPCO's mapping of the reservoir in late 1982.

The Fourth Revision of the Atoka Particpating Area contains 238.54 acres more or less and is described as follows:

T. 22 S., R. 30 E., NMPM, Eddy County

sec. 12, S½SW¼, N½SE¼ and SW¼SE¼

T. 22 S., R. 31 E., NMPM, Eddy County

sec. 7, lot 2.

The fourth revision is based on well log correlations and DST data obtained from the drilling of the Apache "13" No. 1 well located in the NE¼NE¼, sec 13, T. 22 S., R. 30 E., NMPM. The date of the DST was July 23, 1993, and the DST provided positive data as to the extent of the reservoir.

Copies of the approved applications are being distributed to the appropriate offices and one copy is returned herewith. You are requested to furnish all interested principals with the appropriate evidence of this approval.

If you have any questions please contact John S. Simitz at (505) 627-0288 or the Division of Minerals at (505) 627-0272.

Sincerely,

(Orig Sgd) Tony L. Ferguson

Tony L. Ferguson
Assistant District Manager,
Minerals Support Team

Enclosure

cc:
Commissioner of Public Lands
MMS (3110)
NM (94354)
NM (06200, B. Lopez)
NM (06780, E. Inman)

4/11/95

APR 11

ENRON
Oil & Gas Company

P. O. Box 2267 Midland, Texas 79702 (915) 686-3600

April 10, 1995

Mr. John Smitherman
Bass Enterprises
P.O. Box 2760
Midland, Texas 79702

Re: **Recent Developments and Proposal Plan of Action**
James Ranch Unit Atoka PA
Eddy County, New Mexico

Dear John:

Bass, Mitchell and Yates recently made Atoka sand completions to the north of the James Ranch Unit Atoka PA. Geologic mapping and bottomhole pressure information concludes that the new completions and existing PA wells are producing gas from the same reservoir. Competition between wells for the remaining reserves is obvious; although, the magnitude of drainage effects was not agreed upon by Enron and Bass engineering personnel in a meeting on Thursday, March 30, 1995.

Current Atoka PA daily production is estimated to be 4.5 MMCFD with non-PA wells producing 18 to 20 MMCFD. Mapping and pressure data show these wells to be producing from the same reservoir as the current Atoka PA wells, and that reserves are being lost to the newly drilled wells. To prevent further loss of reserves to the PA wells, Enron proposes the following program be initiated immediately:

No. 1 Expand the James Ranch Unit Atoka PA to include the S/2 of Section 12-23S-31E, containing the Bass, James Ranch Unit No. 70 and to include the James Ranch Unit No. 11.

No. 2 Fracture-stimulate the James Ranch Unit Nos. 10, 11 and 13 with Alco-foam within 90 days (AFEs for these jobs are attached). Install compression as soon as stabilized rates are achieved.

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

March 3, 1997

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

A. J. Losee, Esq.
Ernest L. Carroll, Esq.
Losee, Carson, Haas & Carroll,
P.O. Box 1720
Artesia, NM 88211-1720

RE: OCD Case Nos. 11602 and 11603--Applications of Bass Enterprises Production Company for expansions of the Atoka Participating Area for the James Ranch Unit

Gentlemen:

On February 19, 1997 at the special hearing called in this matter to hear pending motions, Hearing Examiner Michael Stogner: (i) granted Enron's Motion to Rescind the OCD administrative approval dated February 22, 1996, (ii) granted Enron's Motion to set this matter for hearing and (iii) denied Bass' Motion to Dismiss.

The Examiner left it up to counsel for the parties to agree on a hearing date, with April 3rd or a special hearing date close to that date mentioned as possibilities. Please confer and let us know by Friday, March 7, 1997 of the agreed-upon hearing date.

If you have any questions regarding this matter, please feel free to call me at 505/827-8156.

Sincerely,

Rand Carroll
Legal Counsel

cc: William J. Lemay, OCD Director
Michael Stogner, OCD Hearing Examiner

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
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TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

March 7, 1997

VIA FACSIMILE

Mr. Michael Stogner, Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Hearing Date for NMOCD Case No. 11602***
Application of Bass Enterprises Production Company for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Dear Mr. Stogner:

This is a response to Rand Carroll's letter of March 3, 1997, and confirmation of a telephone call between you and William F. Carr. Pursuant to Mr. Carroll's letter, we and the Losee firm have attempted to arrange a mutually-convenient date for the hearing in this matter. Because Ernie Carroll is tied up in the potash hearings this week, we anticipate that we will not be able to confirm a mutually-acceptable date until early next week.

We note your expressed desire to hold the hearing during the week of April 7, 1997. We will convey that preferred date to the Losee firm and attempt to confirm whether either party will be available during that week.

Thank you for your attention to this matter.

Very truly yours,

Paul R. Owen

PRO/cdr
cc: James A. Haas, Esq., via facsimile

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

311 WEST QUAY AVENUE
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MARY LYNN BOGLE
ERNEST L. CARROLL
JOEL M. CARSON
DEAN B. CROSS
JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

March 19, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

MAR 24 1997

Mr. William J. LeMay
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Case Nos. 11602, 11603

Dear Mr. LeMay:

Enclosed herewith please find Bass' Application for Hearing De Novo, in duplicate, for filing in the referenced cause of action. Due to scheduling conflicts and pending medical treatments, counsel will not be available for the April Commission dockets, and we would therefore ask that this be set on a May Commission docket.

Thank you for your consideration.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

James E. Haas

JEH:kth
Encl.

xc w/encl: Mr. William F. Carr (by facsimile)
Mr. J. Wayne Bailey, Bass Enterprises Production Co.

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

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

APPLICATIONS OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

CASE NOS. 11,602
11,603
(Consolidated)

Order No. (Oral Order of February 19, 1997)

APPLICATION FOR HEARING DE NOVO

COMES NOW BASS ENTERPRISES PRODUCTION COMPANY ("Bass") by its attorneys, Losee, Carson, Haas & Carroll, P. A., and hereby applies for a hearing de novo before the New Mexico State Oil Conservation Commission ("OCC"), pursuant to Rule 1220 of the Oil Conservation Division's ("OCD") Rules and Regulations on all issues raised in the hearing on Enron Oil & Gas Company's ("Enron") Motion to Rescind Approval, Motion for Setting and Response to Bass' Motion to Dismiss Proceedings as to the Third and Fourth Revisions of the Atoka Participating Area of the James Ranch Unit, Eddy County, New Mexico, approved by the OCD by oral order on February 19, 1997, and in support thereof, shows the following:

1. On February 19, 1997, the Division entered an oral order rescinding the February 11, 1996, administrative approval of the OCD of the Third and Fourth Revisions of the Participating Area of the James Ranch Unit.

2. Bass challenges the order issued by the Examiner and as its reasons in opposition thereto are as follows:

a. The Division acted beyond its statutory authority in granting hearings for the revisions of the participating areas of the James Ranch Unit, a federal exploratory unit, in that there is neither statutory nor regulatory authority allowing or requiring such hearings on the revisions of participating areas of a federal exploratory unit. Additionally, such an order reverses forty years of policy by the Division in this area, creating great uncertainty among operators of federal exploratory units. The change of policy amounts to the issuance of a new rule and regulation by the Division and if this is now the policy of the Division, same should be done pursuant to the requisite requirements for notice and hearing of all potentially affected parties. Prior to instituting such a rule or regulation, the Division should notify all interested parties pursuant to Section 70-23-23 of the Oil and Gas Act and should hold a hearing on same pursuant to the Division's regulations for promulgation of new rules.

b. The Division has acted outside of its duly promulgated statutory authority pursuant to Sections 70-2-1 to 70-2-38, NMSA (1978) in that it has now agreed to rule on what are legal issues of contract interpretation, i.e., the James Ranch Unit Agreement, and is therefore acting outside of its statutorily-mandated powers as granted under Chapter 70, Article 2, NMSA of the Oil and Gas Act.

c. The specific language of paragraph 11 of the James Ranch Unit Agreement requires that all proposed revisions of participating areas under the unit agreement be submitted to the Bureau of Land Management ("BLM") as representative of the Department of Interior and that agency in conjunction with the Office of the Commissioner of Public Lands and the Oil Conservation Division have only the right of assent or denial to participating area revisions. Neither the Unit Agreement nor the Unit Operating Agreement provide for hearings by the Division as to the promulgation or revision of participating areas. The Division approved the James Ranch Unit Agreement and James Ranch Operating Agreement by Order dated March 17, 1953.

d. Paragraph 11 of the Unit Agreement provides that,

> ... the participating area or areas so established shall be revised from time to time, subject to like approval, whenever such action appears proper as the result of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be productive in paying quantities and the percentage of allocation shall also be revised accordingly. (Interlineation added.)

