August 1999

Correspondence for

Re Novo Case No.

11996

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

APPLICATION OF PENDRAGON ENERGY PARTNERS, INC., PENDRAGON RESOURCES, L.P., AND J.K. EDWARDS ASSOCIATES, INC. TO CONFIRM PRODUCTION FROM THE APPROPRIATE COMMON SOURCE OF SUPPLY, SAN JUAN COUNTY, NEW MEXICO

OCD CASE NO. 11996

WHITING'S RESPONSE TO PENDRAGON'S OBJECTIONS AND IN OPPOSITION TO MOTION TO STRIKE TESTIMONY

Whiting Petroleum Corporation and Maralex Resources, Inc. (collectively "Whiting"), hereby respond to the Objections filed August 9, 1999 by Pendragon and the Motion to Strike certain portions of Whiting's pre-filed expert testimony. Pendragon's Objections and its Motion are misdirected, factually and legally inadequate, and fail to appreciate the significance of the hearing in this matter before qualified Commissioners who, by virtue of their education, training and experience, are particularly well-suited to determine the weight they will give the testimony advanced by all the parties' experts in this proceeding.

1. Pendragon objects to very limited portions of the expert testimony offered by Walt Ayers and Mickey O'Hare. Pendragon does not object generally to the expert qualifications of either witness, since the qualifications of both to testify on the issues presented in this proceeding are self-evident. See Resume attached to Ayers' testimony; Testimony of M. O'Hare, p. 1 L 6 to p. 3 L 8.

2. Defendants fail to apprise the Commission of the true nature of any inquiry into the admissibility of expert testimony in this proceeding. Rule 11-702 of the New

Mexico Rules of Evidence states: "If . . . technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise." Whether a witness is qualified to testify as an expert is a matter addressed to the discretion of the Court or Commission. Madrid v. University of California, 105 N.M. 715, 737 P.2d 74 (1987). No set criteria can be laid down to test such qualifications. Dahl v. Turner, 80 N.M. 564, 458 P.2d 816 (Ct. App. 1969). A witness' qualifications to render an expert opinion are liberally judged. Kopf v. Skyrm, 993 F.2d 374, 377 (4th Cir. 1993).

3. Under any standard, both Mr. Ayers and Mr. O'Hare qualify as expert witnesses in the subject matter of this application. State v. Torres, 1999-NMSC-010, 976 P.2d 20 (what is required is knowledge, skill, experience, training or education). Just as clearly, this is a case where the Commission will be aided in their final determination by the proffered expert testimony. All objections raised by Pendragon go to the proper weight to be given the opinions, not their admissibility.

4. Much of Pendragon's legal analysis is based upon the United States Supreme Court's decision in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993).[1] In that case, the Supreme Court recognized that the trial judge, in a typical case were the trier of fact would be a jury of lay people, has a duty to act as a gatekeeper to insure that any and all scientific testimony or evidence admitted is reliable and relevant. The inquiry as to whether a particular scientific technique or method is

[1] The Daubert analysis does not pertain to Pendragon's objections to Mr. O'Hare's Engineering Studies and Remedial Work testimony.

reliable is a flexible one. Daubert, supra 509 U.S. at 594-95; State v. Alberico, 119 N.M. 156, 861 P.2d 192 (1993). The New Mexico Supreme court has ruled that "application of the Daubert factors is unwarranted in cases where expert testimony is based solely upon experience or training." State v. Torres, supra, 976 P.2d at 34. A Daubert analysis is not designed to have the Court second-guess the results of experts, but rather "The focus, of course, must be solely on principles and methodology, not on the conclusions that they generate." Daubert, 509 U.S. at 595. As long as a logical basis exists for an expert opinion, weaknesses in the underpinnings go to weight, not admissibility. Orth v. Emerson Elec. Co., 980 F.2d 632, 637 (10th Cir. 1992).

5. In determining whether an expert will assist the trier of fact, the court (here the Commission) must make a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid, and whether that reasoning or methodology can be applied to the facts and issues. Daubert, 509 U.S. at 592-93; Alberico, 116 N.M. at 168. The questions are simply whether the expert properly applied the established scientific principles to the facts, and whether the expert's credibility is compromised for reasons such as bias. These are matters that the ultimate trier of fact, here the Commission, usually is competent to evaluate after cross-examination and presentation of competing expert testimony. Daubert, 509 U.S. at 595-96. Accordingly, where expert testimony is based on well-established science, the courts generally have concluded that reliability problems go to weight, not admissibility. Loudermill v. Dow Chemical Company, 863 F.2d 566, 570 (8th Cir. 1988) (factual basis of expert opinion goes to the credibility of the testimony, not the admissibility).

6. This Commission is not a gatekeeper for a decision by a lay person jury. The Commission itself, composed of well-qualified, trained and experienced Commissioners, will be in the best possible position after cross-examination and re-direct testimony of each witness to determine the validity of that particular witness' testimony. Pendragon has previously successfully argued to the district court that these issues should be tried before the Commission precisely because of the Commission's expertise. It is inconsistent, at best, for Pendragon at this point in the proceeding to claim that the Commission must act as a gatekeeper to prevent itself from being exposed to opinions that it is free to accept or reject in its final decision in this proceeding.

7. Pendragon complains that Mr. Ayers' opinions regarding gas analyses are inadequately supported by evidence and conclusory. Pendragon can attempt to make that point in cross-examination, but it does not call for excluding the testimony. Obviously, if the Commission has any doubts about the foundation of Mr. Ayers' testimony, that can be addressed August 19 or 20, when Mr. Ayers will appear to testify in person.

8. Pendragon also complains that Mr. Ayers has relied on hearsay statements from other witnesses. Pendragon complains that this hearsay renders Mr. Ayers' conclusions inadmissible. Pendragon's argument ignores the well established law in New Mexico that in forming an expert opinion, an expert may rely upon hearsay information. State v. Chambers, 84 N.M. 309, 502 P.2d 999 (1972) (in forming an expert opinion it may be necessary to rely upon hearsay information if such information is accepted as useable by the expert).

9. Pendragon objects to Mr. O'Hare's testimony establishing the basis for Whiting's contention that Pendragon has improperly perfed its Chaco wells within the physical boundaries of the Fruitland formation, which is owned exclusively by Whiting. Pendragon contends that Mr. O'Hare is not qualified as a geologist to give such opinions. Pendragon ignores the fact that Mr. O'Hare is a very experienced Fruitland coal gas well operator who served on the Commission's San Juan Basin Coalbed Methane Committee, by virtue of his knowledge, education, training and experience, is eminently qualified to opine on the boundary between the Fruitland formation and the Pictured Cliffs formation in the area in question. Pendragon's argument also ignores the fact that Pendragon's own expert, Neil Whitehead, bases his pick on the contact between the two formations, in part, on where operators in the Basin have established the boundary pick in other wells. Whitehead Testimony, p. 4 L 14-20. Pendragon cannot have it both ways. If operator picks of the boundary between the two formations are sufficiently reliable for Pendragon's witness, Mr. O'Hare is entitled to opine on the subject matter. Even were Mr. O'Hare not qualified as an expert, which he is, as a property owner and a party to the proceeding, he is entitled to state the basis for his contention of Pendragon's improperly placed perfs. Jesko v. Stauffer Chemical Co., 89 N.M. 786, 558 P.2d 55 (Ct. App. 1976) (plaintiff farmer's opinion that a particular chemical caused damage to corn fields, rationally based on perceptions or founded on his observations, was admissible).

