



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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

July 2, 1997

The Honorable Jay W. Forbes
District Judge - Division I
Fifth Judicial District
Post Office Box 1838
Carlsbad, New Mexico 88220

Re: **Bass Enterprises Production Co. v. Oil Conservation Commission et al.**
No. CV 97-179 JWF

Dear Judge Forbes:

Enclosed please find the original and copy of a proposed Order of Dismissal that has been approved by all counsel of record in the above-referenced case. If the order is acceptable, would you please have it entered and a conformed copy returned to me in the enclosed envelope? I shall provide Mr. Carr and Mr. Carroll with conformed copies upon receipt.

Thank you for your attention to this matter.

Sincerely,


Marilyn S. Hebert

xc: William F. Carr (w/o enc.)
Ernest L. Carroll " "

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

No. CV 97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY, MINERALS AND NATURAL
RESOURCES OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

ORDER OF DISMISSAL

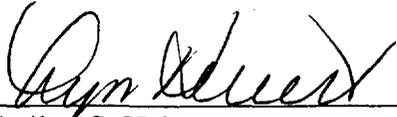
This matter came before the Court for hearing on June 5, 1997, on Respondents Enron and Shell's Motion to Lift Stay and Respondent Oil Conservation Commission's (Commission) Motion to Dismiss. All parties were represented by counsel.

The Court having considered the pleadings and arguments finds that the Petitioner has failed to exhaust its administrative remedies as provided by statute, Sections 70-2-13 and 70-2-25 NMSA 1978, and therefore the Court lacks subject matter jurisdiction over this matter.

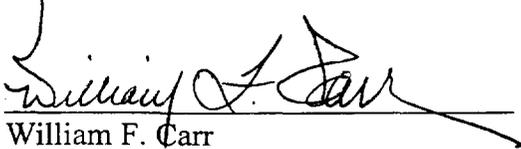
Wherefore, the Court hereby grants the Respondent Commission's Motion to Dismiss pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure.

DISTRICT COURT JUDGE

Approved:



Marilyn S. Hebert
Special Assistant Attorney General
Attorney for the Commission



William F. Carr
Paul R. Owen
Attorneys for Enron Oil & Gas Co. and
Shell Western E & P

Telephonically Approved 7/1/97

Ernest L. Carroll
Attorney for Bass Enterprises Production Co.

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
MICHAEL H. FELDEWERT
ANTHONY F. MEDEIROS
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
FACSIMILE: (505) 983-6043
E-MAIL: ccbspa@ix.netcom.com

July 2, 1997

VIA HAND DELIVERY

Marilyn S. Hebert, Esq.
New Mexico Energy, Minerals
& Natural Resources Department
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: Bass Enterprises Production Co. v. Oil Conservation Commission et. al.
Fifth Judicial District Court No. CV-97-179-JWF

Dear Ms. Hebert:

Thank you for preparing the Order of Dismissal in the above-captioned case. After review and approval from our clients, we faxed it down to the Losee firm. They indicated their telephonic approval yesterday.

I have enclosed the signed original of the Order with the Losee Firm's telephonic approval indicated. Because you prepared the Order, I thought it should be filed by your office. I look forward to receiving conformed copies.

If you have any questions, please call.

Very truly yours,



Paul R. Owen

PRO/edr
Enclosure

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
MICHAEL H. FELDEWERT
ANTHONY F. MEDEIROS
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
FACSIMILE: (505) 983-6043
E-MAIL: ccbspa@ix.netcom.com

June 30, 1997

VIA FACSIMILE

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

Re: *Bass Enterprises Production Co. v. Oil Conservation Commission, Enron
Oil and Gas Company, and Shell Western E & P,*
Fifth Judicial District Court No. CV 97-179-JWF

Dear Mr. Carroll:

Pursuant to the Court's ruling on June 5, 1997, Lyn Hebert has prepared and we have concurred to the attached Order. Please call my office to indicate whether you approve of the form of the Order.

If you do not concur in the form of the Order, please let us know as soon as possible so that we may schedule a presentment hearing.

Very truly yours,



Paul R. Owen

PRO/edr
Attachment

cc: Marilyn S. Hebert, Esq.
Jeffers Spencer, Esq.
Patrick J. Tower
Bob Sykes



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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

June 25, 1997

Paul R. Owen
Campbell, Carr, Berge & Sheridan, P.A.
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

Re: Bass Enterprises Production Co. v. Oil Conservation Commission et al.
No. CV - 97-179 JWF

Dear Paul:

Enclosed please find the proposed Order of Dismissal. I have made one change: I added the phrase, "as to form" above the signature line for Mr. Carroll. Other than that, it is the same document I faxed to you on the 24th.

After you approve the order, will you please send it on to Mr. Carroll for his review and signature? He could either file it with the court and send conformed copies to us, or he can return it to me for filing.

Thank you for your assistance.

Sincerely,

Marilyn S. Hebert

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

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
MICHAEL H. FELDEWERT
ANTHONY F. MEDEIROS
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
FACSIMILE: (505) 983-6043
E-MAIL: ccbspa@ix.netcom.com

June 16, 1997
(dictated but not read)

HAND DELIVERED

Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation Commission
2040 South Pacheco Street
Santa Fe, New Mexico 87505

RECEIVED

JUN 16 1997

Oil Conservation Division

Re: *Bass Enterprises Production Co. v. Oil Conservation Commission of New Mexico et al.*, Fifth Judicial District Court Cause No. 97-179-JWF

Dear Lyn:

I tried to reach you on Friday, June 13th, when I realized that both Paul and I had been tied up in hearings all week and we had not prepared a draft Order in the above referenced case as we had promised. I'm leaving for Alaska and Paul will be at a trial practice seminar all week.

Paul will be back on Monday, June 22nd, and can work with you on a proposed Order at that time or, if you desire, you may proceed without us and represent to the Court that we have approved the proposed Order. I do not expect Ernie Carroll to concur in anything proposed and again we may have to seek Judge Forbes' assistance in resolving this matter.

My initial reaction is that the Order should contain the following findings:

- (1) This dispute involves issues of waste and correlative rights which have been vested by the Legislature in the Oil Conservation Division and Commission;
- (2) the Division has promulgated procedural rules which provide for hearings on applications filed with it;

Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation Commission
June 16, 1997
Page 2

- (3) Bass Enterprises Production Co. ("Bass") filed applications with the Division seeking Approval of the Expansion of the Atoka Participating Area in the James Ranch Unit located in Eddy County, New Mexico;
- (4) no notice of these applications for expansion of the Atoka Participating Area in the James Ranch Unit was provided to other parties affected by these applications including Enron Oil and Gas Company ("Enron") and Shell Western E & P ("Shell");
- (5) the Oil Conservation Division originally approved the applications of Bass without a hearing on February 22, 1996;
- (6) when Enron learned of the applications, it contacted the Division and requested that the applications be set for hearing;
- (7) the Oil Conservation Division assigned the Bass applications Case Nos. 11602 and 11603 and originally set them for hearing in August, 1996;
- (8) the Division stayed the hearing on these applications until the Bureau of Land Management completed its review of the proposed Participating Area revisions;
- (9) on February 19, 1997, on the Motion of Enron and Shell, the Division rescinded its prior approvals and set the Bass applications for hearing before a Division Examiner;
- (10) on March 24, 1997, Bass filed an application for hearing de novo before the Oil Conservation Commission ("Commission") which was denied on April 4, 1997;
- (11) by letters dated April 7, 1997 and April 16, 1997 Bass sought reconsideration of the Commission decision not to grant a de novo hearing on the February 19,

Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation Commission
June 16, 1997
Page 3

1997 Examiner rulings.

- (12) the Commission did not grant Bass' requests for reconsideration and the Division set the Bass applications for hearing on May 5, 1997;
- (13) on April 30th the Division granted Bass' Motion for Continuance of the May 5, 1997 hearing;
- (14) on May 1, 1997 Bass filed a Petition for Review of the Commission's refusal to grant a de novo hearing on the Examiner's Interlocutory procedural ruling;
- (15) on May 2, 1997, in an ex parte proceeding, obtained a Stay of the Division Examiner's February 19th rulings in Oil Conservation Division Case Nos. 11602 and 11603; and
- (16) on May 29, 1997 Enron and Shell filed their Motion to Lift Stay.

The Conclusions of Law should provide:

- (1) The Oil Conservation Division has jurisdiction over the parties and the subject matter of this dispute;
- (2) Bass has failed to exhaust its administrative remedies;
- (3) Bass' Petition for Review is premature;
- (4) Bass' Petition for Review is dismissed;
- (5) the May 1, 1997 Stay prevents the Division and Commission from exercising their statutory jurisdiction; and
- (6) the May 1, 1997 Stay of the Oil Conservation Division Examiner's February 19, 1997 ruling in Oil Conservation Division Case Nos. 11602 and 11603 is

Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation Commission
June 16, 1997
Page 4

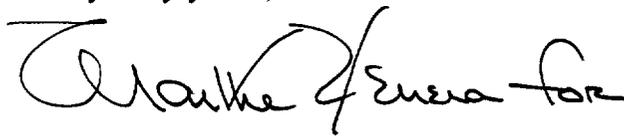
hereby dissolved.

This may be overkill and a simple Order that only includes what I reference as Conclusions of Law would be more appropriate. It certainly would draw less of an uproar from Ernie.

Paul will call you on June 22nd. If it appears we need more time to finalize this Order, we might want to contact the Court about the delay in getting the order to him.

I hope these thoughts are of some help. Please make any changes you deem appropriate -- or disregard them entirely.

Very truly yours,



WILLIAM F. CARR
WFC:mlh

*It seems a stretch to
void all these findings.
Would a demurrer for lack of subj
12(b)(6) matter juris. be clearer? Then
Ernie can appeal to Supreme.*



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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

May 29, 1997

Ms. Eleanor Jarnagin
District Court Clerk
Fifth Judicial District
Post Office Box 1838
Carlsbad, New Mexico 88220

Re: **Bass Enterprises Production Co. v. Oil Conservation Commission et al.**
No. CV - 97-179 JWF

Dear Ms. Jarnagin:

I am faxing to you at (505) 887-7095 and to Ernest L. Carroll at (505) 746-6316 for filing the following: Entry of Appearance, Motion to Dismiss Petition for Review, Memorandum in Support of Motion to Dismiss Petition for Review and Notice of Hearing in the above-referenced matter.

I shall also send by mail the originals and copies. Please conform the copies and return to me in the envelope provided.

I am also today by hand delivery providing copies of the Entry of Appearance, Motion to Dismiss Petition for Review, Memorandum in Support of Motion to Dismiss Petition for Review and Notice of Hearing to William F. Carr.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marilyn S. Hebert".

Marilyn S. Hebert

cc: Earnest L. Carroll

Lyn Hebert

From: Lyn Hebert
To: Carol Leach
Subject: Enron - Bass Saga
Date: Wednesday, March 26, 1997 11:06

You and Jennifer may want to know the latest developments in this matter:

2/19/97 - Mike Stogner, at a preconference hearing, rescinded Roy Johnson's 2/11/96 approval of the revision of the participating areas.

3/24/97 - OCD received Bass's Application for de novo hearing of Mike's oral order.

3/26/97 - Enron responded stating that Bass's Application is premature.

I am drafting a letter, as opposed to an order, for Bill's consideration denying the application. OCD Rule 1220 sets forth the conditions for a de novo hearing. A party has a right to such a hearing "...[w]hen any order has been entered by the Division pursuant to any hearing held by an Examiner...." Mike's verbal rescission is not a Division order; no evidentiary hearing has been held - only a procedural hearing. I was surprised that Mike did not continue the status quo until an evidentiary hearing, but that's not what happened.

Let me know if you think we are on the wrong track here. This ancient (1953 agreement) matter has so many twists.

CO
received
5/29/97

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

No. CV-97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

**OIL CONSERVATION COMMISSION'S
MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS PETITION FOR REVIEW**

The New Mexico Oil Conservation Commission (Commission) asks the Court to dismiss the Petition for Review for lack of subject matter jurisdiction pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure for the District Courts.

The Court lacks subject matter jurisdiction over this case because Bass Enterprises Production Co., Petitioner, has failed to exhaust its administrative remedies under the Oil and Gas Act (Act), Sections 70-2-1 through 70-2-38 NMSA 1978. The Petitioner has failed to follow the administrative process set forth in the Act. In reviewing the Petition for Review it is clear

that the Petitioner does not even allege that it has pursued these procedures; instead the Petitioner is attempting to postpone an evidentiary hearing before a hearing examiner. Until there is such a hearing, there can be no Division decision that can be appealed to the Commission; and therefore, no Commission decision to appeal to the district court.

A petitioner must exhaust his administrative remedies prior to seeking relief in district court. *Associated Petroleum Transp., Ltd. v. Shepard*, 53 N.M. 52, 54-55, 201 P.2d 772, 774-775 (1949). Exhaustion of administrative remedies is a jurisdictional prerequisite to filing suit in district court. The district court is without jurisdiction to hear a case if the petitioner elects not to pursue his administrative remedies. *Id.*, see also *Luboyeski v. Hill*, 117 N.M. 380, 382-383, 872 P.2d 353, 355 (1994); *Grand Lodge of Masons v. Tax & Rev. Dept.*, 106 N.M. 179, 181, 740 P.2d 1163, 1165 (Ct. App. 1987), *cert. denied*, 106 N.M. 174, 740 P.2d 1158 (1987). In *Grand Lodge of Masons*, the plaintiffs, four groups of Masons representing all of the Masonic lodges in New Mexico, filed a declaratory judgment action seeking to have all Masonic lodges in the state declared exempt from taxation on the ground that the properties were used for charitable or educational purposes. The court of appeals remanded the case to the district court with instructions to dismiss the petition for lack of jurisdiction as the plaintiffs had not exhausted the statutorily required administrative procedures for protesting an assessment.

The statutory scheme of the Oil and Gas Act for administrative hearings and appeals is set forth in Sections 70-2-13 and 70-2-25 NMSA 1978. Section 70-2-13 NMSA 1978 allows for the appointment of a hearing examiner to conduct hearings or other proceedings before the Oil Conservation Division (Division). The hearing examiner is to make reports and recommendations to the director of the Division. Section 70-2-13 NMSA 1978 states, in part: "...an examiner appointed to hear any particular case 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....” The examiner is to certify a complete record of the proceeding together with his report and recommendations to the director. It is then up to the director to “...base the decision rendered in any matter or proceeding heard by an examiner upon the transcript of testimony and record made by or under the supervision of the examiner....” The Division’s decision is made by the director, not the hearing examiner. It is the Division’s decision that is appealable to the Commission. “When any matter or proceeding is referred to an examiner and a decision [by the Division] is rendered thereon, any party of record adversely affected shall have the right to have the matter heard *de novo* before the commission upon application filed with the division within thirty day from the time any such decision is rendered.” Section 70-2-13 NMSA 1978.

When a Division’s decision is appealed to the Commission, the Commission hears the matter *de novo* rather than merely reviewing the record of proceedings before the hearing examiner. The three-member Commission holds a public hearing and after deliberation, issues its written order or decision at a public meeting. Again, the substantive issues raised by the Petitioner in its Petition for Review have never been considered by either the Division director or the Commission.

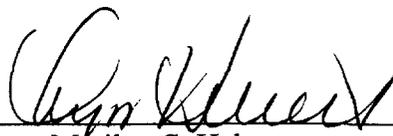
Section 70-2-25 NMSA 1978 provides for appeal of a Commission decision to the district court. This section states, in part: “Such petition [for review] shall state briefly the nature of the proceedings before the commission and shall set forth the order or decision of the commission complained of and the grounds of invalidity thereof upon which the applicant will rely....” The section also provides that “...the transcript of proceedings before the commission, including the evidence taken in hearings by the commission, shall be received in evidence by the

court in whole or in part upon offer by either party....” A review of the Petition reveals that there is no transcript of proceedings before the Commission, because there have never been any proceedings held before the Commission on this matter. Instead, the Petitioner has attached to its Petition the following: an excerpt from a **prehearing conference** before the Division’s hearing examiner; and a letter from the chairman of the Commission pointing out that the Division had not rendered any decision in the matter and therefore there was nothing, yet, to appeal to the Commission.

As stated in *Angel Fire Corp. v. C. S. Cattle Co.*, 96 N. M. 651, 652, 634 P.2d 202, 203 (1981): “[T]he statute here establishes an administrative procedure for taking a case or controversy out of the administrative framework into the judicial system for review. Jurisdiction of the matters in dispute does not lie in the court until the statutorily required administrative procedures are fully complied with. The courts have no authority to alter the statutory scheme, cumbersome as it may be.”

A review of the Petition for Review reveals that neither the Division director nor the Commission has had the opportunity to render a decision in this matter. There has been no evidentiary hearing before the hearing examiner; such a hearing had been set, but this Court’s stay prevented the hearing from being held. At this time the Petitioner is attempting to have this Court review an oral preliminary determination by a hearing examiner at a prehearing conference that has not been considered by either the Division or the Commission. The Petitioner has failed to exhaust its administrative remedies under the Act. Consequently, the Court lacks subject matter jurisdiction in this case and must dismiss the Petition for Review.