The underlined language indicates that it was the intent of the drafters of the James Ranch Unit Agreement that the applications for revisions of participating areas would be subject only to an administrative review, not a full adjudicatory hearing. The standard set out in Section 11, "appears proper" and "reasonably proved," is indicative of an administrative approval process and not an adjudicative function on the part of the approving agencies, complete with hearings, etc. If the parties to the James Ranch Unit Agreement had intended that such a process was to be created, they would have explicitly so provided.

e. The specific language of the James Ranch Unit Agreement as approved by the Division shows that it was the intent of the three administrative agencies party thereto and the lessees executing same that a representative of a Department of the Interior, the BLM, should be primarily responsible for the administration of the Unit. The powers of the Division's predecessor, the Oil Conservation Commission, are specifically limited under the terms of the Agreement. The fourth paragraph of the preamble of the Agreement provides that, "the Oil Conservation Commission of the State of New Mexico is authorized by law...to approve this Agreement and the conservation provisions hereof..." A reading of the Unit Agreement as a whole indicates that the major decisions for operation and administration of the Unit Agreement are made pursuant to application by the unit operator to, "the oil and gas supervisor with the BLM or the Commissioner of Public Lands." See, **p. 3, ¶ 1(b)(c)(d), p. 4; Sec. 5, ¶ 1, p. 5; Sec. 5, ¶ 1, p. 6; Sec. 6, (b), p. 7 of the James Ranch Unit Agreement.** The first mention of the Commission, i.e., Division in an administrative capacity in the Unit Agreement is in section 9, page 8, where approval of a location of initial well under the Unit Agreement is required of the Commission if the well is located on state or private lands. There are no private lands in the James Ranch Unit, nor the Atoka Participating Area. The Division's decision of February 19, 1997, creates a cumbersome, costly, and inefficient parallel system of administration with the potentiality to subject all unit operators of federal units in the State of New Mexico to contradictory decisions by federal agencies and the Division.

f. Primary jurisdiction for administration of the James Ranch Unit Agreement lies with the BLM. Approximately 90% of the lands within the James Ranch Unit are subject to federal oil and gas leases, with a corresponding percentage of the lands included within the Third and Fourth Revisions of the Atoka Participating Area also being subject to federal leases. The remainder of the Atoka Participating Area is subject to leases issued by the State of New Mexico. The James Ranch Unit Agreement and Unit Operating Agreement were drafted in conformance with federal regulations. There is currently before the Interior Board of Land Appeals the approval of the Third and Fourth Revisions of the Atoka Participating Areas and the State Director of the BLM's Decision of December 3, 1996, upholding same. The Division is acting outside of its jurisdiction and will ultimately find itself in a position of issuing orders which will not be followed due to the Secretary of Interior's refusal to be bound by same.

g. The Division administratively approved the Third and Fourth Revisions of the Atoka Participating Area based upon the information submitted with the original application for the expansion. Personnel of the Division failed to attend a technical meeting regarding the revisions held in Santa Fe on June 17, 1996, and which was attended by representatives of the other two administrative agencies involved, the BLM and the Office of the Commissioner of Public Lands.

h. Due to the far-ranging ramifications of the Division's decision of February 19, 1997, there are additional issues which should be heard by the Commission.

WHEREFORE, Bass respectfully requests that this matter be set for a hearing before the Commission and upon such hearing an order be entered granting the motion of Bass Enterprises Production Company to dismiss Enron's Motion to Rescind Approval and reinstating the administrative approval of the Division of the Third and Fourth Participating Areas of the James Ranch Unit Agreement first given on February 11, 1996, and for such other relief as may be just in the premises.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: _____

A. J. Losee
James E. Haas
Ernest L. Carroll
P. O. Box 1720
Artesia, New Mexico 88211-1720
(505)746-3505

Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be faxed and mailed a true and correct copy of the foregoing to all counsel of record this March 19, 1997.

_____
James E. Haas

To: LyH

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
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March 26, 1997

HAND-DELIVERED

William J. LeMay, Director
New Mexico Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Oil Conservation Division Case Nos. 11602 and 11603 (Consolidated) Application of Bass Enterprises Production Company for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico***

Dear Mr. LeMay:

Enclosed is the Response of Enron Oil & Gas Company and Shell Western E&P, Inc. to Application for Hearing De Novo filed in the above-captioned case.

If you require anything further from Enron or Shell to proceed with your consideration of this matter, please advise.

Very truly yours,

WILLIAM F. CARR
WFC:mlh
Enclosure
cc: Mr. Patrick Tower (w/enc.)
Mr. Randy Cate
Enron Oil and Gas Company
Post Office Box 2267
Midland, TX 79702

James E. Haas, Esq. (w/enc.)
Losee, Carson, Haas & Carroll
Post Office Box 1720
Artesia, NM 88211-1720

J. Jeffers Spencer, Esq. (w/enc.)
Enron Oil and Gas Company
Post Office Box 1188
Houston, TX 77251-1188

Mr. Bob Sykes (w/enc.)
Shell Western E&P, Inc.
Post Office Box 4655
Houston, TX 77001-0576

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:

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO.

CASE NOS. 11602 AND 11603 (CONSOLIDATED)

RESPONSE OF ENRON OIL & GAS COMPANY AND SHELL WESTERN E&P, INC. TO APPLICATION FOR HEARING DE NOVO

On February 19, 1997, Examiner Michael E. Stogner granted the Motion of Enron Oil & Gas Company ("Enron") to rescind the Division's approval of Bass Enterprises Production Company's proposed Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit. Mr. Stogner directed the parties to confer and advise the Division of possible hearing dates. Bass, however, insists on proceeding under its own rules. Instead of selecting a date when these applications can be heard on the merits, Bass now seeks a review of Mr. Stogner's ruling by the full Commission.

In support of its Application for Hearing De Novo, Bass presents the same issues it argued to Examiner Stogner on February 19th. Before Bass can present these issues to the Commission, it must show that it is entitled to a de novo review. As this case now stands, Bass' application is premature. It is not entitled to a de novo review of Examiner Stogner's ruling on these motions, for this review is not authorized by the rules of the Division.

BACKGROUND

In rescinding the Division's approval of the proposed Third and Fourth Expansions of the Atoka Participating Area in the James Ranch Unit, Examiner Stogner honored ***Uhden v. New Mexico Oil Conservation Comm'n,*** 112 N. M. 528, 817 P.2d 721 (1991). In that case, the New Mexico Supreme Court told the Commission that when constitutionally protected property rights are to be affected by the Commission's actions, the owners of those rights have a right to notice and a hearing before the Commission renders a decision.

In this case, the Examiner simply ruled that before the Division will approve the proposed expansions of the James Ranch Unit Atoka Participating Area, Bass must present information which supports these proposed expansion in a hearing where this evidence can be reviewed and where its witnesses cross-examined.

Bass remains unwilling to have its data subjected to scrutiny in a Division hearing. Instead, Bass is fighting to accomplish its goals for this unit based on private ex parte meetings with the personnel of the BLM, OCD and the State Land Office. Bass seeks to

avoid review of its data by the Division and other affected owners--owners that Bass admits it has known were opposed to the proposed expansions.[1]

DE NOVO REVIEW IS NOT ALLOWED BY DIVISION RULES

Bass, therefore, seeks review of the February 19, 1997 Examiner rulings pursuant to Division Rule 1220. Neither this rule nor any provision of the statutes and rules which govern proceedings before the Division and Commission authorize de novo review of interlocutory rulings by an Examiner to whom a matter has been referred for hearing.