10. Pendragon also complains about evidence regarding the applicants' illegal activities regarding the Lansdale Federal No. 1 well in the subject area. While Pendragon's concern to keep this matter from the Commission is understandable, its

argument is misdirected. In operating the Lansdale Federal No. 1 well, Pendragon ignored spacing requirements and operated a coal gas well which Pendragon represented to the New Mexico Oil Conservation Division and the Bureau of Land Management as a Pictured Cliffs well. This is, of course, exactly what Pendragon did with respect to the Chaco wells from 1995 to 1998. In July, 1998, one week before the Division hearing in this matter, after having operated the Lansdale Federal well illegally for several years, Pendragon squeezed off the perfs in the coal. This evidence, which is not truly opinion testimony but fact, is relevant to the issue of Pendragon's intent and practices in fracture stimulating its Chaco wells, which Whiting contends represents an intent to steal Whiting's coal seam gas. It is also relevant to show a course of conduct on the part of Pendragon to ignore and avoid Division rules and regulations. Indeed, Pendragon received a sanction from the BLM following the belated filing of its sundry notice documenting the work at issue. See Exhibit A. Whiting requests in this proceeding that the Commission sanction Pendragon for ongoing rules violations.

11. Pendragon objects to the admissibility of this evidence on the grounds that its actions in shutting off its illegal perforations in the Lansdale Federal well somehow constitute a remedial measure. This is absurd. A remedial measure is a measure, taken after an event or injury occurs, which would have made the event or injury at issue less likely. NMRA 1999 11-407. An operator's actions in correcting an illegal operation, which it has known about for several years, is not a remedial action, but an attempt to minimize and hide illegal conduct.

12. Pendragon also complains about Mr. O'Hare's testimony regarding his evaluation of the Pictured Cliffs formation in 1993 when the Chaco wells were offered to

Maralex prior to being sold at Clearinghouse auction by Bayless, Merrion, and partners. Mr. O'Hare determined that the Pictured Cliffs formation was depleted and the Chaco wells essentially worthless. Pendragon complains that the basis for Mr. O'Hare's conclusions are not evident in the testimony. This argument is specious. Pendragon contends in this proceeding that it evaluated the Pictured Cliffs formation prior to purchasing it and determined that there were substantial reserves remaining to be recovered. However, Pendragon witnesses testified before the Division that those calculations were not saved, and that they could not even specify the factors utilized in the calculations. See partial transcripts of testimony of Al Nicol and Roland Blauer at the Division hearing, attached hereto as Exhibit B. Mr. O'Hare, however, did retain his volumetric calculations on the Pictured Cliffs evaluation that he performed many years before this controversy arose. A partial copy of the calculation is attached hereto as Exhibit C, and the entire analysis will be made an exhibit in this proceeding. These materials were provided to the Division Examiner and to Pendragon shortly after the conclusion of the Division hearing in August, 1998 at the request of Examiner Catanach.

13. Finally, Pendragon complains that Mr. O'Hare's testimony references certain engineering studies performed by Whiting/Maralex at the beginning of this dispute which confirmed Whiting's contention that Pendragon was stealing Whiting's gas. Pendragon complains that the studies have not been produced by Whiting in this proceeding. There are two responses. First, the engineering studies upon which Whiting relies in this proceeding have, to the extent required, been produced and are reflected in the opinion testimony of the experts which have already been filed in this action. Second, Pendragon is well aware of the Commission policy which does not

require the production of opinions, or interpretive analyses prepared by the parties. All a party is required to produce is raw data, with the understanding that each party is entitled to make its own interpretation and submit expert opinions based upon the raw data. Pendragon has previously invoked that standard itself in this proceeding, as has the Commission. It is bad faith for Pendragon to complain about any failure to produce reports which are not subject to production under the Commission's policy and rules.

WHEREFORE, Whiting respectfully request that Pendragon's Motion be denied in its entirety.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By _____

J.E. GALLEGOS
MICHAEL J. CONDON
460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

Attorneys for Whiting and Maralex

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of a Whiting's Response to Pendragon's Objections and in Opposition to Motion to Strike Testimony to be served by U.S. Mail on this 17th day of August, 1999 to the following counsel for defendants: and fax

J. Scott Hall
Miller, Stratvert, Torgerson & Schlenker, P.A.
150 Washington Avenue
Santa Fe, New Mexico 87501

_____
MICHAEL J. CONDON

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Farmington District Office
1235 La Plata Highway
Farmington, New Mexico 87401

IN REPLY REFER TO:
NMNM22046 (WC)
3162.3-2 (070)

August 28, 1998

Pendragon Energy Partners
621 17th Street Suite #750
Denver, CO 80293

Dear Mr. Nichols:

Reference is made to well No. 1 Lansdale Federal, 800' FSL & 800' FEL, sec. 7, T. 26 N., R. 12 W., Lease No. NMNM22046, San Juan County, New Mexico and two Subsequent Sundry Notices, one dated August 10, 1998 perforating an interval in the Fruitland Coal from 1042 to 1056 feet and second sundry dated August 4, 1998 squeezing off that same interval. No prior approval was given for either action and you are in violation of 43 CFR 3162.3-2 (a) by not submitting a Notice of Intent Sundry. We currently regard this as a minor violation. However, this will serve as a notice that if this occurs in the future you will be subject to an assessment.

Under provisions of 43 CFR 3165.3, you may request an Administrative Review of the orders described above. Such request, including all supporting documents, must be filed in writing within 20 business days of receipt of this notice and must be filed with the State Director, Bureau of Land Management, P. O. Box 27115, Santa Fe, New Mexico 87502-0115. Such requests shall not result in a suspension of the order(s) unless the reviewing official so determines. Procedures governing appeals from instructions, orders or decisions are contained in 43 CFR 3165.4 and 43 CFR 4.400 et seq.

If you have any questions please contact Joe Hewitt with this office at (505) 599-6365.

Sincerely,

/S/ Duane W. Spencer
Duane Spencer
Team Leader, Petroleum Management Team

cc:
Walsh Engineering & Production Corp.
7415 East Main
Farmington, NM 87402

J.K. Edwards and Associates Inc.
1401 17th Street Suite 1400
Denver, CO. 80202

bcc:
Well file
DOMR
070:JHewitt:8-27-98

EXHIBIT "A"

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:	)	CASE NO. 11,
APPLICATION OF PENDRAGON ENERGY PARTNERS, INC., AND J.K. EDWARDS ASSOCIATES, INC., TO CONFIRM PRODUCTION FROM THE APPROPRIATE COMMON SOURCE OF SUPPLY, SAN JUAN COUNTY, NEW MEXICO	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS, Volume I

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

July 28th, 1998

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Tuesday, July 28th, 1998 (Vol. I), the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, N Mexico, Steven T. Brenner, Certified Court Reporter No. for the State of New Mexico.

