

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

**APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE NO. 22253

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**CENTENNIAL'S CONSOLIDATED RESPONSE IN OPPOSITION TO
ATLAS'S MOTIONS FOR CONTINUANCE**

Centennial Resource Production, LLC submits this consolidated response in opposition to Atlas OBO Energy LP's ("Atlas") motions for continuance in the above-referenced cases. For the reasons stated herein, and in Centennial's response in opposition to Atlas's motion for temporary restraining order and preliminary injunction, attached as **Exhibit A**, Atlas's motions should be denied, and Centennial's cases should be permitted to proceed to hearing on December 2, 2021.

ARGUMENT

Atlas is seeking a temporary restraining order and preliminary injunction against Centennial in district court to prevent Centennial from going forward with its compulsory pooling applications in these cases over a title dispute. The dispute turns on interpretation of a provision in a joint operating agreement that Atlas claims affects the validity of Centennial's leasehold interests committed to a joint operating agreement. The district court has set a hearing on that matter for one hour on November 30, 2021.

As the Division and Commission have previously determined, it is neither necessary nor proper to continue compulsory pooling cases to allow the parties to potentially resolve pending title issues, because “the Division does not determine whether an applicant can validly claim a real property interest in the property subject to the application, and therefore whether the applicant is ‘duly authorized[.]’” *See* TMBR/Sharp, Order R-11700-B at 5 ¶ 27. “The Division has no jurisdiction to determine the validity of any title, or the validity or continuation in force and effect of any oil and gas lease. Exclusive jurisdiction of such matters resides in the courts[.]” *Id.* An applicant should have a “good faith claim to title and a good faith belief” that it is authorized to drill the well or wells applied for. *See id.* at ¶ 28. Centennial demonstrably has a good-faith claim to title and a good-faith belief in its valid ownership interests. *See* Affidavit of Gavin Smith, Senior Landman with Centennial, ¶¶ 6-9, 11-12, attached to Exhibit A as Exhibit 3. As was done in the TMBR/Sharp case, in the event the district court subsequently determines Centennial has no ownership interest in the subject spacing units, the Division may rescind its order approving Centennial’s applications. *See id.* at ¶ 28.

Where title is at issue, the Division and Commission have refused to grant continuances. *See, e.g.,* Commission Order of Denial (unnumbered) in Case Nos. 20520 & 20521 (denying Marathon Oil Permian LLC motion for continuance). That is particularly important where, as here, the applicant in compulsory pooling proceedings has expiring leases and time is of the essence. Two of Centennial’s four leasehold interests expire on April 1, 2022. *See* Affidavit of Gavin Smith, ¶ 13, attached to Exhibit A as Exhibit 3. Centennial has arranged for a rig to be on location and to commence drilling its planned wells in March 2022 to perpetuate those leases. *Id.* Accordingly, a delay in obtaining final compulsory pooling orders risks working an injustice against Centennial that would result in severe and irreparable injury.

A continuance is also unjustified on the merits of Atlas's allegations. Atlas contends Centennial acquired a leasehold interest in the subject proposed spacing units without first obtaining consent from Atlas, a party to a joint operating agreement with an "assignability" provision. *See* Atlas's Verified Complaint and Motion for Temporary Restraining Order and Preliminary Injunction, attached as **Exhibit B** ("Complaint"). Centennial owns interests in the proposed horizontal spacing units by virtue of four State of New Mexico leases: (1) L-6377 (NW/4 and S/2 of Section 7); (2) VB-244 (NE/4 of Section 7); (3) VC-0049 (N/2 of Section 18); and (4) and VC-0076 (S/2 of Section 18) (collectively the "State Leases"). Exhibit A-1 to the JOA identifies three leases that are contributed to the JOA: L-6377, LG-3975, and LG-1842. *See* Exhibit B. Accordingly, only one of the four leases that Centennial derives its leasehold interests from is committed to the JOA. That lease is L-6377. The other three leases are not subject to the JOA. Centennial owns 100% of the mineral interests in Section 18. *See* Affidavit of Gavin Smith, ¶¶ 6-9, 11-12, attached to Exhibit A as Exhibit 3. Even under Atlas's interpretation, its consent would have been required only for assignment of lease L-6377 to Centennial, and Centennial stills own an overwhelming working interest in the proposed spacing units separate and apart from the lease subject to the JOA. These leases allow Centennial to pool, regardless of the outcome in the district court case.

Atlas, with less than a 5% interest in the proposed unit in Case No. 22252 and 2.5% interest in the unit proposed in Case No. 22253, has appeared in these matters and is opposing Centennial's pooling cases. Yet, significantly, it has not proposed any competing development plans. Rather, Atlas is resisting the development of this acreage for the simple reason that it does not want to be compulsorily pooled. The New Mexico Oil and Gas Act, however, explicitly mandates that the

NMOCD “shall” pool uncommitted interests where parties cannot agree among themselves. *See* NMSA 1978, § 70-2-17(C).

CONCLUSION

Atlas’s motions should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I served a copy of the foregoing document to all counsel of record via Electronic Mail to:

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

FILED
5th JUDICIAL DISTRICT COURT
Lea County
11/10/2021 9:10 AM
NELDA CUELLAR
CLERK OF THE COURT
Cory Hagedoorn

ATLAS OBO ENERGY LP,
Plaintiff,

v.

No. D-506-CV-2021-00991

CENTENNIAL RESOURCE PRODUCTION, LLC,
Defendant.

Case assigned to Shoobridge, William G. W.

**PLAINTIFF'S VERIFIED COMPLAINT AND MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff Atlas OBO Energy LP ("Plaintiff" or "Atlas") files this Plaintiff's Verified Complaint and Motion for Temporary Restraining Order and Preliminary Injunction and respectfully requests this Court issue a temporary restraining order and a preliminary injunction against to prevent unlawful conduct by Defendant Centennial Resource Production LLC ("Defendant" or "Centennial"). Immediate injunctive relief is warranted under the circumstances because Defendant's conduct will irreparably affect the control and provision of certain mineral interests within which Plaintiff holds an unencumbered ownership interest. As grounds for this Motion, Plaintiff respectfully states:

I
INTRODUCTION

1. This is an action for breach of contract and various title-related claims related to ownership rights in certain mineral property held by Plaintiff in Lea County, New Mexico (the "Property"). Defendant also claims an alleged ownership interest within the Property and is currently attempting to force the pooling of same with approval from the Oil Conservation Department of the State of New Mexico Energy, Minerals and Natural Resources Department (the "OCD"). However, as

more fully described below, Defendant has breached the express terms of the Joint Operating Agreement (the “JOA”) governing the Property, thereby negating Defendant’s purported ownership within the Property and absolutely evaporating Defendant’s supposed right to affect the Property in any way.

2. In turn, the discovery of Defendant’s invalid instruments regarding the Property, as revealed through Defendant’s unlawful actions, creates a serious problem with the Property’s chain of title that must be resolved before any further action may be taken regarding the Property. This renders Defendant’s attempts to force the pooling of the Property’s minerals inappropriate, yet the OCD is currently scheduled to consider Defendant’s improper ploy at a hearing set for December 2, 2021. Thus, if this Court does not issue the temporary restraining order and preliminary injunction requested herein, Plaintiff will be irreparably harmed through Defendant’s irreversible drilling practices, title to the Property will continue as clouded, and Plaintiff could face the risk of extensive operating costs and/or significant monetary penalties.

II

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action pursuant to Article VI, Section 13 of the New Mexico Constitution.

4. Venue is proper in this district under NMSA 1978 § 38-3-1 (2020) because the property at issue is located within this County.

III

PARTIES

5. Plaintiff Atlas OBO Energy LP is a limited partnership organized in the State of Texas and may be served with process through counsel herein.

6. Defendant Centennial Resource Production, LLC is a limited liability company organized

in the State of Delaware and registered to do business in the State of New Mexico, and may be served with process through its registered agent, Corporation Service Company, located at 726 E. Michigan Drive, Suite 101, Hobbs, New Mexico 88240.

IV BACKGROUND

7. In two (2) separate matters initiated by Defendant with the OCD (specifically, Case Nos. 22252 and 22253), Defendant currently seeks to force the pooling of the minerals within a portion of the Property with the minerals within another portion of the Property. Specifically, Defendant seeks to pool the minerals contained within the West half of Section 7 and the West half of Section 18 (Case No. 22252 – OCD), as well as the East Half of Section 7 and the East half of Section 18 (Case. No. 22253 – OCD), of Township 22 South, Range 35 East, Lea County, New Mexico, with the minerals contained in that portion of the Property governed by the JOA.

8. The JOA specifically concerns the control and disposition of the Southern half and Northwest quarter of Section 7 and all of Sections 18 and 19 of Township 22 South, Range 35 East, Lea County, New Mexico. When combined with that portion of the Property first listed above, the pooling unit is definitively established and is identical to the “Property” as that term is defined and used herein.

9. Within Case No. 22252, Defendant claims a majority 95.016794 percent interest and attributes a minority 4.983206 percent interest to Plaintiff, and within Case No. 22253, Defendant claims a majority 88.125 percent interest and attributes a minority 2.5 percent interest to Plaintiff and a minority 9.375 interest to MRC Permian Company, a third-party not yet included within this lawsuit. Plaintiff does not dispute its attributed ownership percentage in the Property; rather, Plaintiff disputes that Defendant ever lawfully acquired ownership of any portion of the Property in the first place.

10. The JOA governing the Property contains a provision which unequivocally requires the written consent of any original party to the JOA to transfer any ownership interest subject to the JOA. *See Exhibit A.* Specifically, the JOA pertinently provides:

“No party may assign its rights hereunder, or any portion thereof, without the written consent of the other parties; provided, however, such consent shall not be necessary in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all or substantially all of its assets to a subsidiary or parent company or to a subsidiary of a parent company, or to any company in which one party owns a majority of the stock.”

JOA, Article VIII, Section G; pp. 12, *Exhibit A.* Both Defendant and the predecessors-in-interest of Defendant’s alleged ownership rights have failed to abide by the consent provision stated above by failing to procure the required written consents necessary to transfer any interest within the Property.

11. Importantly, this systematic failure has not occurred through Defendant’s ignorance of the JOA’s consent provision, as Plaintiff delivered formal correspondence to Defendant on October 15, 2021, specifically delineating both the failure of Defendant to obtain Plaintiff’s consent and the purposeful avoidance of Plaintiff’s exception to prior related notices. *See Exhibit B.* Given Defendant’s knowledge of the Property and the prior attempt to procure Plaintiff’s written consent, Defendant is fully aware that it has not procured same as required by the JOA and that Defendant’s actions with the OCD are in full violation of New Mexico law.

12. Defendant’s predecessor-in-interest, a company known as Legacy Reserves (“Legacy”), previously sold the undeveloped acreage of the Property to Defendant, and Defendant sought Plaintiff’s written consent pursuant to the JOA at that time. Plaintiff withheld same. Legacy Reserves then separately sold the wellbores contained within the Property to another entity, SBI West Texas LLC (“SBI”). *See Exhibits B, C.* Plaintiff excepted to a subsequently preferential

rights notice received from Legacy regarding the sale of the wellbores to SBI, but Legacy promptly ignored this exception. *Id.* Under no circumstances, however, did Plaintiff provide the consent requested and required of Defendant in any capacity whatsoever. *Id.*

13. In fact, Plaintiff specifically explained to Defendant that Legacy's wrongful avoidance and purposeful ignorance of Plaintiffs' exception to the preferential rights notice could not be contorted and interpreted as consent to Defendant's assignment, and that any attempt to do so violated the provisions of the JOA and worked a fraud so egregious such that Defendant could not have received clear title to any portion of the Property *at all*.

14. Regardless, Defendant now seeks issuance of compulsory pooling orders from the OCD that would force Plaintiff to either submit to the operation of the Property at Defendant's whim or refuse to participate in said forced pooling. If Plaintiff submits, then Plaintiff is at risk of being immediately liable for certain operating costs attributable to Defendant's control of the Property and these costs may be significant as Plaintiff will not have the legal ability to contest the parties engaged or alleged costs incurred by Defendant in such operation. If Plaintiff refuses, then Plaintiff would be rendered a "non-consenting" party, at risk of not being paid any royalties due from Plaintiff's ownership in the Property until Defendant's costs of operation are paid *thrice*. Thus, Defendant being allowed to move forward with its operation of the Property before the breach and title-related issues described herein are resolved will result in an immediate harm being suffered by Plaintiff.

V CAUSES OF ACTION

A. Breach of Contract

15. A complaint on a breach of contract must allege: (1) the existence of a valid and binding contract; (2) the plaintiff's compliance with the contract and his performance of the obligations

under it; (3) a general averment of the performance of any condition precedent; and (4) damages suffered as a result of defendant's breach. *McCasland v. Prather*, 92 N.M. 192, 294, 585 P.2d 336, 338 (Ct. App. 1978). A person may breach a contract by failing to perform a contractual obligation when the performance is required, unless that performance is otherwise excused. *See* N.M.R.A., Civ. UJI 13-822.

16. Here, neither Plaintiff or Defendant dispute the existence or binding terms and nature of the JOA governing the Property. In fact, Defendant has acknowledged the binding nature of the JOA by previously seeking written consent from Plaintiff. Defendant has failed to satisfy the terms of the JOA in order to succeed to control and operation of the Property, by not procuring this required written consent to the assignment of ownership of any portion of the Property to Defendant. In this situation, Plaintiff's only responsibility is to tender written consent when requested, or refuse same. Plaintiff has abided by the JOA in refusing to provide written consent when previously requested to do so. Defendant has the duty to procure said written consent, but has failed to do so, yet is proceeding before the OCD as if said consent is secured and uncontestable. Such conduct is unlawful and a clear breach of the JOA governing the Property. All conditions precedent have been performed and should Defendant's conduct be allowed to continue, Plaintiff will be egregiously injured beyond the current damages suffered by Plaintiff in bringing the instant lawsuit.

17. Defendant is liable for breach of contract and Plaintiff is entitled to recover all relief requested herein on account of Plaintiff's breach of contract cause of action.

B. Slander of Title

18. Slander of Title occurs when one who, without the privilege to do so, willfully records or publishes matter which is untrue and disparaging to another's rights in land, as would lead a

reasonable man to foresee that the conduct of a third purchaser might be determined thereby. *Dowse v. Doris Trust Co.*, 116 Utah 106, 208 P.2d 956 (1949). Malice is an essential ingredient of slander of title. *City of Hobbs v. Chesport, Limited*, 76 N.M. 609, 417 P.2d 210 (1966).

19. In this case, Defendant is clearing publishing false and damaging statements regarding Defendant's (and, thus, Defendant's predecessor-in-interest, as well as Plaintiff) rights to control and perform operations upon the Property. Namely, Defendant purports to have the right to perform certain drilling work on the Property despite the fact that this cannot be true due to Defendant failing to procure the required written consent to succeed to mineral interest ownership within the Property as required by the governing JOA. Regardless, Defendant has now opened two (2) separate cases with the OCD in order to force the pooling of certain minerals within the Property, thereby publishing the falsehood that Defendant has any such authority to do so. Any hearing before the OCD would be immediately disastrous and damaging to Plaintiff as it would (i) acknowledge that Defendant had some authority to control the property by having standing to bring said cases; (ii) force Plaintiff to expend significant resources by paying a portion of Defendant's operating expenses; and (iii) alternatively, force Plaintiff to forego being paid valuable royalties and paying a significant penalty to Defendant for merely refusing to participate in said operations.

20. Defendant is all too aware of that Defendant does not have the authority to control or operate any portion of the Property, nor does Defendant even have good title to any ownership within same. This is clearly true as Defendant has tried to procure Plaintiff's required written consent regarding transferring ownership of the Property in the past, yet has been denied. Thus, Defendant is now acting with malice, attempting to subvert the rights of Plaintiff within the Property to unlawfully benefit thereby.

21. At the trial on the merits of this cause, Plaintiff shall show and prove the amount of the

special damages incurred by Plaintiff as a result of Defendant's slanderous and wrongful conduct, as well as the pecuniary damages suffered by Plaintiff in having to quiet title to the Property and prevent Defendant from affecting the Property in any regard. As Defendant's actions have slandered Plaintiff's title to the Property in such a way that would affect the conduct of a reasonable man wishing to purchase same from Plaintiff, as well as having acted with incredible malice resulting in significant damages, Plaintiff is now entitled to recover the relief requested herein as it relates to Plaintiff's Slander of Title cause of action.

C. Quiet Title

22. The quiet title statute [in New Mexico] states that an action to determine and quiet title of real property may be brought against any person or persons, claiming title. N. M. Stat. Ann. § 42-6-1. This cause of action is available to Plaintiff given Defendant's current claims of ownership and Defendant's case filing with the OCD seeking to force pool the Property's mineral assets, included those of Plaintiff.

23. In fact, Plaintiff's Quiet Title cause of action may prove to be the dispositive factor in this matter, as the determination of who retains an ownership interest within any portion of the Property would be definitive confirmation or refutation of Defendant's claims and rights regarding same. Notably, Plaintiff has succeeded from the original parties to the JOA governing the Property in a clear chain of title that Defendant has not and cannot dispute. This cannot be said of Defendant, however, which is currently making claims of ownership despite not having abided by the explicit terms and provisions of the JOA, namely, procuring the written consent necessary to transfer an ownership interest in the Property.

24. Defendant's failure is fatal to the ownership interest it now claims in the Property, as there is no exception to the requirement to procure the written consent stated within the JOA. As such,

Plaintiff will prove that the failure to procure the required consent by Defendant necessarily means that title to the Property cannot be quieted within Defendant as Defendant now forcefully claims. Plaintiff is entitled to receive the relief respectfully requested herein as it relates to Plaintiff's Quiet Title cause of action.

D. Declaratory Judgment

25. Under the New Mexico Declaratory Judgment Act, this court has power "[i]n cases of actual controversy...to declare rights, status and other legal relations whether or not further relief is or could be claimed." NMSA 1978 § 44-6-2 (1975).

26. In this suit, there are actual controversies regarding the ownership of the Property and which parties, if any, have the right to control and operate the Property, thereby extracting and exhausting the finite mineral resources within same. Should Defendant be allowed to proceed with its intention to subvert Plaintiff's rights and the ownership and operation of the Property, the damage to same will be both irreparable and significant. Defendant has not secured ownership within the Property by satisfying the express terms of the JOA governing same, thereby creating a controversy that adversely affects both property rights and the parties monetary security.

27. In consideration of the foregoing, the Court should declare:

- a. Defendant has not satisfied the terms of the JOA governing the Property;
- b. Defendant has not succeeded to an ownership interest within any portion of the Property;
- c. Defendant has no authority to control or operate the Property;
- d. Defendant has no standing to bring claims before the OCD regarding the Property;
- and
- e. Plaintiff's written consent is required for Defendant to procure any ownership or

authority regarding the Property or its operation.

VI
APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION - STANDARD OF REVIEW

28. To obtain a temporary restraining order and/or a preliminary injunction, Plaintiffs must show that: (1) they will suffer irreparable injury unless the injunction is granted; (2) the threatened injury outweighs any harm the injunction might cause the defendants; (3) issuance of the injunction will not be adverse to the public's interest; and (4) there is a substantial likelihood plaintiff will prevail on the merits. *Labaldo v. Hymes*, 1993-NMCA-010, 314 N.M. 314, 318. In the instant case, Plaintiff easily meets all these requirements and is entitled to the requested injunctive relief.