Respectfully submitted,



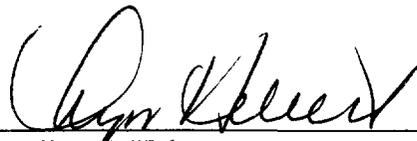
Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **New Mexico Oil Conservation Commission's Memorandum in Support of Motion to Dismiss Petition for Review** was delivered by first-class mail, postage prepaid, this 29th day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

*filed
May 29, 1997*

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

No. CV - 97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P**

**OIL CONSERVATION COMMISSION'S
MOTION TO DISMISS PETITION FOR REVIEW**

The New Mexico Oil Conservation Commission (Commission), by and through its attorney, Marilyn S. Hebert, special assistant attorney general, pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure for the District Courts, hereby moves this Court to dismiss the Petition for Review for lack of subject matter jurisdiction, and in support thereof states:

1. The Petitioner seeks to have the Court review an oral ruling of a hearing examiner at a prehearing conference.
2. The Oil and Gas Act, Sections 70-2-1 through 70-2-38 NMSA 1978 sets for the statutory requirements for having an administrative decision of the Commission reviewed by the

district court.

3. Specifically, Section 70-2-13 NMSA provides for an evidentiary hearing before a hearing examiner who then makes reports and recommendations to the director of the Oil Conservation Division (Division).

4. The Division director renders the Division's decision based on the transcript of testimony and record made by or under the supervision of the hearing examiner.

5. The Division decision can be appealed to the Commission in a *de novo* hearing.

6. Section 70-2-25 NMSA 1978 provides for an appeal from a Commission decision or order to the district court.

7. There has been no evidentiary hearing in this matter; there has been no decision of the Division in this matter; there has been no decision of the Commission in this matter.

8. The Petitioner seeks to circumvent the statutory requirements for this administrative appeal by filing a premature Petition for Review with this Court.

9. The Petitioner has failed to exhaust its administrative remedies.

10. The district court does not have subject matter jurisdiction over the subject matter of the Petition for Review.

WHEREFORE, the Commission moves for an order of the Court dismissing the Petition for Review.



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **New Mexico Oil Conservation Commission's Motion to Dismiss Petition for Review** was delivered by first-class mail, postage prepaid, this *29th* day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

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.

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 be done administratively? Under **Udden** 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.



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7331

*We do not
require the original
to replace the fax. According
to local rules your fax is
deemed that original & I if your
shall not be replaced. If you
wish file stamped copies you
may request them
but not send orig.
replacements.*

May 29, 1997

Ms. Eleanor Jarnagin
District Court Clerk
Fifth Judicial District
Post Office Box 1838
Carlsbad, New Mexico 88220

Re: **Bass Enterprises Production Co. v. Oil Conservation Commission et al.**
No. CV - 97-179 JWF

Dear Ms. Jarnagin:

I am faxing to you at (505) 887-7095 and to Ernest L. Carroll at (505) 746-6316 for filing the following: Entry of Appearance, Motion to Dismiss Petition for Review, Memorandum in Support of Motion to Dismiss Petition for Review and Notice of Hearing in the above-referenced matter.

I shall also send by mail the originals and copies. Please conform the copies and return to me in the envelope provided.

I am also today by hand delivery providing copies of the Entry of Appearance, Motion to Dismiss Petition for Review, Memorandum in Support of Motion to Dismiss Petition for Review and Notice of Hearing to William F. Carr.

Thank you for your assistance.

Sincerely,

Marilyn S. Hebert

cc: Earnest L. Carroll

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

*filed
May 29, 1997*

BASS ENTERPRISES PRODUCTION CO.,

Petitioner,

vs.

No. CV-97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERALS DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

ENTRY OF APPEARANCE

Comes now Marilyn S. Hebert, special assistant attorney general, and enters her appearance on behalf of the New Mexico Oil Conservation Commission, Respondent.



Marilyn S. Hebert
Special Assistant Attorney General
State of New Mexico
Energy, Minerals & Natural Resources Department
2040 S. Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was delivered by first-class mail, postage prepaid this 29th day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO

FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

FILED MAY 29 1997

IN MY
OFFICE

BASS ENTERPRISES PRODUCTION CO.,

ELEANOR JARNAGIN
Clerk of the District Court

Petitioner,

vs.

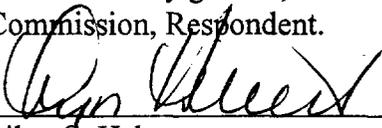
No. CV-97-179 JWF

OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERALS DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,

Respondents.

ENTRY OF APPEARANCE

Comes now Marilyn S. Hebert, special assistant attorney general, and enters her appearance on behalf of the New Mexico Oil Conservation Commission, Respondent.



Marilyn S. Hebert
Special Assistant Attorney General
State of New Mexico
Energy, Minerals & Natural Resources Department
2040 S. Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was delivered by first-class mail, postage prepaid this 29th day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504

COPY

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

FILED JUL 8 1997 IN MY OFFICE

ELEANOR JARNAGIN
Clerk of the District Court

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

No. CV 97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY, MINERALS AND NATURAL
RESOURCES OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

ORDER OF DISMISSAL

This matter came before the Court for hearing on June 5, 1997, on Respondents Enron and Shell's Motion to Lift Stay and Respondent Oil Conservation Commission's (Commission) Motion to Dismiss. All parties were represented by counsel.

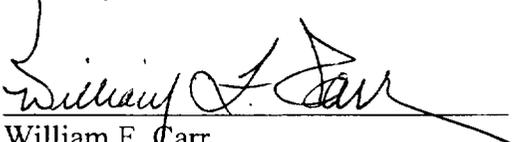
The Court having considered the pleadings and arguments finds that the Petitioner has failed to exhaust its administrative remedies as provided by statute, Sections 70-2-13 and 70-2-25 NMSA 1978, and therefore the Court lacks subject matter jurisdiction over this matter.

Wherefore, the Court hereby grants the Respondent Commission's Motion to Dismiss pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure.


DISTRICT COURT JUDGE

Approved:


Marilyn S. Hebert
Special Assistant Attorney General
Attorney for the Commission


William F. Carr
Paul R. Owen
Attorneys for Enron Oil & Gas Co. and
Shell Western E & P

Telephonically Approved 7/1/97
Ernest L. Carroll
Attorney for Bass Enterprises Production Co.

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

No. CV - 97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P**

**OIL CONSERVATION COMMISSION'S
MOTION TO DISMISS PETITION FOR REVIEW**

The New Mexico Oil Conservation Commission (Commission), by and through its attorney, Marilyn S. Hebert, special assistant attorney general, pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure for the District Courts, hereby moves this Court to dismiss the Petition for Review for lack of subject matter jurisdiction, and in support thereof states:

1. The Petitioner seeks to have the Court review an oral ruling of a hearing examiner at a prehearing conference.
2. The Oil and Gas Act, Sections 70-2-1 through 70-2-38 NMSA 1978 sets for the statutory requirements for having an administrative decision of the Commission reviewed by the

district court.

3. Specifically, Section 70-2-13 NMSA provides for an evidentiary hearing before a hearing examiner who then makes reports and recommendations to the director of the Oil Conservation Division (Division).

4. The Division director renders the Division's decision based on the transcript of testimony and record made by or under the supervision of the hearing examiner.

5. The Division decision can be appealed to the Commission in a *de novo* hearing.

6. Section 70-2-25 NMSA 1978 provides for an appeal from a Commission decision or order to the district court.

7. There has been no evidentiary hearing in this matter; there has been no decision of the Division in this matter; there has been no decision of the Commission in this matter.

8. The Petitioner seeks to circumvent the statutory requirements for this administrative appeal by filing a premature Petition for Review with this Court.

9. The Petitioner has failed to exhaust its administrative remedies.

10. The district court does not have subject matter jurisdiction over the subject matter of the Petition for Review.

WHEREFORE, the Commission moves for an order of the Court dismissing the Petition for Review.



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **New Mexico Oil Conservation Commission's Motion to Dismiss Petition for Review** was delivered by first-class mail, postage prepaid, this *29th* day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

v.

Ño. CV-97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

**OIL CONSERVATION COMMISSION'S
MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS PETITION FOR REVIEW**

The New Mexico Oil Conservation Commission (Commission) asks the Court to dismiss the Petition for Review for lack of subject matter jurisdiction pursuant to Rule 1-012(B)(1) of the Rules of Civil Procedure for the District Courts.

The Court lacks subject matter jurisdiction over this case because Bass Enterprises Production Co., Petitioner, has failed to exhaust its administrative remedies under the Oil and Gas Act (Act), Sections 70-2-1 through 70-2-38 NMSA 1978. The Petitioner has failed to follow the administrative process set forth in the Act. In reviewing the Petition for Review it is clear

that the Petitioner does not even allege that it has pursued these procedures; instead the Petitioner is attempting to postpone an evidentiary hearing before a hearing examiner. Until there is such a hearing, there can be no Division decision that can be appealed to the Commission; and therefore, no Commission decision to appeal to the district court.

A petitioner must exhaust his administrative remedies prior to seeking relief in district court. *Associated Petroleum Transp., Ltd. v. Shepard*, 53 N.M. 52, 54-55, 201 P.2d 772, 774-775 (1949). Exhaustion of administrative remedies is a jurisdictional prerequisite to filing suit in district court. The district court is without jurisdiction to hear a case if the petitioner elects not to pursue his administrative remedies. *Id.*, see also *Luboyeski v. Hill*, 117 N.M. 380, 382-383, 872 P.2d 353, 355 (1994); *Grand Lodge of Masons v. Tax & Rev. Dept.*, 106 N.M. 179, 181, 740 P.2d 1163, 1165 (Ct. App. 1987), *cert. denied*, 106 N.M. 174, 740 P.2d 1158 (1987). In *Grand Lodge of Masons*, the plaintiffs, four groups of Masons representing all of the Masonic lodges in New Mexico, filed a declaratory judgment action seeking to have all Masonic lodges in the state declared exempt from taxation on the ground that the properties were used for charitable or educational purposes. The court of appeals remanded the case to the district court with instructions to dismiss the petition for lack of jurisdiction as the plaintiffs had not exhausted the statutorily required administrative procedures for protesting an assessment.

The statutory scheme of the Oil and Gas Act for administrative hearings and appeals is set forth in Sections 70-2-13 and 70-2-25 NMSA 1978. Section 70-2-13 NMSA 1978 allows for the appointment of a hearing examiner to conduct hearings or other proceedings before the Oil Conservation Division (Division). The hearing examiner is to make reports and recommendations to the director of the Division. Section 70-2-13 NMSA 1978 states, in part: “...an examiner appointed to hear any particular case 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....” The examiner is to certify a complete record of the proceeding together with his report and recommendations to the director. It is then up to the director to “...base the decision rendered in any matter or proceeding heard by an examiner upon the transcript of testimony and record made by or under the supervision of the examiner....” The Division’s decision is made by the director, not the hearing examiner. It is the Division’s decision that is appealable to the Commission. “When any matter or proceeding is referred to an examiner and a decision [by the Division] is rendered thereon, any party of record adversely affected shall have the right to have the matter heard *de novo* before the commission upon application filed with the division within thirty day from the time any such decision is rendered.” Section 70-2-13 NMSA 1978.

When a Division’s decision is appealed to the Commission, the Commission hears the matter *de novo* rather than merely reviewing the record of proceedings before the hearing examiner. The three-member Commission holds a public hearing and after deliberation, issues its written order or decision at a public meeting. Again, the substantive issues raised by the Petitioner in its Petition for Review have never been considered by either the Division director or the Commission.

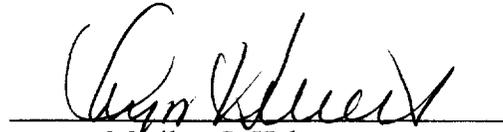
Section 70-2-25 NMSA 1978 provides for appeal of a Commission decision to the district court. This section states, in part: “Such petition [for review] shall state briefly the nature of the proceedings before the commission and shall set forth the order or decision of the commission complained of and the grounds of invalidity thereof upon which the applicant will rely....” The section also provides that “...the transcript of proceedings before the commission, including the evidence taken in hearings by the commission, shall be received in evidence by the

court in whole or in part upon offer by either party....” A review of the Petition reveals that there is no transcript of proceedings before the Commission, because there have never been any proceedings held before the Commission on this matter. Instead, the Petitioner has attached to its Petition the following: an excerpt from a **prehearing conference** before the Division’s hearing examiner; and a letter from the chairman of the Commission pointing out that the Division had not rendered any decision in the matter and therefore there was nothing, yet, to appeal to the Commission.

As stated in *Angel Fire Corp. v. C. S. Cattle Co.*, 96 N. M. 651, 652, 634 P.2d 202, 203 (1981): “[T]he statute here establishes an administrative procedure for taking a case or controversy out of the administrative framework into the judicial system for review. Jurisdiction of the matters in dispute does not lie in the court until the statutorily required administrative procedures are fully complied with. The courts have no authority to alter the statutory scheme, cumbersome as it may be.”

A review of the Petition for Review reveals that neither the Division director nor the Commission has had the opportunity to render a decision in this matter. There has been no evidentiary hearing before the hearing examiner; such a hearing had been set, but this Court’s stay prevented the hearing from being held. At this time the Petitioner is attempting to have this Court review an oral preliminary determination by a hearing examiner at a prehearing conference that has not been considered by either the Division or the Commission. The Petitioner has failed to exhaust its administrative remedies under the Act. Consequently, the Court lacks subject matter jurisdiction in this case and must dismiss the Petition for Review.

Respectfully submitted,



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **New Mexico Oil Conservation Commission's Memorandum in Support of Motion to Dismiss Petition for Review** was delivered by first-class mail, postage prepaid, this 29th day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504



Marilyn S. Hebert
Special Assistant Attorney General
New Mexico Oil Conservation
Commission
2040 South Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.,

Petitioner,

vs.

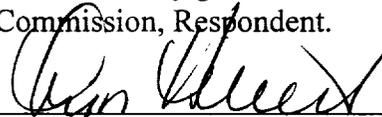
No. CV-97-179 JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERALS DEPARTMENT
OF THE STATE OF NEW MEXICO,
ENRON OIL AND GAS COMPANY, and
SHELL WESTERN E & P,**

Respondents.

ENTRY OF APPEARANCE

Comes now Marilyn S. Hebert, special assistant attorney general, and enters her appearance on behalf of the New Mexico Oil Conservation Commission, Respondent.



Marilyn S. Hebert
Special Assistant Attorney General
State of New Mexico
Energy, Minerals & Natural Resources Department
2040 S. Pacheco
Santa Fe, New Mexico 87505
(505) 827-1364

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was delivered by first-class mail, postage prepaid this 29th day of May, 1997, to:

Ernest L. Carroll
Post Office Box 1720
Artesia, New Mexico 88211-1720

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504

COPY

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

vs.

No. CV 97-179-JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO, ENRON OIL
AND GAS COMPANY, and SHELL WESTERN E & P,**

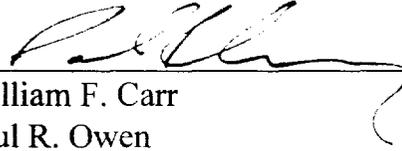
Respondents.

CERTIFICATE OF SERVICE

I hereby certify that a copy of Enron and Shell's Motion to Lift Stay, Memorandum in Support of Enron and Shell's Motion to Lift Stay and Request for Expedited Hearing, along with a copy of this Certificate of Service, was served, via hand delivery, upon Rand Carroll, Esq., Oil Conservation Division New Mexico Department of Energy, Minerals and Natural Resources, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, this 27th day of May, 1997.

Respectfully submitted,

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

A handwritten signature in black ink, appearing to read "William F. Carr", is written over a horizontal line.

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
and Shell Western E&P, Inc.

COPY

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

vs.

No. CV 97-179-JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO, ENRON OIL
AND GAS COMPANY, and SHELL WESTERN E & P,**

Respondents.

ENRON AND SHELL'S MOTION TO LIFT STAY

Respondents Enron Oil and Gas Company ("Enron"), and Shell Western E & P ("Shell"), hereby move this Court to lift the Stay entered on May 2, 1997. In support of this Motion, Respondents state:

1. The Order from which Petitioner appeals is an Order of the Commission which declines to entertain an appeal from an interlocutory Order of a Hearing Examiner of the Oil Conservation Division of the Commission.

2. The only action which this Court has authority to stay is the Order of the Commission which declines to entertain the Petitioner's appeal from an interlocutory Order of an Examiner.

3. The Order stayed by this Court is the interlocutory Order from the Division Hearing Examiner, not the subsequent Order from the Commission. As such, the Stay issued by this Court is beyond the Court's authority.

4. The Petitioner has failed to satisfy the criteria for a stay in this Court in its exercise of equity jurisdiction. Specifically, the Petitioner has failed to provide evidence that it will suffer irreparable injury in the absence of a Stay, has failed to prove that it is likely that Petitioner will prevail on the merits of its appeal, and has failed to show that the equities in this case merit a stay.

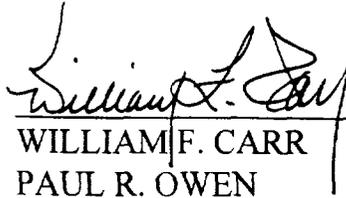
5. There is no statutory authority for Petitioner's appeal of an interlocutory Order of the Oil Conservation Division of the Energy and Minerals Department of the State of New Mexico. Because such authority is absent, Petitioner's appeal must be dismissed.

Therefore, Respondents respectfully request that this Court enter an Order lifting the Stay issued on May 2, 1997, dismissing Petitioner's appeal, and remanding this case for further proceedings before the Oil Conservation Division.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& 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 AND SHELL WESTERN E & P

CERTIFICATE OF SERVICE

I hereby certify that a copy of Enron and Shell's Motion to Lift Stay and Memorandum in Support of Enron and Shell's Motion to Lift Stay was served, via Federal Express, upon Ernest L. Carroll, Esq., Losee, Carson, Haas & Carroll, P.A., 311 West Quay, Artesia, NM 88211-1720, this 22nd day of May, 1997.