* * *

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

Q. Have you looked at the shut-in pressure taken, recorded by the -- on the rig report when the rig moved on to do the acid job? In other words, so you have a pressure you can see before the acidization?

A. No, the pressure I have before the one in February was in July of 1983. Now, if there are --

Q. And that was 97 pounds, wasn't it --

A. Yes.

Q. -- p.s.i.?

A. Yeah.

MR. GALLEGOS: Okay.

MR. HALL: Excuse me, were you finished with your answer?

THE WITNESS: Yes.

MR. GALLEGOS: I'm sorry.

Q. (By Mr. Gallegos) All right, let's talk about the quantity of gas, then. Beside what you've told us about pressure, did you do or have somebody do for you reservoir modeling so you could get some kind of a projection of the probable performance of these wells?

A. No.

Q. But I believe you indicated that you did perform some volumetric calculations; is that right?

A. That's correct.

Q. Okay. Do you have those so we could have the

benefit of seeing those calculations?

A. No, they're long gone.

Q. They have not been retained?

A. They have not been retained.

Q. You did the study?

A. Yes, sir.

Q. Well, what parameters did you use -- can you tell us that? -- for your volumetrics?

A. That was 1995, and I couldn't sit here and tell you exactly what parameters I used.

Q. That has not been retained?

A. No.

Q. You don't -- There's no place that you can go to refer to for that information?

A. I haven't found it.

Q. You just threw it away?

A. Probably.

Q. If my notes are correct, I think you said that these wells, after your volumetrics and then these wells were hydraulically fractured, the results were better than expected. Is that your testimony?

A. Yes.

Q. And that's true?

A. That's true.

Q. Okay, well, better than expected by what quantum?

increase in productivity.

Q. Well, that's what I'm getting at. One view could be that these wells have been producing for 20 years, they're depleted, there are no more reserves to economically recover. That could be one view?

A. That could be one view.

Q. Evidently, you held another view?

A. Yes, I did. I wouldn't have participated in ownership if I didn't.

Q. Was your view that there was some sort of damage, as Mr. Nicol said? And I think often people speak of skin damage to account for low productivity of the wells?

A. There was some problem with the wells that it -- that they were low productivity, and it produced too small a volume of gas, from my estimation.

Q. Too small a volume of gas, as compared to what?

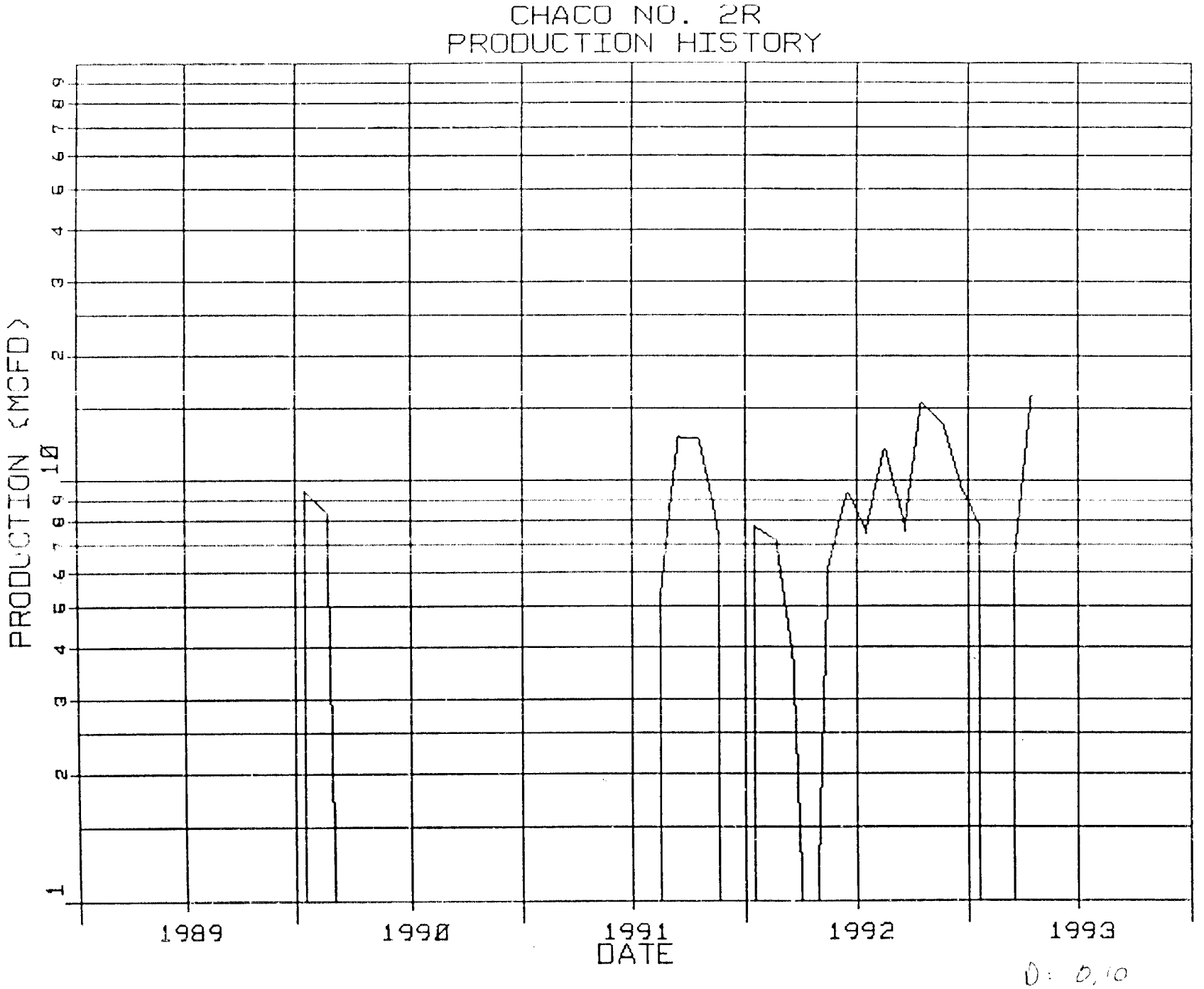
A. Well, unfortunately, I did the same thing Mr. Nicol did. When the prospect was put in front of me, I sat down and did my own estimate of volumetrics. No, I do not have them; they were the back of the envelope. Convinced myself, though, that this was an under- -- this was an underproduced reservoir and that there was a good chance that there would be additional production in this reservoir, if we could figure out the mechanical problems of achieving -- of acquiring it.