A. Plaintiff Will Suffer Irreparable Injury Unless the Injunction is Granted

29. As discussed above herein, Plaintiff will be forced to make a damaging choice should Defendant be allowed to move forward with any proposed operations on, to, or within the Property. If Defendant is allowed to force pool the mineral rights of the Property and begin operations regarding same, the costs that Plaintiff will immediately incur if Plaintiff submits to Defendant's operation could be incredibly significant, possibly amounting to millions of dollars. Alternatively, if Plaintiff refuses Defendant's operation of the Property, then Plaintiff is immediately at risk of suffering the penalty of Defendant being paid not once, but thrice, for the costs of its operations before Plaintiff receives any of its royalties attributable to Plaintiff's partial ownership.

30. Given that mineral resources are indisputably finite in availability, the significant operation costs allegedly incurred by Defendant may exhaust said resources before Plaintiff is rightfully paid any of Plaintiff's royalties. This is an egregiously unjust result, as not only may Plaintiff have to refuse Defendant's operation of the Property because of the incredible costs, but the fact that Plaintiff would ever be in a position to make such choice is itself unlawful. Defendant has not

satisfied the terms of the JOA that governs the very Property that Defendant now seeks to control, yet Defendant is proceeding with cases before the OCD as if Defendant satisfied all conditions precedent and is the lawful owner of a majority of the Property.

31. Regardless of the OCD's opinion on the matter, the blatantly apparent truth is that Defendant's actions will undoubtedly result in substantial irreparable injury that will directly affect Plaintiff and irreparably alter the Property by exhausting its finite mineral resources. As Plaintiff is able to show immediate irreparable injury unless Defendant's conduct is enjoined, Plaintiff is now entitled to the injunctive relief requested herein.

B. The Threatened Injury Outweighs Any Harm to Defendant

32. The threatened injury to Plaintiff should Defendant's conduct not be enjoined, significantly outweighs any conceivable harm to Defendant. As of now, the mineral resources of the Property remain fixed and are subject to other pooling agreements or dilutive actions that would reduce their value. Defendant is only conceivable harmed financially, in the amount of the purchase price Defendant paid for its unlawful alleged assignment of the majority ownership interests in the Property and the royalties Defendant could receive were Defendant allowed to operate and drill upon the Property. Given that the mineral resources will remain where they are located, available to be extracted at a later date, this potential injury to Defendant is more conceit than harm.

33. Even assuming that Defendant was harmed by the granting of injunctive relief as requested by Plaintiff herein, Defendant's willful ignorance of the explicit terms of the JOA governing the Property in proceeding with the cases pending before the OCD amount to knowing malicious conduct of the sort that would negate any situation where Defendant were able to prevail over Plaintiff. Defendant cannot be allowed to cause an unlawful situation and then be wrongfully enriched at Plaintiff's expense through said illegal conduct.

34. By way of comparison, Plaintiff will actually suffer tangible harm should Defendant be allowed to proceed with Defendant's attempts at controlling the Property. This harm is not theoretical or a thought experiment, but real injury for which the threat is significant and immediate. Even further assuming that any potential harm to Defendant was more than conjecture, it would not rise to the level of the imminent harm Plaintiff currently stands at risk of suffering.

35. As Plaintiff is able to show that any harm to Defendant is demonstrably outweighed by that which Plaintiff is at immediate risk of suffering unless Defendant's conduct is enjoined, Plaintiff is now entitled to the injunctive relief requested herein.

C. An Injunction Would Not Be Adverse to the Public Interest

36. Property ownership is a protected right within both New Mexico and the United States, generally, and this includes the ownership of the mineral rights related to the Property at dispute in this cause. Plaintiff has succeeded from the original parties to the JOA to a position of qualified and undisputed ownership of its portion of the Property's mineral rights, which is protected by sworn written contract and the property laws of this State. The public clearly has an interest in ensuring that the property rights of citizens of New Mexico continues to be fiercely protected and afforded to the citizens in the most fundamental method possible.

37. Defendant's unlawful actions threaten serious injury to the property rights lawfully enjoyed by Plaintiff regarding the Property, and therefore threaten the public's interest in seeing such property rights secured and protected. Should Defendant's conduct be tolerated, then the injured suffered by Plaintiff would be immediate and would work to ultimately dull the protections of similarly situated citizens of this County and New Mexico. Because the public has an interest in ensuring its property rights are not eroded by the unlawful activity of malicious actors, granting

an injunction in this cause would not be adverse to the public interest. As such, Plaintiff is now entitled to the injunctive relief requested herein.

D. Plaintiff Has a Substantial Likelihood of Prevailing on the Merits

38. Has described herein, while Plaintiff can demonstrate a clear succession of title leading to the ownership interest in the Property currently held by Plaintiff, Defendant cannot do the same. Defendant has requested written consent from Plaintiff for the operation of the Property in the past, and such request has been denied, as is Plaintiff's right. Rather than seek alternative terms whereby Plaintiff may be enticed to lawfully provide Plaintiff's written consent as Defendant desires, Defendant has simply sought to unlawfully sidestep the issue and involve the OCD as an unwitting participant to effectuate injustice upon Plaintiff.

39. Plaintiff has never provided the consent required for Defendant to proceed to the ownership interest Defendant now alleges in the Property, and as such there is no situation where Defendant can claim that all terms of the JOA were satisfied and Defendant succeeded lawfully to its purported ownership position that *is not fraudulent*. Even assuming that Defendant could make any argument in its favor, such would not prevent Plaintiff from proceeding in this suit or disqualify Plaintiff from receiving the injunctive relief requested herein.

40. It is unnecessary for this Court to conclude at this stage that Plaintiff will certainly prevail on the claims. Plaintiff need only demonstrate a "substantial likelihood" of success. *LaBalbo v. Hymes*, 115 N.M. 314, 317-18, 850 P.2d 1017, 1020-21 (Ct. App. 1993). Moreover, "[u]nder some circumstances, the Tenth Circuit has recognized a relaxed 'modified likelihood of success' requirement." *County of Los Alamos v. United States DOE*, 2006 U.S. Dist. LEXIS 27262, *22-23 (D.N.M. Jan. 13, 2006). "If a plaintiff establishes that the latter three factors 'tip strongly' in his or her favor, the likelihood of success inquiry is modified somewhat, and the plaintiff may

establish likelihood of success by showing that questions going to the merits are so serious, substantial, difficult, and doubtful as to make the issue ripe for litigation and deserving of more deliberate investigation.” *Valley Cmty. Pres. Comm’n v. Mineta*, 373 F.3d 1078, 1083-84 (10th Cir. 2004) (citation and quotation omitted).

41. Here, it is likely that Plaintiff will succeed on the merits of its Complaint. Defendant has engaged in a concerted pattern of unlawful conduct designing to disparage, damage, and defraud Plaintiff and its ownership rights within the Property. Despite Defendant’s best efforts, however, such wrongful activity will not serve to work an injustice upon Plaintiff and is not a legitimate substitute for the lawfully obtained written consent required for Defendant to succeed to an ownership interest within the Property.

VII

REQUEST FOR RELIEF

42. Plaintiff Atlas OBO Energy LP respectfully request that this Court issue a temporary restraining order and preliminary injunction against Defendant Centennial Resource Production, LLC ordering Defendant to immediately cease any and all attempts at operating or otherwise controlling the Property, as all requirements for granting such injunctive relief have been satisfied by Plaintiff. Plaintiff further respectfully requests that the Court order Defendant to appear and defend the claims made herein and, upon final hearing, the Court also enter an order issuing declaratory relief against Defendant as requested herein, award all costs and expenses of this suit to Plaintiff as provided by law, and grant Plaintiff all such other and further relief, special or general, at law or in equity, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

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VERIFICATION

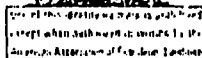
Under penalty of perjury, the undersigned hereby verifies that the facts and claims set forth in the foregoing instrument are both true and correct to the best of the undersigned's knowledge, information, and belief based on information currently known to the undersigned.

/s/Joshua D. Cochran

Joshua D. Cochran

Exhibit A

A.A.P.L. FORM 610 - 1977
MODEL FORM OPERATING AGREEMENT



OPERATING AGREEMENT

DATED

October 8, 1979.

OPERATOR AMOCO PRODUCTION COMPANY

CONTRACT AREA S/2, NW/4, Section 7; Section 18; and
Section 19, T-22-S, R-35-E

COUNTY OR PARISH OF Lea STATE OF New Mexico

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AMERICAN ASSOCIATION OF PETROLEUM LANDMEN
APPROVED FORM. A.A.P.L. NO. 610 - 1977 REVISED
MAY BE ORDERED DIRECTLY FROM THE PUBLISHER
KRAFTBILT PRODUCTS, BOX 800, TULSA 74101

TAX PARTNERSHIP

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

TABLE OF CONTENTS

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Article	Title	Page
I.	DEFINITIONS	1
II.	EXHIBITS	1
III.	INTERESTS OF PARTIES	2
	A. OIL AND GAS INTERESTS	2
	B. INTEREST OF PARTIES IN COSTS AND PRODUCTION	2
IV.	TITLES	2
	A. TITLE EXAMINATION	2
	B. LOSS OF TITLE	2
	1. Failure of Title	2-3
	2. Loss by Non-Payment or Erroneous Payment of Amount Due	3
	3. Other Losses	3
V.	OPERATOR	3
	A. DESIGNATION AND RESPONSIBILITIES OF OPERATOR	3
	B. RESIGNATION OR REMOVAL OF OPERATOR AND SELECTION OF SUCCESSOR	4
	1. Resignation or Removal of Operator	4
	2. Selection of Successor Operator	4
	C. EMPLOYEES	4
	D. DRILLING CONTRACTS	4
VI.	DRILLING AND DEVELOPMENT	4
	A. INITIAL WELL	4
	B. SUBSEQUENT OPERATIONS	5
	1. Proposed Operations	5
	2. Operations by Less than All Parties	5-6
	C. RIGHT TO TAKE PRODUCTION IN KIND	6-7
	D. ACCESS TO CONTRACT AREA AND INFORMATION	7
	E. ABANDONMENT OF WELLS	7
	1. Abandonment of Dry Holes	7
	2. Abandonment of Wells that have Produced	7-8
VII.	EXPENDITURES AND LIABILITY OF PARTIES	8
	A. LIABILITY OF PARTIES	8
	B. LIENS AND PAYMENT DEFAULTS	8
	C. PAYMENTS AND ACCOUNTING	8
	D. LIMITATION OF EXPENDITURES	9
	1. Drill or Deepen	9
	2. Rework or Plug Back	9
	3. Other Operations	9
	E. ROYALTIES, OVERRIDING ROYALTIES AND OTHER PAYMENTS	9
	F. RENTALS, SHUT-IN WELL PAYMENTS AND MINIMUM ROYALTIES	9-10
	G. TAXES	10
	H. INSURANCE	10
VIII.	ACQUISITION, MAINTENANCE OR TRANSFER OF INTEREST	10
	A. SURRENDER OF LEASES	10-11
	B. RENEWAL OR EXTENSION OF LEASES	11
	C. ACREAGE OR CASH CONTRIBUTION	11
	D. SUBSEQUENTLY CREATED INTEREST	11-12
	E. MAINTENANCE OF UNIFORM INTEREST	12
	F. WAIVER OF RIGHT TO PARTITION	12
	G. ASSIGNABILITY	12
IX.	INTERNAL REVENUE CODE ELECTION	12-13
X.	CLAIMS AND LAWSUITS	13
XI.	FORCE MAJEURE	13
XII.	NOTICES	13
XIII.	TERM OF AGREEMENT	13-14
XIV.	COMPLIANCE WITH LAWS AND REGULATIONS	14
	A. LAWS, REGULATIONS AND ORDERS	14
	B. GOVERNING LAW	14
XV.	OTHER PROVISIONS	14
XVI.	MISCELLANEOUS	14



Contract 100,085

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

OPERATING AGREEMENT

THIS AGREEMENT, entered into by and between AMOCO PRODUCTION COMPANY, hereinafter designated and referred to as "Operator", and the signatory party or parties other than Operator, sometimes hereinafter referred to individually herein as "Non-Operator", and collectively as "Non-Operators",

WITNESSETH:

WHEREAS, the parties to this agreement are owners of oil and gas leases and/or oil and gas interests in the land identified in Exhibit "A", and the parties hereto have reached an agreement to explore and develop these leases and/or oil and gas interests for the production of oil and gas to the extent and as hereinafter provided:

NOW, THEREFORE, it is agreed as follows:

ARTICLE I.
DEFINITIONS

As used in this agreement, the following words and terms shall have the meanings here ascribed to them:

A. The term "oil and gas" shall mean oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons and other marketable substances produced therewith, unless an intent to limit the inclusiveness of this term is specifically stated.

B. The terms "oil and gas lease", "lease" and "leasehold" shall mean the oil and gas leases covering tracts of land lying within the Contract Area which are owned by the parties to this agreement.

C. The term "oil and gas interests" shall mean unleased fee and mineral interests in tracts of land lying within the Contract Area which are owned by parties to this agreement.

D. The term "Contract Area" shall mean all of the lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated for oil and gas purposes under this agreement. Such lands, oil and gas leasehold interests and oil and gas interests are described in Exhibit "A".

E. The term "drilling unit" shall mean the area fixed for the drilling of one well by order or rule of any state or federal body having authority. If a drilling unit is not fixed by any such rule or order, a drilling unit shall be the drilling unit as established by the pattern of drilling in the Contract Area or as fixed by express agreement of the Drilling Parties.

F. The term "drillsite" shall mean the oil and gas lease or interest on which a proposed well is to be located.

G. The terms "Drilling Party" and "Consenting Party" shall mean a party who agrees to join in and pay its share of the cost of any operation conducted under the provisions of this agreement.

H. The terms "Non-Drilling Party" and "Non-Consenting Party" shall mean a party who elects not to participate in a proposed operation.

Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

ARTICLE II.
EXHIBITS

The following exhibits, as indicated below and attached hereto, are incorporated in and made a part hereof:

☒ A. Exhibit "A", shall include the following information:

- (1) Identification of lands subject to agreement,
- (2) Restrictions, if any, as to depths or formations,
- (3) Percentages or fractional interests of parties to this agreement,
- (4) Oil and gas leases and/or oil and gas interests subject to this agreement,
- (5) Addresses of parties for notice purposes.

☒ B. Exhibit "B", Form of Lease.

☒ C. Exhibit "C", Accounting Procedure.

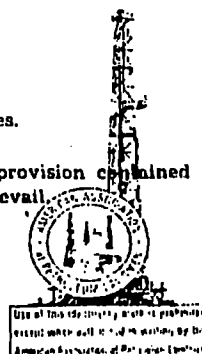
☒ D. Exhibit "D", Insurance.

☒ E. Exhibit "E", Gas Balancing Agreement.

☐ F. Exhibit "F", Non-Discrimination and Certification of Non-Segregated Facilities.

☒ G. Exhibit "G", Tax Partnership Recognition

If any provision of any exhibit, except Exhibit "E", is inconsistent with any provision contained in the body of this agreement, the provisions in the body of this agreement shall prevail.



A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

**ARTICLE III.
INTERESTS OF PARTIES**

A. Oil and Gas Interests:

If any party owns an unleased oil and gas interest in the Contract Area, during the term of this agreement and for the purposes thereof that interest shall be treated, and the owner shall receive royalty on production, as prescribed in Exhibit "B" hereof. Such party shall be subject to all the provisions of this agreement relating to lessees to the extent that it owns the lessee interest.

B. Interest of Parties in Costs and Production:

Exhibit "A" lists all of the parties and their respective percentage or fractional interests under this agreement. Unless changed by other provisions, all costs and liabilities incurred in operations under this agreement shall be borne and paid, and all equipment and material acquired in operations on the Contract Area shall be owned by the parties as their interests are shown in Exhibit "A". All production of oil and gas from the Contract Area, subject to the payment of lessor's royalties which will be borne by the joint account, shall also be owned by the parties in the same manner during the term hereof; provided, however, this shall not be deemed an assignment or cross-assignment of interests covered hereby.

**ARTICLE IV.
TITLES**

A. Title Examination:

Title examination shall be made on the drillsite of any proposed well prior to commencement of drilling operations or, if the Drilling Parties so request, title examination shall be made on the leases and/or oil and gas interests included, or planned to be included, in the drilling unit around such well. The opinion will include the ownership of the working interest, minerals, royalty, overriding royalty and production payments under the applicable leases. At the time a well is proposed, each party contributing leases and/or oil and gas interests to the drillsite, or to be included in such drilling unit, shall furnish to Operator all abstracts (including Federal Lease Status Reports), title opinions, title papers and curative material in its possession free of charge. All such information not in the possession of or made available to Operator by the parties, but necessary for the examination of title, shall be obtained by Operator. Operator shall cause title to be examined by attorneys on its staff or by outside attorneys. Copies of all title opinions shall be furnished to each party hereto. The cost incurred by Operator in this title program shall be borne as follows:

Costs of abstracts, fees paid outside attorneys, and costs incurred by Operator in procuring curative materials to satisfy requirements of the examining attorney (including brokers' per diem and expenses, costs of reproduction, etc., but excluding costs of services rendered by Operator's personnel) shall be charged to the joint account, but no such charge shall be made for services of Operator's own attorneys in examination of title. Except as provided hereinabove with regard to the drillsite of a proposed well, each party shall be responsible for, and shall bear the cost of, all title examinations which may be necessary (i.e., division order and shut-in gas royalty opinions, etc.) in connection with any interest in the Contract Area which such party has subjected to this agreement.

Each party shall be responsible for securing curative matter and pooling amendments or agreements required in connection with leases or oil and gas interests contributed by such party. The Operator shall be responsible for the preparation and recording of Pooling Designations or Declarations as well as the conduct of hearings before Governmental Agencies for the securing of spacing or pooling orders. This shall not prevent any party from appearing on its own behalf at any such hearing.

No well shall be drilled on the Contract Area until after (1) the title to the drillsite or drilling unit has been examined as above provided, and (2) the title has been approved by the examining attorney or title has been accepted by all of the parties who are to participate in the drilling of the well.

B. Loss of Title:

1. Failure of Title: Should any oil and gas interest or lease, or interest therein, be lost through failure of title, which loss results in a reduction of interest from that shown on Exhibit "A" of this agreement, nevertheless, shall continue in force as to all remaining oil and gas leases and interests.