Paul R. Owen

COPY

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

vs.

No. CV 97-179-JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO, ENRON OIL
AND GAS COMPANY, and SHELL WESTERN E & P,**

Respondents.

**MEMORANDUM IN SUPPORT OF
ENRON AND SHELL'S MOTION TO LIFT STAY**

Respondents request that the Court lift a Stay that was obtained without notice to Respondents, that is beyond the Court's authority to issue, and that is not supported by any evidence. This Court should recognize Petitioner's attempt to improperly circumvent its administrative remedies, lift the Stay, and remand this matter to the Oil Conservation Commission of the Energy and Minerals Department of the State of New Mexico.

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 1

The controversy forming the basis of this Action arises out of Petitioner's attempt to expand a voluntary Oil and Gas Exploratory Unit comprised of State and Federal lands located in Eddy County, New Mexico, without giving notice to other owners whose property interests are affected by the proposed expansion.

On April 13, 1953, the parties' predecessors in interests executed the Unit Agreement for the Development and Operation of the James Ranch Unit Area. The parties specifically reserved all legal and constitutional rights and defenses.¹ On 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" The Commission specifically reserved continuing jurisdiction over all operations in the unit area.²

Bass has been the operator of the James Ranch Unit since its formation. One method

¹ Article 27 of the Unit Agreement provides that "[n]othing in this agreement contained shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law or the State wherein said unitized lands are located, or of the United States, or regulations issued thereunder in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive. Unit Agreement for the Development and Operation of the James Ranch Unit Area, Eddy County, New Mexico, at 23, Art. 27 (attached hereto as Exhibit A).

² The Order approving the Unit Agreement stated that "[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." *In re James Ranch Unit*, New Mexico Oil Conservation Commission Order No. R-279 (March 17, 1953).

for development of unitized substances, provided by the Agreement, is the creation and expansions of “participating areas,” or areas within the unit, from which unitized substances are proved to be productive in paying quantities. One of the participating areas within the James Ranch Unit is the Atoka Participating Area. Except for Bass, Enron is currently the only other working interest owner in the Atoka Participating Area. Shell sold its working interest to Enron effective October 1, 1992, but due to the retroactive nature of Bass’s proposed expansions, Shell is an affected party during the time period from December 1, 1982 until October 1, 1992.

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 (collectively “the Applications”). Bass gave no notice to Enron or to Shell 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. In fact, in the hearing before the Examiner of the Oil Conservation Division, Bass admitted that it did not provide Enron notice of the Applications because it knew that Enron would take issue with and oppose the proposed Revisions.³

³ 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 did receive notice?

On February 22, 1996, based on only the data submitted by Bass, which data contradicts the recent testimony of Bass before the Division in another case (Case 11019 *de novo*), the Oil Conservation Division approved Bass's proposed revisions to the Atoka Participating Area. Enron first learned of these proposed revisions on March 14, 1996. On March 19, 1996, Enron filed a written protest to these proposed revisions with the Oil Conservation Division. 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. On April 3, 1996, Enron requested that the Applications be set for hearing before a Division Examiner.

The Division designated a hearing examiner to conduct a hearing on the Applications and they were scheduled for hearing before the Division on August 22, 1996. 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. On December 3, 1996, the State Director of the Bureau of Land Management entered its Decision upholding the decision of the Roswell

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 Oil Conservation Division Examiner Hearing at 65 (attached hereto in relevant part as Exhibit B).

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 4

District Office. The Bureau decision was entered without giving Enron or Shell the opportunity to hear Bass's case or the opportunity to cross-examine Bass's technical witnesses.

Based on the revised Atoka Participating Area, Bass made adjustment 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. *See* letter from Bass to Enron, December 9, 1996, (attached hereto as Exhibit C).

On December 12, 1996, Enron filed with the Division a Memorandum in Support of its Motion to Rescind Approval, Motion for Setting, and Response to Bass's Motion to Dismiss. On February 19, 1997, the Division held a hearing on Enron's Motion to Rescind Approval. The Hearing Officer granted Enron's Motion to Rescind, and attempted to set a hearing to determine the merits of the proposed Revisions. *See* Petition for Review, May 1, 1997, at 2, ¶ 5.

On March 24, 1997, Bass filed an Application for a *de novo* hearing before the Oil Conservation Commission. By letter dated April 4, 1997, Bass's Application was denied by the Chairman of the Commission. By letters dated April 7, 1997, and April 16, 1997, Bass requested that the Commission reconsider its denial of Bass's Application for hearing. The Commission did not respond to Bass's April 7 and April 16 letters.

The Division scheduled a hearing to determine the merits of Bass's Applications for Revisions for May 5, 1997. On April 29, 1997, counsel for Bass moved to continue the May 5, 1997 hearing, representing to the Division that counsel and a lay witness for Bass were unable to prepare for the hearing because of personal and medical reasons. Despite Enron and Shell's opposition to the continuance, the Division granted the continuance and canceled the May 5, 1997 hearing. In an April 30, 1997 telephone conversation with a representative of the Division, counsel for Enron and Shell was informed that Bass's requested continuance had been granted. The Division Examiner confirmed the granting of the requested continuance by letter on May 2, 1997. *See* letter from Michael Stogner to Ernest L. Carroll and William F. Carr, May 2, 1997 (attached hereto as Exhibit D).

Despite the Division's continuance of the May 5, 1997 hearing, on May 1, 1997, Bass filed the Petition for Review in this matter. Thereafter, Bass contacted the Court *ex parte*, and obtained a Stay of the February 19, 1997 interlocutory procedural order of the Division Examiner, which order rescinded the Division's previous approval of the proposed Revisions. Respondents now request that the Court consider the merits of Bass's request, and lift the improvidently-granted Stay.

ARGUMENT

The purpose of an equitable stay is to preserve the *status quo*. *Penn v. San Juan Hospital, Inc.*, 528 F.2d 1181, 1185 (10th Cir. 1975). The Stay in this case does not preserve the status quo. Instead, it stays the effect of an interlocutory procedural order of an Examiner

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

of the Division, and prevents the Division from exercising its statutory jurisdiction. The interlocutory procedural order is the mechanism that preserves the status quo by rescinding the Division's approval of the proposed revisions. Without the interlocutory procedural order, the status quo is affected to the tune of the reallocation between Bass, Enron, and Shell of revenues attributable to the past production of 3,186,274 mcf of natural gas and \$339,058.68 in revenue for condensate, as well as reallocation of undetermined amounts of royalties paid to the State of New Mexico and the United States Government based on that production. Furthermore, due to the prospective reallocation of gas and condensate to be produced under the revised Atoka participating area, an undetermined future value of proceeds of production estimated to be several million dollars will be affected by this Court's substitution of its judgment for that of the Division. Bass's request for stay in this case meets neither the purpose of an equitable stay nor the equitable or statutory standards for issuance of such a stay, and this Court must lift the Stay.

A. THE STAY IS NOT AUTHORIZED BY STATUTE

Bass's request for a stay in this case is under the auspices of NMSA 1978, Section 70-2-25 (Repl. Pamp. 1995), which authorizes appeals to the District Courts of any order or decision of the Oil Conservation Commission. When that statute is compared to the relief requested by Bass in its request for stay, it is clear that this Court is without authority to issue the requested stay.

Under Section 70-2-25, a party adversely affected by an order or decision of the Commission may apply to the Commission for rehearing. If the Commission does not act upon the application for rehearing within ten days, the application for rehearing is deemed denied. Any party dissatisfied with the disposition of the application for rehearing may appeal to the district court.

This case came before this Court under Section 70-2-25 in the following manner:

- 1) On February 8, 1996, Bass filed with the Division its Applications for Approval of the Third and Fourth Revisions to the Atoka Participating Area;
- 2) On February 22, 1996, the Division approved Bass's proposed Revisions to the Atoka Participating Area;
- 3) On March 19, 1996, as an interest owner whose correlative rights are affected by the Revisions, Enron filed a written protest to the Revisions, and requested that the Division rescind its approval of the Revisions;
- 4) On February 19, 1997, pursuant to his authority to "regulate all proceedings before him and to take all measures necessary or proper for the efficient and orderly conduct of such hearing," N.M. Oil Conservation Commission Rule 1215, the Division Examiner granted Enron's Motion to Rescind Approval, and directed that Bass's Applications for approval of the Revisions be set for hearing before the Examiner to determine the merits of the proposed Revisions;
- 5) On March 24, 1997, Bass filed an Application with the Oil Conservation Commission, requesting that the Commission hold a *de novo* hearing on the interlocutory procedural order of the Examiner;
- 6) By letter dated April 4, 1997, Bass's Application for a *de novo* hearing was denied by the Chairman of the Commission;
- 7) By letter dated April 7, 1997, Bass requested that the Commission reconsider its denial of Bass's Application for hearing;

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 8

- 8) By letter dated April 16, 1997, Bass informed the Commission that Bass considered its letter of April 7, 1997, to be an application for rehearing for purposes of NMSA 1978, Section 70-2-25(A), and that if the Commission failed to grant a rehearing by April 16, 1997, Bass would consider the Commission's action a denial of rehearing, which Bass would appeal to this Court under Section 70-2-25(B);
- 9) The Commission did not respond to Bass's April 7 and April 16 letters;
- 10) On April 29, 1997, Bass requested a continuance of the Division hearing which was then scheduled for May 5, 1997;
- 11) On April 30, 1997, the Division granted Bass's request for continuance and advised the parties to pick another date for a hearing. The Division confirmed the continuance with a letter on May 2, 1997 (*see Exhibit D*);
- 12) On May 1, 1997, Bass filed the Petition for Review in the instant case, seeking review of the Commission's denial of Bass's Application for a *de novo* hearing;
- 13) On May 2, 1997, counsel for Bass contacted this Court *ex parte* and obtained a stay of the interlocutory procedural order from the Division Examiner.

NMSA 1978, Section 70-2-25(C) authorizes the District Court to issue a stay in an appeal from a denial of rehearing by the Oil Conservation Commission. The stay authorized, however, is of "operation of the order or decision pending review thereof." The "order or decision" being reviewed is the Commission's denial of Bass's Application for a *de novo* hearing. This Court only has authority to stay that Order, not the underlying interlocutory procedural Order of the Division Examiner. The interlocutory procedural Order of the Division Examiner simply permits all parties the opportunity to present their technical cases in a hearing that comports with due process requirements.

If the Revisions are ultimately approved by the Division, the percentage of the Participating Area in which Enron and Shell own an interest will be vastly diluted, and the Bass's interests will be increased. Any Division action on the Revisions therefore affects Enron and Shell's correlative rights.⁴ 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). See also NMSA 1978, § 70-2-33(H) (Duties of Commission (and Division) are to "[P]revent waste . . . and protect correlative rights"). This Court may not substitute its judgment for that of the Division in the Division's capacity of protecting correlative rights. *Continental Oil*, 70 N.M. at 312, 373 P.2d at 819.

In the February 19, 1997 hearing, the Examiner found that he was required to rescind approval of the Revisions and hold a hearing on the merits of whether Bass's Applications protected correlative rights. Bass has admitted that correlative rights are at the heart of this dispute. See Response of Bass to Enron's Motion to Rescind, February 19, 1997, at 2

⁴ 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).

("Enron is partially correct as to the focus of this dispute. It does indeed involve the impairment of correlative rights"). The stay in this case substitutes this Court's judgment on the issue of correlative rights for that of the Division, and, as such, is an impermissible stay.

The interlocutory procedural order of the Division Examiner is stayed in this case. The only order which this Court has authority to stay is the Commission's denial of Bass's Application for *de novo* hearing. Because the stay was issued without statutory authority, and because it substitutes this Court's judgment for that of the Division, it must be lifted.

B. BASS HAS NOT MADE A SHOWING SUFFICIENT TO WARRANT A STAY

Bass has requested and obtained a Stay based entirely upon its unsubstantiated representation in its Petition for Review, that Bass has had insufficient time to prepare for the hearing on the merits of the Application for Revisions. Petition for Review, May 1, 1997, at 3, ¶ 11. At no time has Bass articulated to this Court any reason why the underlying Division Examiner's interlocutory procedural order must be stayed. Because Bass has not and cannot support its request that the Examiner's interlocutory procedural order be stayed, the Stay must be lifted.

NMSA 1978, Section 70-2-25(C), which authorizes this Court to stay an Order of the Commission pending its review by this Court, specifically provides that the Stay must be issued "in accordance with the practice of courts exercising equity jurisdiction." New Mexico authority is clear that Bass must make specific showings in order to obtain a stay of any administrative action.

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

In *Tenneco Oil Co. v. New Mexico Water Quality Control Commission*, 105 N.M. 708, 736 P.2d 986 (Ct. App. 1986), the Water Quality Control Commission, by administrative order, adopted amendments to its regulations. Navajo Refining Company and Tenneco Oil Company appealed from that Order, and sought a stay of enforcement of the amendments. *Id.* at 710, 736 P.2d at 988. In their petition for stay, Navajo and Tenneco alleged that they would suffer irreparable injury unless the court stayed enforcement of the amendments.

The *Tenneco* court noted that there was an absence of statutory standards which Navajo and Tenneco were required to meet to justify their request for a stay. In adopting standards, the court held that a “[g]rant of an application for stay is not a matter of right, it is an exercise of judicial discretion, and the propriety of its issuance is dependent upon the circumstances of each individual case . . .” *Id.* To guide the court’s discretion, the *Tenneco* court adopted standards to guide it in determining whether to stay an administrative order.

The court held that a party seeking such a stay must make four showings:

- (1) a likelihood that applicant will prevail on the merits of the appeal;
- (2) a showing of irreparable harm to applicant unless the stay is granted;
- (3) evidence that no substantial harm will result to other interested persons; and
- (4) a showing that no harm will ensue to the public interest.

The mere fact that an administrative regulation or order may cause injury or inconvenience to applicant is insufficient to warrant suspension of an agency regulation by the granting of a stay An administrative order or regulation will not be stayed pending appeal where the applicant has not made the showing of each of the factors required to grant the stay.

Id.

In this case, Bass has not made a showing of any of the factors required. The only allegation by Bass which pertains to a stay has to do with the inconvenience of having a hearing on the merits of the Revisions proposed by Bass. Because Bass has utterly failed to carry the burden required to justify a stay, the stay must be lifted.

Furthermore, Bass cannot carry its burden of showing any of the factors required to justify a stay. There is no likelihood that Bass will prevail on the merits of this appeal, Bass cannot show that it will suffer irreparable injury, Enron and Shell will suffer substantial harm if the stay is left in place, and the public interest will be substantially harmed by the intrusion into the procedures of the Oil Conservation Division.

First, Bass has no likelihood of success on the merits of this appeal. At issue is the Oil Conservation Commission's interpretation of its rules of procedure, a matter for which this Court should not substitute its judgment. The Order being appealed is the Commission's refusal to hold a *de novo* hearing on Enron's Motion to Rescind Approval of Bass's Applications. The underlying subjects of the case before the Division were Bass's Applications for approval of the proposed Revisions. On February 22, 1996, the Division approved the Revisions based upon Bass's *ex parte* applications for approval, which were made without notice to Enron or Shell. Because the Division's approval had been issued without notice to Enron, Enron sought to have the approvals rescinded pending a determination of the merits of the proposed revisions. On February 19, 1997, the Division

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 13

rescinded its approval and set Bass's Applications for hearing. In the hearing ordered by the Division Examiner, Enron and Shell will finally have an opportunity to hear Bass's case, cross-examine Bass's witnesses, and present their own technical evidence.

Bass sought to have the Oil Conservation Commission review the Division's rescission of its approval. Oil Conservation Division Rule 1220 provides that "[w]hen 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 Chairman of the Commission held that the February 19, 1997 interlocutory procedural order entered by the Division was not an order which entitled Bass to an appeal under Rule 1220. *See* Letter from William J. LeMay to James E. Haas and William F. Carr, April 4, 1997 (attached hereto as Exhibit E).

The Oil Conservation Commission interpreted its rules to mean that Bass was not entitled to a *de novo* hearing until after a Division Examiner held a hearing on the merits of Bass's Applications. This interpretation, made by the Commission of its own rules, is persuasive upon this Court "and may not be lightly overturned." *Tapia v. City of Albuquerque*, 104 N.M. 117, 121, 717 P.2d 93, 97 (Ct. App. 1986).

In *Tapia*, a fireman challenged the City of Albuquerque's promotion of a fellow fireman, based upon the City Personnel Board's interpretation of its tie breaking rules and regulations governing promotions and seniority. *Tapia* argued that the method of calculating

seniority used by the Board was incorrect, and that the Board's promotions should be reversed.

The *Tapia* Court held that "an administrative construction given a statute or ordinance by an agency charged with its administration is persuasive and will not be lightly overturned." *Id.* Because the interpretation imposed by the Board was not clearly erroneous, the Court affirmed the Board. *Id.*

In this case, the Commission's interpretation of its own rules is not clearly erroneous. Rule 1220, which provides for *de novo* review of Division orders, is contained within a regulatory structure which only authorizes *de novo* review of orders which dispose of the merits of the case before the Division. Rule 1219 directs the Division Director to enter a Division Order "disposing of the matter or proceeding." Rule 1218 directs the Division Examiner to prepare a written report and recommendation following the conclusion of hearings before the Examiner. Rule 1215 gives the Examiner the power to regulate all proceedings before it.

The matter which was before the Examiner was Bass's Applications for Approval of the Revisions. Exercising his authority to regulate the proceedings before it, the Examiner rescinded the approval of the Division which was granted without prior notice to Enron or Shell. Thereafter, the Examiner has attempted to set for hearing the matter before him, Bass's Applications for Approval. 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.