SUMMARY OF MERRION PROJECT PURCHASE ECONOMICS

MERRION PROJECT DISCOUNTED VALUE
OF EXISTING PRODUCTION

WELL NAME	DISCOUNT RATE 0	10	15	20	25	30
Chaco #1	0.00	0.00	0.00	0.00	0.00	0.00
Chaco #2R	3.06	2.54	2.28	2.04	1.82	1.63
Chaco #4	0.00	0.00	0.00	0.00	0.00	0.00
Chaco #5	0.00	0.00	0.00	0.00	0.00	0.00
Chaco #11	0.00	0.00	0.00	0.00	0.00	0.00
Chaco Ltd #1J	0.00	0.00	0.00	0.00	0.00	0.00
Chaco Ltd #2J	0.00	0.00	0.00	0.00	0.00	0.00
Chaco Ltd #3	23.85	15.99	13.38	11.33	9.70	8.39
Chaco Ltd #3J	12.79	8.60	7.20	6.10	5.22	4.51
Dome Fed 7-27-13 #1	9.25	6.14	5.11	4.31	3.68	3.17
Dome Fed 17-27-13 #2	30.73	18.32	14.71	12.04	10.03	8.48
Dome Fed 18-27-13 #2	0.00	0.00	0.00	0.00	0.00	0.00
Dome Fed 25-26-13 #1	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #1	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #2	2.38	1.78	1.56	1.37	1.22	1.09
Frew Fed #5	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #8	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #9	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #12	0.00	0.00	0.00	0.00	0.00	0.00
Frew Fed #15	0.00	0.00	0.00	0.00	0.00	0.00
Hi Roll #1	0.00	0.00	0.00	0.00	0.00	0.00
Hi Roll #2	3.93	2.75	2.33	2.00	1.73	1.51
Hi Roll #4	17.58	12.27	10.44	8.97	7.77	6.79
Southland #1	7.95	5.25	4.37	3.68	3.14	2.70
Southland #2Y	0.00	0.00	0.00	0.00	0.00	0.00
Southland #3	0.70	0.58	0.53	0.49	0.45	0.42
Southland #6	12.16	8.48	7.21	6.19	5.36	4.68
Southland #7	0.30	0.23	0.21	0.19	0.17	0.15
Da On Pah #1	19.92	13.98	11.92	10.25	8.90	7.79
Frew Fed #3	0.00	0.00	0.00	0.00	0.00	0.00
Chaco #2	0.00	0.00	0.00	0.00	0.00	0.00
Chaco #3	0.00	0.00	0.00	0.00	0.00	0.00
Fusselman Fed #1	0.70	0.53	0.46	0.41	0.36	0.32
Hickman #7R	0.00	0.00	0.00	0.00	0.00	0.00
Pete #1R	0.00	0.00	0.00	0.00	0.00	0.00
Serendipity #1	0.00	0.00	0.00	0.00	0.00	0.00
Sullivan #9	0.00	0.00	0.00	0.00	0.00	0.00
Susco #3	0.00	0.00	0.00	0.00	0.00	0.00
TOTALS	145.30	107.44	96.71	89.37	84.55	81.63

EXHIBIT "C"


CHACO NO. 2R
PRODUCTION HISTORY
PRODUCTION (MCFD)
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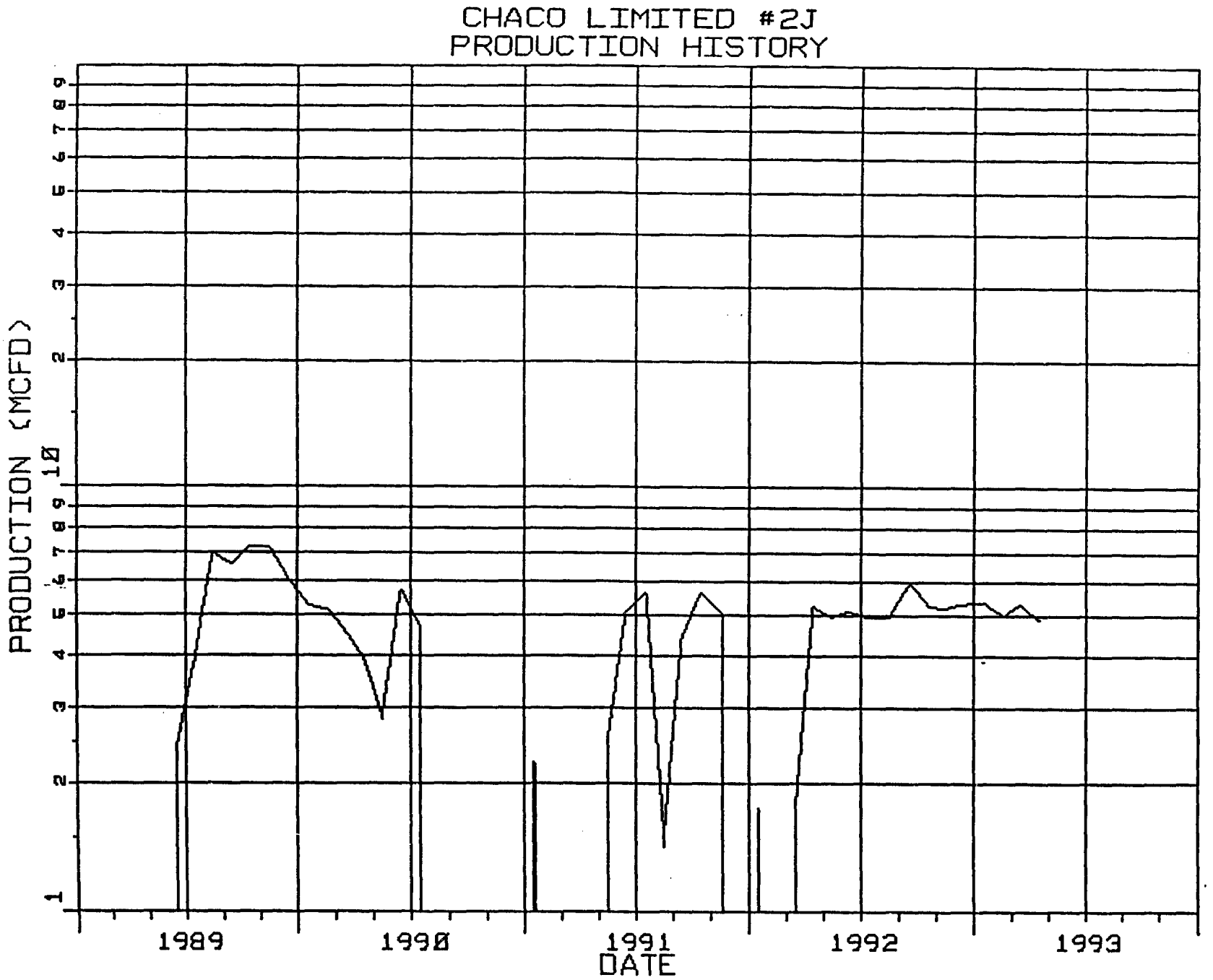
1989
1990
1991
1992
1993
DATE