(a) The party whose oil and gas lease or interest is affected by the title failure shall bear alone the entire loss and it shall not be entitled to recover from Operator or the other parties any development

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 or operating costs which it may have theretofore paid, but there shall be no monetary liability on its
2 part to the other parties hereto for drilling, development, operating or other similar costs by reason of
3 such title failure; and

4 (b) There shall be no retroactive adjustment of expenses incurred or revenues received from the
5 operation of the interest which has been lost, but the interests of the parties shall be revised on an acre-
6 age basis, as of the time it is determined finally that title failure has occurred, so that the interest of
7 the party whose lease or interest is affected by the title failure will thereafter be reduced in the Contract
8 Area by the amount of the interest lost; and

9 (c) If the proportionate interest of the other parties hereto in any producing well theretofore drilled
10 on the Contract Area is increased by reason of the title failure, the party whose title has failed shall
11 receive the proceeds attributable to the increase in such interests (less costs and burdens attributable
12 thereto) until it has been reimbursed for unrecovered costs paid by it in connection with such well;
13 and

14 (d) Should any person not a party to this agreement, who is determined to be the owner of any in-
15 terest in the title which has failed, pay in any manner any part of the cost of operation, development,
16 or equipment, such amount shall be paid to the party or parties who bore the costs which are so refund-
17 ed; and

18 (e) Any liability to account to a third party for prior production of oil and gas which arises by
19 reason of title failure shall be borne by the party or parties in the same proportions in which they shared
20 in such prior production; and

21 (f) No charge shall be made to the joint account for legal expenses, fees or salaries, in connection
22 with the defense of the interest claimed by any party hereto, it being the intention of the parties
23 hereto that each shall defend title to its interest and bear all expenses in connection therewith.
24

25 2. Loss by Non-Payment or Erroneous Payment of Amount Due: If, through mistake or oversight,
26 any rental, shut-in well payment, minimum royalty or royalty payment, is not paid or is erroneously
27 paid, and as a result a lease or interest therein terminates, there shall be no monetary liability against
28 the party who failed to make such payment. Unless the party who failed to make the required payment
29 secures a new lease covering the same interest within ninety (90) days from the discovery of the fail-
30 ure to make proper payment, which acquisition will not be subject to Article VIII.B., the interests of
31 the parties shall be revised on an acreage basis, effective as of the date of termination of the lease in-
32 volved, and the party who failed to make proper payment will no longer be credited with an interest in
33 the Contract Area on account of ownership of the lease or interest which has terminated. In the event
34 the party who failed to make the required payment shall not have been fully reimbursed, at the time of
35 the loss, from the proceeds of the sale of oil and gas attributable to the lost interest, calculated on an
36 acreage basis, for the development and operating costs theretofore paid on account of such interest, it
37 shall be reimbursed for unrecovered actual costs theretofore paid by it (but not for its share of the
38 cost of any dry hole previously drilled or wells previously abandoned) from so much of the following
39 as is necessary to effect reimbursement:

40 (a) Proceeds of oil and gas, less operating expenses, theretofore accrued to the credit of the lost
41 interest, on an acreage basis, up to the amount of unrecovered costs;

42 (b) Proceeds, less operating expenses, thereafter accrued attributable to the lost interest on an
43 acreage basis, of that portion of oil and gas thereafter produced and marketed (excluding production
44 from any wells thereafter drilled) which, in the absence of such lease termination, would be attributable
45 to the lost interest on an acreage basis, up to the amount of unrecovered costs, the proceeds of said
46 portion of the oil and gas to be contributed by the other parties in proportion to their respective in-
47 terests; and

48 (c) Any monies, up to the amount of unrecovered costs, that may be paid by any party who is, or
49 becomes, the owner of the interest lost, for the privilege of participating in the Contract Area or be-
50 coming a party to this agreement.
51

52 3. Other Losses: All losses incurred, other than those set forth in Articles IV.B.1. and IV.B.2.
53 above, shall not be considered failure of title but shall be joint losses and shall be borne by all parties
54 in proportion to their interests. There shall be no readjustment of interests in the remaining portion of
55 the Contract Area.
56

ARTICLE V. OPERATOR

A. DESIGNATION AND RESPONSIBILITIES OF OPERATOR:

AMOCO PRODUCTION COMPANY

shall be the
Operator of the Contract Area, and shall conduct and direct and have full control of all operations on
the Contract Area as permitted and required by, and within the limits of, this agreement. It shall con-
duct all such operations in a good and workmanlike manner, but it shall have no liability as Operator
to the other parties for losses sustained or liabilities incurred, except such as may result from gross
negligence or willful misconduct.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 B. Resignation or Removal of Operator and Selection of Successor:

2
3 1. Resignation or Removal of Operator: Operator may resign at any time by giving written notice
4 thereof to Non-Operators. If Operator terminates its legal existence, no longer owns an interest in the
5 Contract Area, or is no longer capable of serving as Operator, it shall cease to be Operator without any
6 action by Non-Operator, except the selection of a successor. Operator may be removed if it fails or
7 refuses to carry out its duties hereunder, or becomes insolvent, bankrupt or is placed in receivership,
8 by the affirmative vote of two (2) or more Non-Operators owning a majority interest based on owner-
9 ship as shown on Exhibit "A", and not on the number of parties remaining after excluding the voting
10 interest of Operator. Such resignation or removal shall not become effective until 7:00 o'clock A.M.
11 on the first day of the calendar month following the expiration of ninety (90) days after the giving of
12 notice of resignation by Operator or action by the Non-Operators to remove Operator, unless a successor
13 Operator has been selected and assumes the duties of Operator at an earlier date. Operator, after effective
14 date of resignation or removal, shall be bound by the terms hereof as a Non-Operator. A change of
15 a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary,
16 parent or successor corporation shall not be the basis for removal of Operator.

17
18 2. Selection of Successor Operator: Upon the resignation or removal of Operator, a successor Op-
19 erator shall be selected by the Parties. The successor Operator shall be selected from the parties owning
20 an interest in the Contract Area at the time such successor Operator is selected. If the Operator that
21 is removed fails to vote or votes only to succeed itself, the successor Operator shall be selected by the
22 affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown
23 on Exhibit "A", and not on the number of parties remaining after excluding the voting interest of the
24 Operator that was removed.

25
26 C. Employees:

27
28 The number of employees used by Operator in conducting operations hereunder, their selection,
29 and the hours of lab and the compensation for services performed, shall be determined by Operator,
30 and all such employees shall be the employees of Operator.

31
32 D. Drilling Contracts:

33
34 All wells drilled on the Contract Area shall be drilled on a competitive contract basis at the usual
35 rates prevailing in the area. If it so desires, Operator may employ its own tools and equipment in the
36 drilling of wells, but its charges therefor shall not exceed the prevailing rates in the area and the rate
37 of such charges shall be agreed upon by the parties in writing before drilling operations are com-
38 menced, and such work shall be performed by Operator under the same terms and conditions as are
39 customary and usual in the area in contracts of independent contractors who are doing work of a sim-
40 ilar nature.

41
42 ARTICLE VI.
43 DRILLING AND DEVELOPMENT44
45 A. Initial Well:

46
47 On or before the 15th day of December, 1979, Operator shall commence the drill-
48 ing of a well for oil and gas at the following location:

49 on the SE/4 of Section 7, Township 22 South,
50 Range 35 East, Lea County, New Mexico

51
52
53 and shall thereafter continue the drilling of the well with due diligence to
54 Contract Depth, as defined hereinafter in
55 Article XV of this agreement,

56
57
58 unless granite or other practically impenetrable substance or condition in the hole, which renders
59 further drilling impractical, is encountered at a lesser depth, or unless all parties agree to complete or
60 abandon the well at a lesser depth.

61
62 Operator shall make reasonable tests of all formations encountered during drilling which give in-
63 dication of containing oil and gas in quantities sufficient to test, unless this agreement shall be limited
64 in its application to a specific formation or formations, in which event Operator shall be required to
65 test only the formation or formations to which this agreement may apply.

66
67 If, in Operator's judgment, the well will not produce oil or gas in paying quantities, and it wishes
68 to plug and abandon the well as a dry hole, it shall first secure the consent of all parties to the well
69 plug and abandon same as provided in Article VI.E.1. hereof.

70

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 B. Subsequent Operations:

2
3 1. Proposed Operations: Should any party hereto desire to drill any well on the Contract Area
4 other than the well provided for in Article VI.A., or to rework, deepen or plug back a dry hole drilled
5 at the joint expense of all parties or a well jointly owned by all the parties and not then producing
6 in paying quantities, the party desiring to drill, rework, deepen or plug back such a well shall give the
7 other parties written notice of the proposed operation, specifying the work to be performed, the loca-
8 tion, proposed depth, objective formation and the estimated cost of the operation. The parties receiv-
9 ing such a notice shall have thirty (30) days after receipt of the notice within which to notify the
10 parties wishing to do the work whether they elect to participate in the cost of the proposed operation.
11 If a drilling rig is on location, notice of proposal to rework, plug back or drill deeper may be given
12 by telephone and the response period shall be limited to forty-eight (48) hours, exclusive of Saturday,
13 Sunday or legal holidays. Failure of a party receiving such notice to reply within the period above fixed
14 shall constitute an election by that party not to participate in the cost of the proposed operation. Any
15 notice or response given by telephone shall be promptly confirmed in writing.

16
17 2. Operations by Less than All Parties: If any party receiving such notice as provided in Article
18 VI.B.1. or VI.E.1. elects not to participate in the proposed operation, then, in order to be entitled to
19 the benefits of this article, the party or parties giving the notice and such other parties as shall elect
20 to participate in the operation shall, within sixty (60) days after the expiration of the notice period of
21 thirty (30) days (or as promptly as possible after the expiration of the forty-eight (48) hour period
22 where the drilling rig is on location, as the case may be) actually commence work on the proposed
23 operation and complete it with due diligence. Operator shall perform all work for the account of the
24 Consenting Parties; provided, however, if no drilling rig or other equipment is on location, and if Op-
25 erator is a Non-Consenting Party, the Consenting Parties shall either: (a) request Operator to perform
26 the work required by such proposed operation for the account of the Consenting Parties, or (b) desig-
27 nate one (1) of the Consenting Parties as Operator to perform such work. Consenting Parties, when
28 conducting operations on the Contract Area pursuant to this Article VI.B.2., shall comply with all terms
29 and conditions of this agreement.

30
31 If less than all parties approve any proposed operation, the proposing party, immediately after the
32 expiration of the applicable notice period, shall advise the Consenting Parties of (a) the total interest
33 of the parties approving such operation, and (b) its recommendation as to whether the Consenting Par-
34 ties should proceed with the operation as proposed. Each Consenting Party, within forty-eight (48)
35 hours (exclusive of Saturday, Sunday or legal holidays) after receipt of such notice, shall advise the
36 proposing party of its desire to (a) limit participation to such party's interest as shown on Exhibit "A",
37 or (b) carry its proportionate part of Non-Consenting Parties' interest. The proposing party, at its
38 election, may withdraw such proposal if there is insufficient participation, and shall promptly notify
39 all parties of such decision.

40
41 The entire cost and risk of conducting such operations shall be borne by the Consenting Parties in
42 the proportions they have elected to bear same under the terms of the preceding paragraph. Consenting
43 Parties shall keep the leasehold estates involved in such operations free and clear of all liens and
44 encumbrances of every kind created by or arising from the operations of the Consenting Parties. If such
45 an operation results in a dry hole, the Consenting Parties shall plug and abandon the well at their sole
46 cost, risk and expense. If any well drilled, reworked, deepened or plugged back under the provisions
47 of this Article results in a producer of oil and/or gas in paying quantities, the Consenting Parties shall
48 complete and equip the well to produce at their sole cost and risk, and the well shall then be turned
49 over to Operator and shall be operated by it at the expense and for the account of the Consenting Parties.
50 Upon commencement of operations for the drilling, reworking, deepening or plugging back of any such
51 well by Consenting Parties in accordance with the provisions of this Article, each Non-Consenting Party
52 shall be deemed to have relinquished to Consenting Parties, and the Consenting Parties shall own and
53 be entitled to receive, in proportion to their respective interests, all of such Non-Consenting Party's
54 interest in the well and share of production therefrom until the proceeds of the sale of such share,
55 calculated at the well, or market value thereof if such share is not sold (after deducting production
56 taxes, royalty, overriding royalty and other interests existing on the effective date hereof, payable out of
57 or measured by the production from such well accruing with respect to such interest until it reverts)
58 shall equal the total of the following:

59
60 (a) 100% of each such Non-Consenting Party's share of the cost of any newly acquired surface
61 equipment beyond the wellhead connections (including, but not limited to, stock tanks, separators,
62 treaters, pumping equipment and piping), plus 100% of each such Non-Consenting Party's share of the
63 cost of operation of the well commencing with first production and continuing until each such Non-
64 Consenting Party's relinquished interest shall revert to it under other provisions of this Article, it being
65 agreed that each Non-Consenting Party's share of such costs and equipment will be that interest which
66 would have been chargeable to each Non-Consenting Party had it participated in the well from the be-
67 ginning of the operation; and

68
69 (b) 300% of that portion of the costs and expenses of drilling reworking, deepening, plugging back,
70 back, testing and completing, after deducting any cash contributions received under Article VIII.C. and

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 300 % of that portion of the cost of newly acquired equipment in the well (to and including the well-
2 head connections), which would have been chargeable to such Non-Consenting Party if it had partici-
3 pated therein.

4
5 Gas production attributable to any Non-Consenting Party's relinquished interest upon such Party's
6 election, shall be sold to its purchaser, if available, under the terms of its existing gas sales con-
7 tract. Such Non-Consenting Party shall direct its purchaser to remit the proceeds receivable from
8 such sale direct to the Consenting Parties until the amounts provided for in this Article are recov-
9 ered from the Non-Consenting Party's relinquished interest. If such Non-Consenting Party has not
10 contracted for sale of its gas at the time such gas is available for delivery, or has not made the elec-
11 tion as provided above, the Consenting Parties shall own and be entitled to receive and sell such Non-
12 Consenting Party's share of gas as hereinabove provided during the recoupment period.

13
14 During the period of time Consenting Parties are entitled to receive Non-Consenting Party's share
15 of production, or the proceeds therefrom, Consenting Parties shall be responsible for the payment of
16 all production, severance, gathering and other taxes, and all royalty, overriding royalty and other
17 burdens applicable to Non-Consenting Party's share of production.

18
19 In the case of any reworking, plugging back or deeper drilling operation, the Consenting Parties shall
20 be permitted to use, free of cost, all casing, tubing and other equipment in the well, but the ownership of
21 all such equipment shall remain unchanged; and upon abandonment of a well after such reworking,
22 plugging back or deeper drilling, the Consenting Parties shall account for all such equipment to the
23 owners thereof, with each party receiving its proportionate part in kind or in value, less cost of
24 salvage.

25
26 Within sixty (60) days after the completion of any operation under this Article, the party con-
27 ducting the operations for the Consenting Parties shall furnish each Non-Consenting Party with an in-
28 ventory of the equipment in and connected to the well, and an itemized statement of the cost of drilling,
29 deepening, plugging back, testing, completing, and equipping the well for production; or, at its option,
30 the operating party, in lieu of an itemized statement of such costs of operation, may submit a detailed
31 statement of monthly billings. Each month thereafter, during the time the Consenting Parties are being
32 reimbursed as provided above, the Party conducting the operations for the Consenting Parties shall fur-
33 nish the Non-Consenting Parties with an itemized statement of all costs and liabilities incurred in the
34 operation of the well, together with a statement of the quantity of oil and gas produced from it and the
35 amount of proceeds realized from the sale of the well's working interest production during the preceding
36 month. In determining the quantity of oil and gas produced during any month, Consenting Parties
37 shall use industry accepted methods such as, but not limited to, metering or periodic well tests. Any
38 amount realized from the sale or other disposition of equipment newly acquired in connection with any
39 such operation which would have been owned by a Non-Consenting Party had it participated therein
40 shall be credited against the total unreturned costs of the work done and of the equipment purchased,
41 in determining when the interest of such Non-Consenting Party shall revert to it as above provided;
42 and if there is a credit balance, it shall be paid to such Non-Consenting party.

43
44 If and when the Consenting Parties recover from a Non-Consenting Party's relinquished interest
45 the amounts provided for above, the relinquished interests of such Non-Consenting Party shall auto-
46 matically revert to it, and, from and after such reversion, such Non-Consenting Party shall own the same
47 interest in such well, the material and equipment in or pertaining thereto, and the production there-
48 from as such Non-Consenting Party would have been entitled to had it participated in the drilling,
49 reworking, deepening or plugging back of said well. Thereafter, such Non-Consenting Party shall be
50 charged with and shall pay its proportionate part of the further costs of the operation of said well in
51 accordance with the terms of this agreement and the Accounting Procedure, attached hereto.

52
53 Notwithstanding the provisions of this Article VI.B.2., it is agreed that without the mutual consent
54 of all parties, no wells shall be completed in or produced from a source of supply from which a well
55 located elsewhere on the Contract Area is producing, unless such well conforms to the then-existing
56 well spacing pattern for such source of supply.

57
58 The provisions of this Article shall have no application whatsoever to the drilling of the initial
59 well described in Article VI.A. except (a) when Option 2, Article VII.D.1., has been selected, or (b)
60 to the reworking, deepening and plugging back of such initial well, if such well is or thereafter shall
61 prove to be a dry hole or non-commercial well, after having been drilled to the depth specified in Article
62 VI.A.

63 C. Right to Take Production in Kind:

64
65
66 Each party shall have the right to take in kind or separately dispose of its proportionate share of
67 all oil and gas produced from the Contract Area, exclusive of production which may be used in de-
68 velopment and producing operations and in preparing and treating oil for marketing purposes and
69 production unavoidably lost. Any extra expenditure incurred in the taking in kind or separate dispo-
70 sition by any party of its proportionate share of the production shall be borne by such party. Any

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 party taking its share of production in kind shall be required to pay for only its proportionate share
 2 of such part of Operator's surface facilities which it uses. The provision for taking production
 3 in kind is recognized as each partner's right to determine the market for a proportionate
 4 share of the sales. Income from such markets shall be recognized by the partnership and allocated respectively to the partner who designated the market.

5 Each party shall execute such division orders and contracts as may be necessary for the sale of its
 6 interest in production from the Contract Area, and, except as provided in Article VII.B., shall be entitled
 7 to receive payment direct from the purchaser thereof for its share of all production.

8 In the event any party shall fail to make the arrangements necessary to take in kind or separately
 9 dispose of its proportionate share of the oil and gas produced from the Contract Area, Operator shall have
 10 the right, subject to the revocation at will by the party owning it, but not the obligation, to purchase such
 11 oil and gas or sell it to others at any time and from time to time, for the account of the non-taking
 12 party at the best price obtainable in the area for such production. Any such purchase or sale by Op-
 13 erator shall be subject always to the right of the owner of the production to exercise at any time its
 14 right to take in kind, or separately dispose of, its share of all oil and gas not previously delivered to a
 15 purchaser. Any purchase or sale by Operator of any other party's share of oil and gas shall be only for
 16 such reasonable periods of time as are consistent with the minimum needs of the industry under the
 17 particular circumstances, but in no event for a period in excess of one (1) year. Notwithstanding the
 18 foregoing, Operator shall not make a sale, including one into interstate commerce, of any other party's
 19 share of gas production without first giving such other party thirty (30) days notice of such intended
 20 sale.

21 In the event one or more parties' separate disposition of its share of the gas causes split-stream de-
 22 liveries to separate pipelines and/or deliveries which on a day-to-day basis for any reason are not
 23 exactly equal to a party's respective proportionate share of total gas sales to be allocated to it, the
 24 balancing or accounting between the respective accounts of the parties shall be in accordance with
 25 any Gas Balancing Agreement between the parties hereto, whether such Agreement is attached as
 26 Exhibit "E" or is a separate Agreement.