This case is similar to *Sanchez v. Bradbury & Stamm Construction*, 109 N.M. 47, 781 P.2d 319 (Ct. App.), *cert. denied*, 109 N.M. 54, 781 P.2d 782 (1989). In *Sanchez*, the case before the Workers' Compensation Division hearing officer was Bradbury & Stamm's petition to reduce Sanchez's worker's compensation benefits. Sanchez appealed from the hearing officer's denial of Sanchez's motion to dismiss Bradbury and Stamm's petition. *Id.* at 48, 781 P.2d at 320. Despite the fact that the hearing officer's decision was not a final order which disposed of the merits of the case, Sanchez argued that he was entitled to appeal the interlocutory procedural order, because NMSA 1978, Section 52-5-8(B) provides that "[a] decision of a hearing officer is reviewable by the court of appeals in the manner for other cases and is subject to stay proceedings" The *Sanchez* court rejected Sanchez's argument. The court held that:

subsection 52-5-8(B) does not provide statutory authority for interlocutory appellate review of non-final administrative orders of the division. Under Section 39-3-4(A), only the district court is authorized to certify a question for interlocutory appellate review. We conclude that if the legislature had intended to extend to the Division the authority to certify questions for interlocutory appeal it would have specifically so provided.

Id. at 49, 781 P.2d at 321. Even though the subject statute provided that "[a] decision" of the hearing officer is subject to appeal, the Court held that the appeal was improper because no statute specifically allowed interlocutory appeals.

In this case, Bass is appealing the Commission's refusal to hold a *de novo* hearing on an interlocutory procedural order of a Division Examiner. An interlocutory order is one which "does not finally determine a cause of action but only decides some intervening matter pertaining to the cause, and which requires further steps to be taken in order to enable the court to adjudicate the cause on its merits." Black's Law Dictionary 815 (6th ed. 1990). *See also Cooper v. Brownfield*, 33 N.M. 464, 269 P.2d 329 (1928) (an interlocutory order is defined "[a]s relating to some question of law or practice, and leave something remaining to be decided or done by the court entering the order and to proceed further therewith . . ."). The Commission has interpreted its own rules to provide that it need not hold a *de novo* hearing on this interlocutory procedural order. No statute or rule specifically allows interlocutory appeals. The Commission's interpretation is not clearly erroneous, Bass is not likely to prevail on appeal, and the Stay should be lifted.

Furthermore, as to the remaining standards which Bass must meet to justify a stay, Bass has offered absolutely no evidence. Bass will suffer no irreparable harm if the Division Examiner's Order is not stayed. The Order stayed is one which requires Bass to proceed with the Division and demonstrate the merits of its proposed revisions in a hearing which comports with due process. In its original Application for approval of the revisions, Bass represented that it had data which supported and justified the proposed selection of the revised area. If the data does support the Revisions, then Bass's Application will be

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 17

approved. Respondents fail to understand why Bass is so afraid to present its data in a public hearing.

Similarly, Bass has offered no evidence that Enron and Shell will not be harmed by the stay. In fact, Enron and Shell are substantially harmed. On December 9, 1996, based on the Division's approval of the Revisions, Bass wrote to Enron and demanded data and/or payment for 3,186,274 mcf of natural gas and \$339,058.68 in revenue for condensate. *See* letter from Bass to Enron, December 9, 1996 (attached hereto as Exhibit C). Bass seeks a stay of the Examiner's rescission of the Approval. If the rescission is stayed, then the Division's approval is effective pending disposition of this case, and the demand from Bass will be reinstated. The purpose of an equitable stay is to preserve the status quo. *Penn v. San Juan Hospital, Inc.*, 528 F.2d 1181, 1185 (10th Cir. 1975). The only way to preserve the status quo pending final determination of the issues presented in this case is to lift the stay.

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. *Uhdén v. New Mexico Oil Conservation Comm'n*, 112 N.M. 528, 530, 817 P.2d 721, 723 (1991). The Division Examiner rescinded approval because the Revisions affect Enron's correlative rights, and because Bass applied for and obtained approval of the Revisions without providing notice to Enron and Shell.

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO LIFT STAY

Page 18

All that the Division Examiner did is to order that Bass present its data in a public hearing which comports with the requirements of due process. By seeking a stay of the Division Examiner's interlocutory procedural Order, Bass seeks a denial of Enron and Shell's due process rights. This Court should not sanction Bass's attempts to deprive Enron and Shell of their constitutional rights.

CONCLUSION

This dispute began when Bass, without notice to Enron or Shell, applied for approval of the Revisions. Having been directed to present the merits of its case to the Division, Bass, without notice to Enron, Shell, or the Division, contacted this Court and obtained a Stay of an interlocutory procedural order from the Examiner. Bass has not satisfied any, let alone all, of the standards required for a Stay in this case. The Division Examiner should be allowed to regulate the matters before it, the Commission should be entitled to interpret its own rules of procedure, Enron and Shell should be given a hearing that comports with due process, and the Stay should be lifted.

Respectfully submitted,

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

By:

A handwritten signature in black ink, appearing to read "William F. Carr", is written over a horizontal line.

WILLIAM F. CARR

PAUL R. OWEN

Post Office Box 2208

Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR ENRON OIL & GAS
COMPANY AND SHELL WESTERN E & P

(Form Approved
January 2, 1953)

UNIT AGREEMENT
FOR THE DEVELOPMENT AND OPERATION OF
THE JAMES RANCH UNIT AREA
EDDY COUNTY, STATE OF NEW MEXICO

I-Sec. No. _____

7406-AB3

THIS AGREEMENT, entered into as of the 22nd day of April
1953, by and between the parties subscribing, ratifying, or consenting
hereto, and herein referred to as the "parties hereto",

W I T N E S S E T H:

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

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

WHEREAS, the Commissioner of Public Lands of the State of New Mexico
is authorized by an Act of the Legislature (Chap. 98, Laws 1943) to consent
to or approve this agreement on behalf of the State of New Mexico, insofar
as it covers and includes lands and mineral interests of the State of New
Mexico; and

WHEREAS, the Oil Conservation Commission of the State of New Mexico
is authorized by law (Chap. 72, Laws of 1935, as amended by Chap. 193,
Laws of 1937, Chap. 166, Laws of 1941, and Chap. 168, Laws of 1949) to
approve this agreement and the conservation provisions hereof; and

WHEREAS, the parties hereto hold sufficient interests in the James
Ranch Unit Area covering the land hereinafter described to give reasonably
effective control of operations therein; and

EXHIBIT
A

to be given or rendered to the parties hereto shall be deemed fully given if given in writing and personally delivered to the party or sent by post-paid registered mail, addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto or to the ratification or consent hereof or to such other address as any such party may have furnished in writing to party sending the notice, demand or statement.

27. NO WAIVER OF CERTAIN RIGHTS. Nothing in this agreement contained shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law of the State wherein said unitized lands are located, or of the United States, or regulations issued thereunder in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive.

28. UNAVOIDABLE DELAY. All obligations under this agreement requiring the Unit Operator to commence or continue drilling or to operate on or produce unitized substances from any of the lands covered by this agreement shall be suspended while, but only so long as the Unit Operator despite the exercise of due care and diligence is prevented from complying with such obligations, in whole or in part, by strikes, acts of God, Federal, State, or municipal law or agencies, unavoidable accident, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of the Unit Operator whether similar to matters herein enumerated or not.

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

30. LOSS OF TITLE. In the event title to any tract of unitized land shall fail and the true owner cannot be induced to join this unit agreement, such tract shall be automatically regarded as not committed hereto and there

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
and 11,603
(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

February 19th, 1997

Santa Fe, New Mexico

This matter came on for prehearing conference before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Wednesday, February 19th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317



1 of a quandary --

2 MR. CARROLL: For BLM purposes?

3 MR. MCCREIGHT: I guess that's correct. We're a
4 little bit at a loss as to how to proceed, though, I guess
5 is what I'm trying to say. We're bound by the agreement in
6 one respect.

7 MR. CARROLL: Well, were you aware that Enron
8 would object to it if they did receive notice?

9 MR. MCCREIGHT: Not necessarily, no. I mean, we
10 were already in a debate about the pending formation of a
11 PA in the Atoka, so I knew we were going to be at odds,
12 they knew we were going to be at odds.

13 MR. CARROLL: But you didn't send them a copy of
14 the applications?

15 MR. MCCREIGHT: No, because we weren't required
16 to do so. The State Director has told us that, so...

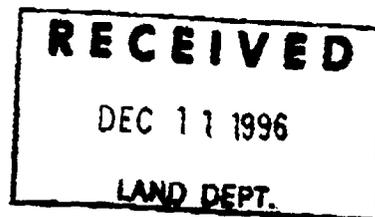
17 Our intention was to simply follow the rules as
18 best we could, and then the State Director's opinion, he
19 says that -- He says, and I quote, Bass is not required by
20 the unit agreement to notify interested parties in
21 fulfilling their obligation to revise participating areas.

22 I don't know -- We don't know what else to do but
23 to try to --

24 MR. CARROLL: But you're telling me you were in
25 negotiations with Enron regarding this revised

BASS ENTERPRISES PRODUCTION CO.

201 MAIN ST.
FORT WORTH, TEXAS 76102-3131
817/380-8400



December 9, 1996

**CERTIFIED EXPRESS MAIL/
Return Receipt Requested**

Enron Oil & Gas Company
P. O. Box 22 67
Midland, Texas 79702

Attention Mr. Patrick Tower

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

Gentlemen:

As you are aware, by letter dated August 12, 1996, Bass informed Enron of the approval of the Third & Fourth Revisions to the Atoka Participating Area in the James Ranch Unit. These revisions to the Atoka PA were subject to a recent BLM State Director Review at Enron's request and, as evidenced by the attached opinion issued December 3, 1996, the BLM State Director affirmed the revisions previously approved by the Roswell District Office. As a result of the revisions, an investment adjustment of participating area costs and revenue is now in order. Bass has calculated an investment adjustment due from Bass to Enron for participating area expenses and capital costs effective with the Third Revision (September 1, 1992) and the Fourth Revision (July 1, 1993) and as a result of these calculations Enron is owed from Bass \$1,939,897.39, as a capital cost adjustment with an additional \$199,759.34, as an operating expense adjustment. Attached herewith are supporting details evidencing the above investment amounts.

In addition to the foregoing, proceeds from gas and condensate production in accordance with the Third & Fourth Revisions to the participating areas and their respective effective dates are also subject to adjustment. Based on our calculations, a cash adjustment is due to Bass from Enron and its predecessors in title for values associated with Enron's overproduced gas volumes totalling an estimated 3,186,274 MCF according to the attached schedule, which was sold by Enron on an in-kind basis. Information is necessary regarding the actual sales price attributable to these volumes to calculate the monetary value of the revenue adjustment. This information was

EXHIBIT
C

Letter to Enron Oil & Gas

December 9, 1996

Page 2

previously requested from Enron by Bass' letter of August 12, 1996. Enron is also hereby advised that Bass has been contacted by Minerals Management Service demanding an immediate adjustment of royalty in accordance with the Third & Fourth Revisions to the Atoka PA. Therefore, supporting detail evidencing the actual prices received for the periods in question is also required to avoid penalties and fines and in order that royalties can be properly computed and reported to the MMS pursuant to 43 CFR Sec. 241.51 and 218.54. Accordingly, we hereby request that Enron submit to Bass the requested gas price information to be followed by a payment representing the proceeds attributable to the gas from the Atoka Reservoir now due Bass in accordance with the Third & Fourth Revisions to the participating area. The amount owed to Bass for an adjustment of condensate revenue has been calculated to total \$339,058.68 which is hereby demanded for immediate payment to Bass.

In light of the pending demands from the Minerals Management Service and the affirmation of the Third & Fourth Revisions to the Atoka PA by the State Director of the BLM, we demand that Enron furnish the requested condensate revenue adjustment and gas price information within thirty (30) days after receipt of this letter. Upon receipt of Enron's payment for the above gas and condensate revenue adjustments, Bass will promptly tender a check for the total amount owed to Enron attributable to the capital investment and operating expense adjustment as outlined hereinabove. Failure of Enron to timely respond in accordance with this letter and to furnish the requested information and associated payment will be deemed a violation of the Unit Agreement and Unit Operating Agreement, and Bass will have no option other than to pursue relief through the applicable agreements, the BLM and other appropriate remedies.

Very truly yours,


J. Wayne Bailey
Division Landman

JWB:ca

cc: W. Frank McCreight
Steve Tredennick
Dorsey D. Crouse

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.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

New Mexico State Office

1474 Redro Road

P. O. Box 27115

Santa Fe, New Mexico 87502-0115

December 3, 1996

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

CERTIFIED - RETURN RECEIPT REQUESTED
2 091 153 642

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 (NMOCOD) and the New Mexico State Land Office (NMSLO). The NMOCOD 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 Kinkle, 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

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 these 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 experts in BLM and the MMSLO. It is our opinion that Enron has not proven the existence of faulting in the JRU.

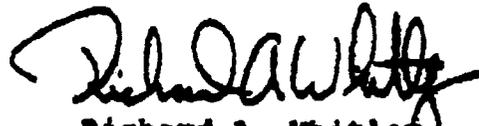
It must be noted for the record that the RDO decision was independently reviewed by the NMOC and the MMSLO. Both of these State agencies reviewed similar data and decided to approve the application as submitted. A protest filed by Enron is currently pending a hearing before the NMOC.

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 3163.4, 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 (3) 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)

Loose, Carson, Haas & Carroll
Attention: Mr. Jim Haas
P.O. Box 1720
Artesia, NM 86211-1720

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

Kinkle, Cox, Eaton, Coffield & Mansley
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. Jemi Bailey
P.O. Box 1148
Santa Fe, NM 87504-1148

James Ranch Unit
 Alpha Participating Area
 Investment Adjustment

	Acres			Ermon			Base		
	Ermon	Base	Total	Equip.	DC	Total	Equip.	DC	Total
2nd Revision (9-1-82)	854.28	887.28	921.52	1,028,882.20	3,581,541.74	4,591,423.94	882,423.86	2,359,925.15	3,042,349.01
Additional Acquire	285.47	1,987.88	1,698.13						
Revised Totals	848.79	1,754.82	2,604.65	1,028,882.20	3,581,541.74	4,591,423.94	882,423.86	2,359,925.15	3,042,349.01
3rd Revision (12-1-82)	848.79	1,754.82	2,604.65	588,815.48	1,981,794.31	2,480,409.80	1,188,880.57	3,888,672.58	5,143,363.15
Adjustment Necessary				(471,288.71)	(1,628,747.43)	(2,101,014.14)	471,288.71	1,628,747.43	2,101,014.14
P.A. Values at 6-30-83	848.79	1,754.92	2,604.65	248,782.59	1,981,794.31	2,181,588.84	515,888.47	3,988,672.58	4,505,561.05
James Ranch Unit #70	0.00	288.85	288.85	0.00	0.00	0.00	288,804.85	888,527.00	1,155,131.85
Totals Before Revision	848.79	1,984.77	2,844.50	248,782.59	1,981,794.31	2,181,588.84	812,483.32	4,848,188.58	5,660,692.90
4th Revision (7-1-83)	848.79	1,984.77	2,844.50	817,338.88	2,025,388.78	2,342,708.58	744,851.88	4,754,824.18	5,489,578.15
Adjustment Necessary				67,541.38	83,575.42	181,116.75	67,541.38	83,575.42	181,116.75
Total Investment Adjustments				(408,728.38)	(1,538,172.01)	(1,939,897.38)	408,728.38	1,538,172.01	1,939,897.38

10

09

08

07

06

05

04

03

02

01

	Total		
	DC	Total	
Equip.			
1,712,308.06	5,921,408.89	7,633,772.95	
1,712,308.06	5,921,408.89	7,633,772.95	
0.00	0.00	0.00	
65,681.00	5,921,408.89	6,087,147.89	
298,604.85	858,527.00	1,158,131.85	
1,062,265.85	6,779,983.89	7,842,279.74	
1,062,265.85	6,779,983.89	7,842,279.74	
0.00	0.00	0.00	
0.00	0.00	0.00	

BASS ENTERPRISES PRODUCTION CO.
 JAMES RANCH UNIT - ATOKA PA
 LEASE OPERATING EXPENSE AND LEASE EQUIPMENT ADJUSTMENT
 SRD AND 4TH REVISIONS

	BASS		Total	ENRON		Total	TOTAL COSTS		Total
	Lease Oper	Equipment		Lease Oper	Equipment		Lease Oper	Equipment	
SRD REVISION - EFF: 12-1-82									
As billed 12/1/82 thru 6/30/89	102,987.48	385.58	108,588.04	155,073.22	581.91	155,655.13	259,040.70	987.47	259,048.17
Should have been billed	179,858.47	651.85	174,510.32	84,182.29	315.82	84,497.85	289,040.70	987.47	289,048.17
Adjustment needed	70,880.99	266.29	71,157.28	(70,880.99)	(266.29)	(71,157.29)	0.00	0.00	0.00
4TH REVISION - EFF: 7-1-89									
As billed 7/1/89 thru 6/30/96	278,248.16	30,889.59	309,144.75	291,018.59	24,060.69	315,074.02	589,239.55	54,939.22	624,218.77
Should have been billed	399,205.47	59,541.53	457,748.50	170,054.08	16,417.89	186,471.97	609,239.55	54,939.22	624,218.77
Adjustment needed	120,959.31	7,042.74	128,002.05	(120,959.31)	(7,042.74)	(128,002.05)	0.00	0.00	0.00
TOTAL ADJUSTMENTS	191,850.31	7,909.05	199,759.36	(191,850.31)	(7,909.05)	(199,759.36)	0.00	0.00	0.00