CHACO LIMITED #2J
PRODUCTION HISTORY
PRODUCTION (MCFD)
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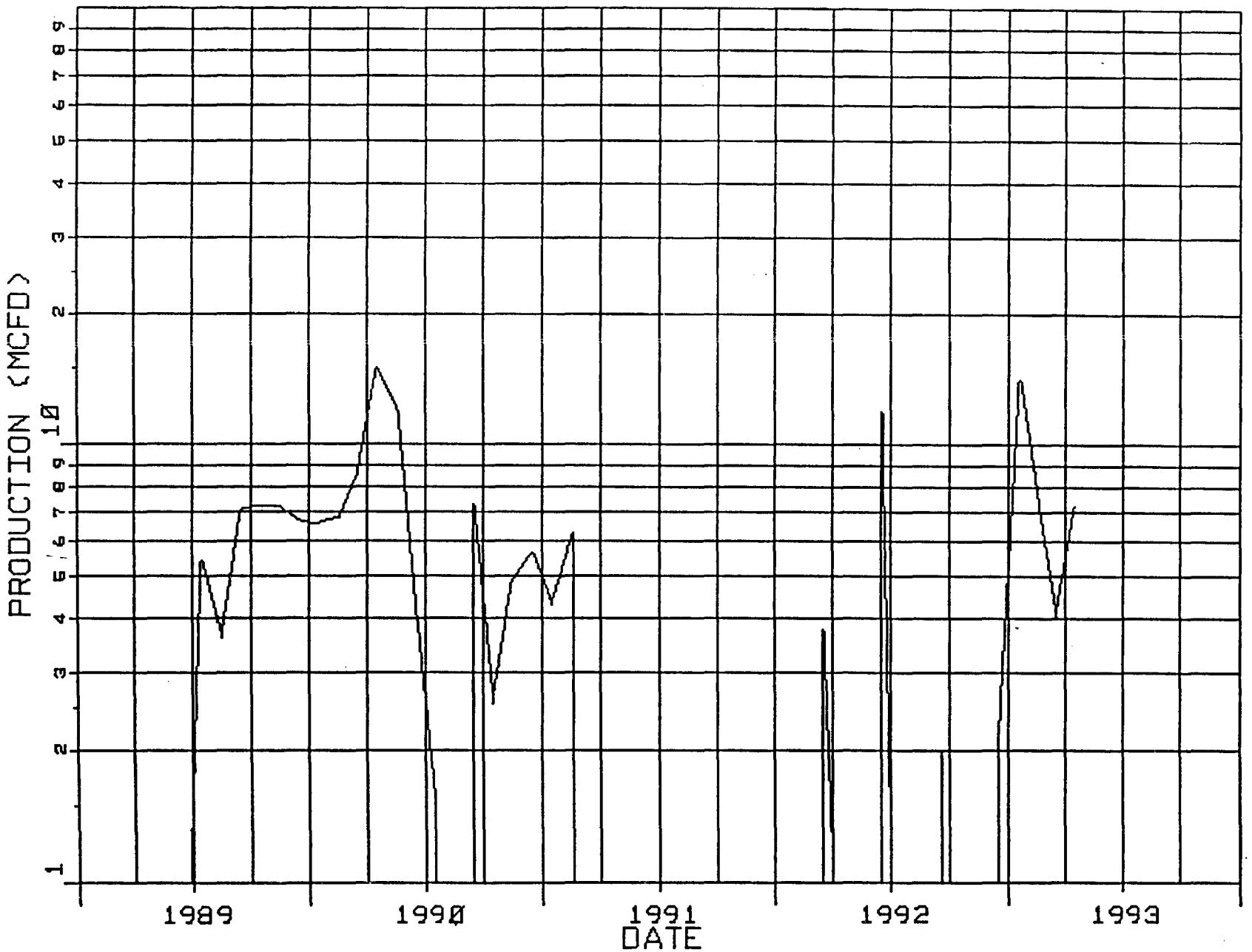
CHACO LIMITED NO. 1J
PRODUCTION HISTORY
PRODUCTION (MCFD)
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1989
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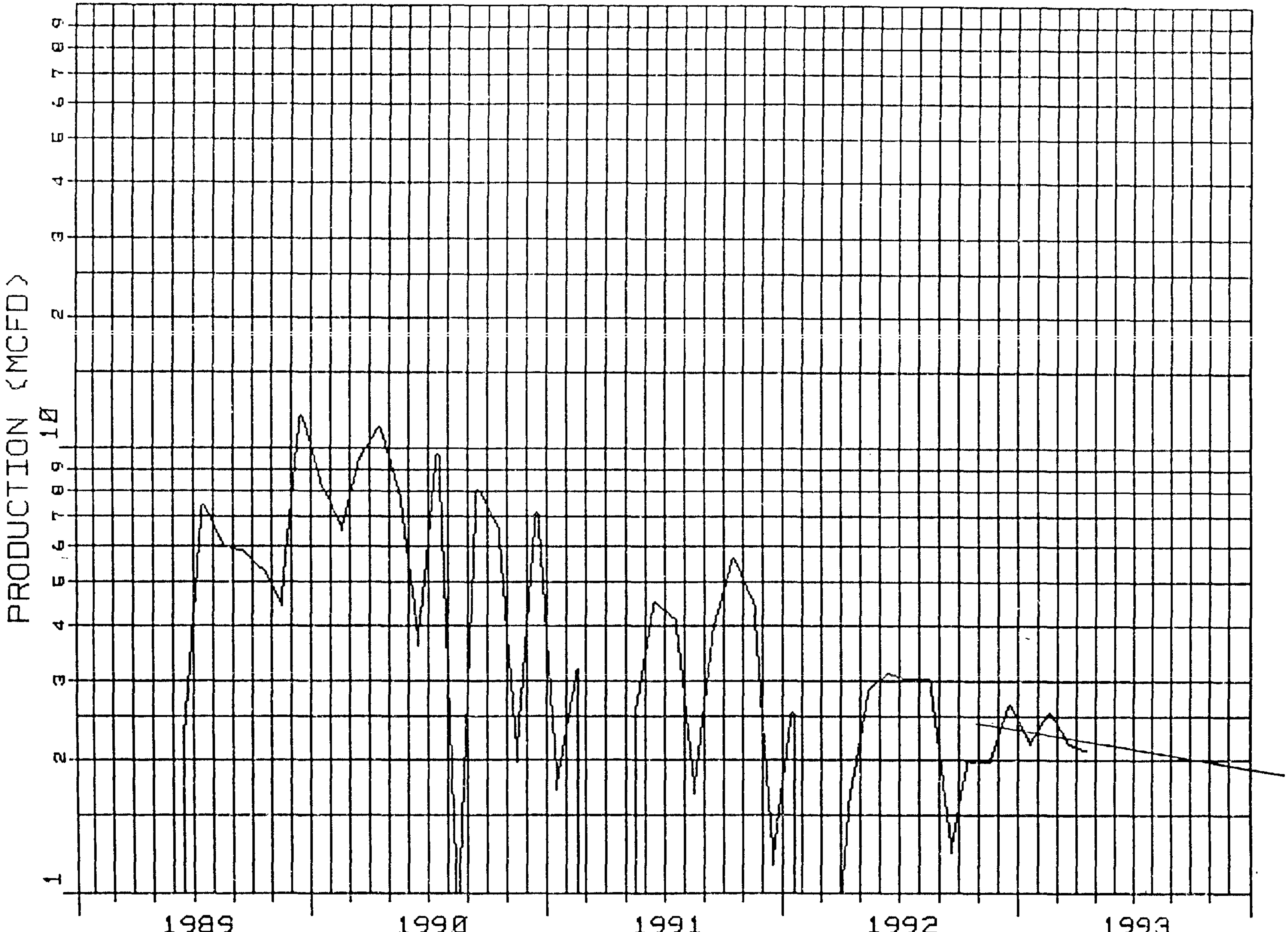
DATE