Rule 1220 provides in part that "When any **order** has been entered by the Division pursuant to any hearing held by an Examiner, any party of record adversely affected by said order shall have the right to have such matter or proceeding heard de novo before the Commission..." The Examiner rulings on the Motions of Bass and Enron are not Division

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[1] At the February 19, 1997 hearing, Rand Carroll, attorney to the Oil Conservation Division, asked Mr. Frank McCreight, representative of Bass, about the notice of the proposed revisions it had provided to Enron as follows:

MR. CARROLL:	Well, were you aware that Enron would object to it if they received notice?
MR. McCREIGHT:	Not necessarily, no. I mean, we were already in a debate about the pending formation of a PA in the Atoka, so I knew we were going to be at odds, they knew we were going to be at odds.
MR. CARROLL:	But you didn't send them a copy of the applications?
MR. McCREIGHT:	No, because we weren't required to do so.

See Transcript of February 19, 1997 Hearing at p. 65

orders and, therefore, may not be the subject of a de novo appeal.

The procedures governing Examiner hearings are set out in Division Rules 11214 through 1219. These rules provide that, as occurred here, matters may be referred to an Examiner for hearing. *See* Rules 1214 and 1215.[2] Once a matter is referred to an Examiner, the Examiner has authority to regulate the proceedings and take all measures necessary or proper for the conduct of these hearings. See Rule 1215.[3] This authority to conduct hearings includes authority to rule on motions presented by the parties.

Following a hearing, the Examiner makes recommendations to the Division Director concerning the disposition of the matter or proceeding. *See* Rule 1218.[4] The Division

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2

Rule 1214: "The Division Director may refer any matter or proceeding to any legally designated and appointed Examiner for hearing in accordance with these rules."

Rule 1215: "...the Examiner to whom any matter or proceeding is referred under these rules shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to these rules..."

3

Rule 1215: **"The Examiner shall have the power to regulate all proceedings before him and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing**, including the swearing of witnesses, receiving of testimony and exhibits offered in evidence subject to such objections as may be imposed, and shall cause a complete record of the proceedings to be made and transcribed and shall certify same to the Director as hereinafter provided."

4

Rule 1218: "**Upon the conclusion of any hearing** before an Examiner, the Examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing **the Examiner shall prepare his written report and recommendations for the disposition of the matter or proceeding by the Division.** Such report and recommendations shall either by accompanied by a proposed order or shall be in the form of a proposed order, and shall be **submitted**

Director then enters the Division's order. *See* Rule 1219.[5] Not until the Director of the Division enters an order pursuant to Rule 1217 is there an "order" that may be reviewed by the Commission in a de novo hearing. See Rule 1220.[6]

In this case the matter referred to Examiner Stogner is the proposed expansion of the Atoka Participating Area in the James Ranch Unit. The Examiner has ruled on the motions of the parties and has directed that the applications be set for hearing. Following hearing, the Examiner will make his recommendations to the Division Director who will then enter the order of the Division. Only then will there be an order which will be subject to de novo review by the Commission.

By reading only one part of the Division's rules, Bass has gotten ahead of itself. The next step in its effort to obtain Division approval of its applications for approval of the Third and Fourth Revisions of the James Ranch Unit Atoka Participating Area is a Division hearing where Bass must show with competent evidence that the requested expansions will not impair correlative rights. Only then will de novo review by the Commission be appropriate.

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to the Division Director with the certified record of the hearing."

5 Rule 1219: "After receipt of the report and recommendations of the Examiner, the **Division Director shall enter the Division's order disposing of the matter or proceeding**."

6 Rule 1220: "**When any order has been entered by the Division** pursuant to any hearing held by an Examiner, any party of record adversely affected by such order shall have the right to have such matter of proceeding heard de novo before the Commission,..."

CONCLUSION

After the Examiner hears the evidence presented in support of the Applications of Bass for approval of the Third and Fourth Revisions of the James Ranch Unit Atoka Participating Area, he will make his recommendation to the Division Director. Thereafter, the Director will enter the order of the Division in these cases. If Bass is adversely affected by that order, it may then seek a de novo review by the Commission. Prior to that time, the Examiner proceeding must go forward and Bass must present its case.

Bass' Application for Hearing De Novo must be dismissed.

Respectfully Submitted,

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

By: _____
WILLIAM F. CARR
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR ENRON OIL & GAS COMPANY AND SHELL WESTERN E&P, INC.

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be telecopied and mailed a true and correct copy of Response of Enron Oil & Gas Company and Shell Western E&P, Inc. to Application for Hearing De Novo to the following counsel of record on this 26th day of March, 1997:

James E. Haas, Esq.
Losee, Carson, Haas & Carroll
Post Office Box 1720
Artesia, NM 88211-1720
Telecopy #: (505) 746-6316

William F. Carr

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION COMMISSION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

WILLIAM J. LeMAY
Chairman

WILLIAM W. WEISS
Commissioner

JAMI BAILEY
Commissioner

April 4, 1997

Mr. James E. Haas
Losee, Carson, Haas & Carroll
P.O. Box 1720
Artesia, New Mexico 88211-1720

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

Re: ***Application of Bass Enterprises Production Company for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico – Case Nos. 11602, 11603***

Dear Messrs. Haas and Carr:

I have reviewed and considered Bass Enterprises Production Company's (Bass) Application for Hearing De Novo and Enron Oil and Gas Company's (Enron) Response thereto. Pursuant to OCD Rule 1220, any party adversely affected by an order "...entered by the Division pursuant to any hearing held by an Examiner...." has the right to have such matter heard de novo by the Oil Conservation Commission. At this time, the Division has not entered an order in the above-referenced matter. Therefore, I am denying Bass's Application for Hearing De Novo.

Sincerely,

William J. LeMay
Chairman

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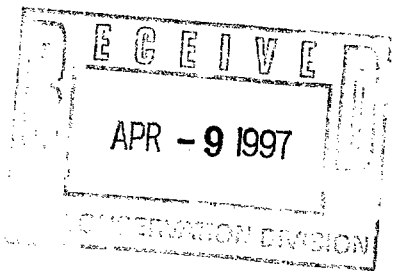
JOEL M. CARSON
DEAN B. CROSS
JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

April 7, 1997



VIA FACSIMILE AND FIRST CLASS MAIL

Mr. William J. LeMay
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Application of Bass Enterprises Production Co. for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico - NMOCD Case Nos. 11602, 11603

Dear Mr. LeMay:

I am in receipt of your letter of April 4, 1997. Please consider this letter as a Motion to Reconsider your denial of Bass' Application for Hearing De Novo.

First of all, on February 22, 1996, the OCD granted its administrative approval of the Third and Fourth Revisions to the Initial Atoka Participating Area as proposed in Bass' February 8, 1996, letter to the BLM, the OCD, and the Commissioner of Public Lands. As such, a lawful order of the Oil Conservation Division was entered. On February 19, 1997, Examiner Stogner, pursuant to motion and hearing, entered an "order" that the February 22, 1996, administrative approval would be revoked. Without any doubt, that administrative approval could not be revoked unless an appropriate "order" of the OCD was entered. However, if no "order" was entered, the administrative approval would still be in effect.

A complete review of the procedural rules of the OCD does not reflect that for an "order" to be effective it must be in writing, and in fact, if you examine Rule 1220, it says **any** order; it does not use the term "written." Therefore, the order given by Examiner Michael Stogner on February 19, 1997, revoking the administrative approval and requiring a hearing on the merits is an order of the OCD, which pursuant to Rule 1220 allows Bass to request a de novo hearing. In Enron's and Shell's Response to Bass' Application for Hearing De Novo it is stated that there is no procedural statutory authority for review of interlocutory rulings by an Examiner. That is a mischaracterization of Rules 1215, 1216, and 1220. The word "interlocutory" does not appear in the procedural rules of the Division and for good reason. Enron's and Shell's interpretation

cannot be squared with the literal statements in Rule 1220 of, "when any order has been entered by the Division pursuant to any hearing held by an Examiner, any party of record adversely affected by said order shall have the right to have such matter or proceeding heard de novo before the Commission...." [Emphasis added]

Factually, Enron's and Shell's argument that no order which may be heard de novo has issued is false. In their prayer attached to their Motion to Rescind Approval, Motion for Setting and Response to Bass' Motion to Dismiss Proceedings, they stated,

> Therefore, because the Division is obligated to provide Enron with notice and an opportunity to present, to an impartial fact finder, its objections to the Revisions, Enron respectfully requests an Order rescinding the Division's approval of the Revisions, setting Bass's requests for approval for hearing, and denying Bass's Motion to Dismiss.