27 D. Access to Contract Area and Information:

28 Each party shall have access to the Contract Area at all reasonable times, at its sole risk to
 29 inspect or observe operations, and shall have access at reasonable times to information pertaining
 30 to the development or operation thereof, including Operator's books and records relating thereto.
 31 Operator, upon request, shall furnish each of the other parties with copies of all forms or reports
 32 filed with governmental agencies, daily drilling reports, well logs, digitally recorded and com-
 33 posited merged library tapes, tank tables daily gauge and run tickets and reports of stock on hand
 34 at the first of each month, and shall make available samples of any cores or cuttings taken from any
 35 well drilled on the Contract Area. The cost of gathering and furnishing information to Non-Operator,
 36 other than that specified above, shall be charged to the Non-Operator that requests the information.

37 E. Abandonment of Wells:

38 1. Abandonment of Dry Holes: Except for any well drilled pursuant to Article VI.B.2., any well
 39 which has been drilled under the terms of this agreement and is proposed to be completed as a dry hole
 40 shall not be plugged and abandoned without the consent of all parties. Should Operator, after diligent
 41 effort, be unable to contact any party, or should any party fail to reply within forty-eight (48) hours
 42 (exclusive of Saturday, Sunday or legal holidays) after receipt of notice of the proposal to plug and
 43 abandon such well, such party shall be deemed to have consented to the proposed abandonment. All
 44 such wells shall be plugged and abandoned in accordance with applicable regulations and at the cost,
 45 risk and expense of the parties who participated in the cost of drilling of such well. Any party who ob-
 46 jects to the plugging and abandoning such well shall have the right to take over the well and conduct
 47 further operations in search of oil and/or gas subject to the provisions of Article VI.B.

48 2. Abandonment of Wells that have Produced: Except for any well which has been drilled or re-
 49 worked pursuant to Article VI.B.2. hereof for which the Consenting Parties have not been fully reim-
 50 bursed as therein provided, any well which has been completed as a producer shall not be plugged and
 51 abandoned without the consent of all parties. If all parties consent to such abandonment, the well shall
 52 be plugged and abandoned in accordance with applicable regulations and at the cost, risk and expense
 53 of all the parties hereto. If, within thirty (30) days after receipt of notice of the proposed abandonment
 54 of such well, all parties do not agree to the abandonment of any well, those wishing to continue its op-
 55 eration shall tender to each of the other parties its proportionate share of the value of the well's salvageable
 56 material and equipment, determined in accordance with the provisions of Exhibit "C", less the estimated
 57 cost of salvaging and the estimated cost of plugging and abandoning. Each abandoning party shall
 58 assign to the non-abandoning parties, without warranty, express or implied, as to title or as to quantity,
 59 quality, or fitness for use of the equipment and material, all of its interest in the well and related equip-
 60 ment, together with its interest in the leasehold estate as to, but only as to, the interval or intervals of the
 61 formation or formations then open to production. If the interest of the abandoning party is or includes
 62 an oil and gas interest, such party shall execute and deliver to the non-abandoning party or parties an
 63 oil and gas lease, limited to the interval or intervals of the formation or formations then open to produc-
 64 tion, for a term of one year and so long thereafter as oil and/or gas is produced from the interval or inter-

A.A.P.L. FORM 610 - MODEL OPERATING AGREEMENT

1 vels of the formation or formations covered thereby, such lease to be on the form attached as Exhibit
2 "B". The assignments or leases so limited shall encompass the "drilling unit" upon which the well is
3 located. The payments by, and the assignments or leases to, the assignees shall be in a ratio based upon
4 the relationship of their respective percentages of participation in the Contract Area to the aggregate of
5 the percentages of participation in the Contract Area of all assignees. There shall be no readjustment
6 of interest in the remaining portion of the Contract Area.

7
8 Thereafter, abandoning parties shall have no further responsibility, liability, or interest in the op-
9 eration of or production from the well in the interval or intervals then open other than the royalties
10 retained in any lease made under the terms of this Article. Upon request, Operator shall continue to
11 operate the assigned well for the account of the non-abandoning parties at the rates and charges con-
12 templated by this agreement, plus any additional cost and charges which may arise as the result of
13 the separate ownership of the assigned well.

14
15 **ARTICLE VII.**
16 **EXPENDITURES AND LIABILITY OF PARTIES**

17
18 **A. Liability of Parties:**

19
20 The liabilities of the parties shall be several, not joint or collective.
21 The prior sentence notwithstanding, Operator shall be liable for all debts
22 incurred in developing and operating the Contract Area; provided that, if
23 Operator satisfies an indebtedness, it shall be entitled to a contribution
24 from each Non-Operator in proportion to such Non-Operator's interest, determined
25 in accordance with other provisions of this agreement, in the action giving
26 rise to the indebtedness.

27 **B. Lien and Payment Defaults:**

28
29 Each Non-Operator grants to Operator a lien upon its oil and gas rights in the Contract Area, and a
30 security interest in its share of oil and/or gas when extracted and its interest in all equipment, to secure
31 payment of its share of expense, together with interest thereon at the rate provided in the Accounting
32 Procedure attached hereto as Exhibit "C". To the extent that Operator has a security interest under the
33 Uniform Commercial Code of the State, Operator shall be entitled to exercise the rights and remedies
34 of a secured party under the Code. The bringing of a suit and the obtaining of judgment by Operator
35 for the secured indebtedness shall not be deemed an election of remedies or otherwise affect the lien
36 rights or security interest as security for the payment thereof. In addition, upon default by any Non-
37 Operator in the payment of its share of expense, Operator shall have the right, without prejudice to
38 other rights or remedies, to collect from the purchaser the proceeds from the sale of such Non-Operator's
39 share of oil and/or gas until the amount owed by such Non-Operator, plus interest has been paid. Each
40 purchaser shall be entitled to rely upon Operator's written statement concerning the amount of any de-
41 fault. Operator grants a like lien and security interest to the Non-Operators to secure payment of Op-
42 erator's proportionate share of expense.

43
44 If any party fails or is unable to pay its share of expense within sixty (60) days after rendition of
45 a statement therefor by Operator, the non-defaulting parties, including Operator, shall, upon request by
46 Operator, pay the unpaid amount in the proportion that the interest of each such party bears to the in-
47 terest of all such parties. Each party so paying its share of the unpaid amount shall, to obtain reimburse-
48 ment thereof, be subrogated to the security rights described in the foregoing paragraph.

49
50 **C. Payments and Accounting:**

51
52 Except as herein otherwise specifically provided, Operator shall promptly pay and discharge expenses
53 incurred in the development and operation of the Contract Area pursuant to this agreement and shall
54 charge each of the parties hereto with their respective proportionate shares upon the expense basis pro-
55 vided in the Accounting Procedure attached hereto as Exhibit "C". Operator shall keep an accurate
56 record of the joint account hereunder, showing expenses incurred and charges and credits made and
57 received.

58
59 Operator, at its election, shall have the right from time to time to demand and receive from the
60 other parties payment in advance of their respective shares of the estimated amount of the expense to
61 be incurred in operations hereunder during the next succeeding month, which right may be exercised only
62 by submission to each such party of an itemized statement of such estimated expense, together with
63 an invoice for its share thereof. Each such statement and invoice for the payment in advance of esti-
64 mated expense shall be submitted on or before the 20th day of the next preceding month. Each party
65 shall pay to Operator its proportionate share of such estimate within fifteen (15) days after such es-
66 timate and invoice is received. If any party fails to pay its share of said estimate within said time, the
67 amount due shall bear interest as provided in Exhibit "C" until paid. Proper adjustment shall be
68 made monthly between advances and actual expense to the end that each party shall bear its
69 proportionate share of actual expenses incurred, and no more.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 D. Limitation of Expenditures:

2
3 1. Drill or Deepen: Without the consent of all parties, no well shall be drilled or deepened, ex-
4 cept any well drilled or deepened pursuant to the provisions of Article VI.B.2. of this Agreement, it being
5 understood that the consent to the drilling or deepening shall include:

6
7 ☐ Option No. 1: All necessary expenditures for the drilling or deepening, testing, completing and
8 equipping of the well, including necessary tankage and/or surface facilities.

9
10 ☒ Option No. 2: All necessary expenditures for the drilling or deepening and testing of the well. When
11 such well has reached its authorized depth, and all tests have been completed, Operator shall give im-
12 mediate notice to the Non-Operators who have the right to participate in the completion costs. The parties
13 receiving such notice shall have forty-eight (48) hours (exclusive of Saturday, Sunday and legal holi-
14 days) in which to elect to participate in the setting of casing and the completion attempt. Such election,
15 when made, shall include consent to all necessary expenditures for the completing and equipping of such
16 well, including necessary tankage and/or surface facilities. Failure of any party receiving such notice
17 to reply within the period above fixed shall constitute an election by that party not to participate in
18 the cost of the completion attempt. If one or more, but less than all of the parties, elect to set pipe and
19 to attempt a completion, the provisions of Article VI.B.2. hereof (the phrase "reworking, deepening or
20 plugging back" as contained in Article VI.B.2. shall be deemed to include "completing") shall apply to
21 the operations thereafter conducted by less than all parties.

22
23 2. Rework or Plug Back: Without the consent of all parties, no well shall be reworked or plugged
24 back except a well reworked or plugged back pursuant to the provisions of Article VI.B.2. of this agree-
25 ment, it being understood that the consent to the reworking or plugging back of a well shall include
26 consent to all necessary expenditures in conducting such operations and completing and equipping of
27 said well, including necessary tankage and/or surface facilities.

28
29 3. Other Operations: Operator shall not undertake any single project reasonably estimated to require
30 an expenditure in excess of Twenty Five Thousand Dollars (\$ 25,000.00)
31 except in connection with a well, the drilling, reworking, deepening, completing, recompleting, or plug-
32 ging back of which has been previously authorized by or pursuant to this agreement; provided, how-
33 ever, that, in case of explosion, fire, flood or other sudden emergency, whether of the same or different
34 nature, Operator may take such steps and incur such expenses as in its opinion are required to deal with
35 the emergency to safeguard life and property but Operator, as promptly as possible, shall report the emer-
36 gency to the other parties. If Operator prepares "Authority for Expenditures" for its own use,
37 Operator, upon request, shall furnish copies of its "Authority for Expenditures" for any single project
38 costing in excess of Twenty Five Thousand Dollars (\$ 25,000.00).
39

40 E. Royalties, Overriding Royalties and Other Payments:

41
42 Each party shall pay or deliver, or cause to be paid or delivered, all royalties to the extent of
43 the usual 1/8th royalty due on its share of production and shall hold the other parties free
44 from any liability therefor. If the interest of any party in any oil and gas lease covered by this agree-
45 ment is subject to any royalty, overriding royalty, production payment, or other charge over and above
46 the aforesaid royalty, such party shall assume and alone bear all such obligations and shall account
47 for or cause to be accounted for, such interest to the owners thereof.

48
49 No party shall ever be responsible, on any price basis higher than the price received by such party,
50 to any other party's lessor or royalty owner; and if any such other party's lessor or royalty owner should
51 demand and receive settlements on a higher price basis, the party contributing such lease shall bear the
52 royalty burden insofar as such higher price is concerned.

53 F. Rentals, Shut-in Well Payments and Minimum Royalties:

54
55
56 Rentals, shut-in well payments and minimum royalties which may be required under the terms of
57 any lease shall be paid by the party or parties who subjected such lease to this agreement at its or their
58 expense. In the event two or more parties own and have contributed interests in the same lease to this
59 agreement, such parties may designate one of such parties to make said payments for and on behalf of all
60 such parties. Any party may request, and shall be entitled to receive, proper evidence of all such pay-
61 ments. In the event of failure to make proper payment of any rental, shut-in well payment or minimum
62 royalty through mistake or oversight where such payment is required to continue the lease in force,
63 any loss which results from such non-payment shall be borne in accordance with the provisions of Article
64 IV.B.2.

65
66 Operator shall notify Non-Operator of the anticipated completion of a shut-in gas well, or the shut-
67 ting in or return to production of a producing gas well, at least five (5) days (excluding Saturday, Sun-
68 day and holidays), or at the earliest opportunity permitted by circumstances, prior to taking such action,
69 but assumes no liability for failure to do so. In the event of failure by Operator to so notify Non-
70 Operator, the loss of any lease contributed hereto by Non-Operator for failure to make timely payments.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 of any shut-in well payment shall be borne jointly by the parties hereto under the provisions of Article
2 IV.B.3.

3
4 **G. Taxes:**

5
6 Beginning with the first calendar year after the effective date hereof, Operator shall render for ad
7 valorem taxation all property subject to this agreement which by law should be rendered for such
8 taxes, and it shall pay all such taxes assessed thereon before they become delinquent. Prior to the ren-
9 dition date, each Non-Operator shall furnish Operator information as to burdens (to include, but not be
10 limited to, royalties, overriding royalties and production payments) on leases and oil and gas interests con-
11 tributed by such Non-Operator. If the assessed valuation of any leasehold estate is reduced by reason of its
12 being subject to outstanding excess royalties, overriding royalties or production payments, the reduction in
13 ad valorem taxes resulting therefrom shall inure to the benefit of the owner or owners of such leasehold
14 estate, and Operator shall adjust the charge to such owner or owners so as to reflect the benefit of such
15 reduction. Operator shall bill other parties for their proportionate share of all tax payments in the man-
16 ner provided in Exhibit "C".

17
18 If Operator considers any tax assessment improper, Operator may, at its discretion, protest within
19 the time and manner prescribed by law, and prosecute the protest to a final determination, unless all
20 parties agree to abandon the protest prior to final determination. During the pendency of administrative
21 or judicial proceedings, Operator may elect to pay, under protest, all such taxes and any interest and
22 penalty. When any such protested assessment shall have been finally determined, Operator shall pay
23 the tax for the joint account, together with any interest and penalty accrued, and the total cost shall then
24 be assessed against the parties, and be paid by them, as provided in Exhibit "C".

25
26 Each party shall pay or cause to be paid all production, severance, gathering and other taxes im-
27 posed upon or with respect to the production or handling of such party's share of oil and/or gas pro-
28 duced under the terms of this agreement.

29
30 **H. Insurance:**

31
32 At all times while operations are conducted hereunder, Operator shall comply with the Workmen's
33 Compensation Law of the State where the operations are being conducted; provided, however, that Op-
34 erator may be a self-insurer for liability under said compensation laws in which event the only charge
35 that shall be made to the joint account shall be an amount equivalent to the premium which would have
36 been paid had such insurance been obtained. Operator shall also carry or provide insurance for the
37 benefit of the joint account of the parties as outlined in Exhibit "D", attached to and made a part hereof.
38 Operator shall require all contractors engaged in work on or for the Contract Area to comply with the
39 Workmen's Compensation Law of the State where the operations are being conducted and to maintain
40 such other insurance as Operator may require.

41
42 In the event Automobile Public Liability Insurance is specified in said Exhibit "D", or subsequently
43 receives the approval of the parties, no direct charge shall be made by Operator for premiums paid for
44 such insurance for Operator's fully owned automotive equipment.

45
46 **ARTICLE VIII.**
47 **ACQUISITION, MAINTENANCE OR TRANSFER OF INTEREST**

48
49 **A. Surrender of Leases:**

50
51 The leases covered by this agreement, insofar as they embrace acreage in the Contract Area, shall
52 not be surrendered in whole or in part unless all parties consent thereto.

53
54 However, should any party desire to surrender its interest in any lease or in any portion thereof, and
55 other parties do not agree or consent thereto, the party desiring to surrender shall assign, without express
56 or implied warranty of title, all of its interest in such lease, or portion thereof, and any well, material and
57 equipment which may be located thereon and any rights in production thereafter secured, to the parties
58 not desiring to surrender it. If the interest of the assigning party includes an oil and gas interest, the as-
59 signing party shall execute and deliver to the party or parties not desiring to surrender an oil and gas
60 lease covering such oil and gas interest for a term of one year and so long thereafter as oil and/or gas
61 is produced from the land covered thereby, such lease to be on the form attached hereto as Exhibit "B".
62 Upon such assignment, the assigning party shall be relieved from all obligations thereafter accruing,
63 but not theretofore accrued, with respect to the acreage assigned and the operation of any well thereon,
64 and the assigning party shall have no further interest in the lease assigned and its equipment and pro-
65 duction other than the royalties retained in any lease made under the terms of this Article. The parties
66 assignee shall pay to the party assignor the reasonable salvage value of the latter's interest in any wells
67 and equipment on the assigned acreage. The value of all material shall be determined in accordance
68 with the provisions of Exhibit "C", less the estimated cost of salvaging and the estimated cost of plug-
69 ging and abandoning. If the assignment is in favor of more than one party, the assigned interest shall
70

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 be shared by the parties assignee in the proportions that the interest of each bears to the interest of all
2 parties assignee.

3
4 Any assignment or surrender made under this provision shall not reduce or change the assignor's or
5 surrendering parties' interest, as it was immediately before the assignment, in the balance of the Contract
6 Area; and the acreage assigned or surrendered, and subsequent operations thereon, shall not thereafter
7 be subject to the terms and provisions of this agreement.

8
9 **B. Renewal or Extension of Leases:**

10
11 If any party secures a renewal of any oil and gas lease subject to this Agreement, all other parties
12 shall be notified promptly, and shall have the right for a period of thirty (30) days following receipt
13 of such notice in which to elect to participate in the ownership of the renewal lease, insofar as such
14 lease affects lands within the Contract Area, by paying to the party who acquired it their several proper
15 proportionate shares of the acquisition cost allocated to that part of such lease within the Contract Area,
16 which shall be in proportion to the interests held at that time by the parties in the Contract Area.

17
18 If some, but less than all, of the parties elect to participate in the purchase of a renewal lease, it
19 shall be owned by the parties who elect to participate therein, in a ratio based upon the relationship of
20 their respective percentage of participation in the Contract Area to the aggregate of the percentages
21 of participation in the Contract Area of all parties participating in the purchase of such renewal lease.
22 Any renewal lease in which less than all parties elect to participate shall not be subject to this agreement.

23
24 Each party who participates in the purchase of a renewal lease shall be given an assignment of its
25 proportionate interest therein by the acquiring party.

26
27 The provisions of this Article shall apply to renewal leases whether they are for the entire interest
28 covered by the expiring lease or cover only a portion of its area or an interest therein. Any renewal lease
29 taken before the expiration of its predecessor lease, or taken or contracted for within six (6) months after
30 the expiration of the existing lease shall be subject to this provision; but any lease taken or contracted
31 for more than six (6) months after the expiration of an existing lease shall not be deemed a renewal
32 lease and shall not be subject to the provisions of this agreement.

33
34 The provisions in this Article shall apply also and in like manner to extensions of oil and gas
35 leases.

36
37 **C. Acreage or Cash Contributions:**

38
39 While this agreement is in force, if any party contracts for a contribution of cash toward the drilling
40 of a well or any other operation on the Contract Area, such contribution shall be paid to the party who
41 conducted the drilling or other operation and shall be applied by it against the cost of such drilling or
42 other operation. If the contribution be in the form of acreage, the party to whom the contribution is
43 made shall promptly tender an assignment of the acreage, without warranty of title, to the Drilling
44 Parties in the proportions said Drilling Parties shared the cost of drilling the well. If all parties hereto
45 are Drilling Parties and accept such tender, such acreage shall become a part of the Contract Area and
46 be governed by the provisions of this agreement. If less than all parties hereto are Drilling Parties and
47 accept such tender, such acreage shall not become a part of the Contract Area. Each party shall promptly
48 notify all other parties of all acreage or money contributions it may obtain in support of any well or
49 any other operation on the Contract Area.