CHACO NO. 4
PRODUCTION HISTORY

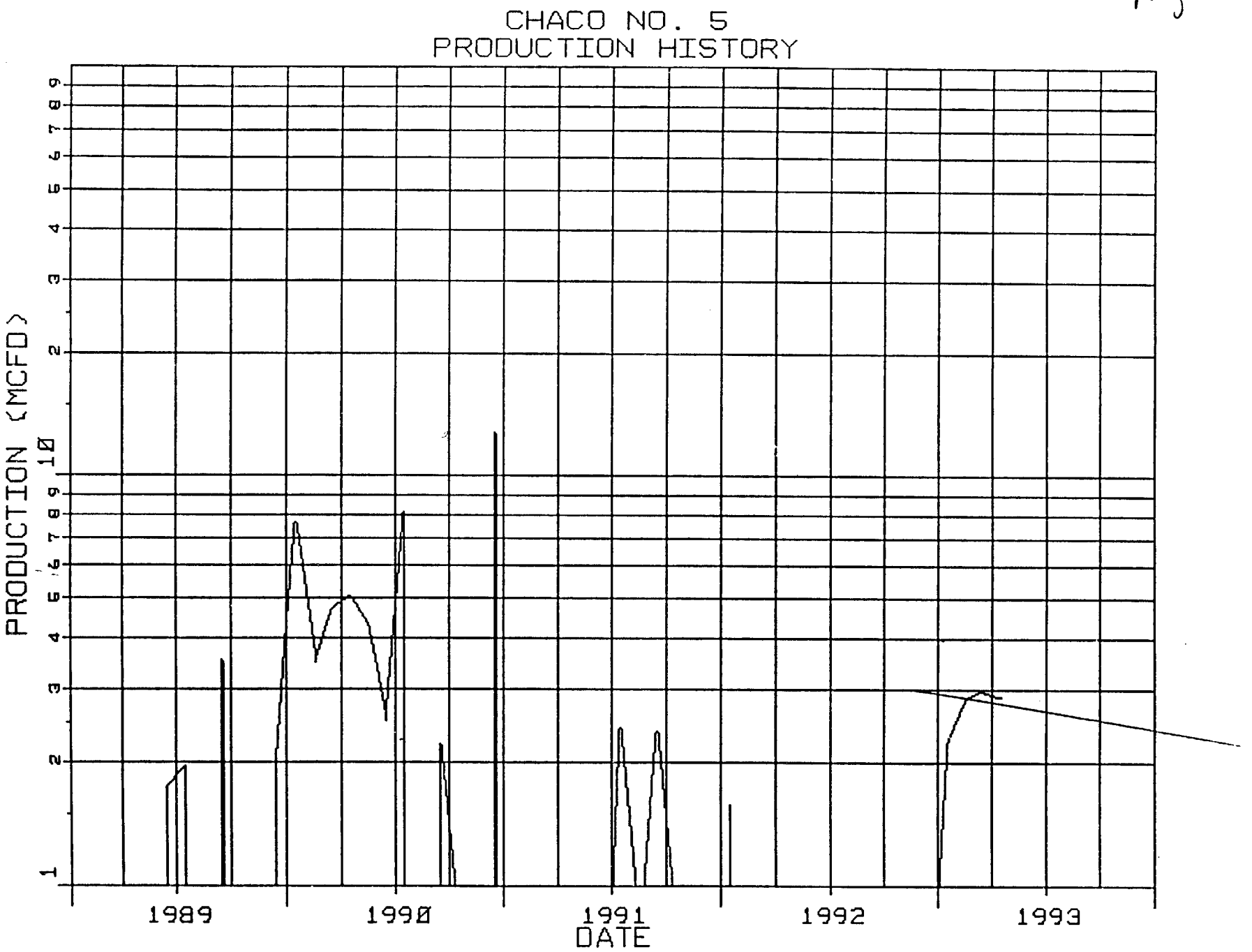


Start, Rate 2.5 MCFD

exp Decline Rate/yr. $D = \ln\left(\frac{2.3}{1.85}\right) = .218$

F2 Same

10 – Rate of Te...
20 –
30 –
35 –



$D = \ln\left(29/27\right) = .0714$

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

APPLICATION OF PENDRAGON ENERGY PARTNERS, INC., PENDRAGON RESOURCES, L.P., AND J.K. EDWARDS ASSOCIATES, INC. TO CONFIRM PRODUCTION FROM THE APPROPRIATE COMMON SOURCE OF SUPPLY, SAN JUAN COUNTY, NEW MEXICO

OCD CASE NO. 11996

WHITING'S MOTION TO STRIKE EXHIBIT 1 OF ALAN B. NICOL TESTIMONY

Whiting Petroleum Corp. and Maralex Resources, Inc. (collectively "Whiting") hereby move to strike Exhibit No. 1-i, a chronology, attached as an exhibit to the Pre-filed Expert Testimony of Alan B. Nicol. The chronology of events, prepared sometime after their occurrence, apparently at the request of counsel and in anticipation of litigation or adjudication, is hearsay and does not fall within any hearsay exception. Ritchie Enterprises v. Honeywell Bull, Inc., 730 F. Supp. 1041 (D. Kan. 1990). The chronology is not a document which, on its face, is maintained in the original course of business by Pendragon. Indeed, it appears to have been prepared by or with the involvement of counsel.

While the chronology is inadmissible on its face as hearsay, it is also objectionable as an improper attempt by Pendragon to argue its position to the Commission. Beginning on page 4 of the chronology, Pendragon attempts to introduce hearsay testimony as to statements made by Frank Chavez of the NMOCD Aztec District Office, actions allegedly taken by the parties in relation to the dispute, alleged items of disagreement between the parties, discussions between the parties, and a statement purportedly made by Bruce Williams, a Whiting engineer. This hearsay

statement which Pendragon erroneously attributes to Mr. Williams is particularly egregious, since Mr. Williams has on two separate occasions under oath denied having made the statement attributed to him in the chronology, once at the preliminary injunction hearing in June, 1998 in Santa Fe County District Court, and once during the Division hearing on this dispute in July, 1998.