(A copy of said motion is attached hereto as Attachment "A"). Clearly, Enron and Shell sought an, "Order rescinding the Division's approval." In their Amended Petition for Stay, filed by Enron and Shell before the Interior Board of Land Appeals, it is stated at page 3 that,

> The NMOCD has rescinding its approval of two proposed expansions of the Atoka participating area of the James Ranch Unit, Eddy County, New Mexico, which approval is also the subject of the current appeal before the IBLA. *See*, letter from Rand Carroll, NMOCD Legal Counsel, March 3, 1997 (attached hereto as Exhibit B).

(A copy of said Amended Petition and Exhibit B is attached hereto as Attachment B).

Unequivocally, a request to issue an order was made by Enron and Shell and such an order was granted. As a matter of right, Bass is entitled to a hearing de novo with respect to that order.

Furthermore, I would point to Rule 1216, which states that the Oil Conservation Commission may review any matter, (1) if it is a hearing de novo; or (2) if the Division Director, in his discretion desires the Commission to hear the matter. A de novo hearing before the Commission is required because of the importance of the issues being raised with respect to how the Commission approves or disapproves revisions to a federal unit, i.e.:

1) What is required to be shown since the revisions are a matter of contractual and not statutory interpretation;

2) If there is a burden of proof and, if so, who bears it;

3) What the extent of actual authority of the Commission is with respect to the approval or disapproval of a unit revision;

4) The decision by an Examiner to ignore 40-plus years of procedure as to how approval by the Commission is given to requests to revise unit agreements, which are contractual. This decision clearly places the Examiner in the role of determining the extent of contractual obligations, which up until this matter arose, the Commission steadfastly has refused to do.

This matter is of such grave importance that the Commission should hear it and make a decision as to how the case should proceed. As Director, Bass is requesting that you exercise your obvious discretion to set this matter for a hearing de novo, in addition to its procedural right to have Examiner Stogner's order heard de novo.

Again, unless the action taken by Michael Stogner on February 19, 1997, is not an order of the OCD, the only proper determination is that the administrative approval is still in effect. Either way, this matter needs the attention of the Commission and the setting of this matter for May 22, 1997, should stand.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

Ernest L. Carroll

ELC:kth
Encl.

xc w/encl: Mr. William F. Carr (by facsimile)
Mr. J. Wayne Bailey, Bass Enterprises Production Co.

BEFORE THE
OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11602

APPLICATION OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. CASE 11603

ENRON OIL & GAS COMPANY'S
MOTION TO RESCIND APPROVAL,
MOTION FOR SETTING
AND RESPONSE TO BASS' MOTION TO DISMISS PROCEEDINGS

Enron Oil and Gas Company moves the Division to rescind its approval of the Third and Fourth revisions (the "Revisions") to the Atoka Participating Area of the James Ranch Unit, Eddy County, New Mexico, moves the Division to set this matter for hearing, and responds to the Motion to Dismiss of Bass Enterprises Production Company, as follows:

1. The Division's statutory basis and jurisdiction is the prevention of waste and the protection of correlative rights. The Revisions significantly impair Enron's correlative rights. Before the Division may affect Enron's correlative rights, it must afford Enron due process of law, including notice and the opportunity to be heard, and other protections. The

Division did not provide Enron those protections. Therefore, the Division must rescind its approval of the Revisions and provide Enron a hearing on the merits of the Revisions before an impartial fact finder.

2. In its Order approving the James Ranch Unit, the Division assumed the obligation of ensuring that the procedures outlined in the Unit Agreement are followed by Bass, the designated unit operator. Bass did not follow the procedures of the Unit Agreement. Under the statutes creating the Division and the Divisions rules and regulations, the Division must rescind its approval of the Revisions and provide Enron a hearing on the merits of the Revisions before an impartial fact finder.

3. Bass has represented to the Division that the BLM has primary jurisdiction over the dispute, that the BLM's procedures discharge the Division's duties, that the dispute is a contractual one not properly resolved before the Division, that the Division has an established policy of not hearing similar disputes, and that working interest owner consent is not needed prior to revising a participating area. None of these representations are correct. In fact, the majority of the production from the current and revised participating area is from state lands. The BLM recognizes that its jurisdiction over the Revisions is concurrent with the Division's, and that without the Division's approval, the BLM's approval is insufficient to effect the Revisions. The BLM's procedures do not discharge the Division's duties--the BLM is charged with protecting the "public interest," while the Division is charged with

preventing waste and protecting correlative rights. If the Division does not protect Enron's correlative rights, no other agency will. [redacted] cannot protect Enron's due process rights, as the Division is required to do through its statutory duty to protect Enron's constitutionally-protected property rights. Rather than having a policy of not reviewing Unit Agreement disputes, the Division has expressly accepted the responsibility of supervising Unit Agreement administration, and in any case cannot avoid its constitutional and statutory responsibilities. [redacted]

Therefore, because the Division is obligated to provide Enron with notice and an opportunity to present, to an impartial fact finder, its objections to the Revisions, Enron respectfully requests an Order rescinding the Division's approval of the Revisions, setting Bass's requests for approval for hearing, and denying Bass's Motion to Dismiss.

Respectfully submitted,

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

By: William F. Carr
WILLIAM F. CARR
PAUL R. OWEN
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR ENRON OIL & GAS COMPANY

CERTIFICATE OF MAILING

I hereby certify that I have caused to be mailed on this 12th day of December, 1996 a true and correct copy of the foregoing pleading to the following counsel of record:

James E. Haas, Esq.
Losee, Carson, Haas & Carroll, P.A.
Post Office Box 1720
Artesia, NM 88211-1720

and further certify that I have caused to be hand-delivered a copy of same to:

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87501

William F. Carr

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS
ARLINGTON, VIRGINIA

Enron Oil and Gas Company **SDR No. 96-26/IBLA No. 97-167**
Shell Western E&P, Inc.

Appellants.

AMENDED PETITION FOR STAY

Pursuant to the Order of the IBLA dated February 13, 1997, Enron Oil and Gas Company ("Enron") and Shell Western E&P, Inc. ("Shell") (collectively "Appellants"), by and through counsel, Campbell, Carr, Berge & Sheridan, P.A., hereby file this Amended Petition for Stay with the Board of Land Appeals, Office of Hearings and Appeals, requesting a stay of all proceedings in this matter pending final disposition of parallel proceedings before the Oil Conservation Division of the New Mexico Department of Energy Minerals and Natural Resources ("NMOCD").

Pursuant to 43 C.F.R. § 4.412(a) and 43 C.F.R. § 4.22(e), this Amended Petition for Stay is timely, being filed within the time allowed by the IBLA pursuant to Appellants' Request for Extension of Time, which was filed on February 10, 1997 and granted by Order dated February 13, 1997. This Amended Petition for Stay shall not be deemed as a waiver of any reasons for stay which may be developed and presented subsequent to this Amended Petition.

whose approval is required, approval from the other two is insufficient to give effect to a requested revision of a participating area.

The NMOCD has rescinded its approval of two proposed expansions of the Atoka participating area of the James Ranch Unit, Eddy County, New Mexico, which approval is also the subject of the current appeal before the IBLA. *See* letter from Rand Carroll, NMOCD Legal Counsel, March 3, 1997 (attached hereto as Exhibit B). Because the proceedings involve vital questions of state law, the IBLA must stay all proceedings before it pending final disposition of the proceedings of the NMOCD. ***Burford v. Sun Oil Co.***, 319 U.S. 315, 318-33, 63 S.Ct. 1098, 1099-1107 (1943).

This Amended Request for Stay is brought pursuant to the federal abstention doctrines as developed in ***Burford*** and ***Railroad Commission of Texas v. Pullman Co.***, 312 U.S. 496, 61 S.Ct. 643 (1941). Because the NMOCD has rescinded its approval of the proposed revisions, the parallel approval issued by the Roswell District Office ("RDO") and upheld by the BLM's Deputy State Director has no immediate effect. Because the BLM's approval is not effective, it cannot be stayed as previously requested by Appellants' Request for Stay pursuant to 43 C.F.R. § 4.21(b). Instead, under the authority of ***Burford*** and ***Pullman***, Appellants request that the IBLA stay all proceedings pending final disposition of the parallel proceedings before the NMOCD.