50
51 If any party contracts for any consideration relating to disposition of such party's share of substances
52 produced hereunder, such consideration shall not be deemed a contribution as contemplated in this
53 Article VIII.C.

54
55 **D. Subsequently Created Interest:**

56
57 Notwithstanding the provisions of Article VIII.E. and VIII.G., if any party hereto shall, subsequent
58 to execution of this agreement, create an overriding royalty, production payment, or net proceeds inter-
59 est, which such interests are hereinafter referred to as "subsequently created interest", such subsequently
60 created interest shall be specifically made subject to all of the terms and provisions of this agreement, as
61 follows:

62
63 1. If non-consent operations are conducted pursuant to any provision of this agreement and the
64 party conducting such operations becomes entitled to receive the production attributable to the interest
65 out of which the subsequently created interest is derived, such party shall receive same free and clear
66 of such subsequently created interest. The party creating same shall bear and pay all such subsequently
67 created interests and shall indemnify and hold the other parties hereto free and harmless from and
68 all liability resulting therefrom.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

2. If the owner of the interest from which the subsequently created interest is derived (1) fails to pay, when due, its share of expenses chargeable hereunder, or (2) elects to abandon a well under provisions of Article VI.E. hereof, or (3) elects to surrender a lease under provisions of Article VIII.A. hereof, the subsequently created interest shall be chargeable with the pro rata portion of all expenses hereunder in the same manner as if such interest were a working interest. For purposes of collecting such chargeable expenses, the party or parties who receive assignments as a result of (2) or (3) above shall have the right to enforce all provisions of Article VII.B. hereof against such subsequently created interest.

E. Maintenance of Uniform Interest:

For the purpose of maintaining uniformity of ownership in the oil and gas leasehold interests covered by this agreement, and notwithstanding any other provisions to the contrary, no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Contract Area and in wells, equipment and production unless such disposition covers either:

1. the entire interest of the party in all leases and equipment and production; or
2. an equal undivided interest in all leases and equipment and production in the Contract Area.

Every such sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement, and shall be made without prejudice to the right of the other parties.

If, at any time the interest of any party is divided among and owned by four or more co-owners, Operator, at its discretion, may require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interests within the scope of the operations embraced in this agreement; however, all such co-owners shall have the right to enter into and execute all contracts or agreements for the disposition of their respective shares of the oil and gas produced from the Contract Area and they shall have the right to receive, separately, payment of the sale proceeds hereof.

F. Waiver of Right to Partition:

If permitted by the laws of the state or states in which the property covered hereby is located, each party hereto owning an undivided interest in the Contract Area waives any and all rights it may have to partition and have set aside to it in severalty its undivided interest therein.

G. Assignability:

No party may assign its rights hereunder, or any portion thereof, without the written consent of the other parties; provided, however, such consent shall not be necessary in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all or substantially all of its assets to a subsidiary or parent company or to a subsidiary of a parent company, or to any company in which one party owns a majority of the stock.

ARTICLE IX.

INTERNAL REVENUE CODE ELECTION

The parties hereto recognize that this agreement creates a partnership for tax purposes. Such parties' election to be classified as a partnership for tax purposes is more fully set out in Exhibit "G" ("Tax Partnership Recognition") attached hereto, and reference is hereby made to said Exhibit G for all purposes of this Operating Agreement.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

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**ARTICLE X.
CLAIMS AND LAWSUITS**

13 Operator may settle any single damage claim or suit arising from operations hereunder if the ex-
14 penditure does not exceed Five Thousand Dollars
15 (\$ 5,000.00) and if the payment is in complete settlement of such claim or suit. If the amount
16 required for settlement exceeds the above amount, the parties hereto shall assume and take over the
17 further handling of the claim or suit, unless such authority is delegated to Operator. All costs and ex-
18 pense of handling, settling, or otherwise discharging such claim or suit shall be at the joint expense
19 of the parties. If a claim is made against any party or if any party is sued on account of any matter
20 arising from operations hereunder over which such individual has no control because of the rights given
21 Operator by this agreement, the party shall immediately notify Operator, and the claim or suit shall
22 be treated as any other claim or suit involving operations hereunder.

23
24
25
26

**ARTICLE XI.
FORCE MAJEURE**

27 If any party is rendered unable, wholly or in part, by force majeure to carry out its obligations
28 under this agreement, other than the obligation to make money payments, that party shall give to all
29 other parties prompt written notice of the force majeure with reasonably full particulars concerning it;
30 thereupon, the obligations of the party giving the notice, so far as they are affected by the force majeure,
31 shall be suspended during, but no longer than, the continuance of the force majeure. The affected party
32 shall use all reasonable diligence to remove the force majeure situation as quickly as practicable.

33
34 The requirement that any force majeure shall be remedied with all reasonable dispatch shall not
35 require the settlement of strikes, lockouts, or other labor difficulty by the party involved, contrary to its
36 wishes; how all such difficulties shall be handled shall be entirely within the discretion of the party
37 concerned.

38
39 The term "force majeure", as here employed, shall mean an act of God, strike, lockout, or other
40 industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood,
41 explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment,
42 and any other cause, whether of the kind specifically enumerated above or otherwise, which is not
43 reasonably within the control of the party claiming suspension.

44
45
46
47

**ARTICLE XII.
NOTICES**

48 All notices authorized or required between the parties, and required by any of the provisions of
49 this agreement, unless otherwise specifically provided, shall be given in writing by United States mail
50 or Western Union telegram, postage or charges prepaid, or by teletype, and addressed to the party to
51 whom the notice is given at the addresses listed on Exhibit "A". The originating notice given under any
52 provision hereof shall be deemed given only when received by the party to whom such notice is directed,
53 and the time for such party to give any notice in response thereto shall run from the date the originat-
54 ing notice is received. The second or any responsive notice shall be deemed given when deposited in
55 the United States mail or with the Western Union Telegraph Company, with postage or charges prepaid,
56 or when sent by teletype. Each party shall have the right to change its address at any time, and from
57 time to time, by giving written notice hereof to all other parties.

58
59
60
61

**ARTICLE XIII.
TERM OF AGREEMENT**

62 This agreement shall remain in full force and effect as to the oil and gas leases and/or oil and gas in-
63 terests subjected hereto for the period of time selected below; provided, however, no party hereto shall
64 ever be construed as having any right, title or interest in or to any lease, or oil and gas interest con-
65 tributed by any other party beyond the term of this agreement.

66
67 ☐ **Option No. 1:** So long as any of the oil and gas leases subject to this agreement remain or are con-
68 tinued in force as to any part of the Contract Area, whether by production, extension, reversion or other-
69 wise, and/or so long as oil and/or gas production continues from any lease or oil and gas interest.

A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

1 (A) Option No. 2: In the event the well described in Article VI.A., or any subsequent well drilled
2 under any provision of this agreement, results in production of oil and/or gas in paying quantities, this
3 agreement shall continue in force so long as any such well or wells produce, or are capable of produc-
4 tion, and for an additional period of 90 days from cessation of all production; provided, however,
5 if, prior to the expiration of such additional period, one or more of the parties hereto are engaged in
6 drilling or reworking a well or wells hereunder, this agreement shall continue in force until such op-
7 erations have been completed and if production results therefrom, this agreement shall continue in
8 force as provided herein. In the event the well described in Article VI.A., or any subsequent well
9 drilled hereunder, results in a dry hole, and no other well is producing, or capable of producing oil
10 and or gas from the Contract Area, this agreement shall terminate unless drilling or reworking opera-
11 tions are commenced within 90 days from the date of abandonment of said well.

12
13 It is agreed, however, that the termination of this agreement shall not relieve any party hereto from
14 any liability which has accrued or attached prior to the date of such termination.

15
16 **ARTICLE XIV.**
17 **COMPLIANCE WITH LAWS AND REGULATIONS**

18
19 **A. Laws, Regulations and Orders:**

20
21 This agreement shall be subject to the conservation laws of the state in which the committed
22 acreage is located, to the valid rules, regulations, and orders of any duly constituted regulatory body of
23 said state; and to all other applicable federal, state, and local laws, ordinances, rules, regulations, and
24 orders.

25
26 **B. Governing Law:**

27
28 The essential validity of this agreement and all matters pertaining thereto, including, but not lim-
29 ited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties and in-
30 terpretation or construction, shall be governed and determined by the law of the state in which the
31 Contract Area is located. If the Contract Area is in two or more states, the law of the state where most
32 of the land in the Contract Area is located shall govern.

33
34 **ARTICLE XV.**
35 **OTHER PROVISIONS**

36
37 **A. Termination Under Section 708(b)(1)(B):**

38
39 In connection with Article VIII(G) ("Assignability") of this Operating
40 Agreement, the parties agree that if any one of them makes a sale or
41 assignment of its partnership interest in the Contract Area, such sale or
42 assignment will be structured so as not to cause a termination under Section
43 708(b)(1)(B) of the Internal Revenue Code of 1954. If a Section 708(b)(1)(B)
44 termination is caused, the terminating partner will indemnify the non-
45 terminating partner(s) and save it (them) harmless from any increase in
46 taxes, interest and penalties or decrease in credits caused by the termina-
47 tion of the Partnership. The indemnification, if any, shall be computed on
48 a cash flow basis taking into consideration the liability for tax on any
49 indemnification proceeds received by the non-terminating partner(s).

50
51
52 **B. Interpretations Of Regulations of Governmental Regulatory Agencies:**

53
54 Non-Operators agree to indemnify and hold Operator harmless from any and
55 all losses, damages, injuries, claims and causes of action arising out of, in-
56 cident to or resulting directly or indirectly from Operator's interpretation
57 or application of rules, rulings, regulations or orders of the Department of
58 Energy or predecessor agencies (or other governmental regulatory agencies) to the
59 extent Operator's interpretation or application of such rules, rulings,
60 regulations or orders were made in good faith. Non-Operators further agree to
61 reimburse Operator for their proportionate share of any amounts Operator may
62 be required to refund, rebate or pay as a result of an incorrect interpretation
63 or application of the above noted rules, rulings, regulations or orders,
64 together with the Non-Operators' proportionate part of interest and penalties
65 owing by Operator as a result of such incorrect interpretation or application
66 of such rules, rulings, regulations or orders.



A.A.P.L. FORM 610 - MODEL FORM OPERATING AGREEMENT - 1977

C. Additional Definitions:

(1) "Productive Well": This term shall mean an oil and/or gas well capable of producing oil and/or gas in commercial quantities from sands or intervals in the Contract Area, which is either productive, or has been completed as a shut-in gas well.

(2) "Successful Well": This term shall mean any well drilled on the Contract Area under the terms of this Operating Agreement which is completed as a Productive Well.

(3) "Successful Well Rights": This term shall mean all rights and interest in and to a Successful Well, the leasehold estate and operating rights with respect thereto, all production from the bore of such well, all equipment therein and thereon or used in connection therewith, and the proration unit now or hereafter assigned to such Successful Well insofar only as it applies to the productive sands or intervals in the Contract Area in which such Successful Well is completed.

(4) "Payout": This term, used in connection with a Successful Well, shall mean that time when the cumulative proceeds from the sale of the oil and gas produced and saved from the Successful Well, after subtracting from such proceeds the following items:

- (a) Landowner's royalty (as set out in the leases contributed to the Contract Area by the parties hereto) and any and all other royalties, overriding royalties, and other payments out of, or with respect to production with which the Contract Area is burdened with or is subject to on the date hereof; and
- (b) All severance and gross production taxes which are applicable thereto,

is equal to the cost previously incurred in drilling, testing, completing, equipping and operating the said Successful Well. The said costs shall be determined in accordance with the Accounting Procedure attached hereto as Exhibit "C".

(5) "Working Interest": This term shall mean the right to explore for and produce oil, gas and other minerals. When used in connection with a mineral lease, it means the leasehold or operating interest under such lease; i.e., it is the entire mineral interest covered by said lease (all the mineral rights the lessor had before the lease was executed) subject to the terms of the lease. Under a lease covering all (8/8) of the minerals in a tract of land providing for a 1/8 Lessor's royalty, the owner of the working interest bears all (8/8) of the cost of operations and is entitled to 7/8 of 8/8 of all production from said land (the other 1/8 of 8/8 being Lessor's share of the production).

(6) "Successful Well Unit Acreage". This term, used in connection with a Successful Well, shall mean the Contract Area insofar (and only insofar) as it covers the Successful Well Rights for said well.

(7) "Earned Depth": This term shall mean that subsurface depth which is 100 feet below the depth to which the Successful Well is drilled.

(8) "Deeper Earned Depth": This term shall only be applicable if the first Successful Well is not drilled to Objective Depth and the Optional Deeper Well is drilled as provided in the second paragraph of subarticle D below, in which case it shall mean that subsurface depth which is 100 feet below the depth to which the Optional Deeper Well was drilled.

(9) "Objective Depth": This term shall mean either a subsurface depth which is 13,500 feet below the surface of the earth, or a subsurface depth at which the geological formation known as the "Morrow" formation has been adequately tested (in the opinion of Operator), whichever is the lesser depth.

(10) "Contract Depth": This term, used in connection with a test well on the Contract Area, shall mean the Objective Depth, or such lesser depth at which the well has been completed as a Production Well.

D. The Gulf-Amoco Farmout:

(1) The lease described on Exhibit "A-1" under the heading "Leases Contributed by Gulf Oil Corporation" is referred to hereinafter as the "Gulf Lease". When and if a well drilled on the Contract Area under the provisions hereof has been completed as a Productive Well which qualifies as the first Successful Well, Amoco Production Company ("Amoco") shall have the right to and shall own an undivided one half (1/2) of all interest of Gulf Oil Corporation ("Gulf") in and to the Gulf Lease insofar as it covers the rights to Earned Depth, and in addition, Amoco shall have the right to and shall own, (all right) title and interest of Gulf in and to the Successful Well Unit Acreage for said well; provided, however, that the latter interest shall be subject to an overriding royalty to be owned by Gulf (called the "Gulf Overriding Royalty") equal to 1/16 of 36.5490% of 8/8 of the net amount realized from the sale of all oil and gas produced from the Successful Well Rights for said well. Gulf shall have an option at payout of the said Successful Well, to convert its said Gulf Overriding Royalty insofar as it covers the said Successful Well Unit Acreage (for said well) to 18.2745% of the Working Interest in the said Successful Well Unit Acreage. Operator shall notify Gulf in writing when Payout has occurred, and Gulf shall have 30 days after its receipt of said notice to notify Operator in writing that it has elected to exercise its option to convert its said overriding royalty interest in the said Successful Well Rights to a Working Interest therein. If Gulf fails to so notify Operator within said period, it will be conclusively presumed that Gulf has elected to retain its said overriding royalty in the Successful Well Unit Acreage rather than convert it to a Working Interest. If Gulf elects to so convert, such conversion shall be effective as of Payout. If Gulf fails to so convert its said overriding royalty as provided hereinabove, then Gulf shall retain its said overriding royalty in the production from the said Successful Well and Successful Well Unit Acreage and shall not have any Working Interest therein. At the request of Amoco, Gulf shall execute appropriate instruments, satisfactory in form to Amoco, evidencing of record Amoco's interest in the Gulf Lease and in the Successful Well Unit Acreage.

(2) If the first Successful Well is not drilled to Objective Depth, and within 30 days after termination of actual drilling on the said first Successful Well actual drilling is commenced on another well on the Contract Area which said well is subsequently drilled to Objective Depth in a diligent manner, then said well shall be called the "Optional Deeper Well", and Amoco shall have the right to and shall own, an undivided one half (1/2) of all right, title and interest of Gulf in and to the Gulf Lease insofar as it covers the rights from Earned Depth down to a subsurface depth (called "Deeper Earned Depth") which is 100 feet below the depth to which the Optional Deeper Well was drilled. Gulf shall execute appropriate instruments, satisfactory in form to Amoco, to evidence this additional interest of record. In addition, if the Optional Deeper Well is completed as a Successful Well, all of the provisions set out hereinabove with regard to the Successful Well Unit Acreage for the first Successful Well shall likewise be applicable to the Successful Well Unit Acreage for the Optional Deeper Well. (i.e., Amoco shall own all interest of Gulf therein, subject to the Gulf Overriding Royalty convertible to a Working Interest at Payout). Gulf and Amoco shall execute appropriate instruments to evidence these interests of record.

This instrument may be executed in any number of counterparts, each of which shall be considered an original for all purposes.

Executed and effective as of the 9th day of October, 1979.

OPERATOR:

AMOCO PRODUCTION COMPANY

By

C. H. Menninges
Its Attorney-in-Fact

NON-OPERATORS:

NORTHERN NATURAL GAS COMPANY

By

C. F. Keller
GULF OIL CORPORATION

By

THE STATE OF TEXAS |

COUNTY OF HARRIS |

The foregoing instrument was acknowledged before me this 6 day of November, 1979, by C. H. Menninges as Attorney-in-Fact on behalf of AMOCO PRODUCTION COMPANY.

My Commission Expires:

SHIRLEY B. BARNES

Notary Public in Harris County, Texas

My Commission Expires 11-2-81

Shirley B. Barnes
Notary Public in and for
Harris County, Texas

THE STATE OF Texas |

COUNTY OF Midland |

The foregoing instrument was acknowledged before me this 9th day of November, 1980, by C. F. Keller, Authorized Agent of NORTHERN NATURAL GAS COMPANY, a Delaware corporation, on behalf of said corporation.

My Commission Expires:

7-28-80

Sarah B. Vanderford
Notary Public in and for
Midland County, Texas

THE STATE OF _____ |

COUNTY OF _____ |

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ of GULF OIL CORPORATION, a _____ corporation, on behalf of said corporation.

My Commission Expires:

Notary Public in and for

RS/cw
449/I

EXHIBIT A

Attached to and made a part of Operating Agreement dated October 8, 1979, between Amoco Production Company, as Operator, and Northern Natural Gas Company and Gulf Oil Corporation, as Non-Operators.

Contract Area

The Contract Area subject to this Operating Agreement shall consist of the oil and gas rights from the surface to the earth down to Earned Depth (if the Optional Deeper Well is not drilled) or Deeper Earned Depth (if the Optional Deeper Well is drilled) in and under the following described land in Lea County, New Mexico:

The South half (S/2) and Northwest Quarter (NW/4) of Section 7;
and
All of Sections 18 and 19;
All in Township 22 South, Range 35 East, Lea County, New Mexico.

The leases contributed to the Contract Area by the parties hereto are listed on Exhibit "A-1" attached hereto and made a part hereof, each party hereto contributing to the Contract Area the leases described in said Exhibit A-1 under said party's name, insofar (and only insofar) as said leases cover the Contract Area. This Operating Agreement covers all interests owned by the parties in the Contract Area, whether said interests are unleased mineral interests or leasehold interests, including such interests which may be acquired during the term of this Operating Agreement.