Pendragon is not entitled to introduce hearsay testimony, and mischaracterize the prior statements made by various representatives and agents of Whiting under the guise of submitting a chronology of events. The chronology is hearsay, improper argument, objectionable, and should be stricken from the record in this proceeding.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By _____

J.E. GALLEGOS
MICHAEL J. CONDON
460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

Attorneys for Whiting and Maralex

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of a Whiting's Motion to Strike Exhibit 1 of Alan B. Nicol Testimony to be served by facsimile and U.S. Mail on this 11th day of August, 1999 to the following counsel for defendants:

J. Scott Hall
Miller, Stratvert, Torgerson & Schlenker, P.A.
150 Washington Avenue
Santa Fe, New Mexico 87501

_____
MICHAEL J. CONDON

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

APPLICATION OF PENDRAGON ENERGY PARTNERS, INC., PENDRAGON RESOURCES, L.P., AND EDWARDS ENERGY CORPORATION, INC. TO CONFIRM PRODUCTION FROM THE APPROPRIATE COMMON SOURCE OF SUPPLY, SAN JUAN COUNTY, NEW MEXICO

OCD CASE NO. 11996

99 AUG 10 PM 3:15
OIL CONSERVATION DIV.

STIPULATION OF FACTS

Applicants ("Pendragon") and opponents ("Whiting") hereby submit the following as true facts to which the parties have stipulated to be considered as evidence in the hearing scheduled before the New Mexico Oil Conservation Commission on August 12 and 13, and 19 and 20, 1999 in this proceeding.

1. Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

2. The Applicants pursuant to Rule 3 of the "Special Rules and Regulations for the Basin-Fruitland Coal Gas Pool," as promulgated by Division Order No. R-8768, as amended, seek an order confirming that the following described wells completed within the vertical limits of the WAW-Fruitland Sand-Pictured Cliffs Pool and the Basin-Fruitland Coal (Gas) Pool are producing from the appropriate common source of supply and providing further relief as the Commission deems necessary: (i) the Pendragon Energy Partners, Inc. operated Chaco Well Nos. 1, 2-R, 4 and 5 and Chaco Ltd. Well Nos. 1-J and 2-J located in Sections 7 and 18, Township 26 North, Range 12 West and Section 1, Township 26 North, Range 13 West, and (ii) the Whiting Petroleum Corporation operated Gallegos Federal "26-12-6" Well No. 2, Gallegos Federal "26-12-

7" Well No. 1, Gallegos Federal "26-13-1" Well Nos. 1 and 2, and Gallegos Federal "26-13-12" Well No. 1 located in Sections 6 and 7, Township 26 North, Range 12 West and Sections 1 and 12, Township 26 North Range 13 West.

3. Pendragon Energy Partners, Inc., Pendragon Resources, L.P. and Edwards Energy Corporation, (together, "Pendragon"), are the interest owners in the following wells operated by Pendragon Energy Partners:

WAW Fruitland Sand-Pictured Cliffs Gas Pool Producing Wells

Operator	Well Name & API Number	Well Location
Pendragon Energy Partners, Inc.	Chaco No. 1 (API No. 30-045-22309)	1846' FNL & 1806' FWL, Unit F, Section 18, T-26N, R-12W
Pendragon Energy Partners, Inc.	Chaco No. 2R (API No. 30-045-23691)	1850' FSL & 1850' FWL, Unit K, Section 7, T-26N, R-12W
Pendragon Energy Partners, Inc.	Chaco No. 4 (API No. 30-045-22410)	790' FNL & 790' FWL, Unit D, Section 7, T-26N, R-12W
Pendragon Energy Partners, Inc.	Chaco No. 5 (API No. 30-045-22411)	790' FSL & 790' FEL, Unit P, Section 1, T-26N, R-13W
Pendragon Energy Partners, Inc.	Chaco Limited No. 1J (API No. 30-045-25134)	1850' FSL & 1750' FWL, Unit K, Section 1, T-26N, R-13 W
Pendragon Energy Partners, Inc.	Chaco Limited No. 2J (API No. 30-045-23593)	790' FNL & 1850' FEL, Unit B, Section 1, T-26N, R-13W

These wells are collectively referred to as the "Chaco wells."

4. Pendragon acquired its interests in the Chaco wells by virtue of a Transfer of Operating Rights from Bayless, Merrion, et al. to J.K. Edwards and Associates Inc. dated February 1, 1995. That transfer described the interest Pendragon acquired in the Chaco wells as

> "Limited from the base of the Fruitland coal formation to the base of the Pictured Cliffs formation."

5. Whiting Pendragon Corporation and Maralex Resources, Inc. (collectively "Whiting") are operators and interest owners of the following Basin-Fruitland Coal Gas Pool wells:

Basin-Fruitland Coal Gas Pool Producing Wells

Operator	Well Name & API Number	Well Location
Whiting Petroleum Corp.	Gallegos Fed 26-12-6 No. 2 (API No. 30-045-28898)	886' FSL & 1457' FWL, Unit N, Section 6, T-26N, R-12W
Whiting Petroleum Corp.	Gallegos Fed. 26-12-7 No. 1 (API No. 30-045-28899)	2482' FSL & 1413' FWL, Unit K, Section 7, T-26N, R-12W
Whiting Petroleum Corp.	Gallegos Fed. 26-13-1 No. 1 (API No. 30-045-28881)	828' FNL & 1674' FEL, Unit B, Section 1, T-26N, R-13W
Whiting Petroleum Corp.	Gallegos Fed. 26-13-1 No. 2 (API No. 30-045-28882)	1275' FSL & 1823' FWL, Unit N, Section 1, T-26N, R-13W
Whiting Petroleum Corp.	Gallegos Fed. 26-13-12 No. 1 (API No. 30-045-28903)	1719' FNL & 1021' FEL, Unit H, Section 12, T-26N, R-13 W

These wells are collectively referred to as the "Gallegos Federal wells."

6. Whiting acquired its interests in the Gallegos Federal wells by a Transfer of Operating Rights from Bayless, Merrion, et al. to Maralex Resources, Inc. dated December 1, 1993. The Transfer provides that Maralex received

> "Operating Rights from the surface of the earth to the base of the Fruitland (Coal Gas) Formation, subject to the terms and provisions of that certain Farmout Agreement, dated December 7, 1992, by and between Merrion Oil & Gas, et al., Robert L. Bayless, Pitco Production Company and Maralex Resources, Inc."