At issue in this case is the Decision of the Deputy Director of the BLM's New Mexico State office, which Decision upheld the action of the of the RDO in approving the application

of Bass for approval of the third and fourth revisions of the Atoka participating area of the James Ranch Unit, Eddy County, New Mexico. Under the express terms of the Unit Agreement governing operations in the James Ranch Unit, a participating area may not be expanded without written approval of the proposed expansion from each of three agencies: the BLM; the New Mexico State Land Office; and the Oil Conservation Division of the New Mexico Department of Energy, Minerals and Natural Resources. *See* Exhibit A, Article 11 at 11.

The approval of the RDO contains the specific qualification that the approval is not effective unless and until the other two agencies grant similar approval. *See* letter from Tony Ferguson to Bass, March 4, 1996, at numbered paragraph 1 (attached hereto as Exhibit C). At the time that the Deputy State Director issued his Decision, he recognized that the NMOCD was engaged in a parallel review of the issues involved in this appeal. *See* State Director Decision ("Decision"), December 3, 1996, at 4 (attached hereto as Exhibit D). Because the NMOCD has rescinded its approval of the proposed expansions, the BLM's parallel approval which is at issue in this appeal is of no effect until such time as the NMOCD does issue final approval of the revisions.

The issue before the NMOCD is whether the parties' correlative rights are protected by the proposed expansions. *See* NMSA 1978, § 70-2-11, *see also* Exhibit B to Appellants' Statement In Support Of Petition For Stay And Request For Extension Of Time In Which To File Supplemental Statement Of Reasons For Appeal And In Support Of Petition For Stay,

February 10, 1997, *passim*. In the proceedings before the NMOCD, Bass has admitted that the issue before the NMOCD is the protection of the parties' correlative rights. *See* Response of Bass Enterprises Production Co. to Enron Oil and Gas Company's Motion to Rescind Approval, Motion for Setting, and Response to Bass' Motion to Dismiss Proceedings, February 19, 1997, at 2 ("Enron is partially correct as to the focus of this dispute. ***It does indeed involve the impairment of correlative rights***") (attached hereto in relevant part as Exhibit E) (emphasis added).

While Appellants have conducted a thorough search of the relevant case law pertaining to the proper course of proceeding for the IBLA in this case, there is no case more directly and strongly supporting a stay of these proceedings than the lead case, ***Burford v. Sun Oil Co.***, 319 U.S. 315, 63 S.Ct. 1098 (1943). In ***Burford***, the Texas Railroad Commission, the corollary to the New Mexico Oil Conservation Division, issued a permit to drill four oil wells in the East Texas Oil Field. Sun Oil Company sued in federal district court, based on diversity jurisdiction, seeking an injunction prohibiting the drilling. ***Id.*** at 316-18, 63 S.Ct. at 1098-99. The Court held that because the parties' "ratable production"[1]

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[1] The ***Burford*** Court considered the Texas Railroad Commission's statutory charge of "compelling ratable production" as an issue of working out "the difficult spacing problem with due regard for whatever rights Texas recognizes in the separate owners to a share of the common reservoir," based on the premise that "each surface owner should be permitted to withdraw the oil under his surface area, and that no one else can fairly be permitted to drain his oil away." ***Id.*** at 1100-01. This concept is roughly equivalent to the NMOCD's statutory charge of protecting correlative rights, which are defined as:

> the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in

was a vital issue of state policy, the federal court should abstain from exercising jurisdiction and dismiss its proceedings pending final disposition of the state agency proceeding. ***Burford***, 319 U.S. at 334, 63 S.Ct. at 1107. The specific holdings of the ***Burford*** Court are particularly instructive in this appeal:

> The standards applied by the Commission in a given case necessarily affect the entire state conservation system. Of far more importance than any other private interest is the fact that the overall plan of regulation, as well as each of its case by case manifestations, is of vital interest to the general public which must be assured that the speculative interests of individual tract owners will be put aside when necessary to prevent the irretrievable loss of oil in other parts of the field . . . . The very "confusion" which the Texas legislature and Supreme Court feared might result from review by many state courts of the Railroad Commission's orders has resulted from the exercise of federal equity jurisdiction . . . . Delay, misunderstanding of local law, and needless federal conflict with the State policy, are the inevitable product of the double system of review . . . .
>
> The state provides a unified method for the formation of policy and determination of cases by the Commission and by the state courts. The judicial review of the Commission's decisions in the state courts is expeditious and adequate. Conflicts in the interpretation of state law, dangerous to the success of state policies, are almost certain to result from the intervention of the lower federal courts. On the other hand, if the state procedure is followed from the Commission to the State Supreme Court, ultimate review of the federal questions is fully preserved here. Under such circumstances, a sound respect for the independence of state action requires the federal equity court to stay its hand.

> the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool, and, for such purpose, to use his just and equitable share of the reservoir energy....

NMSA 1978, § 70-2-33(H) (Repl. Pamp. 1987).

Id. at 324-34, 63 S.Ct. 1102-07.

In this case, the same factors militate a stay of the proceedings before the IBLA. The issue before the NMOCD is the correlative rights of the parties, rights which the BLM is not charged with protecting.[2] Appellants' right to due process prior to the impairment of their correlative rights is a matter of vital state interest. *See* ***Uhden v. New Mexico Oil Conservation Comm'n***, 112 N.M. 528, 530, 817 P.2d 721, 723 (1991). The proceedings before the New Mexico Oil Conservation Division are designed to provide all parties with a thorough and timely formation of policy and determination of rights through the agency and the state courts. *See* NMSA 1978, 70-2-25 (Repl. Pamp. 1995).

The instant appeal is ultimately reviewable by the United States Federal Courts. *See* 43 C.F.R. § 3165.4(f). Furthermore, in a recent BLM Order, the BLM recognized the importance of the NMOCD hearing process, and turned to the NMOCD to resolve issues which required a hearing. *See* BLM Order No. UMU-1, July 13, 1995 (attached hereto as Exhibit F).

In this context, the IBLA should stay all proceedings in this appeal pending final disposition of the proceedings before the NMOCD. *See* ***Jordi v. Sauk Prairie School Board***,

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2

As stated above, the NMOCD is charged with protecting correlative rights, NMSA 1978, § 70-2-33(H), a different statutory basis than that of the BLM, 30 USCA § 226(j) (statutory charge of the BLM is to protect the public interest). In fact, in response to appellant's argument that its correlative rights were impaired by the BLM's action, the IBLA has held that it is improper for it to consider land ownership in determining whether to approve the expansion of a unit. ***Celsius Energy Co.***, 136 IBLA 293, 296 (1996).

651 F.Supp. 1566, 1578, 1580, 1582. (W.D. Wis. 1987) (where parallel proceeding before state agency might have eliminated need for federal court to determine constitutional issues, and where exercise of federal jurisdiction might have interfered with state agency's proceeding, court properly abstained from exercising jurisdiction and stayed all proceedings pending state agency's resolution of parallel proceeding); ***Arden House, Inc.. v. Heintz***, 612 F.Supp. 81, 86 (D. Conn. 1985) (abstention proper "when a state has established an administrative framework to formulate policy and decide cases in an area of legitimate state interests") (citation and quotation omitted).

Furthermore, "[w]here the disposition of a state court action can render a federal court action moot, postponement of adjudication of the federal claims is warranted." ***Guiness Mahon Cayman Trust, Ltd. v. Windels, Marx, Davies & Ives***, 684 F.Supp. 375, 381 (S.D.N.Y. 1988). Because the NMOCD's rescission of its approval of the proposed expansions has deprived the BLM's approval of final effect, if the NMOCD declines to issue approval, the issues in the current appeal will be moot.