NAMES, ADDRESSES, AND INTERESTS OF THE PARTIES

The name, address and interest in the Contract Area of each party to this agreement is set out hereinbelow:

Addresses of Parties to Agreement:

Amoco Production Company
P. O. Box 3092
Houston, Texas 77001

Attention: Mr. P. L. Sams

Northern Natural Gas
403 Wall Towers West
Midland, Texas 79701

Attention: Mr. Frank Estep

Gulf Oil Corporation
P. O. Box 1150
Midland, Texas 79701

Attention: Mr. R. E. Griffith

Interests to Parties to Agreement:

(a) Until the first Successful Well has been completed, the entire cost, expense and risk of the drilling, completing, equipping, producing, plugging and abandoning of each and every well on the Contract Area, and any other operations provided for under the provisions hereof, shall be borne and shared, subject to the terms hereof, as follows:

Amoco Production Company	63.592%	
Northern Natural Gas Company	36.408%	— E.Roh
Total	100.000%	

100085

(b) If the first Successful Well is not drilled to Objective Depth, and the Optional Deeper Well is drilled as provided hereinabove, all costs and expenses of drilling said well, and all production therefrom until Payout, shall be owned and shared, subject to the terms hereof, as follows:

Amoco Production Company	63.592%
Northern Natural Gas Company	36.408%
Total	100.000%

(c) After the first Successful Well is completed, as to all of the Contract Area except the Successful Well Unit Acreage for the first Successful Well, and (if the Optional Deeper Well is Drilled) except for the cost of drilling the Optional Deeper Well and (if the said Optional Deeper Well is a Successful Well) except as to the Successful Well Unit Acreage for such Optional Deeper Well, all costs and expenses of development and operation, all wells and equipment thereon, and all production therefrom, shall be shared and owned, subject to the terms hereof, as follows:

Amoco Production Company	45.316%
Northern Natural Gas Company - Enron	36.408%
Gulf Oil Corporation - Chevron	18.2765%
Total	100.000%

(d) As to the Successful Well Unit Acreage for the first Successful Well after completion of said well, all costs and expenses of development and operation, all wells and equipment thereon, and all production therefrom, shall be shared and owned, subject to the terms hereof, as follows:

(i) Until Payout:

Amoco Production Company	63.592% * 60 = 38.1552
Northern Natural Gas Company	36.408%
Total	100.000%

* This Working Interest is subject to the Gulf Overriding Royalty which shall be paid entirely out of this interest.

(ii) After Payout, if Gulf Oil Exploration and Production exercised its option to convert its overriding royalty to a Working Interest:

Amoco Production Company	45.316% * 40 = 18.1264
Northern Natural Gas Company	36.408%
Gulf Oil Corporation	18.276% → 18.2745 in Payout
Total	100.000%

(iii) After Payout, if Gulf Oil Exploration and Production Company did not exercise its option to convert its overriding royalty to a Working Interest:

Same as under (i) above.

(e) As to the Successful Well Unit Acreage for the Optional Deeper Well (if said well is drilled and is completed as a Successful Well) all costs and expenses of development and operation, all wells and equipment thereon, and all production therefrom, shall be shared and owned, subject to the terms hereof, exactly as is provided hereinabove under (d) with regard to the Successful Well Unit Acreage for the first Successful Well.

PLS/cw
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EXHIBIT "A-1"

Leases Contributed by The Parties:A. Leases Contributed by Amoco Production Company

Lessor: State of New Mexico
Lease Serial No.: L-6377
Lessee: M. M. Merritt
Issue Date of Lease: 7-1-71
Expiration Date: 7-1-81
Description: Lost 1, 2, 3, and 4, and the E/2 W/2,
and the SE/4, of Section 7, T-22-S,
R-35-E
Acres Committed: 466.40

.2704013

B. Leases Contributed by Northern Natural Gas

Lessor: State of New Mexico
Lease Serial No.: LG-3975
Lessee: Northern Natural Gas
Issue Date of Lease: 1-1-77
Expiration Date: 1-1-87
Description: Section 18, T-22-S, R-35-E
Acres Committed: 630.68

.3640835⁰⁰C. Leases Contributed by Gulf Oil Corporation

Lessor: State of New Mexico
Lease Serial No.: LG-1842
Lessee: Gulf
Issue Date of Lease: 6-1-74
Expiration Date: 6-1-84
Description: Section 19, T-22-S, R-35-E
Acres Committed: 633.16

.3655151

PLS/cw
448/03

1,732.24

EXHIBIT "B"

(Attached to and made a part of Operating Agreement)

UNLEASED OIL AND GAS INTERESTS

If it develops that any interest owned and contributed by a party hereto is an unleased interest in the oil and gas rights, then such unleased interest shall be treated for all purposes of this agreement as if it were a term (for the term of this Operating Agreement) oil and gas lease covering such unleased interest on a form providing for the usual and customary one-eighth royalty and containing the usual and customary "lesser interest clause". This agreement shall in no way affect the right of the owner of any such unleased interest to receive an amount or share of production equivalent to the royalty which would be payable if such unleased interest were subject to an oil and gas lease as provided in the preceding sentence. Where any provision of this agreement shall operate to require an assignment from any party contributing an unleased mineral interest, such provision shall be construed (insofar as such unleased mineral interest is concerned) as requiring instead the execution and delivery by such party of an oil and gas lease, for a primary term of one year from the date of its delivery and so long thereafter or as oil or gas is produced, which lease shall reserve unto the Lessor a one-eighth royalty and contain the usual "lesser interest clause".

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COPAS — 1974

Recommended by the
Council of Petroleum
Accountants Societies of
North America

COPAS

EXHIBIT " C "

Attached to and made a part of Operating Agreement between Amoco
Production Company and Northern Natural Gas Company and
Gulf Oil Exploration and Production Company.

ACCOUNTING PROCEDURE JOINT OPERATIONS

I. GENERAL PROVISIONS

1. Definitions

"Joint Property" shall mean the real and personal property subject to the agreement to which this Accounting Procedure is attached.

"Joint Operations" shall mean all operations necessary or proper for the development, operation, protection and maintenance of the Joint Property.

"Joint Account" shall mean the account showing the charges paid and credits received in the conduct of the Joint Operations and which are to be shared by the Parties.

"Operator" shall mean the party designated to conduct the Joint Operations.

"Non-Operators" shall mean the parties to this agreement other than the Operator.

"Parties" shall mean Operator and Non-Operators.

"First Level Supervisors" shall mean those employees whose primary function in Joint Operations is the direct supervision of other employees and/or contract labor directly employed on the Joint Property in a field operating capacity.

"Technical Employees" shall mean those employees having special and specific engineering, geological or other professional skills, and whose primary function in Joint Operations is the handling of specific operating conditions and problems for the benefit of the Joint Property.

"Personal Expenses" shall mean travel and other reasonable reimbursable expenses of Operator's employees.

"Material" shall mean personal property, equipment or supplies acquired or held for use on the Joint Property.

"Controllable Material" shall mean Material which at the time is so classified in the Material Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies of North America.

2. Statement and Billings

Operator shall bill Non-Operators on or before the last day of each month for their proportionate share of the Joint Account for the preceding month. Such bills will be accompanied by statements which identify the authority for expenditure, lease or facility, and all charges and credits, summarized by appropriate classifications of investment and expense except that items of Controllable Material and unusual charges and credits shall be separately identified and fully described in detail.

3. Advances and Payments by Non-Operators

Unless otherwise provided for in the agreement, the Operator may require the Non-Operators to advance their share of estimated cash outlay for the succeeding month's operation. Operator shall adjust each monthly billing to reflect advances received from the Non-Operators.

Each Non-Operator shall pay its proportion of all bills within fifteen (15) days after receipt. If payment is not made within such time, the unpaid balance shall bear interest monthly at the rate of twelve percent (12%) per annum or the maximum contract rate permitted by the applicable usury laws in the state in which the Joint Property is located, whichever is the lesser, plus attorney's fees, court costs, and other costs in connection with the collection of unpaid amounts.

4. Adjustments

Payment of any such bills shall not prejudice the right of any Non-Operator to protest or question the correctness thereof; provided, however, all bills and statements rendered to Non-Operators by Operator during any calendar year shall conclusively be presumed to be true and correct after twenty-four (24) months following the end of any such calendar year, unless within the said twenty-four (24) month period a Non-Operator takes written exception thereto and makes claim on Operator for adjustment. No adjustment favorable to Operator shall be made unless it is made within the same prescribed period. The provisions of this paragraph shall not prevent adjustments resulting from a physical inventory of Controllable Material as provided for in Section V.

5. Audits

A. Non-Operator, upon notice in writing to Operator and all other Non-Operators, shall have the right to audit Operator's accounts and records relating to the Joint Account for any calendar year within the twenty-four (24) month period following the end of such calendar year; provided, however, the making of an audit shall not extend the time for the taking of written exception to and the adjustments of accounts as provided for in Paragraph 4 of this Section I. Where there are two or more Non-Operators, the Non-Operators shall make every reasonable effort to conduct joint or simultaneous audits in a manner which will result in a minimum of inconvenience to the Operator. Operator shall bear no portion of the Non-Operators' audit cost incurred under this paragraph unless agreed to by the Operator.

6. Approval by Non-Operators

Where an approval or other agreement of the Parties or Non-Operators is expressly required under other sections of this Accounting Procedure and if the agreement to which this Accounting Procedure is attached contains no contrary provisions in regard thereto, Operator shall notify all Non-Operators of the Operator's proposal, and the agreement or approval of a majority in interest of the Non-Operators shall be controlling on all Non-Operators.

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II. DIRECT CHARGES

Operator shall charge the Joint Account with the following items:

1. Rentals and Royalties

Lease rentals and royalties paid by Operator for the Joint Operations.

2. Labor

A. (1) Salaries and wages of Operator's field employees directly employed on the Joint Property in the conduct of Joint Operations.

(2) Salaries of ~~Executive~~ Supervisors in the field, below District Superintendent.

(3) Salaries and wages of Technical Employees directly employed on the Joint Property if such charges are excluded from the Overhead rates.

B. Operator's cost of holiday, vacation, sickness and disability benefits and other customary allowances paid to employees whose salaries and wages are chargeable to the Joint Account under Paragraph 2A of this Section II. Such costs under this Paragraph 2B may be charged on a "when and as paid basis" or by "percentage assessment" on the amount of salaries and wages chargeable to the Joint Account under Paragraph 2A of this Section II. If percentage assessment is used, the rate shall be based on the Operator's cost experience.

C. Expenditures or contributions made pursuant to assessments imposed by governmental authority which are applicable to Operator's costs chargeable to the Joint Account under Paragraphs 2A and 2B of this Section II.

D. Personal Expenses of those employees whose salaries and wages are chargeable to the Joint Account under Paragraph 2A of this Section II.

3. Employee Benefits

Operator's current costs of established plans for employees' group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonus, and other benefit plans of a like nature, applicable to Operator's labor cost chargeable to the Joint Account under Paragraphs 2A and 2B of this Section II shall be Operator's actual cost not to exceed twenty per cent (20%).

4. Material

Material purchased or furnished by Operator for use on the Joint Property as provided under Section IV. Only such Material shall be purchased for or transferred to the Joint Property as may be required for immediate use and is reasonably practical and consistent with efficient and economical operations. The accumulation of surplus stocks shall be avoided.

5. Transportation

Transportation of employees and Material necessary for the Joint Operations but subject to the following limitations:

A. If Material is moved to the Joint Property from the Operator's warehouse or other properties, no charge shall be made to the Joint Account for a distance greater than the distance from the nearest reliable supply store, recognized barge terminal, or railway receiving point where like material is normally available, unless agreed to by the Parties.

B. If surplus Material is moved to Operator's warehouse or other storage point, no charge shall be made to the Joint Account for a distance greater than the distance to the nearest reliable supply store, recognized barge terminal, or railway receiving point unless agreed to by the Parties. No charge shall be made to the Joint Account for moving Material to other properties belonging to Operator, unless agreed to by the Parties.

C. In the application of Subparagraphs A and B above, there shall be no equalization of actual gross trucking cost of \$200 or less excluding accessorial charges.

6. Services

The cost of contract services, equipment and utilities provided by outside sources, except services excluded by Paragraph 9 of Section II and Paragraph 1. ii of Section III. The cost of professional consultant services and contract services of technical personnel directly engaged on the Joint Property if such charges are excluded from the Overhead rates. The cost of professional consultant services or contract services of technical personnel not directly engaged on the Joint Property shall not be charged to the Joint Account unless previously agreed to by the Parties.

7. Equipment and Facilities Furnished by Operator

A. Operator shall charge the Joint Account for use of Operator owned equipment and facilities at rates commensurate with costs of ownership and operation. Such rates shall include costs of maintenance, repairs, other operating expense, insurance, taxes, depreciation, and interest on investment not to exceed eight per cent (8%) per annum. Such rates shall not exceed average commercial rates currently prevailing in the immediate area of the Joint Property.

B. In lieu of charges in Paragraph 7A above, Operator may elect to use average commercial rates prevailing in the immediate area of the Joint Property less 20%. For automotive equipment, Operator may elect to use rates published by the Petroleum Motor Transport Association.

8. Damages and Losses to Joint Property

All costs or expenses necessary for the repair or replacement of Joint Property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other cause, except those resulting from Operator's gross negligence or willful misconduct. Operator shall furnish Non-Operator written notice of damages or losses incurred as soon as practicable after a report thereof has been received by Operator.

9. Legal Expense

Expense of handling, investigating and settling litigation or claims, discharging of liens, payment of judgments and amounts paid for settlement of claims incurred in or resulting from operations under the agreement or necessary to protect or recover the Joint Property, except that no charge for services of Operator's legal staff or fees or expense of outside attorneys shall be made unless previously agreed to by the Parties. All other legal expense is considered to be covered by the overhead provisions of Section III unless otherwise agreed to by the Parties, except as provided in Section I, Paragraph 3.

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10. Taxes

All taxes of every kind and nature assessed or levied upon or in connection with the Joint Property, the operation thereof, or the production therefrom, and which taxes have been paid by the Operator for the benefit of the Parties.

11. Insurance

Net premiums paid for insurance required to be carried for the Joint Operations for the protection of the Parties. In the event Joint Operations are conducted in a state in which Operator may act as self-insurer for Workmen's Compensation and/or Employers Liability under the respective state's laws, Operator may, at its election, include the risk under its self-insurance program and in that event, Operator shall include a charge at Operator's cost not to exceed manual rates.

12. Other Expenditures

Any other expenditure not covered or dealt with in the foregoing provisions of this Section II, or in Section III, and which is incurred by the Operator in the necessary and proper conduct of the Joint Operations.

III. OVERHEAD**1. Overhead - Drilling and Producing Operations**

1. As compensation for administrative, supervision, office services and warehousing costs, Operator shall charge drilling and producing operations on either:

- (☒) Fixed Rate Basis, Paragraph 1A, or
() Percentage Basis, Paragraph 1B.

Unless otherwise agreed to by the Parties, such charge shall be in lieu of costs and expenses of all offices and salaries or wages plus applicable burdens and expenses of all personnel, except those directly chargeable under Paragraph 2A, Section II. The cost and expense of services from outside sources in connection with matters of taxation, traffic, accounting or matters before or involving governmental agencies shall be considered as included in the Overhead rates provided for in the above selected Paragraph of this Section III unless such cost and expense are agreed to by the Parties as a direct charge to the Joint Account.

2. The salaries, wages and Personal Expenses of Technical Employees and/or the cost of professional consultant services and contract services of technical personnel directly employed on the Joint Property shall () shall not (☒) be covered by the Overhead rates.

A. Overhead - Fixed Rate Basis

(1) Operator shall charge the Joint Account at the following rates per well per month:

Drilling Well Rate \$ 3500
Producing Well Rate \$ 350

(2) Application of Overhead - Fixed Rate Basis shall be as follows:

(a) Drilling Well Rate

- [1] Charges for onshore drilling wells shall begin on the date the well is spudded and terminate on the date the drilling or completion rig is released, whichever is later, except that no charge shall be made during suspension of drilling operations for fifteen (15) or more consecutive days.
- [2] Charges for offshore drilling wells shall begin on the date when drilling or completion equipment arrives on location and terminate on the date the drilling or completion equipment moves off location or rig is released, whichever occurs first, except that no charge shall be made during suspension of drilling operations for fifteen (15) or more consecutive days.
- [3] Charges for wells undergoing any type of workover or recompletion for a period of five (5) consecutive days or more shall be made at the drilling well rate. Such charges shall be applied for the period from date workover operations, with rig, commence through date of rig release, except that no charge shall be made during suspension of operations for fifteen (15) or more consecutive days.

(b) Producing Well Rates

- [1] An active well either produced or injected into for any portion of the month shall be considered as a one-well charge for the entire month.
- [2] Each active completion in a multi-completed well in which production is not commingled down hole shall be considered as a one-well charge providing each completion is considered a separate well by the governing regulatory authority.
- [3] An inactive gas well shut in because of overproduction or failure of purchaser to take the production shall be considered as a one-well charge providing the gas well is directly connected to a permanent sales outlet.
- [4] A one-well charge may be made for the month in which plugging and abandonment operations are completed on any well.
- [5] All other inactive wells (including but not limited to inactive wells covered by unit allowable, lease allowable, transferred allowable, etc.) shall not qualify for an overhead charge.

(3) The well rates shall be adjusted as of the first day of April each year, following the effective date of the agreement to which this Accounting Procedure is attached. The adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the calendar year preceding as shown by the index of average weekly earnings of Crude Petroleum and Gas Fields Production Workers as published by the United States Department of Labor, Bureau of Labor Statistics, or the equivalent Canadian Index as published by Statistics Canada, as applicable. The adjusted rates shall be the rates currently in use, plus or minus the computed adjustment.

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B. Overhead - Percentage Basis

(1) Operator shall charge the Joint Account at the following rates:

(a) Development

_____ Percent (%) of the cost of Development of the Joint Property exclusive of costs provided under Paragraph 9 of Section II and all salvage credits.

(b) Operating

_____ Percent (%) of the cost of Operating the Joint Property exclusive of costs provided under Paragraphs 1 and 9 of Section II, all salvage credits, the value of injected substances purchased for secondary recovery and all taxes and assessments which are levied, assessed and paid upon the mineral interest in and to the Joint Property.

(2) Application of Overhead - Percentage Basis shall be as follows:

For the purpose of determining charges on a percentage basis under Paragraph 1B of this Section III, development shall include all costs in connection with drilling, re-drilling, deepening or any remedial operations on any or all wells involving the use of drilling crew and equipment; also, preliminary expenditures necessary in preparation for drilling and expenditures incurred in abandoning when the well is not completed as a producer, and original cost of construction or installation of fixed assets, the expansion of fixed assets and any other project clearly discernible as a fixed asset, except Major Construction as defined in Paragraph 2 of this Section III. All other costs shall be considered as Operating.

2. Overhead - Major Construction

To compensate Operator for overhead costs incurred in the construction and installation of fixed assets, the expansion of fixed assets, and any other project clearly discernible as a fixed asset required for the development and operation of the Joint Property, Operator shall either negotiate a rate prior to the beginning of construction, or shall charge the Joint Account for Overhead based on the following rates for any Major Construction project in excess of \$ 25,000 _____:

A. 5 _____ % of total costs if such costs are more than \$ 25,000 _____ but less than \$ 100,000 _____; plusB. 3 _____ % of total costs in excess of \$ 100,000 _____ but less than \$1,000,000; plusC. 2 _____ % of total costs in excess of \$1,000,000. _____ S.

Total cost shall mean the gross cost of any one project. For the purpose of this paragraph, the component parts of a single project shall not be treated separately and the cost of drilling and workover wells shall be excluded.

3. Amendment of Rates

The Overhead rates provided for in this Section III may be amended from time to time only by mutual agreement between the Parties hereto if, in practice, the rates are found to be insufficient or excessive.