7. All eleven wells that are the subject of this application are located within an area (hereinafter referred to as the "Subject Area") that comprises:

TOWNSHIP 26 NORTH, RANGE 12 WEST, NMPM

Section 6:	W/2
Section 7:	W/2
Section 18:	NW/4

TOWNSHIP 26 NORTH, RANGE 13 WEST, NMPM

Section 1: All
Section 12: N/2

8. The Subject Area is located within the horizontal boundaries of the Basin-Fruitland Coal Gas Pool created by Division Order No. R-8768 dated October 17, 1988. The vertical limits of this pool, as defined by Ordering Paragraph (1) of Order No. R-8768, are as follows:

> "all coal seams within the equivalent of the stratigraphic interval from a depth of approximately 2,450 feet to 2,880 feet as shown on the Gamma Ray/Bulk Density log from Amoco Production Company's Schneider Gas Com "B" Well No. 1 located 1110 feet from the South line and 1185 feet from the West line of Section 28, Township 32 North, Range 10, West, NMPM, San Juan County, New Mexico."

9. Order No. R-8768 further established Special Rules and Regulations for the Basin-Fruitland Coal Gas Pool including provisions for standard 320-acre gas spacing and proration units with wells to be located no closer than 790 feet from the outer boundary of the proration unit nor closer than 130 feet from any quarter section line nor closer than 10 feet from any quarter-quarter section line or subdivision inner boundary. In addition, wells are to be located in the NE/4 or SW/4 of a single governmental section.

10. The Subject Area is also located within the horizontal boundaries of the WAW Fruitland Pictured Cliffs Gas Pool. The vertical limits of this pool comprise all of the Pictured Cliffs formation (Order No. R-4260 dated February 22, 1972) and the sandstone intervals of the Fruitland formation (Order No. R-8769 dated October 17, 1988 and Nunc Pro Tunc Order R-8769-A dated April 11, 1989).

11. A brief history of the Chaco wells is as follows:

a) the Chaco Well No. 1 was drilled by Merrion and Bayless in February, 1977. The well was perforated and completed from a depth of 1,113' to 1,139'. The well initially tested in this interval at a rate of approximately 342 MCFGD, 0 BOPD and 0 BWPD. In January, 1995, J.K. Edwards & Associates, Inc. (Edwards) became operator of the well. In January, 1995, the well was fracture stimulated in the perforated intervals. In January, 1996, Pendragon became operator of the well;

b) the Chaco Well No. 2R was drilled by Merrion and Bayless in October, 1979. The well was perforated and completed from a depth of 1,132' to 1,142'. The well initially tested in this interval at a rate of approximately 150 MCFGD, 0 BOPD and 0 BWPD. In January, 1995, Edwards became operator of the well. In January, 1995, the well was fracture stimulated in the perforated intervals. In January, 1996, Pendragon became operator of the well;

c) the Chaco Well No. 4 was drilled by Merrion and Bayless in April, 1977. The well was perforated and completed from a depth of 1,163; to 1,189'. The well was initially tested in this interval at a rate of approximately 480 MCFGD, 0 BOPD, and 0 BWPD. In January, 1995, Edwards became operator of the well. In January, 1995, the well was acidized with 500 gallons 7½ percent HCI. In May, 1995, the well was re-perforated in the interval from 1,163' to 1,189' and fracture stimulated in this interval. In January, 1996, Pendragon became operator of the well;

d) the Chaco Well No. 5 was drilled by Merrion and Bayless in April, 1977. The well was perforated and completed from a depth of 1,165' to 1,192'. The well initially tested in this interval at a rate of approximately 1029 MCFGD, 0 BOPD and 0 BWPD. In May, 1979 the well was fracture stimulated in this interval. In January, 1995, Edwards became operator of the well. In January, 1995, the well was re-perforated in the interval from 1,165' to 1,192 feet and was fracture stimulated in this interval. In January, 1996, Pendragon became operator of the well;

e) the Chaco Limited Well No. 1J was drilled by Merrion and Bayless in April, 1982. The well was perforated and completed from a depth of 1,200' to 1,209'. The well initially

tested in this interval at a rate of approximately 10 MCFGD, 0 BOPD and a trace of water. In January, 1995, Edwards became operator of the well. In January, 1995, the well was acidized with 500 gallons 7½ percent HCI. In January, 1996, Pendragon became operator of the well.

f) the Chaco Limited Well No. 2J was drilled by Merrion and Bayless in September 1979 to test the Pictured Cliffs formation. The well was perforated and completed in the Fruitland Coal from a depth of 1,186' to 1,202'. The well was initially tested in this interval at a rate of approximately 208 MCFGD. 0 BOPD and 4 BWPD. In October 1979, the well was fracture stimulated in this interval. In January 1995, Edwards became operator of the well. In January 1995, the well was acidized with 500 gallons 7 ½ percent HCI. In January 1996, Pendragon became operator of the well.

12. A brief history of the Gallegos Federal wells is described as follows:

a) the Gallegos Federal 26-12-6 No. 2 was drilled by Maralex in December, 1992 to test the Basin-Fruitland Coal Gas Pool. The well was perforated and completed in the Fruitland Coal from a depth of 1,138' to 1,157'. The well was subsequently fracture stimulated in this interval. In September, 1995, Whiting became operator of the well;

b) the Gallegos Federal 26-12-7 No. 1 was drilled by Maralex in December, 1992 to test the Basin-Fruitland Coal Gas Pool. The well was perforated and completed in the Fruitland Coal from a depth of 1,131' to 1,150'. The well was subsequently fracture stimulated in this interval. In September, 1995, Whiting became operator of the well;

c) the Gallegos Federal 26-13-1 No. 1 was drilled by Maralex in December, 1992 to test the Basin-Fruitland Coal Gas Pool. The well was perforated and completed in the Fruitland Coal from a depth of 1,158' to 1,177'. The well was subsequently fracture stimulated in this interval. In September, 1995, Whiting became operator of the well;

d) the Gallegos Federal 26-13-1 No. 2 was drilled by Maralex in December, 1992 to test the Basin-Fruitland Coal Gas Pool. The well was perforated and completed in the Fruitland Coal from a depth of 1,047' to 1,208'. The well was subsequently fracture stimulated in this interval. In September, 1995, Whiting became operator of the well; and

e) the Gallegos Federal 26-13-12 No. 1 was drilled by Maralex in December, 1992 to test the Basin-Fruitland Coal Gas Pool. The well was perforated and completed in the Fruitland Coal from a depth of 1,178' to 1,197'. The well was subsequently fracture stimulated in this interval. In September, 1995, Whiting became operator of the well.

13. The Pictured Cliffs formation was deposited in a marine environment. The Fruitland formation was deposited in a non-marine or inland terrestrial environment (i.e. fluvial channels, deltaic distributary channels, etc.)

MILLER, STRATVERT &
& TORGERSON, P.A.

By _____
J. Scott Hall
For Applicant Pendragon and Edwards

GALLEGOS LAW FIRM, P.C.

By _____
J.E. Gallegos
For Opponents Whiting and Maralex

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