Finally, as detailed below, a key issue in this appeal is whether Appellants have been afforded due process under the United States Constitution. If the NMOCD decides that the proposed expansions do not protect the parties' correlative rights, it cannot approve the proposed expansions, the issues in this appeal will be moot, and the IBLA will not need to reach the constitutional issues. "[A] court may abstain from hearing a case when both a federal constitutional issue and an unsettled state-law issue are presented in a case, and a

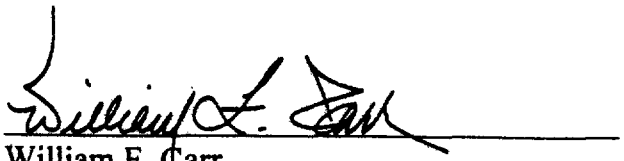
construal of the state issue by a state court could dispose of the necessity of reaching the federal constitutional issue." ***Hurst v. Regis Low Ltd.***, 878 F.Supp. 981, 983 (S.D. Tex. 1995) (*citing* ***Railroad Commission of Texas v. Pullman Co.***, 312 U.S. 496, 61 S.Ct. 643 (1941)).

Under the unique circumstances of this case, IBLA abstention is warranted. The NMOCD's treatment of the related proceedings before it involves issues of vital state concern. Because the NMOCD has already rescinded its approval of the proposed revisions, the BLM's approval has no immediate effect. If the NMOCD decides, after conducting a hearing, that approval of the proposed revisions is not warranted, then the instant appeal will be moot and the IBLA will not need to reach the constitutional issues presented. All factors in this case weigh in favor of abstention, and the IBLA should stay all proceedings in this case pending a final disposition of the related proceedings before the NMOCD. Should the requested stay be granted, Appellants will immediately advise the IBLA of any final disposition by the NMOCD of the issues presented to that agency.

Therefore, Appellants respectfully request that the Interior Board of Land Appeals grant their request for stay of the proceedings and such other relief as the IBLA deems appropriate.

Respectfully submitted this 11th day of March, 1997.

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



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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of March, 1997, I have caused to be Federal Expressed the original and a copy of our Amended Petition for Stay to the following:

United States Department of the Interior
Office of the Secretary
Interior Board of Land Appeals
4015 Wilson Blvd.
Arlington, VA 22203

and have caused to be mailed, via certified U.S. Mail, a copy of same to the following named individuals:

Office of the Solicitor
U.S. Department of the Interior
Post Office Box 1042
Santa Fe, New Mexico 87504-1042

Roswell District Manager
Roswell District Office
2909 West Second Street
Roswell, NM 88201

United States Department of the Interior
Bureau of Land Management
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William F. Carr

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
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March 3, 1997

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RE: OCD Case Nos. 11602 and 11603--Applications of Bass Enterprises Production Company for expansions of the Atoka Participating Area for the James Ranch Unit

Gentlemen:

On February 19, 1997 at the special hearing called in this matter to hear pending motions, Hearing Examiner Michael Stogner: (i) granted Enron's Motion to Rescind the OCD administrative approval dated February 22, 1996, (ii) granted Enron's Motion to set this matter for hearing and (iii) denied Bass' Motion to Dismiss.

The Examiner left it up to counsel for the parties to agree on a hearing date, with April 3rd or a special hearing date close to that date mentioned as possibilities. Please confer and let us know by Friday, March 7, 1997 of the agreed-upon hearing date.

If you have any questions regarding this matter, please feel free to call me at 505/827-8156.

Sincerely,

Rand Carroll
Legal Counsel

cc: William J. Lemay, OCD Director
Michael Stogner, OCD Hearing Examiner

ENRON

The OCC approved the Unit Agreement in 1953

Under former federal law, approval from BLM, OCD and SLO is required for changing something. Roy has been routinely approving these as to the pre-1982 cases still under old law.

On **2/22/96** he approved one that Enron wants to challenge. The BLM's decision has already been appealed at several stages & is now pending at a higher level.

w DID Iron now?

On **3/19/96** Enron filed a written protest w/ OCD of the proposed revisions; Enron claims that Bass violated the Unit Agreement by not giving notice. **Is there such a notice provision in the Unit Agreement?**

on **3/27/96** Enron requested that OCD rescind its approval

On **4/3/96** Enron requested a hearing before a division examiner.

On **7/22/96** Enron filed a request for hearing before an examiner as to the appropriateness of the Revised PAs. Bill does not want to deal w/ it; duplication etc. Doesn't want a conflicting decision with other agencies.

Hearing was set for **8/22/96**, but Bass filed on **8/20/96** a Motion to Stay Proceedings. OCD continued the cases pending a decision of the State Director of the BLM.

(E & B histories disagree on date M to stay was filed) On **9/4/96** Bass filed a Motion to Stay Proceedings - this was "provisionally" granted by the OCD, until such time as a decision is rendered by the State Director of the BLM.

11/27/96 Bass filed a Motion to Dismiss Proceedings

12/3/96 BLM State Director iss'd decision upholding Roswell Dis. Office

12/12/96 Enron filed its Motion to Rescind Approval, Motion for Setting (to present its objections to the Revisions to an impartial fact finder) and Response to M to Dismiss
Enron is threatening to go to Supremes for a Writ of Superintending Control to make OCD do something.

Rather than having a full-blown hearing before an examiner (I guess that's where it would be, rather than at the OCC already), why couldn't the Director issue a procedural order accepting Enron's appeal but staying any evidentiary hearing pending the federal decision? (Apparently OCD has already stayed any hearing on Enron's request - but there now has been a decision by the State Director of BLM) So OCD could 1) continue stay pending appeal to the federal Board; The reason for doing is that the applicant has to get approval from all 3 agencies. What's the

point of having an evidentiary hearing before the OCD (or OCC) if the feds turn down the application? OR 2) rescind the approval and stay Enron's hearing request til decision by feds.

But what is the basis for "rescinding" the approval? Can any matter that affects more than one entity by done administratively? Under **Uhden** it would seem not. Is the problem here that there was no notice given to other parties even tho apparently the agreement between them calls for it?

What does parties' agrmt call for? Prior to obtaining approval from OCD is one party to get approval of others. Is agrmt silent on this?

How many of these things has OCD approved in the past?
Has OCD's approval been challenged before?

Enron will likely go to the Supremes w/ this procedural order, but at least OCD would have a defensible argument. I think this would be preferable to the Supremes being irritated that OCD was just stalling and doing nothing.

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OF COUNSEL
A. J. LOSEE

TELEPHONE
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(505) 746-6316

April 16, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. William J. LeMay
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Application of Bass Enterprises Production Co. for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico - NMOCD Case Nos. 11602, 11603

Dear Mr. LeMay:

On April 7, 1997, this firm filed on behalf of Bass Enterprises Production Company a Motion to Reconsider your denial of Bass' application for a hearing de novo with respect to Examiner Stogner's February 19, 1997, order that the OCD's administrative approval would be revoked with respect to the above-referenced expansion. I am writing to clarify that we consider the Motion for Reconsideration to be a Motion for Rehearing under Section 70-2-25, NMSA (1978), such that a denial thereof or failure to take action upon same within ten days will allow Bass to have this matter reviewed by the District Court of Eddy County.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

Ernest L. Carroll

ELC:kth

xc w/encl: Mr. William F. Carr (by facsimile)
Mr. J. Wayne Bailey, Bass Enterprises Production Co.

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
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April 16, 1997

VIA FACSIMILE AND HAND-DELIVERED

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87504

Re: ***Cases 11602 and 11603: Applications of Bass Enterprises Production Co. For Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico***

Dear Mr. LeMay:

By letter of this date, Bass Enterprises Production Co. has advised the Division that it considers its letter of April 17, 1997, a Motion for Rehearing under Section 70-2-25, NMSA (1978). For the reasons set forth in our response to the Bass request for hearing *de novo*, Enron submits that *de novo* review by the Commission is premature until the Division has entered its order in these cases and only after Commission review and a timely Motion for Rehearing is the matter ripe for review by the District Court.

Having attempted to obtain approval of its proposed expansions of the James Ranch Atoka Participating Area without permitting Enron or Shell to review the data upon which these proposed revisions are based, Bass now seems to be desperately attempting to avoid presenting its data at a Division hearing. Why is Bass afraid? If it has data to support its proposal, why is it unwilling to present this data in public?