N:\DATA\LOTUS\GARRN\JRU-ATOK.WK1

**Bass Enterprises Production Co.
Recap Schedule of James Ranch Atoka Participating Area Imbalance
for the Period from September 1982 thru August 1996**

	8/8's Mcf @14.73	Entitlement	Takes Mcf	Over/(Under) Imbalance	
James Ranch #1				140,257	Beg. Bal.
2nd	186,031	74,141	93,016	18,875	
3rd	1,816,546	1,223,923	674,945	(548,978)	
4th	482,589	338,426	193,084	(145,342)	
	<u>2,485,166</u>	<u>1,636,490</u>	<u>961,045</u>	<u>(535,187)</u>	
				<u>(394,930)</u>	End. Bal.
<hr/>					
James Ranch #10				(234,894)	Beg. Bal.
2nd	202,755	80,806	67,585	(13,221)	
3rd	3,030,200	2,041,639	1,473,374	(568,265)	
4th	686,110	481,149	284,118	(197,031)	
	<u>3,919,065</u>	<u>2,603,594</u>	<u>1,825,077</u>	<u>(778,517)</u>	
				<u>(1,013,412)</u>	End. Bal.
<hr/>					
James Ranch #13				0	Beg. Bal.
2nd	0	0	0	0	
3rd	4,356,040	2,934,942	1,615,320	(1,319,622)	
4th	2,674,085	1,875,259	1,079,329	(795,930)	
	<u>7,030,125</u>	<u>4,810,202</u>	<u>2,694,649</u>	<u>(2,115,553)</u>	
				<u>(2,115,553)</u>	End. Bal.
<hr/>					
James Ranch #70					
4th	1,130,193	792,572	1,130,193	337,621	End. Bal.
<hr/>					
Total P.A. Imbalance	14,564,549	9,842,858	6,610,964	(3,186,274)	

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

PROP NO.	PROD MONTH	VOLUME	PRICE	GAS			ENRON - TAXES			ENRON - EI		
				GROSS VALUE	PAS TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST	INTEREST		
08330-02	0283	360.71	30.61	11,040.29	780.28	10,260.01	0.52156440	5,361.26	0.27957667			
08330-02	0283	0.00	0.00	40.10	0.00	40.10	0.52156440	20.91	0.27957667			
08330-02	0283	186.19	30.61	5,688.13	400.80	5,287.33	0.52156440	2,747.36	0.27957667			
08330-02	0283	0.00	0.00	20.59	0.00	20.59	0.52156440	10.74	0.27957667			
08330-02	0283	0.00	0.00	(8.55)	0.00	(8.55)	0.52156440	(3.42)	0.27957667			
08330-02	0283	0.00	0.00	(1,262.06)	0.00	(1,262.06)	0.52156440	(63.03)	0.27957667			
08330-02	0383	365.81	30.00	10,874.30	754.41	9,919.89	0.52156440	5,173.86	0.27957667			
08330-02	0383	3.07	30.00	92.10	6.61	85.49	0.52156440	44.64	0.27957667			
08330-02	0383	0.00	0.00	36.96	0.00	36.96	0.52156440	18.76	0.27957667			
08330-02	0383	0.00	0.00	55.39	0.00	55.39	0.52156440	28.89	0.27957667			
08330-02	0383	552.76	30.00	16,582.80	1,172.00	15,410.80	0.52156440	8,037.72	0.27957667			
08330-02	0383	0.00	0.00	(8.11)	0.00	(8.11)	0.52156440	(4.23)	0.27957667			
08330-02	0383	0.00	0.00	(3,616.84)	0.00	(3,616.84)	0.52156440	(1,866.41)	0.27957667			
08330-02	0383	0.00	0.00	112.21	0.00	112.21	0.52156440	59.82	0.27957667			
08330-02	0383	541.59	30.00	16,247.70	1,149.31	15,098.39	0.52156440	7,876.30	0.27957667			
08330-02	0383	7.60	30.00	228.00	16.11	211.89	0.52156440	110.51	0.27957667			
08330-02	0483	367.00	30.00	11,010.00	778.14	10,231.86	0.52156440	5,336.57	0.27957667			
08330-02	0483	0.00	0.00	34.39	0.00	34.39	0.52156440	17.94	0.27957667			
08330-02	0483	366.20	30.00	10,986.00	776.44	10,209.56	0.52156440	5,324.94	0.27957667			
08330-02	0483	0.00	0.00	34.31	0.00	34.31	0.52156440	17.89	0.27957667			
08330-02	0483	0.00	0.00	(2,368.47)	0.00	(2,368.47)	0.52156440	(1,246.74)	0.27957667			
08330-02	0483	0.00	0.00	(10.00)	0.00	(10.00)	0.52156440	(5.22)	0.27957667			
08330-02	0483	346.82	30.00	10,407.60	736.66	9,670.94	0.52156440	5,044.69	0.27957667			
08330-02	0483	187.18	30.00	5,615.40	396.87	5,218.53	0.52156440	2,721.80	0.27957667			
08330-02	0583	543.29	30.00	16,298.70	1,151.92	15,146.78	0.52156440	7,900.02	0.27957667			
08330-02	0583	0.00	0.00	50.91	0.00	50.91	0.52156440	26.55	0.27957667			
08330-02	0583	367.14	30.00	11,014.20	778.43	10,235.77	0.52156440	5,336.61	0.27957667			

2007/02/02 10:25 AM
 REPT 01
 04:20:59 PM

O P

TITLEMENTS	(OVER) UNDER
NET VALUE	PAID
2,868.48	(2,462.80)
11.21	(0.70)
1,472.68	(1,274.66)
5.76	(4.99)
(1.83)	1.59
(360.05)	302.98
2,773.37	(2,400.49)
23.83	(20.71)
10.06	(8.70)
15.49	(13.40)
4,308.50	(3,729.22)
(2.27)	1.96
(1,011.18)	876.23
31.37	(27.15)
4,221.44	(3,653.86)
59.24	(51.27)
2,880.59	(2,476.89)
9.61	(8.33)
2,854.35	(2,470.59)
9.59	(8.30)
(867.78)	577.98
(2.80)	2.42
2,704.08	(2,340.51)
1,459.98	(1,282.62)
4,234.69	(3,885.33)
14.23	(12.32)
2,861.68	(2,476.93)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

NO.	PROP	MONTH	VOLUME	PRICE	G/S			ENRON - T		
					GROSS VALUE	PAS TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST
35	08330-02	0583	0.00	0.00	34.40	0.00	34.40	0.52156440	17.94	0.27957867
36	08330-02	0583	0.00	0.00	(14.80)	0.00	(14.80)	0.52156440	(7.72)	0.27957867
37	08330-02	0583	0.00	0.00	(2,394.80)	0.00	(2,394.80)	0.52156440	(1,248.94)	0.27957867
38	08330-02	0583	524.46	3.00	1,573.80	1,111.99	461.81	0.52156440	240.88	0.27957867
39	08330-02	0683	361.07	30.00	10,832.10	785.56	10,046.54	0.52156440	5,280.36	0.27957867
40	08330-02	0683	0.00	0.00	39.83	0.00	39.83	0.52156440	17.64	0.27957867
41	08330-02	0683	0.00	0.00	34.18	0.00	34.18	0.52156440	17.83	0.27957867
42	08330-02	0683	384.73	30.00	10,941.90	773.32	10,168.58	0.52156440	5,303.57	0.27957867
43	08330-02	0683	0.00	0.00	(2,378.87)	0.00	(2,378.87)	0.52156440	(1,240.73)	0.27957867
44	08330-02	0683	0.00	0.00	(9.84)	0.00	(9.84)	0.52156440	(5.13)	0.27957867
45	08330-02	0683	527.67	30.00	15,830.10	1,118.80	14,711.30	0.52156440	7,672.89	0.27957867
46	08330-02	0783	357.17	30.00	10,715.20	821.69	9,893.51	0.52156440	5,160.10	0.25461485
47	08330-02	0783	0.00	0.00	30.37	0.00	30.37	0.52156440	15.84	0.25461485
48	08330-02	0783	181.78	30.00	5,453.40	418.14	5,035.26	0.52156440	2,628.21	0.25461485
49	08330-02	0783	0.00	0.00	15.46	0.00	15.46	0.52156440	8.06	0.25461485
50	08330-02	0783	0.00	0.00	(1,171.41)	0.00	(1,171.41)	0.52156440	(610.97)	0.25461485
51	08330-02	0783	0.00	0.00	(9.34)	0.00	(9.34)	0.52156440	(4.87)	0.25461485
52	08330-02	0783	657.87	30.00	19,736.10	1,513.28	18,222.82	0.52156440	9,504.37	0.25461485
53	08330-02	0883	390.20	30.00	10,806.00	825.66	9,980.44	0.52156440	5,205.44	0.25461485
54	08330-02	0883	181.77	30.00	5,453.10	418.12	5,034.98	0.52156440	2,628.07	0.25461485
55	08330-02	0883	0.00	0.00	(9.42)	0.00	(9.42)	0.52156440	(4.91)	0.25461485
56	08330-02	0883	0.00	0.00	(1,171.35)	0.00	(1,171.35)	0.52156440	(610.93)	0.25461485
57	08330-02	0883	0.00	0.00	0.00	3.00	(3.00)	0.52156440	(1.56)	0.25461485
58	08330-02	0883	544.78	30.00	16,343.40	1,253.14	15,090.26	0.52156440	7,870.54	0.25461485
59	08330-02	0983	539.97	30.00	16,199.10	1,250.30	14,948.80	0.52156440	7,796.76	0.25461485
60	08330-02	0983	546.30	30.00	16,389.00	1,264.96	15,124.04	0.52156440	7,888.16	0.25461485
61	08330-02	0983	0.00	0.00	(3,518.23)	0.00	(3,518.23)	0.52156440	(1,834.99)	0.25461485

O P

TITLEMENTS	(OVER)	UNDER
NET VALUE	PAID	
9.82	(8.32)	
(4.14)	3.58	
(888.47)	579.47	
129.11	(111.75)	
2,814.37	(2,435.98)	
9.48	(8.18)	
9.86	(8.27)	
2,842.80	(2,480.67)	
(885.08)	578.65	
(2.75)	2.38	
4,112.94	(3,559.95)	
2,519.03	(2,641.07)	
7.73	(8.11)	
1,282.05	(1,344.16)	
3.94	(4.12)	
(288.26)	312.71	
(2.38)	2.49	
4,639.80	(4,884.57)	
2,541.17	(2,684.27)	
1,281.88	(1,344.09)	
(2.40)	2.51	
(288.24)	312.88	
(0.76)	0.80	
3,842.20	(4,028.34)	
3,808.18	(3,980.58)	
3,850.80	(4,037.38)	
(885.79)	939.19	

SCHEDULE M

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

A	D	G	H	I	J	K	L	M	N	9/0'S		ENRON - TAKES		ENRON - E	
										VOLUME	PRICE	GROSS VALUE	P&S TAXES	NET VALUE	INTEREST
7											0.00	(13.83)	0.00	(7.21)	0.25461465
62	08330-02	0983	0.00	30.00	16,227.90	1,262.53	0.00	14,975.37	0.52156440	7,810.62	0.25461465				
63	08330-02	0983	540.89	30.00	5,909.60	425.17	5,083.43	0.52156440	2,651.34	0.25461465					
64	08330-02	1083	183.62	30.00	10,875.00	839.37	10,035.63	0.52156440	5,234.23	0.25461465					
65	08330-02	1083	362.90	30.00	20,745.00	1,601.17	18,525.51	0.52156440	9,662.25	0.25461465					
66	08330-02	1083	691.50	30.00	11,153.70	860.86	7,560.77	0.52156440	3,938.21	0.25461465					
67	08330-02	1183	371.79	30.00	15,157.50	1,169.91	13,535.81	0.52156440	7,059.80	0.25461465					
68	08330-02	1183	505.25	30.00	11,011.20	849.88	9,806.66	0.52156440	5,115.98	0.25461465					
69	08330-02	1183	367.04	30.00	15,193.80	1,172.71	13,568.23	0.52156440	7,076.71	0.25461465					
70	08330-02	1283	508.46	30.00	5,518.50	425.94	4,915.83	0.52156440	2,563.92	0.25461465					
71	08330-02	1283	183.95	30.00	29.27	0.00	29.27	0.52156440	15.27	0.25461465					
72	08330-02	1283	0.00	0.00	5,608.20	432.86	3,798.60	0.52156440	1,980.17	0.25461465					
73	08330-02	1283	186.94	30.00	15,249.00	1,178.97	13,662.62	0.52156440	7,141.53	0.25461465					
74	08330-02	0184	508.30	30.00	11,148.80	880.35	7,573.40	0.52156440	3,980.02	0.25461465					
75	08330-02	0184	371.56	30.00	10,842.60	838.87	9,714.22	0.52156440	5,088.59	0.25461465					
76	08330-02	0184	361.42	30.00	5,570.70	429.97	3,784.87	0.52156440	1,974.05	0.25461465					
77	08330-02	0284	185.69	30.00	10,611.30	819.02	9,506.98	0.52156440	4,938.51	0.25461465					
78	08330-02	0284	353.71	30.00	14,414.10	1,112.53	12,942.84	0.52156440	6,750.52	0.25461465					
79	08330-02	0284	480.47	30.00	11,243.10	867.78	7,638.83	0.52156440	3,984.14	0.25461465					
80	08330-02	0384	374.77	30.00	5,448.30	420.52	4,801.30	0.52156440	2,545.91	0.25461465					
81	08330-02	0384	719.52	30.00	10,622.40	819.87	9,543.32	0.52156440	4,977.46	0.25461465					
82	08330-02	0384	181.61	30.00	16,283.90	1,257.62	14,672.21	0.52156440	7,682.50	0.25461465					
83	08330-02	0484	364.08	30.00	5,567.20	429.92	3,795.58	0.52156440	1,979.64	0.25461465					
84	08330-02	0484	543.13	30.00	10,960.60	847.52	7,499.78	0.52156440	3,911.62	0.25461465					
85	08330-02	0484	185.24	30.00	5,488.40	421.36	4,904.80	0.52156440	2,958.17	0.25461465					
86	08330-02	0584	366.02	30.00	15,808.50	1,220.16	14,235.11	0.52156440	7,424.53	0.25461465					
87	08330-02	0584	181.98	30.00											
88	08330-02	0584	528.95	30.00											

O P

TITLEMENTS	(OVER) UNDER
NET VALUE	PAID
(3.82)	3.89
3,812.95	(3,997.67)
1,294.32	(1,357.02)
2,565.22	(2,679.01)
4,716.87	(4,945.39)
1,922.54	(2,015.67)
3,446.42	(3,613.39)
2,497.43	(2,618.43)
3,454.67	(3,622.04)
1,251.64	(1,312.28)
7.45	(7.82)
966.67	(1,013.50)
3,486.32	(3,655.21)
1,928.30	(2,021.72)
2,473.38	(2,593.21)
963.88	(1,010.37)
2,420.62	(2,637.89)
3,285.44	(3,455.09)
1,944.96	(2,099.18)
4,935.03	(5,174.11)
1,242.85	(1,303.06)
2,429.87	(2,547.59)
3,735.76	(3,916.74)
966.41	(1,013.23)
1,909.55	(2,002.07)
1,248.83	(1,309.34)
3,624.47	(3,800.06)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

7	8	9	A	D	G	H	I	J	K	L	M	N	04:20:59 PM	
													PROP	PROD
PROP NO.	MONTH	VOLUME	PRICE	GROSS VALUE	P&G TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST					
89	08330-02	0684	180.84	30.00	5,428.20	418.74	4,874.07	0.52156440	2,542.14	0.25461465				
90	08330-02	0684	182.90	30.00	5,487.00	423.51	3,747.63	0.52156440	1,964.63	0.25461465				
91	08330-02	0684	522.09	30.00	15,662.70	1,208.90	14,103.83	0.52156440	7,366.06	0.25461465				
92	08330-02	0784	701.06	30.00	21,031.80	1,623.31	18,963.13	0.52156440	9,900.92	0.25461465				
93	08330-02	0784	182.45	30.00	5,473.50	422.46	3,752.85	0.52156440	1,957.35	0.25461465				
94	08330-02	0784	360.44	30.00	10,813.20	834.60	9,737.65	0.52156440	5,078.81	0.25461465				
95	08330-02	0684	183.45	30.00	5,503.50	424.78	3,773.42	0.52156440	1,988.08	0.25461465				
96	08330-02	0684	517.10	30.00	15,513.00	1,197.35	14,001.90	0.52156440	7,302.89	0.25461465				
97	08330-02	0684	178.36	30.00	5,351.40	413.04	4,818.11	0.52156440	2,513.48	0.25461465				
98	08330-02	0684	389.22	29.25	10,789.89	833.33	7,465.76	0.52156440	3,909.52	0.25461465				
99	08330-02	0684	176.77	29.25	5,170.52	398.97	4,677.46	0.52156440	2,439.60	0.25461465				
100	08330-02	0984	496.53	29.25	14,523.50	1,120.67	13,180.21	0.52156440	6,888.59	0.25461465				
101	08330-02	1084	179.06	29.10	52,100.65	402.07	4,729.54	0.52156440	2,468.76	0.25461465				
102	08330-02	1084	478.50	29.10	13,866.15	1,089.95	12,616.15	0.52156440	6,560.13	0.25461465				
103	08330-02	1084	0.00	0.00	20.29	1.91	18.38	0.52156440	9.59	0.25461465				
104	08330-02	1084	186.80	29.10	5,436.88	419.45	3,788.14	0.52156440	1,980.97	0.25461465				
105	08330-02	1084	0.00	0.00	21.98	2.07	19.91	0.52156440	10.38	0.25461465				
106	08330-02	1184	170.06	28.10	4,778.69	368.74	4,368.77	0.52156440	2,277.03	0.25461465				
107	08330-02	1184	187.67	28.10	5,273.53	406.92	3,748.71	0.52156440	1,956.19	0.25461465				
108	08330-02	1184	525.29	28.10	14,780.65	1,138.97	13,518.62	0.52156440	7,060.83	0.25461465				
109	08330-02	1284	188.33	25.16	4,688.66	361.79	3,826.21	0.52156440	1,839.16	0.25461465				
110	08330-02	1284	549.84	25.06	13,780.57	1,083.34	12,717.23	0.52156440	6,632.86	0.25461465				
111	08330-02	1284	183.12	25.39	4,649.09	368.74	4,290.35	0.52156440	2,237.69	0.25461465				
112	08330-02	0185	548.11	23.00	12,562.28	989.34	11,582.94	0.52156440	6,046.46	0.25461465				
113	08330-02	0185	186.31	23.07	4,297.99	331.64	3,403.12	0.52156440	1,774.96	0.25461465				
114	08330-02	0185	364.01	23.29	8,476.47	654.07	7,822.40	0.52156440	4,079.89	0.25461465				
115	08330-02	0285	162.61	22.45	3,660.12	281.65	3,368.47	0.52156440	1,756.87	0.25461465				