IV. PRICING OF JOINT ACCOUNT MATERIAL PURCHASES, TRANSFERS AND DISPOSITIONS

Operator is responsible for Joint Account Material and shall make proper and timely charges and credits for all material movements affecting the Joint Property. Operator shall provide all Material for use on the Joint Property; however, at Operator's option, such Material may be supplied by the Non-Operator. Operator shall make timely disposition of idle and/or surplus Material, such disposal being made either through sale to Operator or Non-Operator, division in kind, or sale to outsiders. Operator may purchase, but shall be under no obligation to purchase, interest of Non-Operators in surplus condition A or B Material. The disposal of surplus Controllable Material not purchased by the Operator shall be agreed to by the Parties.

1. Purchases

Material purchased shall be charged at the price paid by Operator after deduction of all discounts received. In case of Material found to be defective or returned to vendor for any other reason, credit shall be passed to the Joint Account when adjustment has been received by the Operator.

2. Transfers and Dispositions

Material furnished to the Joint Property and Material transferred from the Joint Property or disposed of by the Operator, unless otherwise agreed to by the Parties, shall be priced on the following bases exclusive of cash discounts:

A. New Material (Condition A)

(1) Tubular goods, except line pipe, shall be priced at the current new price in effect on date of movement on a maximum carload or barge load weight basis, regardless of quantity transferred, equalized to the lowest published price f.o.b. railway receiving point or recognized barge terminal nearest the Joint Property where such Material is normally available.

(2) Line Pipe

(a) Movement of less than 30,000 pounds shall be priced at the current new price, in effect at date of movement, as listed by a reliable supply store nearest the Joint Property where such Material is normally available.

(b) Movement of 30,000 pounds or more shall be priced under provisions of tubular goods pricing in Paragraph 2A (1) of this Section IV.

(3) Other Material shall be priced at the current new price, in effect at date of movement, as listed by a reliable supply store or f.o.b. railway receiving point nearest the Joint Property where such Material is normally available.

B. Good Used Material (Condition B)

Material in sound and serviceable condition and suitable for reuse without reconditioning:

(1) Material moved to the Joint Property

(a) At seventy-five percent (75%) of current new price, as determined by Paragraph 2A of this Section IV.

(2) Material moved from the Joint Property

(a) At seventy-five percent (75%) of current new price, as determined by Paragraph 2A of this Section IV, if Material was originally charged to the Joint Account as new Material, or

COPAS

- (b) at sixty-five percent (65%) of current new price, as determined by Paragraph 2A of this Section IV, if Material was originally charged to the Joint Account as good used Material at seventy-five percent (75%) of current new price.

The cost of reconditioning, if any, shall be absorbed by the transferring property.

C. Other Used Material (Condition C and D)

(1) Condition C

Material which is not in sound and serviceable condition and not suitable for its original function until after reconditioning shall be priced at fifty percent (50%) of current new price as determined by Paragraph 2A of this Section IV. The cost of reconditioning shall be charged to the receiving property, provided Condition C value plus cost of reconditioning does not exceed Condition B value.

(2) Condition D

All other Material, including junk, shall be priced at a value commensurate with its use or at prevailing prices. Material no longer suitable for its original purpose but usable for some other purpose, shall be priced on a basis comparable with that of items normally used for such other purpose. Operator may dispose of Condition D Material under procedures normally utilized by the Operator without prior approval of Non-Operators.

D. Obsolete Material

Material which is serviceable and usable for its original function but condition and/or value of such Material is not equivalent to that which would justify a price as provided above may be specially priced as agreed to by the Parties. Such price should result in the Joint Account being charged with the value of the service rendered by such Material.

E. Pricing Conditions

- (1) Loading and unloading costs may be charged to the Joint Account at the rate of fifteen cents (15¢) per hundred weight on all tubular goods movements, in lieu of loading and unloading costs sustained, when actual hauling cost of such tubular goods are equalized under provisions of Paragraph 5 of Section II.
- (2) Material involving erection costs shall be charged at applicable percentage of the current knocked-down price of new Material.

3. Premium Prices

Whenever Material is not readily obtainable at published or listed prices because of national emergencies, strikes or other unusual causes over which the Operator has no control, the Operator may charge the Joint Account for the required Material at the Operator's actual cost incurred in providing such Material, in making it suitable for use, and in moving it to the Joint Property; provided notice in writing is furnished to Non-Operators of the proposed charge prior to billing Non-Operators for such Material. Each Non-Operator shall have the right, by so electing and notifying Operator within ten days after receiving notice from Operator, to furnish in kind all or part of his share of such Material suitable for use and acceptable to Operator.

4. Warranty of Material Furnished by Operator

Operator does not warrant the Material furnished. In case of defective Material, credit shall not be passed to the Joint Account until adjustment has been received by Operator from the manufacturers or their agents.

V. INVENTORIES

The Operator shall maintain detailed records of Controllable Material.

1. Periodic Inventories, Notice and Representation

At reasonable intervals, Inventories shall be taken by Operator of the Joint Account Controllable Material. Written notice of intention to take inventory shall be given by Operator at least thirty (30) days before any inventory is to begin so that Non-Operators may be represented when any inventory is taken. Failure of Non-Operators to be represented at an inventory shall bind Non-Operators to accept the inventory taken by Operator.

2. Reconciliation and Adjustment of Inventories

Reconciliation of a physical inventory with the Joint Account shall be made, and a list of overages and shortages shall be furnished to the Non-Operators within six months following the taking of the inventory. Inventory adjustments shall be made by Operator with the Joint Account for overages and shortages, but Operator shall be held accountable only for shortages due to lack of reasonable diligence.

3. Special Inventories

Special Inventories may be taken whenever there is any sale or change of interest in the Joint Property. It shall be the duty of the party selling to notify all other Parties as quickly as possible after the transfer of interest takes place. In such cases, both the seller and the purchaser shall be governed by such inventory.

4. Expense of Conducting Periodic Inventories

The expense of conducting periodic Inventories shall not be charged to the Joint Account unless agreed to by the Parties.

EXHIBIT "D"INSURANCE:

Operator shall carry for the benefit and protection of the parties hereto, Workmen's Compensation and Employers Liability Insurance with limits of \$500,000 for each occurrence in accordance with state, provincial, and federal laws including Longshoremen's and Harbor Workers' Compensation Act and as extended to Outer Continental Shelf Operations and other maritime laws, as applicable. If under the laws of the jurisdiction in which operations are conducted Operator is authorized to be a self-insurer as to workmen's compensation or employers' liability, Operator may elect to be a self-insurer under such laws and in such event Operator shall charge to the joint account, in lieu of any premiums for such insurance, a premium equivalent limited to amounts determined by applying manual insurance rates to the payroll.

The Operator shall not be required to carry any other insurance for the joint account. The liability, if any, of the parties hereto in damages for claims growing out of personal injury to or death of third persons or injury or destruction of property of third parties resulting from the operation and development of the premises covered hereby shall be borne by the parties hereto in the proportions of their respective interests in the production therefrom; and each party individually may acquire such insurance as it deems proper to protect itself against such claims. Operator shall require all third party contractors performing work in or on the premises covered hereby to carry such insurance and in such amounts as Operator shall deem necessary.

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EXHIBIT "E"
(Consisting of 2 Pages)

GAS STORAGE AND BALANCING AGREEMENT

(Attached to and made a part of the Operating Agreement)

The parties to the Operating Agreement to which this agreement is attached are the owners of certain gas rights underlying the Unit Area covered by such agreement, and the ownership of each party is set forth in Exhibit "A" to said Operating Agreement.

The terms of the Operating Agreement provide each such party with the right to take its share of gas produced from the Unit Area and market the same. In the event any such party is not at any time taking or marketing its share of such gas or has contracted to sell its share thereof to a purchaser which does not at any time while said agreement is in effect take the full share of gas attributable to the interest of such contracting party, then this agreement shall automatically become effective.

During the period or periods when any party has no market for its share of gas produced from any proration or spacing unit within the Unit Area, or its purchaser does not take its full share of gas produced from such proration or spacing unit mentioned above, the other parties shall be entitled to produce each month one hundred percent of the allowable gas production assigned to such proration or spacing unit by the State regulatory body having jurisdiction and shall be entitled to take and deliver to its or their purchaser or purchasers all of such gas production. All the parties shall share in and own the liquid hydrocarbons recovered from such gas by lease equipment in accordance with their respective interests and subject to the Operating Agreement to which this agreement is attached, but the party or parties taking such gas shall own all of the gas delivered to its or their purchaser or purchasers.

On a cumulative basis, each such party not taking or marketing its full share of the gas produced shall be credited with gas in storage equal to its full share of the gas produced under this agreement, less its share of gas used in lease operations, vented or lost, and less that portion such party took or delivered to its purchaser. The Operator under said Operating Agreement will establish and maintain currently a gas account to show the gas balance which exists between all the parties and will furnish each of these parties a monthly statement showing the total quantity of gas produced, the amount used in lease operations, vented or lost, the total quantity of liquid hydrocarbons recovered therefrom, and the monthly and cumulative over and under account of each party.

At any and all times while gas is being produced from the Unit Area, each party will make settlement with the respective royalty owners to whom said party is accountable, just as if each party were taking or delivering to a purchaser its share, and its share only, of such gas production exclusive of gas used in lease operations, vented or lost. Each party agrees to indemnify and hold each and every other party harmless from any and all claims for royalty payments asserted by royalty owners to whom each indemnifying party is accountable. The term "royalty owner" shall include owners of royalty, overriding royalties, production payments and similar interests.

Page 2
Exhibit E
(GAS STORAGE AND BALANCING AGREEMENT)

After written notice to the operator, each party at any time may begin taking or delivering to its purchaser its full share of the gas produced from a proration or spacing unit under which it has gas in storage, less such party's share of gas used in operations, vented or lost. In addition to such share, each party, including the Operator, until it has recovered its gas in storage and balanced the gas account as to its interest, shall be entitled to take or deliver to its purchaser a share of gas determined by multiplying fifty percent (50%) of the interest in the current gas production of the party or parties without gas in storage by a fraction, the numerator of which is the interest in the proration or spacing unit of such party with gas in storage and the denominator of which is the total percentage interest in such proration or spacing unit of all parties with gas in storage currently taking or delivering to a purchaser.

Each party producing and taking or delivering gas to its purchaser shall pay any and all production taxes due on such gas.

Nothing herein contained shall be construed as denying any party the right, from time to time, to produce and take or deliver to its purchaser its full share of the allowable gas production to meet the deliverability tests required by its purchaser.

In the event production of gas from a proration or spacing unit is permanently discontinued before the gas account is balanced, settlement will be made between the underproduced and overproduced parties. In making such settlement, the underproduced party or parties will be paid a sum of money by the overproduced party or parties attributable to the overproduction which said overproduced party received, less applicable taxes theretofore paid, at the applicable price defined below for the latest delivery of a volume of gas equal to that for which settlement is made. For gas sold in interstate commerce, the price basis shall be the rate collected, from time to time, which is not subject to possible refund, as provided by the Federal Energy Regulatory Commission or any successor agency pursuant to final order or settlement applicable to the gas sold from such well, plus any additional collected amount which is not ultimately required by said Commission to be refunded, such additional collected amount to be accounted for at such time as final determination is made with respect thereto.

Notwithstanding the provisions of the last preceding paragraph, it is expressly agreed that any underproduced party hereunder shall have the optional right, with respect to each proration unit separately, to receive a cash settlement bringing such underproduced party's gas account into balance at any time prior to the permanent discontinuance of gas production, by first giving each overproduced party ninety (90) days written notice of demand for cash settlement. If such option is so exercised, settlement shall be made (as of 7:00 o'clock A.M. on the 1st day of the calendar month following the date of such written demands) within ninety (90) days following the actual receipt of such written demands by the overproduced parties, in the same manner provided in the last preceding paragraph hereof. The optional right provided for in this paragraph can only be exercised one (1) time by any particular underproduced party on the same proration unit; and each underproduced party agrees that it will not exercise such option unless it is of the opinion that the remaining underproduced recoverable gas reserves are inadequate for its gas account to be brought into balance by actual production prior to permanent discontinuance of gas production from such proration unit.

Nothing herein contained shall change or affect the obligations of each party to bear and pay its proportionate share of all costs, expenses, and liabilities as provided in the Operating Agreement.

This agreement shall constitute a separate agreement as to each proration or spacing unit within the Contract Area and shall become effective in accordance with its terms and shall remain in force and effect as long as the Operating Agreement to which it is attached remains in effect, and shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors, legal representatives and assigns. By the terms "proration unit" or "spacing unit" is meant the area or portion of the Contract Area fixed for the drilling of one well by applicable field rules, or in the absence thereof, with statewide rules and regulations of the State regulatory body having jurisdiction.

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EXHIBIT G

TAX PROVISIONS

Tax Partnership Recognition (Federal)

The PARTIES recognize that this AGREEMENT creates a partnership for United States income tax purposes. Therefore, the PARTIES recognize that they are subject to the partnership provisions of subchapter K of chapter 1 of subtitle A of the Internal Revenue Code of 1954 and hereby agree not to elect pursuant to section 761(a), Internal Revenue Code of 1954, to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code. OPERATOR shall file with the appropriate office of the Internal Revenue Service a Partnership Income Tax Return covering the operations under this AGREEMENT. OPERATOR shall furnish to the other PARTIES for their approval a copy of each proposed income tax return at least two weeks prior to the date the return is filed.

Tax Partnership Recognition (State). The PARTIES recognize that this AGREEMENT may be subject to state income tax statutes. OPERATOR shall file with the appropriate office of the state agencies any required partnership state income tax returns.

Tax Elections. The PARTIES elect, for purposes of all partnership income tax returns (and for financial accounting purposes under this AGREEMENT):

- (a) To use the accrual method of accounting,
- (b) To adopt the calendar year as the annual accounting period,
- (c) To charge to expense all intangible drilling and development costs incurred in the drilling of both productive and nonproductive wells and the preparation of wells for production of oil and gas, in accordance with section 263(c), Internal Revenue Code of 1954, or the appropriate state law, and
- (d) To compute the allowance for depreciation in respect of all eligible property under this AGREEMENT subject to depreciation in accordance with the Asset Depreciation Range System. Allowances for depreciation will be computed using the maximum accelerated tax depreciation method and the shortest life permissible.

OPERATOR agrees to consult with the other PARTIES prior to making any other elections required by this AGREEMENT.

Tax Allocation. The PARTIES agree that items of income, gain, loss, deduction or credit shall be allocated as follows for all partnership income tax returns (and for financial accounting purposes under this AGREEMENT):

- (a) Deductible exploration costs, intangible drilling and development costs and production costs shall be allocated as deductions to the PARTIES in accordance with their respective contributions to such costs,
- (b) Abandonment losses in respect to the leaseholds or interest comprising the properties under this AGREEMENT shall be allocated to the PARTIES in accordance with their respective contributions to the property,
- (c) Depreciation, gains and losses from sales, and abandonment deductions in respect to capitalized tangible equipment shall be allocated

5/21/79

to the PARTIES in the ratio of their respective contributions to the adjusted basis (as defined by the Internal Revenue Code of 1954) of such equipment,

- (d) Property investments under this AGREEMENT qualifying for investment credit under section 38, Internal Revenue Code of 1954, shall be allocated to the PARTIES in accordance with their respective contributions to the adjusted basis of such property.
- (e) The depletion allowance shall be computed separately by the PARTIES. Each PARTY shall be allocated in accordance with its contribution to such basis, its proportionate share of the adjusted basis of each oil and gas property under this AGREEMENT.
- (f) Any recapture treated as an increase in tax, decrease in credits, or increase in ordinary income, by reason of sections 47, 1245, 1250, or 1254 of the Internal Revenue Code of 1954, shall be allocated to the PARTIES in the amounts in which such recaptured items were previously allocated to them.
- (g) All other deductions and credits shall be allocated to the PARTIES who have furnished the funds for and have been charged with the expenditure or loss giving rise to such deduction or credit and all income shall be allocated to the PARTY who receives or is credited with such income under other provisions of this AGREEMENT.

Exhibit B



Legacy Reserves LP • 303 West Wall, Ste. 1800 • Midland, TX 79701 • Ph: (432) 689-5200 • www.legacylp.com

12/15/2020

**ATLAS OBO ENERGY LP
1900 SAINT JAMES PLACE SUITE 800
HOUSTON, TX 77056**

**Re: Notice of Consent to Assign under Joint Operating Agreement dated 10/8/1979
by and between AMACO PRODUCTION CO as Operator, and NORTHERN
NATURAL GAS COMPANY et al as Non Operator.**

Lease Reference: STATE GC - LEA COUNTY, NEW MEXICO

To whom it may concern:

Legacy Reserves Operating LP ("Legacy") has executed a Purchase and Sale Agreement ("PSA") dated effective October 1, 2020 whereby Legacy has agreed to assign all of its right, title and interest in various properties to SBI II, LLC ("SBI"), including Legacy's right, title and interest in the Lease described above (the "Subject Property").

Pursuant to the JOA, Legacy hereby requests your written consent to such assignment to effectuate the transaction with SBI. Legacy would appreciate your prompt election to this request.

Please indicate your consent to the above by having the appropriate representative sign and date in the spaces provided below, and at your earliest convenience, please return one (1) original to the undersigned in the enclosed self-addressed envelope or scan and email your consent to Teri Greer at tgreer@legacyreserves.com

Please contact Best regards,

LEGACY RESERVES OPERATING LP

Clay Roberts
Land Manager, Permian Business Unit

[Consent on Following Page.



Legacy Reserves LP • 303 West Wall, Ste. 1800 • Midland, TX 79701 • Ph: (432) 689-5200 • www.legacylp.com

CONSENT TO ASSIGN

Lease/Well: State GC
County, State: Lea County, New Mexico
Operator: Amaco Production Co
Non-Operator: Norther Natural Gas Company

The undersigned hereby consents to Legacy's assignment of the captioned JOA to SBI effective October 1, 2020.

Agreed to and accepted this _____ day of _____, 2020.

By:

Title:

[Please return one (1) original to the undersigned in the enclosed self-addressed envelope.]



Legacy Reserves LP • 303 West Wall, Ste. 1800 • Midland, TX 79701 • Ph: (432) 689-5200 • www.legacylp.com

PREFERENTIAL RIGHT TO PURCHASE ELECTION

The undersigned hereby elects to **EXERCISE** its preferential right to purchase Legacy's interest in the Subject Property pursuant to the Joint Operating Agreement and on the same terms and conditions set forth in the PSA.

[Please initial one.]

The undersigned hereby elects to **NOT EXERCISE**, and thereby waive, its preferential right to purchase Legacy's interest in the Subject Property pursuant to the Joint Operating Agreement.

[Please initial one.]

:

Signature: _____

Title/Self: _____

Date: _____

[Please return one (1) original to the undersigned in the enclosed self-addressed envelope.]


PREFERENTIAL RIGHT TO PURCHASE ELECTION

 **LEGACY**
RESERVES
LEGACY RESERVES INC
15 SMITH ROAD, SUITE 3000
MIDLAND, TX 79705

CERTIFIED MAIL



7020 1610 0000 1577 6005

 **LEGACY RESERVES**
ZIP 79705
02 41
\$ 006.90⁰
0000380755 DEC 16 2020

ATLAS OBO ENERGY LP
1900 SAINT JAMES PLACE
SUITE 800
HOUSTON, TX 77056

DEC 22 2020

77056\$4133



Exhibit C



RESOURCE DEVELOPMENT INC.