State of New Mexico

New Mexico Legislative Council

Legislative Maintenance Department
211 State Capitol, Santa Fe, New Mexico 87503
(505) 986-4575

Called to cancel 5/30/97

Date Apr 25, 1997

To: Florene DAVidson
Energy Minerals & Natural Resources
2040 Pacheco St
Santa Fe

From: Legislative Maintenance Department

This will confirm your reservation on Mon. May 5, 1997, Tues May 6, 1997 for your meeting in Legislative Committee Room 318 at the State Capitol Building. Please notify us immediately to cancel if you will not be using this space so it will be available for another agency if needed. Please understand that the Legislature has first call on its committee rooms and when necessary we may move you to another space if available.

We must request that you do not change or move any of the furniture arrangement you find in the committee room assigned to you. Signs or other materials may not be mounted on walls or doors. The electronics systems in certain committee rooms may be used with prior arrangement. Operation instructions will be given to the responsible person by our electrician. Please make an advance appointment for a demonstration.

No smoking, food or beverages will be permitted in the committee rooms or corridors. The Legislative Coffee Shop is closed during the interim.

Parking is available in the East Visitors Parking area and nearby at the Lamy and PERA Buildings. Please do not park in the garage as all underground parking is reserved for staff and Legislators.

We do not have personnel available to deliver messages to your meeting. The Legislative Council Service at 986-4600 will hold messages for your participants at Room 311. We hope you enjoy the use of these facilities. Your cooperation in following our regulations is greatly appreciated. If you agree to comply to the conditions set in this letter, please sign a copy and return it to the Legislative Maintenance Dept.

Signature & Name of Group [signature] NMOCD

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

April 29, 1997

Mr. Ernest Carroll
Losee, Carson, Haas & Carroll
Attorneys at Law
Post Office Drawer 239
Artesia, New Mexico 88211-0239

Mr. William F. Carr
Campbell, Carr, Berge and Sheridan
Attorneys at Law
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

Gentlemen:

Enclosed is a copy of the docket for the special examiner hearing to consider Cases 11602 and 11603, the applications of Bass Enterprises Production Company for approval of the expansion of the Atoka participating area in the James Ranch Unit, Eddy County, New Mexico. This hearing will be held at 9 o'clock a.m. on May 5 and 6, 1997, in Legislative Committee Room 318, State Capitol Building, 211 State Capitol, Santa Fe, New Mexico.

The Legislative Council has advised us of the following stipulations to the use of the Committee Room:

1. Do not change or move any of the furniture arrangements. Signs or other materials may not be mounted on walls or doors.

2. No smoking, food or beverages are permitted in the room.

3. Parking is available in the East Visitors Parking area and nearby at the Lamy and PERA Buildings. Please do not park in the garage.

4. Messages will not be delivered to the room but the Legislative Council Service at 986-4600 will hold messages for participants in the meeting at Room 311.

LAW OFFICES
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MARY LYNN BOGLE
ERNEST L. CARROLL
JOEL M. CARSON
DEAN B. CROSS
JAMES E. HAAS

OF COUNSEL
A. J. LOSEE

April 29, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Michael Stogner, Hearing Examiner
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Application of Bass Enterprises Production Co. for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico - NMOCD Case Nos. 11602, 11603

Dear Mr. Stogner:

I am enclosing herewith for filing in the referenced cause of action a Motion for Continuance for your consideration.

Thank you.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

Ernest L. Carroll

ELC:kth
Encl.

xc w/encl: Mr. William F. Carr (by facsimile and first class mail)
Mr. J. Wayne Bailey, Bass Enterprises Production Co.

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:

APPLICATIONS OF BASS ENTERPRISES PRODUCTION COMPANY FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO

CASE NOS. 11,602
11,603
(Consolidated)

MOTION FOR CONTINUANCE

COMES NOW BASS ENTERPRISES PRODUCTION COMPANY ("Bass"), by its attorneys, Losee, Carson, Haas & Carroll, P. A. (Ernest L. Carroll), and in support hereof respectfully state:

1. On April 21, 1997, attorneys for Bass Enterprises Production Company received a letter dated April 18, 1995, written by Michael E. Stogner, Chief Hearing Officer/Engineer setting the referenced cases for a hearing on Monday, May 5, 1997, at 9:00 a.m.

2. Counsel for Bass Enterprises Production Company was out of the office from April 17, 1997, until April 28, 1997, for personal and medical reasons, of which counsel for Enron and, it is believed, both hearing officers were aware.

3. The hearing set for Monday, May 5, 1997, will involve many technical issues and require the testimony from several expert witnesses, for both parties.

4. Mr. George Hillis, Bass' primary geological witness, is unable to work at this time because of severe back problems and it is uncertain when he will be available.

5. Because of counsel's past unavailability and Mr. Hillis' illness, counsel will not be able to adequately prepare both his own witnesses and prepare for cross-examination of Enron's witnesses and therefore a continuance until such time as is mutually agreeable and Mr. Hillis is able to work is required.

6. Opposing counsel will be provided with this motion contemporaneous with the filing hereof by facsimile, and concurrence will be requested. If concurrence is obtained, the Division will be notified. However, upon attempting to contact Mr. Carr on April 28, 1997, counsel was advised that Mr. Carr would not be back in the office until Wednesday, April 30, 1997.

WHEREFORE, Applicant prays that the instant case Nos. 11602 and 11603 and the hearing scheduled therefor be continued to such other time as is convenient for both the examiner and opposing counsel and Mr. Hillis is able to participate, and for such other and further relief as may be just in the premises.

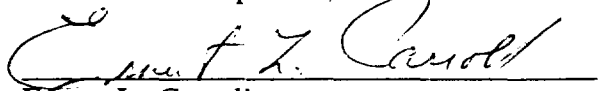
Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: 

Ernest L. Carroll
P. O. Box 1720
Artesia, New Mexico 88211-1720
(505)746-3505
Attorneys for Bass Enterprises Production Co.

I hereby certify that I caused to be faxed and mailed a true and correct copy of the foregoing to all counsel of record this April 29, 1997.



Ernest L. Carroll

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
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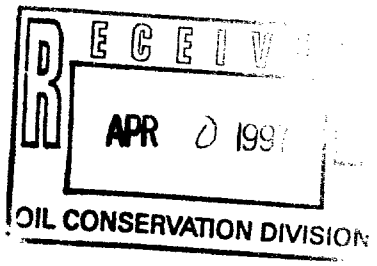
E-MAIL: ccbspa@ix.netcom.com

April 30, 1997

HAND DELIVERED



Michael E. Stogner, Examiner
Oil Conservation Division
New Mexico Department of Energy, Minerals
and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Cases 11602 and 11603: Applications of Bass Enterprises Production Company for the approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico***

Dear Mr. Stogner:

Enron Oil Company and Shell Western Exploration and Production, Inc. oppose any continuance of the hearing scheduled on May 5, 1997 in the above referenced cases. On February 19, 1997, you ruled that these matters would be set for hearing and directed the parties to advise the Division of possible hearing dates. Bass did not provide available hearing dates as you requested and has been attempting to avoid any hearing on their applications. We believe the cases should proceed to hearing on May 5, 1997.

If the Division determines that the May 5, 1997 hearing should be continued, Enron and Shell request that the parties be given 10 days within which to provide available hearing dates during May and June 1997. Enron and Shell further request that if Bass fails to provide these dates, that their applications for revision of this Atoka Participating Area be dismissed.

Very truly yours,

William F. Carr

WILLIAM F. CARR

cc: Earnest Carroll, Esq.
Randy Cate
Bob Sykes

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

May 2, 1997

Losee, Carson, Haas & Carroll
Attn: Ernest L. Carroll, Esq.
P. O. Box 239
Artesia, New Mexico 88211-0239

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

*Re: N.M.O.C.D. Case Nos. **11,602** and 11,603, Applications of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico.*

Dear Messrs. Carroll and Carr:

Reference is made to Mr. Carroll's letter dated April 29, 1997 and to Mr. Carr's reply by letter dated April 30, 1997, the N.M.O.C.D. examiner's hearing scheduled for Monday, May 5, 1997 at the Legislative Committee Room in the State Capitol Building in Santa Fe is hereby canceled. Please contact me in order for us to establish a date that is mutually acceptable for all concerned.