O P

NET VALUE	TITLEMENTS (OVER) UNDER PAID
1,241.01	(1,301.13)
964.20	(1,000.43)
3,591.04	(3,766.02)
4,893.38	(5,067.54)
966.53	(1,001.82)
2,479.35	(2,599.46)
990.77	(1,007.31)
3,585.09	(3,737.80)
1,227.02	(1,268.46)
1,908.53	(2,000.99)
1,190.95	(1,248.65)
3,353.07	(3,515.52)
1,204.21	(1,262.85)
3,212.26	(3,367.87)
4.88	(4.91)
987.06	(1,013.91)
5.07	(5.31)
1,111.59	(1,165.44)
954.48	(1,000.71)
3,442.04	(3,608.79)
887.82	(941.33)
3,237.99	(3,394.86)
1,092.39	(1,145.30)
2,851.73	(3,094.73)
888.48	(908.47)
1,991.70	(2,088.19)
857.66	(899.21)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 9RD & 4TH

NO.	PROD	MONTH	VOLUME	PRICE	8/0'8				ENRON - TAXES		ENRON - EI INTEREST
					GROSS VALUE	P&S TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST	
116	08330-02	0285	187.59	22.18	4,160.20	321.01	3,388.66	0.52156440	1,755.92	0.25461465	
117	08330-02	0285	357.64	22.25	7,955.92	613.90	7,342.02	0.52156440	3,829.34	0.25461465	
118	08330-02	0385	182.32	23.48	4,280.87	330.32	3,950.55	0.52156440	2,060.47	0.25461465	
119	08330-02	0385	506.74	23.42	11,869.83	915.91	10,953.92	0.52156440	5,713.17	0.25461465	
120	08330-02	0385	186.00	20.16	3,749.66	394.84	3,414.82	0.52156440	1,781.05	0.25461465	
121	08330-02	0485	183.67	20.53	3,770.50	340.28	3,430.22	0.52156440	1,789.08	0.25461465	
122	08330-02	0485	515.19	24.01	12,389.89	854.41	11,414.48	0.52156440	5,953.39	0.25461465	
123	08330-02	0585	172.36	24.78	4,271.08	329.57	3,941.51	0.52156440	2,065.75	0.25461465	
124	08330-02	0585	183.22	24.69	4,523.70	349.06	3,468.37	0.52156440	1,907.94	0.25461465	
125	08330-02	0585	492.58	24.54	12,085.57	832.56	11,153.02	0.52156440	5,917.02	0.25461465	
126	08330-02	0685	441.75	24.29	10,730.89	828.02	9,902.87	0.52156440	5,164.98	0.25461465	
127	08330-02	0685	179.46	25.21	4,523.59	349.05	4,174.54	0.52156440	2,177.29	0.25461465	
128	08330-02	0785	321.41	23.89	7,679.96	592.80	7,087.36	0.52156440	3,696.51	0.25461465	
129	08330-02	0785	183.23	20.83	3,816.12	344.57	3,471.55	0.52156440	1,810.64	0.25461465	
130	08330-02	0785	169.01	24.06	4,041.67	311.87	3,729.80	0.52156440	1,945.33	0.25461465	
131	08330-02	0885	178.85	23.97	4,238.21	327.03	3,911.18	0.52156440	2,039.93	0.25461465	
132	08330-02	0885	180.81	24.29	4,387.02	342.54	4,044.48	0.52156440	2,109.46	0.25461465	
133	08330-02	0885	332.18	24.82	8,242.93	643.61	7,599.32	0.52156440	3,963.53	0.25461465	
134	08330-02	0885	185.03	21.01	3,897.52	358.07	3,529.45	0.52156440	1,840.84	0.25461465	
135	08330-02	1085	155.98	24.33	3,794.51	298.28	3,496.23	0.52156440	1,824.55	0.25461465	
136	08330-02	1085	170.32	24.48	4,169.43	325.55	3,843.88	0.52156440	2,004.83	0.25461465	
137	08330-02	1185	176.17	24.75	4,369.33	340.38	4,018.95	0.52156440	2,096.14	0.25461465	
138	08330-02	1285	183.13	24.81	4,542.54	354.88	4,187.66	0.52156440	2,184.24	0.25461465	
139	08330-02	1285	184.88	21.19	3,916.77	361.54	3,555.23	0.52156440	1,854.28	0.25461465	
140	08330-02	0286	177.11	15.58	2,759.37	215.45	2,543.92	0.52156440	1,328.82	0.25461465	
141	08330-02	0286	326.70	15.38	5,026.01	392.43	4,633.58	0.52156440	2,416.71	0.25461465	
142	08330-02	0386	160.19	11.98	1,918.92	149.83	1,769.09	0.52156440	922.69	0.25461465	

O P

1 2 3 4 5 6 7 8 9 10 11 12

TITLEMENTS	(OVER) UNDER
NET VALUE	PAID
857.20	(898.72)
1,889.39	(1,959.95)
1,005.87	(1,054.60)
2,789.03	(2,924.14)
889.48	(911.59)
873.38	(915.70)
2,906.29	(3,047.10)
1,003.57	(1,052.18)
882.59	(925.35)
2,639.72	(2,977.30)
2,521.42	(2,643.56)
1,082.90	(1,114.39)
1,804.55	(1,891.96)
863.91	(928.73)
949.66	(995.87)
995.84	(1,044.09)
1,029.78	(1,079.69)
1,934.90	(2,028.63)
898.65	(942.19)
890.70	(933.86)
978.71	(1,026.12)
1,023.28	(1,072.86)
1,066.29	(1,117.98)
905.21	(949.07)
647.72	(679.10)
1,179.78	(1,238.93)
450.44	(472.25)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

04:20:59 PM

NO.	PROP	MONTH	VOLUME	PRICE	G/O'S			ENRON - TAKES		ENRON - E
					GROSS VALUE	PAS TAXES	NET VALUE	INTEREST	NET VALUE	
143	08330-02	0386	170.89	11.80	2,034.27	158.84	1,875.43	0.52158440	978.16	0.25461485
144	08330-02	0486	315.82	9.58	3,028.46	236.31	2,790.15	0.52158440	1,485.24	0.25461485
145	08330-02	0586	171.73	12.37	2,123.59	165.81	1,957.77	0.52158440	1,021.10	0.25461485
146	08330-02	0586	74.91	11.53	863.40	67.41	795.99	0.52158440	415.18	0.25461485
147	08330-02	0586	177.26	11.28	1,995.20	185.79	1,809.41	0.52158440	959.37	0.25461485
148	08330-02	0686	160.79	10.80	1,737.06	135.63	1,601.43	0.52158440	835.25	0.25461485
149	08330-02	0986	151.39	11.06	1,674.52	132.18	1,542.34	0.52158440	804.43	0.25461485
150	08330-02	1286	178.79	11.04	1,974.25	155.85	1,818.40	0.52158440	948.41	0.25461485
151	08330-02	0987	92.08	18.79	1,730.49	137.41	1,593.08	0.52158440	830.89	0.25461485
152	08330-02	1187	175.21	18.59	3,257.73	258.68	2,999.05	0.52158440	1,564.20	0.25461485
153	08330-02	1287	175.97	17.45	3,071.29	243.87	2,827.42	0.52158440	1,474.89	0.25461485
154	08330-02	0288	176.15	16.45	2,998.21	230.13	2,668.08	0.52158440	1,391.58	0.25461485
155	08330-02	0288	182.63	16.45	3,004.83	238.59	2,766.24	0.52158440	1,442.77	0.25461485
156	08330-02	0388	162.65	15.79	2,568.08	203.91	2,364.17	0.52158440	1,233.07	0.25461485
157	08330-02	0989	171.52	18.25	3,130.24	243.13	2,887.11	0.52158440	1,505.81	0.25461485
158	08330-02	0391	182.14	19.27	3,509.84	271.34	3,238.50	0.52158440	1,689.09	0.25461485
159	08330-02	0391	367.60	19.14	7,037.56	544.07	6,493.49	0.52158440	3,388.77	0.25461485
160	08330-02	0391	(1.14)	19.27	(21.97)	(1.69)	(20.28)	0.52158440	(10.58)	0.25461485
161	08330-02	0491	169.63	20.52	3,460.81	269.10	3,211.71	0.52158440	1,675.11	0.25461485
162	08330-02	0491	182.27	20.77	3,785.75	282.67	3,483.08	0.52158440	1,821.87	0.25461485
163	08330-02	0491	(1.07)	20.52	(21.96)	(1.69)	(20.27)	0.52158440	(10.57)	0.25461485
164	08330-02	0591	349.75	20.52	7,178.87	554.84	6,622.03	0.52158440	3,453.82	0.25461485
165	08330-02	0591	177.62	20.52	3,644.78	281.77	3,362.99	0.52158440	1,754.02	0.25461485
166	08330-02	0591	(1.13)	20.52	(23.19)	(1.79)	(21.40)	0.52158440	(11.16)	0.25461485
167	08330-02	0691	177.65	19.27	3,423.32	264.66	3,158.66	0.52158440	1,647.44	0.25461485
168	08330-02	0791	183.09	20.02	3,665.46	283.37	3,382.09	0.52158440	1,763.98	0.25461485
169	08330-02	0791	178.56	21.52	3,799.57	283.74	3,505.83	0.52158440	1,828.52	0.25461485

O P

NET VALUE	(OVER) UNDER PAID
477.51	(800.85)
710.41	(744.83)
498.48	(522.82)
202.87	(212.49)
488.34	(491.03)
407.75	(427.50)
392.70	(411.73)
482.99	(486.42)
405.82	(425.27)
783.60	(800.80)
719.90	(754.78)
679.33	(712.25)
704.33	(738.44)
801.95	(831.12)
735.10	(770.71)
824.57	(884.52)
1,653.34	(1,733.43)
(5.18)	5.42
817.75	(857.36)
889.39	(932.48)
(3.16)	5.41
1,886.07	(1,787.75)
856.27	(897.75)
(5.45)	5.71
804.24	(843.20)
881.13	(902.85)
892.64	(935.88)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

PROP NO.	PROD MONTH	VOLUME	PRICE	8/8'S			ENRON - TAKES		ENRON - INTEREST		
				GROSS VALUE	PAS TAXES	NET VALUE	INTEREST	NET VALUE			
170	08330-02	0791	20.02	(1.18)	20.02	4,089.94	(1.83)	3,780.61	0.52158440	(11.38)	0.25481485
171	08330-02	1091	23.02	178.80	23.02	4,089.94	309.33	3,780.61	0.52158440	1,981.40	0.25481485
172	08330-02	1091	23.27	149.52	23.27	3,479.33	284.44	3,214.89	0.52158440	1,676.77	0.25481485
173	08330-02	1191	21.36	342.58	21.36	7,317.60	556.16	6,761.44	0.52158440	3,526.53	0.25481485
174	08330-02	1191	21.77	171.93	21.77	3,742.92	284.47	3,458.45	0.52158440	1,803.80	0.25481485
175	08330-02	1291	20.77	180.49	20.77	3,748.78	284.92	3,463.86	0.52158440	1,806.63	0.25481485
176	08330-02	0192	17.02	191.49	17.02	3,259.16	247.70	3,011.46	0.52158440	1,570.67	0.25481485
177	08330-02	0192	17.27	373.29	17.27	6,446.58	489.96	5,956.62	0.52158440	3,108.78	0.25481485
178	08330-02	0292	18.77	163.23	18.77	3,063.83	232.86	2,830.97	0.52158440	1,478.53	0.25481485
179	08330-02	0292	18.77	182.11	18.77	3,419.20	269.79	3,159.41	0.52158440	1,647.31	0.25481485
180	08330-02	0392	18.13	346.20	18.13	6,277.09	477.07	5,800.02	0.52158440	3,025.08	0.25481485
181	08330-02	0392	18.03	354.80	18.03	6,396.05	485.66	5,910.39	0.52158440	3,082.65	0.25481485
182	08330-02	0492	19.27	182.86	19.27	3,138.31	238.52	2,899.79	0.52158440	1,512.43	0.25481485
183	08330-02	0492	19.27	235.33	19.27	4,534.81	344.66	4,190.15	0.52158440	2,185.49	0.25481485
184	08330-02	0592	21.27	181.53	21.27	3,861.14	293.46	3,567.68	0.52158440	1,880.77	0.25481485
185	08330-02	0592	20.02	167.09	20.02	3,345.14	254.24	3,090.90	0.52158440	1,612.10	0.25481485
186	08330-02	0692	21.52	171.15	21.52	3,683.15	279.93	3,403.22	0.52158440	1,775.00	0.25481485
187	08330-02	0792	21.14	373.62	21.14	7,897.65	600.24	7,297.41	0.52158440	3,808.07	0.25481485
188	08330-02	0792	21.27	176.37	21.27	3,751.39	285.12	3,466.27	0.52158440	1,807.98	0.25481485
189	08330-02	0892	20.52	117.50	20.52	2,411.10	183.25	2,227.85	0.52158440	1,161.97	0.25481485
190	08330-02	0892	20.38	363.48	20.38	7,408.92	583.10	6,845.82	0.52158440	3,570.54	0.25481485
191	08330-02	0992	21.02	366.22	21.02	7,697.94	607.95	7,089.99	0.52158440	3,697.89	0.25481485
192	08330-02	0992	21.52	177.45	21.52	3,818.72	301.89	3,517.13	0.52158440	1,834.41	0.25481485
193	08330-02	1092	21.52	176.04	21.52	3,788.38	289.19	3,499.19	0.52158440	1,819.84	0.25481485
194	08330-02	1092	21.52	182.46	21.52	3,926.54	310.10	3,616.44	0.52158440	1,888.21	0.25481485
195	08330-02	1192	19.64	380.97	19.64	7,481.28	590.84	6,890.42	0.52158440	3,593.80	0.25481485
196	08330-02	1192	19.52	388.79	19.52	7,158.84	565.37	6,593.47	0.52158440	3,438.92	0.25481485

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

A	D	G	H	I	J	K	L	M	N	04:20:59 PM	
										ENRON - EN	INTEREST
										8/0'S	
PROD	PROD	VOLUME	PRICE	GROSS VALUE	P&S TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST	ENRON - EN	INTEREST
1	197	08330-02	1292	386.20	18.52	7,153.11	584.92	6,568.19	0.52156440	3,436.17	0.25461465
2	198	08330-02	1292	179.27	18.52	3,320.09	282.20	3,037.89	0.52156440	1,594.89	0.25461465
3	199	08330-02	0193	387.72	18.39	7,131.90	563.25	6,568.65	0.52156440	3,426.97	0.25461465
4	200	08330-02	0193	183.80	17.52	3,220.18	254.32	2,965.86	0.52156440	1,546.89	0.25461465
5	201	08330-02	0293	382.28	19.15	6,939.32	547.98	6,390.36	0.52156440	3,332.98	0.25461465
6	202	08330-02	0293	183.49	19.27	3,535.85	279.25	3,256.60	0.52156440	1,689.53	0.25461465
7	203	08330-02	0393	356.78	19.52	6,983.20	549.92	6,433.28	0.52156440	3,344.94	0.25461465
8	204	08330-02	0493	365.99	19.27	7,052.62	556.98	6,495.64	0.52156440	3,387.89	0.25461465
9	205	08330-02	0493	172.45	19.27	3,323.11	262.44	3,060.67	0.52156440	1,586.34	0.25461465
10	206	08330-02	0593	352.73	19.05	6,720.06	530.72	6,189.34	0.52156440	3,228.14	0.25461465
11	207	08330-02	0693	516.05	18.26	9,421.94	744.10	8,677.84	0.52156440	4,526.05	0.25461465
12	208	08330-02	0793	355.46	16.36	5,824.17	459.97	5,364.20	0.52156440	2,797.78	0.25461465
13	209	08330-02	0793	239.88	16.79	4,027.44	318.07	3,709.37	0.52156440	1,934.88	0.25461465
14	210	08330-02	0893	180.88	17.27	3,123.80	246.70	2,877.10	0.52156440	1,500.89	0.25461465
15	211	08330-02	0893	503.48	17.09	8,604.82	679.57	7,925.25	0.52156440	4,133.53	0.25461465
16	212	08330-02	0993	329.17	18.28	5,358.98	423.80	4,935.18	0.52156440	2,574.12	0.25461465
17	213	08330-02	0993	170.99	16.52	2,824.75	223.28	2,601.47	0.52156440	1,368.83	0.25461465
18	214	08330-02	1093	180.85	17.27	3,123.28	246.88	2,876.40	0.52156440	1,500.23	0.25461465
19	215	08330-02	1093	519.89	17.12	8,898.87	703.40	8,195.47	0.52156440	4,274.47	0.25461465
20	216	08330-02	1193	201.93	16.02	3,234.92	265.70	2,979.22	0.52156440	1,553.86	0.25461465
21	217	08330-02	1193	549.80	15.78	8,675.08	685.71	7,989.37	0.52156440	4,188.97	0.25461465
22	218	08330-02	1293	306.23	13.26	4,067.59	383.96	3,683.63	0.52156440	2,333.25	0.25461465
23	219	08330-02	1293	344.92	13.27	4,577.08	381.79	4,195.29	0.52156440	2,198.55	0.25461465
24	220	08330-02	0194	542.12	13.44	7,286.33	575.94	6,710.39	0.52156440	3,499.90	0.25461465
25	221	08330-02	0194	185.39	14.27	2,845.52	209.11	2,636.41	0.52156440	1,270.74	0.25461465
26	222	08330-02	0294	363.40	13.88	4,833.04	382.02	4,451.02	0.52156440	2,321.49	0.25461465
27	223	08330-02	0394	0.00	0.00	52.84	4.18	48.66	0.52156440	25.38	0.25461465

O P

1 6: 888 2 88888888

TITLEMENTS NET VALUE	(OVER) UNDER PAID
1,677.45	(1,758.72)
778.58	(816.30)
1,672.47	(1,763.50)
765.15	(791.74)
1,627.08	(1,705.90)
829.18	(889.35)
1,632.92	(1,712.02)
1,653.89	(1,734.00)
779.29	(817.06)
1,575.90	(1,662.24)
2,209.51	(2,316.54)
1,366.80	(1,431.98)
944.46	(990.22)
732.55	(768.04)
2,017.98	(2,115.65)
1,256.62	(1,317.50)
682.37	(694.46)
732.37	(767.86)
2,086.69	(2,187.78)
758.55	(795.31)
2,034.21	(2,132.76)
1,139.04	(1,194.21)
1,073.28	(1,126.27)
1,708.56	(1,791.34)
620.35	(650.39)
1,133.29	(1,188.20)
12.39	(12.99)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

04:20:59 PM

PROP NO.	PRIO	MONTH	VOLUME	PRICE	9/8'S			ENRON -		
					GROSS VALUE	P&S TAXES	NET VALUE	INTEREST	TAKES	INTEREST
224	08330-02	0394	0.00	0.00	18.20	1.44	16.76	0.52156440	8.74	0.25461465
225	08330-02	0394	528.29	13.72	7,247.07	572.84	6,674.23	0.52156440	3,481.04	0.25461465
226	08330-02	0394	181.97	13.72	2,486.26	197.31	2,288.95	0.52156440	1,199.06	0.25461465
227	08330-02	0494	306.51	15.50	5,086.50	447.90	5,218.90	0.52156440	2,721.84	0.25461465
228	08330-02	0494	351.85	15.50	5,454.73	431.16	5,023.57	0.52156440	2,620.12	0.25461465
229	08330-02	0594	488.06	17.41	8,496.48	671.52	7,823.96	0.52156440	4,080.70	0.25461465
230	08330-02	0594	172.07	17.41	2,995.22	236.75	2,758.47	0.52156440	1,438.72	0.25461465
231	08330-02	0694	368.31	18.58	6,805.30	537.92	6,267.38	0.52156440	3,289.84	0.25461465
232	08330-02	0794	341.36	19.07	6,509.05	514.50	5,994.55	0.52156440	3,126.54	0.25461465
233	08330-02	0794	334.55	19.07	6,379.20	504.24	5,874.96	0.52156440	3,084.17	0.25461465
234	08330-02	0894	343.84	17.51	6,021.32	475.95	5,545.37	0.52156440	2,892.27	0.25461465
235	08330-02	0994	315.09	16.62	5,238.79	410.40	4,828.39	0.52156440	2,517.27	0.25461465
236	08330-02	1094	175.91	16.88	2,969.89	232.75	2,737.14	0.52156440	1,427.59	0.25461465
237	08330-02	1094	517.85	16.88	8,738.49	684.91	8,054.58	0.52156440	4,200.98	0.25461465
238	08330-02	1194	342.98	17.21	5,903.37	482.64	5,440.73	0.52156440	2,837.69	0.25461465
239	08330-02	1194	179.08	17.21	3,082.32	241.56	2,840.76	0.52156440	1,481.64	0.25461465
240	08330-02	1294	319.05	16.25	5,185.84	406.41	4,779.43	0.52156440	2,482.78	0.25461465
241	08330-02	0195	305.39	17.20	5,251.62	411.66	4,840.06	0.52156440	2,524.40	0.25461465
242	08330-02	0195	161.37	17.20	2,775.08	217.49	2,557.60	0.52156440	1,333.95	0.25461465
243	08330-02	0295	341.66	17.92	6,123.06	479.88	5,643.19	0.52156440	2,943.29	0.25461465
244	08330-02	0395	189.57	17.64	3,319.20	234.43	2,758.96	0.52156440	1,437.93	0.25461465
245	08330-02	0395	181.18	17.64	3,198.20	250.48	2,945.72	0.52156440	1,538.39	0.25461465
246	08330-02	0395	174.07	17.64	3,070.77	240.86	2,830.12	0.52156440	1,476.09	0.25461465
247	08330-02	0495	335.21	18.95	6,353.23	497.90	5,855.33	0.52156440	3,053.93	0.25461465
248	08330-02	0595	194.89	18.71	3,641.68	285.39	3,356.29	0.52156440	1,750.52	0.25461465
249	08330-02	0595	339.45	18.71	6,349.41	497.80	5,851.61	0.52156440	3,052.10	0.25461465
250	08330-02	0695	344.53	17.51	6,033.41	472.83	5,560.58	0.52156440	2,900.20	0.25461465

O P

TITLEMENTS		(OVER)	UNDER
NET VALUE		PAID	
1,099.36	4.27	(1,781.68)	(4.47)
585.36		(613.70)	
1,328.73		(1,393.11)	
1,279.07		(1,341.05)	
1,992.09		(2,098.61)	
702.36		(736.37)	
1,595.77		(1,673.07)	
1,528.30		(1,600.24)	
1,495.85		(1,568.32)	
1,411.83		(1,480.34)	
1,228.87		(1,288.40)	
696.92		(730.67)	
2,050.81		(2,150.17)	
1,365.29		(1,452.40)	
723.30		(758.34)	
1,216.91		(1,275.87)	
1,232.35		(1,292.05)	
651.20		(682.75)	
1,436.84		(1,506.45)	
701.96		(735.97)	
750.02		(786.36)	
720.89		(765.50)	
1,490.85		(1,563.08)	
854.56		(895.96)	
1,489.98		(1,562.14)	
1,415.81		(1,484.39)	

SCHEDULE III

BAS8 ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: 3RD & 4TH

04:20:59 PM

PROP NO.	MONTH	VOLUME	PRICE	G/S			ENRON - TAXES		ENRON - E	
				GROSS VALUE	P&S TAXES	NET VALUE	NET VALUE	INTEREST	NET VALUE	INTEREST
251	08330-02	198.10	16.29	3,227.84	252.98	2,974.86	0.52156440	1,531.59	0.25461465	
252	08330-02	164.30	17.10	2,817.10	209.80	2,607.30	0.52156440	1,286.86	0.25461465	
253	08330-02	187.50	17.10	3,208.44	251.29	2,957.15	0.52156440	1,541.30	0.25461465	
254	08330-02	340.91	17.10	5,829.90	456.88	5,373.02	0.52156440	2,802.38	0.25461465	
255	08330-02	344.90	17.32	5,973.67	475.30	5,498.37	0.52156440	2,867.75	0.25461465	
256	08330-02	174.96	16.46	2,880.54	229.19	2,651.35	0.52156440	1,382.85	0.25461465	
257	08330-02	189.36	16.46	3,117.62	248.05	2,869.57	0.52156440	1,486.67	0.25461465	
258	08330-02	356.80	17.17	6,125.19	487.35	5,637.84	0.52156440	2,940.50	0.25461465	
259	08330-02	191.34	17.17	3,284.73	281.35	3,003.38	0.52156440	1,578.89	0.25461465	
280	08330-02	338.95	18.47	6,258.71	497.97	5,760.74	0.52156440	3,004.60	0.25461465	
261	08330-02	200.36	18.47	3,699.65	294.36	3,405.29	0.52156440	1,776.08	0.25461465	
262	08330-02	326.81	18.25	5,963.30	474.47	5,488.83	0.52156440	2,882.78	0.25461465	
263	08330-02	194.25	18.11	3,517.29	279.65	3,237.44	0.52156440	1,688.53	0.25461465	
264	08330-02	171.67	18.11	3,108.43	247.32	2,861.11	0.52156440	1,482.25	0.25461465	
265	08330-02	350.86	20.69	7,223.86	574.77	6,649.09	0.52156440	3,467.93	0.25461465	
266	08330-02	188.87	20.69	3,888.64	309.40	3,579.24	0.52156440	1,888.80	0.25461465	
267	08330-02	165.72	20.69	3,412.01	271.48	3,140.53	0.52156440	1,637.99	0.25461465	
268	08330-02	345.60	22.77	7,888.28	628.83	7,241.45	0.52156440	3,776.88	0.25461465	
269	08330-02	344.39	20.62	7,088.26	583.09	6,505.17	0.52156440	3,382.87	0.25461465	
270	08330-02	336.56	19.84	6,678.03	532.01	6,146.02	0.52156440	3,205.55	0.25461465	
271	08330-02	165.58	19.84	3,286.44	281.73	3,023.71	0.52156440	1,577.08	0.25461465	
272	08330-02	343.80	20.74	7,131.10	588.10	6,563.00	0.52156440	3,423.03	0.25461465	
273	TOTAL #1, #10, #13	66,246.12		1,539,540.28	117,444.94	1,341,565.81		689,712.94		

O P

TITLEMENTS	(OVER) UNDER
NET VALUE	PAID
757.45	(794.14)
629.21	(658.65)
752.42	(799.89)
1,309.05	(1,434.33)
1,309.97	(1,467.78)
675.07	(707.78)
730.63	(798.04)
1,435.48	(1,505.02)
799.80	(807.09)
1,466.77	(1,537.63)
867.04	(909.04)
1,397.54	(1,485.24)
824.30	(864.23)
729.48	(763.77)
1,692.98	(1,774.97)
911.33	(953.47)
799.62	(839.97)
1,843.78	(1,933.10)
1,656.31	(1,738.56)
1,584.87	(1,640.89)
799.89	(807.19)
1,671.04	(1,751.99)
345,096.61	(354,616.33)

SCHEDULE III

BASS ENTERPRISES PRODUCTION CO.
 SCHEDULE OF CONDENSATE/OIL REVENUES
 JAMES RANCH UNIT ATOKA
 REVISION: SRD & 4TH

04:20:29 PM

PROD NO.	MONTH	VOLUME	PRICE	9/03			ENRON - TAXES			ENRON - ENTITLEMENTS		
				GROSS VALUE	PAS TAXES	NET VALUE	INTEREST	NET VALUE	INTEREST	NET VALUE		
274	10004-06	783.42	17.64	13,820.29	1,083.08	12,737.21	0.00	0.00	0.25461465	3,243.08		
275	10004-06	864.38	18.96	10,807.19	823.44	9,983.75	0.00	0.00	0.25461465	2,465.82		
276	10004-06	439.39	18.71	8,218.86	644.11	7,574.75	0.00	0.00	0.25461465	1,929.84		
277	10004-06	207.98	17.51	3,642.06	286.43	3,355.63	0.00	0.00	0.25461465	854.85		
278	10004-06	260.32	16.29	4,241.64	332.41	3,909.23	0.00	0.00	0.25461465	995.35		
279	10004-06	109.77	17.10	1,877.16	147.11	1,730.04	0.00	0.00	0.25461465	440.49		
280	10004-06	112.03	16.46	1,844.39	146.75	1,697.63	0.00	0.00	0.25461465	432.24		
281	10004-06	333.32	17.17	5,722.08	455.28	5,266.81	0.00	0.00	0.25461465	1,341.01		
282	10004-06	97.41	18.47	1,798.81	143.11	1,655.69	0.00	0.00	0.25461465	421.51		
283	10004-06	213.84	18.25	3,901.90	310.46	3,591.44	0.00	0.00	0.25461465	914.43		
284	10004-06	206.43	20.59	4,260.22	339.17	3,921.04	0.00	0.00	0.25461465	999.06		
285	10004-06	214.94	20.52	4,411.51	351.44	4,060.06	0.00	0.00	0.25461465	1,033.75		
286	10004-06	100.98	20.74	2,094.86	166.86	1,927.99	0.00	0.00	0.25461465	490.82		
287	TOTAL UNIT BASIS	3,634.20		66,330.44	5,227.64	61,102.80	0.00	0.00		15,557.65		
288	LEASE BASIS	470.06	17.64	8,292.19	649.85	7,642.33	0.00	0.00	0.00000000	0.00		
289	10004-06	332.63	18.96	6,304.31	494.08	5,810.23	0.00	0.00	0.00000000	0.00		
290	10004-06	283.64	18.71	4,931.32	386.46	4,544.86	0.00	0.00	0.00000000	0.00		
291	10004-06	124.79	17.51	2,186.23	171.26	2,015.98	0.00	0.00	0.00000000	0.00		
292	10004-06	156.19	16.29	2,544.98	199.45	2,345.54	0.00	0.00	0.00000000	0.00		
293	10004-06	65.86	17.10	1,126.29	88.27	1,038.03	0.00	0.00	0.00000000	0.00		
294	10004-06	67.22	16.46	1,108.83	88.05	1,018.78	0.00	0.00	0.00000000	0.00		
295	10004-06	199.99	17.17	3,433.25	273.17	3,160.08	0.00	0.00	0.00000000	0.00		
296	10004-06	58.44	18.47	1,079.16	85.85	993.30	0.00	0.00	0.00000000	0.00		
297	10004-06	126.30	18.25	2,341.14	186.27	2,154.87	0.00	0.00	0.00000000	0.00		
298	10004-06	123.86	20.59	2,650.13	202.90	2,347.23	0.00	0.00	0.00000000	0.00		
299	10004-06	126.97	20.52	2,646.90	210.87	2,436.04	0.00	0.00	0.00000000	0.00		
300	10004-06	60.69	20.74	1,266.73	100.12	1,166.62	0.00	0.00	0.00000000	0.00		
301	TOTAL LEASE BASIS	2,160.62		39,739.26	3,136.58	36,602.68	0.00	0.00		0.00		
302	TOTAL JRU #70	6,914.72		106,128.71	8,394.23	97,734.48	0.00	0.00		15,557.65		
303	TOTAL UNIT	72,050.84		1,645,658.99	125,809.17	1,489,330.29	0.00	0.00		360,654.26		

P

** TOTAL PAGE.022 **

OVER UNDER
PAID

3,249.08
2,466.82
1,928.84
854.06
996.36
440.49
492.24
1,341.01
421.51
914.43
998.08
1,039.75
490.82
15,557.65

0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
15,657.65
(399,054.88)



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

RECEIVED
MAY - 5 1997
CAMPBELL, CARR, et al.

Losce, 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:

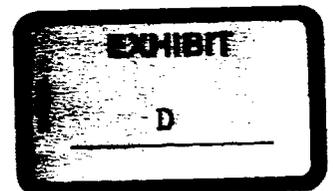
Reference is made to Mr. Carroll's letter dated April 29, 1997 and to Mr. Carr's reply by letter dated April 30, 1997, the N.M.O.C.D. examiner's hearing scheduled for Monday, May 5, 1997 at the Legislative Committee Room in the State Capitol Building in Santa Fe is hereby canceled. Please contact me 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





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

RECEIVED
APR - 3 1997
CAMPBELL, CARR, et al.

Mr. James E. Haas
Losee, Carson, Haas & Carroll
P.O. Box 1720
Artesia, New Mexico 88211-1720

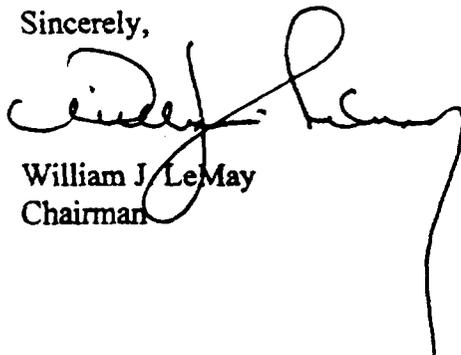
Mr. William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504-2208

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



COPY

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

BASS ENTERPRISES PRODUCTION CO.

Petitioner,

vs.

No. CV 97-179-JWF

**OIL CONSERVATION COMMISSION OF
THE ENERGY AND MINERAL DEPARTMENT
OF THE STATE OF NEW MEXICO, ENRON OIL
AND GAS COMPANY, and SHELL WESTERN E & P,**

Respondents.