Sincerely,

Michael E. Stogner
Chief Hearing Officer/Engineer

MES/kv

cc: Oil Conservation Division - Artesia
William J. LeMay, Director - OCD, Santa Fe
Rand Carroll, Counsel - OCD, Santa Fe
Florene Davidson - OCD, Santa Fe

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
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November 13, 1997

HAND-DELIVERED

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Attn: Michael E. Stogner

Re: ***Oil Conservation Division Case No. 11602:***
Application of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Oil Conservation Division Case No. 11603:
Application of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Gentlemen:

This letter confirms that Enron Oil & Gas Company and Shell Western Exploration and Production Inc. hereby dismiss their pending challenge of the Atoka P.A. Revisions in each of the above referenced cases.

Very truly yours,

WILLIAM F. CARR

WFC:mlh
cc: Patrick J. Tower
Enron Oil & Gas Company

Robert L. Sykes
Shell Western Exploration and Production Inc.

Ernest L. Carroll, Esq.
Attorney for Bass Enterprises Production Company

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OF COUNSEL
A. J. LOSEE

November 14, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Michael Stogner, Hearing Examiner
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Application of Bass Enterprises Production Co. for Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico - NMOCD Case Nos. 11602, 11603

Dear Mr. Stogner:

As you are aware, a hearing was set for the above-referenced cases for Monday, November 17, 1997. A settlement has been reached between Bass Enterprises Production Company and Enron Oil & Gas Company and Shell Western E & P, Inc. whereby the interest of those two companies in the James Ranch Unit has been bought out by Bass. Because Enron and Shell no longer own an interest in the James Ranch Unit, they no longer have standing to contest the expansion of the Atoka Participating Area and are withdrawing their formal objection thereto. It is therefore requested that the Oil Conservation Division grant Enron and Shell's request to withdraw their objection to the expansion of the Participating Area and further, Bass would ask that, based on that withdrawal, that the original administrative approval of the expansion be reinstated.

It is my understanding that it is your desire that an official statement be put on the record concerning this settlement and withdrawal of the objection. By agreement, Mr. William F. Carr will appear both on behalf of his clients, Enron and Shell, and as my personal spokesman to make a statement for the record documenting the settlement of the case, the transfer of the interest and the withdrawal of Enron and Shell's objection to the expansion of the Atoka Participating Area. Furthermore, on my behalf he will for the record request that the Oil Conservation Division reinstate the administrative approval for the Atoka Participating Area in the James Ranch Unit. It is further my understanding that you have no objection to this procedure and will allow Mr. Carr to make a statement on my behalf for the record.

Should there be any problems with the matters as outlined in this letter, please advise.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

Ernest L. Carroll

ELC:kth

xc w/encl: Mr. William F. Carr (by facsimile and first class mail)
Mr. J. Wayne Bailey, Bass Enterprises Production Co. (by facsimile and first class mail)

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

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WILLIAM F. CARR
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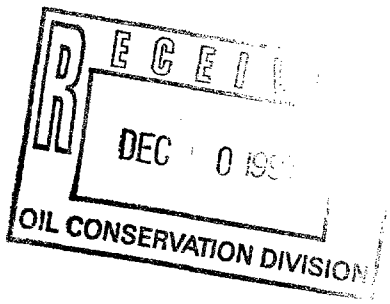
December 10, 1997



HAND DELIVERED

Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: ***Oil Conservation Division Cases 11602 and 11603***
Applications of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico

Dear Mr. Stogner:

Pursuant to your request, enclosed for your consideration is the proposed Order submitted on behalf of Enron Oil & Gas Company in the above-captioned consolidated cases. Bass Enterprises Production Company does not object to this proposed Order.

Very truly yours,

WILLIAM F. CARR
WFC:mlh
Enclosure
cc: Ernest L. Carroll, Esq. (w/enclosure)
Patrick J. Tower (w/enclosure)

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

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

APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. **CASE NO. 11602**

APPLICATION OF BASS ENTERPRISES PRODUCTION CO. FOR APPROVAL OF THE EXPANSION OF THE ATOKA PARTICIPATING AREA IN THE JAMES RANCH UNIT, EDDY COUNTY, NEW MEXICO. **CASE NO. 11603**
ORDER NO. R-_____

PROPOSED ORDER OF THE DIVISION

BY THE DIVISION

This cause came on for hearing at 8:15 a. m. on November 17, 1997, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

Now, on this ____day of December, 1997, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) In Case No. 11602, the applicant, Bass Enterprises Production Company, seeks Approval of the Third Expansion of the Participating Area for the Atoka formation in the James Ranch Unit Area including 1,683.13 acres, more or less, located in portions of

Sections 35 and 36 of Township 22 South, Range 30 East and portions of Sections 5, 6, 8 and 17 of Township 23 South, Range 31 East, NMPM, Eddy County, New Mexico.

(3) In Case No. 11603, the applicant, Bass Enterprises Production Company, seeks Approval of the Fourth Expansion of the Participating Area for the Atoka formation in the James Ranch Unit Area including 238.54 acres, more or less, located in portions of Section 12, Township 22 South, Range 30 East, and portions of Section 7, Township 22 South, Range 31 East, NMPM, Eddy County, New Mexico.

(4) On February 22, 1996, The Oil Conservation approved the Third and Fourth Revisions to the James Ranch Unit Atoka Participating Area.

(5) By letter dated March 19, 1996, Enron protested the proposed revisions and on April 3, 1996, requested that the Division rescind its approval of the proposed revisions asserting, among other matters, that it had not been given notice of the applications and therefore had not had an opportunity to protest the proposed expansions.

(6) By letter dated on July 22, 1996, Enron requested that these applications be set for hearing and the applications were docketed for hearing before a Division Examiner on August 22, 1996.

(7) These cases were continued from time to time during which time Bass filed its Motion to Dismiss Proceedings and Enron filed its Motion to Rescind Approval and Motion for Setting.

(8) On February 19, 1997 a special hearing was called by the Division for the consideration of these motions at which time Bass' Motion to Dismiss was denied, the Division's Approval of the Proposed Expansions was rescinded and the parties directed to confer and advise the Division of an agreed upon hearing date.

(9) Bass filed an application for hearing *de novo* on the February 19, 1997 Examiner rulings and thereafter appealed the denial of its application for hearing *de novo* to the District Court for Eddy County, New Mexico. The Court remanded the cases to the Division and they were set for hearing on November 17, 1997.

(10) On November 13, 1997, Enron wrote the Division and advised that since a

settlement had been reached with Bass it was withdrawing its objection to the applications of Bass for Approval of the Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit.

(11) The cases were consolidated and came on for hearing before Examiner Stogner on November 17, 1997. The parties appeared through counsel advised the Division that settlement had been reached between Bass Enterprises Production Company, Enron Oil & Gas Company and Shell Western E & P, Inc. and that Enron and Shell withdraw their objections to the Applications of Bass for Approval of the Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit. Bass then requested that the original administrative approvals of the Proposed Third and Fourth Revisions of the Atoka Participating Area in the James Ranch Unit be reinstated.

(12) There no longer being an objection to the proposed expansion of the Atoka Participating Area in the James Ranch Unit, the February 22, 1996 approvals of these proposed expansions should be reinstated.

IT IS THEREFORE ORDERED THAT:

(1) The administrative approvals dated February 22, 1996 of the proposed Third and Fourth Expansions of the Atoka Participating Area in the James Ranch Unit are hereby reinstated.

(2) Jurisdiction is hereby retained for the entry of 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

ROUTING AND TRANSMITTAL SLIP Date 12/17/97

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. RAND CARROLL		
2. NMOCD		
3.		
4.		
5.		

	Action		File		Note and Return
	Approval		For Clearance		Per Conversation
	As Requested		For Correction		Prepare Reply
	Circulate		For Your Information		See Me
	Comment		Investigate		Signature
	Coordination		Justify		

REMARKS

Here's a copy of the IBLA dismissal order on the ENRON case (Jame Ranch Unit)

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Rick Wyner	Phone No.

5041-102
☆ U.S.G.P.O.: 1992 312-070/60004

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

December 19, 1997

Campbell, Carr, Berge, & Sheridan
Attorneys At Law
P. O. Box 2208
Santa Fe, New Mexico 87504-2208

RE: CASE NO. 11602 & 11603
ORDER NO. R-279-A

Dear Sir:

Enclosed are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

Sally E. Martinez
Administrative Secretary

cc: BLM - Carlsbad