REQUEST FOR EXPEDITED HEARING

1. Assigned Judge: The Honorable Jay W. Forbes
2. Type of Case: Review of Action of New Mexico Oil Conservation Commission
3. Jury: _____ Non-jury: X
4. Dates of hearing(s) presently set: None.
5. The Stay entered by Judge Shuler on May 2, 1997, provides that Respondents are entitled to a hearing on this matter within five days of this Request, however, Respondents request that the hearing be set on any day during the week of June 1, 1997.
6. Specific matter(s) to be heard upon this request: Hearing on Order Staying Enforcement of Examiner's Order
7. Estimated time required: Two (2) Hours

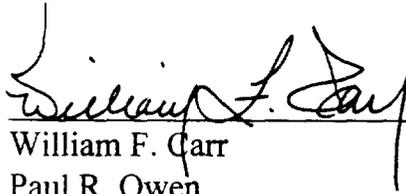
8. Names, addresses and telephone numbers of all counsel entitled to notice.

William F. Carr, Esq.
Paul R. Owen, Esq.
Campbell, Carr, Berge & Sheridan, P.A.
Post Office Box 2208
Santa Fe, NM 87504
(505) 988-4421

Ernest L. Carroll, Esq.
Losee, Carson, Haas & Carroll, P.A.
Post Office Box 1720
Artesia, NM 88211-1720
(505) 746-3505

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

By:

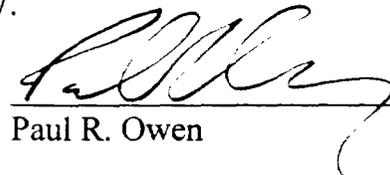


William F. Carr
Paul R. Owen
Post Office Box 2208
Santa Fe, New Mexico 87504
Telephone: (505) 988-4421

Attorneys for Defendant Enron Oil and Gas
Company and Shell Western E & P

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Request for Expedited Hearing was sent, via Federal Express, to Ernest L. Carroll, Esq., Losee, Carson, Haas & Carroll, P.A., 311 West Quay, Artesia, New Mexico 88211-1720, (505) 746-6316, on this 22nd day of May, 1997.



Paul R. Owen

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO

COPY
FIFTH JUDICIAL DISTRICT
COUNTY OF EDDY
CLERK'S OFFICE

97 MAY -2 PH 2: 32

ELEANOR JANNAGIN
DISTRICT COURT CLERK

BASS ENTERPRISES PRODUCTION CO.)

Petitioner,)

s.)

OIL CONSERVATION COMMISSION OF)
THE ENERGY AND MINERAL)
DEPARTMENT OF THE STATE OF NEW)
MEXICO, ENRON OIL AND GAS COMPANY,)
and SHELL WESTERN E & P,)

Respondents.)

No. CV-97-179-JWF

ORDER STAYING ENFORCEMENT OF EXAMINER'S ORDER

THIS MATTER coming on for hearing upon the Petition for Review ("Petition") of Bass Enterprises Production Co. ("Bass"), Bass appearing by its attorneys, Losee, Carson, Haas & Carroll, P. A. (Ernest L. Carroll), and it appearing to the Court as follows:

1. On February 19, 1997, OCD Hearing Examiner Michael Stogner issued an order rescinding the OCD Administrative Approval of the Third and Fourth Revisions of the Initial Atoka Participating Area for the James Ranch Unit Agreement ("the February 19, 1997, Order").
2. The Oil Conservation Commission has refused to hear de novo an appeal of the February 19, 1997, Order.
3. OCD Hearing Examiner Michael Stogner is prepared to hold a factual hearing on whether to approve or disapprove the Third and Fourth Revisions of the Atoka Participating Area based upon the February 19, 1997, Order rescinding the prior approval of these revisions by the OCD.

4. Unless the enforcement of the February 19, 1997, Order is stayed and suspended, the OCD will hold a hearing to determine whether or not the Third and Fourth Revisions of the James Ranch Unit are approved or disapproved.

5. This Order was entered ex parte and, upon request, the Respondents should be entitled to an expedited hearing.

IT IS THEREFOR ORDERED that enforcement of the February 19, 1997, Order is hereby stayed and suspended during the pendency of this action, including any Division Examiner's hearing based upon the February 19, 1997, Order.

IT IS FURTHER ORDERED that if any Respondent requests a hearing on this stay, the hearing will be held within five days after receipt of the written request.

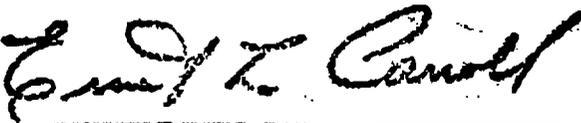
IT IS FURTHER ORDERED that copies of this Order be furnished by facsimile transmission and by regular mail to Respondents.

JAMES L. SHULER

DISTRICT JUDGE

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 Petitioner

Let's - Back to Carlsbad!

LAW OFFICES

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

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

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

TELEPHONE
(505) 746-3505
FACSIMILE
(505) 746-6310

FAX TRANSMITTAL DATE: 5/2/97

BROADCAST TRANSMISSION

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: William J. LeMay OF NMOCC

FAX: (505) 827-8177

NAME: Rand Carroll OF NMOCD

FAX: (505) 827-8177

NAME: William F. Carr OF Campbell, Carr

FAX: (505) 983-6043

NAME: _____ OF _____

FAX: _____

NAME: _____ OF _____

FAX: _____

SENDER: _____

RE: _____

TOTAL NUMBER OF PAGES (INCLUDING THIS SHEET): 14

IF YOU DO NOT RECEIVE ALL THE PAGES INDICATED ABOVE, PLEASE CALL Kandey AS SOON AS POSSIBLE AT (505) 746-3505

MESSAGE:

NOTE: The information contained in this facsimile message is attorney/client privileged and confidential information intended only for use by the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivery to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is in error. If you have received this facsimile in error, please immediately notify us by collect telephone call and return the original message to us at the above address via the U. S. Postal Service.

Recd
5-9-97
1:10 PM
[Signature]

Attorney General of New Mexico



PO Drawer 1508
Santa Fe, New Mexico 87504-1508

505/827-6000
Fax 505/827-5826

TOM UDALL
Attorney General

MANUEL TIJERINA
Deputy Attorney General

No. 6449

THE OFFICE OF THE ATTORNEY GENERAL

TRANSMITTAL SLIP

TO: <u>Carol Leach</u>	SERVED: <u>May 5, 1997</u>
DEPARTMENT: <u>Energy & Minerals</u>	TRANSMITTED: <u>May 6, 1997</u>
DIVISION: <u>Legal</u>	RETURNED: _____

FROM: Sylvia D. Quintana, Litigation Division

XX Attachments

CASE NAME AND CAUSE NO.: Bass Enterprises Production Co. v. Oil Conservation Commission, et al.; No. CV-97-179-JWF

The Office of the Attorney General has received a copy of the enclosed pleading. Examination of the allegations made against the State of New Mexico seems to indicate your agency as the state agency (if any) having an interest in the subject matter of the suit.

Please acknowledge receipt of the attached pleading by signing and returning this letter to the Office of the Attorney General immediately.

SIGNED: Denise M. Zandel

DATE: 5-14-97

DEPARTMENT/DIVISION: Office of the Secretary

I hereby certify that I caused to be
mailed a true and correct copy of the
foregoing to all counsel of record
this May 2, 1997.


Ernest L. Carroll

FIFTH JUDICIAL DISTRICT
COUNTY OF EDDY
STATE OF NEW MEXICO

BASS ENTERPRISES PRODUCTION CO.,
Petitioner,

vs.

OIL CONSERVATION COMMISSION OF THE
ENERGY AND MINERAL DEPARTMENT OF THE
STATE OF NEW MEXICO, ENRON OIL AND
GAS COMPANY, AND SHELL WESTERN E & P,

Respondents.

No. CV-97-179-JWF

SUMMONS

TO: WILLIAM J. LEMAY, CHAIRMAN OF THE OIL CONSERVATION COMMISSION
2040 S. Pacheco, Santa Fe, NM 87504

Defendant(s), Greeting:

You are hereby directed to serve a pleading or motion in response to the Complaint within 30 days after service of the summons, and file the same, all as provided by law.

You are notified that, unless you so serve and file a responsive pleading or motion, the Plaintiff(s) will apply to the Court for the relief demanded in the Complaint.

Attorney or Attorneys for Petitioner: Ernest L. Carroll
Losee, Carson, Haas & Carroll, P.A.
P. O. Box 1720
Artesia, New Mexico 88211-1720
(505)746-3505

WITNESS the Honorable JAY W. FORBES, District Judge of said Court of the State of New Mexico and Seal of the District Court of Said County, this 2 day of

May, 1997.

ELEANOR JARNAGIN
CLERK OF THE DISTRICT COURT

(SEAL)

By: Ernest L. Carroll
Deputy

NOTE:

This summons does not require you to see, telephone or write to the District Judge of the Court at this time.

It does require you or your attorney to file your legal defense to this case in writing with the Clerk of the District Court within 30 days after the summons is legally served on you. If you do not do this, the party suing may get a Court Judgment by default against you.

STATE OF NEW MEXICO

ss.

COUNTY OF _____

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY:

I certify that I served the within Summons in said County on the ____ day of _____, 19____, by delivering a copy thereof, with copy of Complaint attached, in the following manner:

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:

I, being duly sworn, on oath, say that I am over the age of 18 years and not a party to this lawsuit, and that I served the within Summons in said County on the _____ day of _____, 19____, by delivering a copy of Complaint attached, in the following manner:

(Check one box and fill in the appropriate blanks)

- To Defendant _____ (used when Defendant receives copy of Summons, is read Summons or Complaint or refuses to receive Summons or hear reading.)
- To _____, a person 15 years of age and residing at the usual place of abode of Defendant _____, who at the time of such service was absent therefrom.
- By posting a copy of the Summons and Complaint in the most public part of the premises of Defendant _____ (used if no person found at dwelling house or usual place of abode.)
- To _____, an agent authorized to receive service of process for Defendant _____.
- To _____, (parent)(guardian) of Defendant _____ (used when Defendant is a minor or incompetent person.)
- To _____, _____
Name of Person Title of Person Authorized to Receive Service
_____. (Used when Defendant is a corporation or association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision.)

FEES:

Signature of Private Citizen Making Service

SHERIFF OF _____
COUNTY, State of New Mexico

Subscribed and sworn to before me this ____
Day of _____, 19____

SHERIFF

Notary or Other Officer
Authorized to Administer Oaths

By: _____
Deputy

Title

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO

COPY
FIFTH JUDICIAL DISTRICT
COUNTY OF EDDY
CLERK'S OFFICE
97 MAY -1 AM 8:11
FILED
DISTRICT COURT CLERK

BASS ENTERPRISES PRODUCTION CO.)
)
Petitioner,)
)
vs.)
)
OIL CONSERVATION COMMISSION OF)
THE ENERGY AND MINERAL)
DEPARTMENT OF THE STATE OF NEW)
MEXICO, ENRON OIL AND GAS COMPANY,)
and SHELL WESTERN E & P,)
)
Respondents.)

No. CV-97- 179-JWF

PETITION FOR REVIEW

COMES NOW BASS ENTERPRISES PRODUCTION CO. ("Bass"), by and through its attorneys, Losee, Carson, Haas & Carroll, P. A. (Ernest L. Carroll), and for its Petition for Review states:

1. Bass is the present operator of the James Ranch Unit Agreement dated April 22, 1953, and approved in 1953 by the Bureau of Land Management ("BLM"), the Commissioner of Public Lands, State Land Office, and by the New Mexico Oil Conservation Commission ("the Commission").

2. The James Ranch Unit is a federal exploratory unit consisting of 89.7% of the lands covered by federal leases and 10.3% of the lands covered by State of New Mexico leases. Paragraph 11 of the James Ranch Unit Agreement provides for the creation and expansion of participating areas for the allocation of production from lands deemed to be capable of producing in paying quantities.

3. The initial Atoka Participating Area for the James Ranch Unit Agreement was created in the late 1950's. Bass, as Unit Operator, submitted its proposal for expansion of the Atoka Participating Area by the Third and Fourth Revisions which were approved by the following administrative agencies on the following dates:

Oil Conservation Division (OCD)	February 22, 1996
BLM	March 4, 1996
State Land Office	July 25, 1996

4. There is currently pending in this same matter an appeal by unit working interest owners Enron Oil and Gas Company and Shell Western E&P of the decision of the State Director of BLM dated December 3, 1996, upholding the Roswell District Office's approval of the Third and Fourth Revisions of the Atoka Participating Area.

5. On February 19, 1997, OCD Hearing Examiner Michael Stogner, after a hearing on the motion of Enron and Shell for an order rescinding the administrative approval of the OCD described in paragraph 3 above, ruled at the conclusion thereof,

After hearing all this, I'm going to grant the motion to dismiss the approval of the BLM -- I mean, I'm sorry -- yes, of the OCD approval on February 11th -- Okay, I'm sorry, grant the motion to rescind that order, so that order is now rescinded, and to continue this process at a Division Examiner's hearing at this time scheduled before me on October -- I'm sorry -- April -- March 6th, March 6th. I believe that's right.

hereinafter, "the February 19, 1997, Order." The pertinent portion of the transcript is attached hereto as Exhibit "A".

6. On March 24, 1997, Bass filed an Application for de novo Hearing pursuant to 70-2-13, which states,

When any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party of record adversely affected shall have the right to have the matter

heard de novo before the commission upon application filed with the division within thirty days from the time any such decision is rendered.

7. On April 4, 1997, William J. LeMay, Chairman of the Commission, denied Bass' Application for de novo hearing (copy attached as Exhibit "B"). Bass, pursuant to Section 70-2-25, requested by letters of April 7, 1997, and April 16, 1997, a Motion for Rehearing setting forth the respect in which the order or decision was erroneous. Copies of said requests are attached hereto as Exhibits "C" and "D".

8. The Commission failed to act within ten days on the Bass Motion for a Rehearing, and such failure is deemed a refusal thereof. This petition is filed within twenty days after the deemed refusal.

9. The February 19, 1997, Order rescinding the OCD approval of the Third and Fourth Revisions of the James Ranch Unit Participating Area is arbitrary and capricious and contrary to law.

10. Bass has exhausted its administrative remedies.

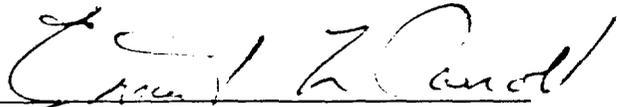
11. The Oil Conservation Division has scheduled a hearing for May 5, 1997, under the Examiner's order described in paragraph 4 above. This hearing will require the presentation of extremely complex technical testimony, and Petitioner has insufficient time to prepare for said hearing. Additionally, the continuation of this hearing will deny Bass its legal remedy of a hearing de novo before the Commission unless the May 5, 1997, hearing is stayed.

WHEREFORE, Petitioner prays that this Court issue an order:

- A. Staying the enforcement of the February 19, 1997, Order;
- B. Reversing the February 19, 1997 Order of the OCD; and
- C. Providing for such other and further relief as the Court deems 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 Petitioner

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) CASE NOS. 11,602
 PRODUCTION COMPANY FOR APPROVAL OF THE) and 11,603
 EXPANSION OF THE ATOKA PARTICIPATING) (Consolidated)
 AREA IN THE JAMES RANCH UNIT, EDDY)
 COUNTY NEW MEXICO)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

February 19th, 1997

Santa Fe, New Mexico

This matter came on for prehearing conference before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Wednesday, February 19th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
 (505) 989-9317

EXHIBIT

A

1 in the correspondence and the records that go back with the
2 BLM and that went into the original decision.

3 So I mean, it is a three-headed monster, there's
4 no doubt about it.

5 EXAMINER STOGNER: Okay. After hearing all this,
6 I'm going to grant the motion to dismiss the approval of
7 the BLM -- I mean, I'm sorry -- yes, of the OCD approval on
8 February 11th -- Okay, I'm sorry, grant the motion to
9 rescind that order, so that order is now rescinded, and to
10 continue this process at a Division Examiner's hearing at
11 this time scheduled before me on October -- I'm sorry,
12 April -- March 6th, March 6th. I believe that's right.

13 With that, then, this prehearing --

14 MR. LOSEE: I have a problem with the March 6th
15 order -- March 6th date. I'm not going to be in the office
16 for the month of March. Mr. Carroll is tied up with the
17 IBLA. There may be a week in which he isn't tied up,
18 because -- I don't know whether they're still going to --
19 Ernest, are they still going to alternate weeks?

20 MR. ERNEST CARROLL: We're going to alternate
21 weeks, but the week I have in March has already probably
22 been -- and I've got so many courts after my hide right
23 now.

24 I think the only way I -- The first available
25 time would probably be in the month of April, before I



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

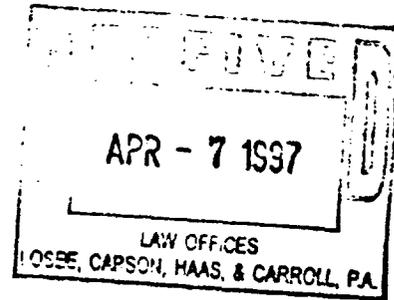
OIL CONSERVATION COMMISSION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

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

EXHIBIT

B

LAW OFFICES

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

311 WEST QUAY AVENUE

P. O. BOX 1720

ARTESIA, NEW MEXICO 86211-1720

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

OF COUNSEL
A. J. LOSEE

TELEPHONE
(505) 746-3505

FACSIMILE
(505) 746-6316

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

EXHIBIT

C

William J. LeMay
April 7, 1997
Page Two

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.:

William J. LeMay
April 7, 1997
Page Three

- 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. (by fax and mail)

LAW OFFICES

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

311 WEST QUAY AVENUE

P. O. BOX 1720

ARTESIA, NEW MEXICO 88211-1720

TELEPHONE
(505) 746-3808

FACSIMILE
(505) 746-8318

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

OF COUNSEL
A. J. LOSEE

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.

EXHIBIT

D