Gavin Smith, RPL

Landman

Centennial Resource Production, LLC

1001 Seventeenth Street, Suite 1800

Denver, Colorado 80202

Main: 720-441-5515

Direct: 720-499-1474

Gavin.smith@cdevinc.com



Jeff Uerly, CPL

Vice President of Land

OneEnergy Partners, LLC

2929 Allen Parkway, Suite 200

Houston, Texas 77019

Main: 713-714-6485

Direct: 214-683-3464

jlierly@oneenergypartners.com

March 28, 2017

DELIVERED VIA CERTIFIED MAIL**TO: Working Interest Parties of the State GC Joint Operating Agreement****Re: Change of Operator & Consent to Assign
Township 22 South, Range 35 East, N.M.P.M
Section 7: S/2, NW/4
Lea County, New Mexico**

Dear Working Interest Owner:

Centennial Resource Production, LLC ("Centennial") has entered into an agreement with OneEnergy Partners, LLC ("OEP"), in, on and under the lands described above. OEP will assign ownership to Centennial of the lands described above, effective January 1, 2018. Ownership in any existing wells will not be included in the assignment.

Pursuant to the terms and provisions of that certain A.A.P.L. Form 610-1977 Operating Agreement dated October 8th, 1979, by and between Amoco Production Company, as operator, and Northern Natural Gas, et al, as non-operators, covering the Subject Lands (the "State GC JOA"), OEP proposes that Centennial be approved as Operator of the State GC JOA effective as of January 1, 2018. OEP also requests consent to assign from all Working Interest Owners per Article VIII. G. of the State GC JOA.

Centennial is publicly traded exploration and production company that is focused solely on the Delaware Basin in Texas and New Mexico. The entity is valued with a \$5.3 billion market capitalization and lead by Mark Papa. Centennial is currently conducting a drilling program consisting of seven rigs. Additionally, Centennial is hereby voting its interest as Operator.


If you approve Centennial succeeding OEP as Operator of State GC JOA effective January 1, 2018 and consent to the assignment of OEP's contractual interest to Centennial, please so signify by executing both copies of this letter and returning one copy to Centennial to the attention of the Gavin Smith at the address in the header above. The additional copy of this Letter Agreement is for your files.

Change of Operator
January 18, 2017
Page | 2

Thank you for your consideration and prompt response. If you have any questions, please contact either Jeff Lierly or Gavin Smith at the appropriate contact information contained in the letterhead.

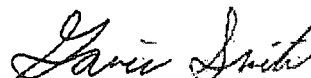
Respectfully,

OneEnergy Partners, LLC



Jeff Lierly
Vice President of Land

Centennial Resource Production, LLC



Gavin Smith
Landman

I/We _____ hereby vote our interest for Centennial Resource Production, LLC becoming Operator of the State GC JOA effective January 1, 2018 and hereby give consent to the assignment to Centennial Resource Production, LLC.

Name or Company Name: _____

By: _____

Title: _____

Date: _____

Change of Operator
January 18, 2017
Page | 3

Working Interest Owners:

<u>Company Name</u>	<u>Certified Mail No.</u>
EOG Resources, Inc. 5509 Champions Dr. Midland, Texas 79706 Attn: Dustin Bynum	9590-9402-2686-6351-6033-54
Atlas OBOI Energy, LP 15603 Kuykendahl, Suite 200 Houston, TX 77090	9590-9402-2686-6351-6033-47

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

ATLAS OBO ENERGY LP,
Plaintiff,

v.

No. _____

CENTENNIAL RESOURCE PRODUCTION, LLC,
Defendant.

TEMPORARY RESTRAINING ORDER

This matter having come before the Court on the Plaintiff's *Motion for Temporary Restraining Order and Preliminary Injunction*, and the Court, having considered the pleadings, the affidavits, and arguments of counsel, the Court, being fully advised in the premises:

FINDS there is evidence that harm is imminent to Plaintiff, and if the Court does not issue the temporary restraining order, Plaintiff will be irreparably injured because Defendant Centennial Resource Production, LLC (the "Enjoined Party") is likely to continue to attempt to subvert the true ownership of the Plaintiff's relevant mineral property and irreparably damage same through the control and operation of said property, including, but not limited to, extracting and exhausting the finite mineral resources contained within said property, and that the Motion should be granted.

WHEREFORE, IT IS HEREBY ORDERED that the Enjoined Party, and its parent companies, subsidiary companies, officers, agents, servants, warehousemen, employees, successors, and assigns, and attorneys, and all parties acting in concert therewith, who receive constructive notice of this Order are hereby **RESTRAINED AND ENJOINED** from:

- a. Attempting to control or operate Plaintiff's relevant mineral property (as described within Plaintiff's Verified Complaint and Motion for Temporary Restraining Order and Preliminary Injunction) in any regard; and

- b. Attempting to bring any form of administrative hearing before the Oil Conservation Division of the State of New Mexico Energy, Minerals and Natural Resources Department for the purposes of force pooling the minerals within the Property and/or otherwise attempting to control or operate Plaintiff's relevant mineral property.

IT IS FURTHER ORDERED that the Enjoined Party shall take all actions necessary to comply with the terms of this Order, such that Defendant shall immediately, and in no event more than twenty-four (24) hours from the execution of this order:

- a. cause any scheduled hearing before the Oil Conservation Division of the State of New Mexico Energy, Minerals and Natural Resources Department to be passed, tolled, abated, or otherwise cancelled; and
- b. cease all attempts at controlling, operating, or otherwise affecting Plaintiff's mineral property in violation of the Joint Operating Agreement governing same.

IT IS FURTHER ORDERED that the Enjoined Party shall appear before the Honorable Judge presiding in the courtroom of the Fifth Judicial District Court of Lea County, New Mexico on the ____ day of _____, 20____, at _____ .m., and then and there show cause, if any there be, why a temporary injunction should not be issued as requested by Plaintiff.

The Clerk of the Court is hereby directed to issue a show cause notice to the Enjoined Party to appear at the temporary injunction hearing.

The Clerk of the above-entitled Court shall forthwith, on the filing by Plaintiffs of the bond of \$_____, and on approving the same according to the law, issue a temporary restraining order in conformity with the law and the terms of this Order.

SIGNED the ____ day of _____, 2021, at _____ .m.

HONORABLE JUDGE PRESIDING

APPROVED AS TO FORM AND ENTRY REQUESTED BY:

KEARNEY, MCWILLIAMS & DAVIS, PLLC

/s/Joshua D. Cochran

Joshua D. Cochran

SBN: 153157

jcochran@kmd.law

Bradley A. Nevills

(*pro hac vice* registration forthcoming)

bnevills@kmd.law

55 Waugh Drive, Suite 150

Houston, Texas 77007

Tel: (713) 936-9620, ext. 116

Fax: (281) 206-0481

Attorneys for Plaintiff

Atlas OBO Energy LP

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

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

**APPLICATION OF CHISHOLM ENERGY OPERATING, LLC
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE No. 20520

**APPLICATION OF CHISHOLM ENERGY OPERATING, LLC
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE No. 20521

ORDER OF DENIAL

On August 15, 2019, Marathon Oil Permian LLC filed a *Motion for a Continuance* for each of the above captioned cases that was opposed by the Applicant. The requests are hereby denied without prejudice.



Adrienne Sandoval, Director

EXHIBIT A

STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT COURT

FILED
5th JUDICIAL DISTRICT COURT
Lea County
11/29/2021 1:39 PM
NELDA CUELLAR
CLERK OF THE COURT
Sandy Long

ATLAS OBO ENERGY LP,

Plaintiff,

No. D-506-CV-2021-00991

v.

CENTENNIAL RESOURCE PRODUCTION,
LLC,

Defendant.

**CENTENNIAL RESOURCE PRODUCTION, LLC'S
RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Defendant Centennial Resource Production, LLC ("Centennial") hereby responds in opposition to Plaintiff Atlas OBO Energy LP ("Atlas")'s Motion for Temporary Restraining Order and Preliminary Injunction.

INTRODUCTION AND PROCEDURAL BACKGROUND

On October 1, 2021, Centennial filed two compulsory pooling applications with the New Mexico Oil Conservation Division ("NMOCD"), initiating Case Nos. 22252 and 22253. These applications request the NMOCD to pool all uncommitted mineral interests in the Bone Spring formation in two proposed horizontal spacing units underlying Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico. A copy of the applications along with other exhibits submitted to the NMOCD are being filed contemporaneously herewith as **Exhibit 1** and **Exhibit 2**¹, respectively. Centennial owns interests in these proposed horizontal spacing units by virtue of four State of New Mexico leases: **L-6377** (NW/4 and S/2 of Section 7), **VB-244** (NE/4 of Section 7); **VC-0049** (N/2 of Section 18), and **VC-0076** (S/2 of Section 18) (collectively the

¹ Exhibit 1 is attached herewith. Exhibits 2-4 to Defendant's Response are being filed as a separate document.

EXHIBIT A

“State Leases”). Centennial owns 100% of the mineral interests in Section 18. *See* Affidavit of Gavin Smith, Senior Landman with Centennial, ¶¶ 6-12, filed as **Exhibit 3**.

Atlas claims to be a party to a Joint Operating Agreement (“JOA”) dated October 8, 1979. A copy of the JOA is attached as Exhibit A to Atlas’s Verified Complaint and Motion for Temporary Restraining Order and Preliminary Injunction (“Complaint”). Exhibit A-1 to the JOA identifies three leases that are contributed to the JOA: L-6377, LG-3975, and LG-1842. Accordingly, only one of the four leases that Centennial derives its leasehold interests from is committed to the JOA. That lease is L-6377. The other three leases are not subject to the JOA. Compl. Ex. A, JOA at Exhibit A-1.

At Article VIII(G), the JOA includes an assignability provision, which provides in relevant part: “No party may assign its rights hereunder, or any portion thereof, without the written consent of the other parties.” Compl. Ex. A. Atlas reads this provision to require the parties to the JOA to give affirmative written consent before any party can assign its leasehold interests subject to the JOA, and Atlas alleges that it never gave consent to Centennial’s predecessor-in-interest to assign the State Lease to Centennial. Yet a plain reading of the assignability clause makes clear that it applies only to the assignment of contractual rights under the JOA. Notwithstanding, even under Atlas’s interpretation, its consent would have been required only for assignment of lease L-6377 to Centennial, and Centennial stills own an overwhelming working interest in the proposed spacing units separate and apart from the lease subject to the JOA. These leases allow Centennial to pool, regardless of the outcome in this case.

The NMOCD is scheduled to hear Case Nos. 22252 and 22253 on December 2, 2021. Centennial is aiming to commence drilling in March 2022, as State Leases VC-0049 and VC-0076 will otherwise expire April 1, 2022. Atlas, with nearly 5% interest in the proposed unit in Case

EXHIBIT A

22252 and 2.5% in the unit proposed in 22253, has appeared in these matters and is opposing Centennial's pooling cases. Yet, significantly, it has not proposed any competing development plans. Rather, Atlas is resisting the development of this acreage for the simple reason that it does not want to be compulsorily pooled. The New Mexico Oil and Gas Act, however, explicitly authorizes the NMOCD to pool uncommitted interests where parties cannot agree among themselves. This is to promote the greater public policy objective of developing oil and gas in a manner that promotes conservation, prevents waste, and protects correlative rights. As will be explained below, Atlas's motion for preliminary injunction should be denied, and Case Nos. 22252 and 22253 should be permitted to proceed before the administrative agency that is charged with managing and overseeing oil and gas development in New Mexico.

ARGUMENT

In New Mexico, "injunctions are harsh and drastic remedies that should issue only in extreme cases of pressing necessity and only where there is no adequate remedy at law." *Insure New Mexico, LLC v. McGonigle*, 2000-NMCA-018, ¶ 7, 128 N.M. 611 (internal quotations omitted). To obtain a preliminary injunction, Atlas must prove each of the following: (1) it will suffer irreparable injury unless the injunction is granted; (2) there is a substantial likelihood that it will prevail on the merits; (3) the threatened injury outweighs any damage the injunction might cause Centennial; and (4) issuance of the injunction will not be adverse to the public's interest. *LaBalbo v. Hymes*, 1993-NMCA-010, ¶ 11, 115 N.M. 314. If Atlas fails to establish even one of the elements, it cannot obtain injunctive relief. *Id.*

I. Atlas has not established that it will suffer irreparable injury.

Atlas requests that this Court grant a temporary injunction that would stay two pending matters before the NMOCD and prevent Centennial from developing and producing oil and gas

EXHIBIT A

from the State Leases. Importantly, in making this claim, Atlas does not assert that it is the rightful owner of Centennial's State Leases. Atlas instead alleges that, if Centennial develops its leases, then Atlas will be "forced to make a damaging choice" to either (1) contribute its pro rata share of the capital costs of development or, (2) decline to contribute and pay the risk charge as required by New Mexico law. Compl. ¶ 29. This is not irreparable harm. Rather, this is an economic choice that oil and gas lessees routinely consider when their interests are statutorily pooled or otherwise contributed to a unit. If, in fact, it is determined that Centennial does not own an interest in the State Leases, the economic harm incurred by Atlas, if any, as a result of its choice may be remedied through money damages.

Under New Mexico law, "injunctions are granted to prevent irreparable injury for which there is no adequate and complete remedy at law." *Wilcox v. Timberon Protective Ass'n*, 1990-NMCA-137, ¶ 34, 111 N.M. 478, *abrogated on other grounds by Agua Fria Save the Open Space Ass'n v. Rowe*, 2011-NMCA-054, ¶ 22, 149 N.M. 812. As the Court of Appeals has explained:

[A]n irreparable injury is an injury which cannot be compensated or for which compensation cannot be measured by any certain pecuniary standard. The injury must be actual and substantial, or an affirmative prospect thereof, and not a mere possibility of harm. It is not enough that the party seeking injunctive relief merely claim irreparable harm; he must come forth with evidence of the irreparability of his harm or inadequacy of any remedy.

State ex. rel. State Hwy & Transp. Dep't of N.M. v. City of Sunland Park, 2000-NMCA-044, ¶19, 129 N.M. 151 (internal citations and quotations omitted). Here, Atlas has completely failed to demonstrate why it does not have an adequate remedy at law.

Atlas has failed to establish that it does not have an adequate remedy at law because its only claimed injury is economic loss. According to the Complaint, Atlas's sole claim of harm would result from its oil and gas lease being pooled with Centennial's State Leases into two spacing units pursuant to Centennial's pending applications before the NMOCD. As an initial

EXHIBIT A

matter, Atlas has contested Centennial's NMOCD applications and is pursuing a remedy before the agency. Second, if the NMOCD grants Centennial's applications and pools Centennial's State Leases with Atlas's interest, then Atlas (with its nearly 5% share in one unit, and 2.5% share in the other unit) must make the choice that every non-operating lessee in this situation must make – to either participate in the proposed wells and pay “certain operating costs” or decline to participate and pay the statutory “penalty” before it is entitled to receive its share of revenues from production. Compl. ¶ 29. If Atlas chooses the first option, Atlas will receive its share of revenues from production without deduction. If Atlas chooses the second option, it can avoid its capital contribution and instead pay the statutory risk penalty from its share of the revenues. Thus, these alleged “injuries” are simply the cost reimbursements and risk charges explicitly authorized by New Mexico law for oil and gas development. *See* NMSA 1978, § 70-2-17 (mandating payment from production of well costs, not to exceed 200% of the non-consenting owner's pro rata share, for any owner who elects not to pay his proportionate share in advance); *see also Viking Petroleum, Inc. v. Oil Conservation Comm'n of the State*, 1983-NMSC-091, ¶ 21, 100 N.M. 451 (“[T]he amount of costs to be reimbursed to the operator, and the percentage risk charge to be assessed, if any, are determinations to be made by the Commission on a case-to-case basis and upon the particular facts in each case.”). Regardless of whether Atlas chooses to participate or pay a risk charge, Atlas stands to benefit. Thus, there is no harm to Atlas at all – much less irreparable harm.

Finally, even if Atlas can somehow demonstrate that (1) someone else, and not Centennial, is the rightful owner of the State Leases, and (2) that Centennial's operation of the State Leases will result in economic harm to Atlas, then Atlas's harm is purely economic. And, an economic loss such as this is compensable by monetary damages and does not constitute irreparable harm. *See Orion Tech. Res., LLC v. Los Alamos Nat'l Sec., LLC*, 2012-NMCA-097, ¶ 31, 287 P.3d 967

EXHIBIT A

(“An irreparable injury for which there is no adequate remedy at law is one ‘which cannot be compensated or for which compensation cannot be measured by any certain pecuniary standard.’”); *see also Crowe & Dunlevy, P.C. v. Stidham*, 640 F.3d 1140, 1157 (10th Cir. 2011) (“economic loss is usually insufficient to constitute irreparable harm”). Accordingly, the Court should deny Atlas’s motion and allow this matter to proceed before the NMOCD.

II. Atlas has not established a substantial likelihood of prevailing on the merits.

As the party seeking a preliminary injunction, Atlas bears the burden of demonstrating a substantial likelihood that it will prevail on the merits. *LaBalbo*, 1993-NMCA-010, ¶ 11; *Nat’l Trust for Historic Preservation v. City of Albuquerque*, 1994-NMCA-057, ¶ 18, 117 N.M. 590 (“movant for injunction bears burden of persuasion”). Where the movant cannot make this showing, preliminary-injunctive relief is not available. *See, e.g., Nat’l Trust for Historic Preservation*, 1994-NMCA-057, ¶ 30 (denial of preliminary injunction affirmed where plaintiffs “had not presented sufficient persuasive evidence to establish a substantial likelihood that they would prevail on the merits”). Here, Atlas’s four claims – count A for breach of contract, count B for slander of title, count C for quiet title, and count D for declaratory judgment – fail as a matter of law, and therefore Atlas is not entitled to entry of a preliminary injunction.

A. The JOA Does Not Prevent Centennial from Acquiring the State Leases.

As a threshold issue, each of Atlas’s claims is premised upon its argument that, pursuant to the JOA, Atlas must consent to the transfer of the State Leases to Centennial. As set forth below, Atlas’s construction of the JOA’s assignability clause is contrary to the agreement’s plain terms and would operate as an unreasonable restraint on alienation. Moreover, three of the State Leases

EXHIBIT A

are not subject to the JOA at all. Accordingly, Atlas has failed to demonstrate a substantial likelihood of success on the merits.

- i. The “Assignability” provision applies only to the transfer of the JOA itself and not the State Leases.

When a contract is unambiguous, a court should “interpret the meaning of the document and the intent of the parties according to the clear language of the document.” *Espinosa v. United of Omaha Life Ins. Co.*, 2006 NMCA 75, ¶ 26, 139 N.M. 691. The purpose of this JOA, like any other, is to allocate the risks and revenues resulting from the exploration and production of oil and gas from leases committed to the JOA. The unambiguous language of the assignability provision, found at Article VIII(G) of the JOA, indicates that written consent is required only to assign the contractual rights under the JOA, as it states: “No party may assign its rights hereunder, or any portion thereof, without the written consent of the other parties.” Compl., Ex. A, JOA at 12 (emphasis added). There is no requirement of written consent to convey title to lands, oil and gas leasehold interests, or other oil and gas interests within the area subject to the JOA. This interpretation that the assignability clause is limited to assignment of contractual rights (and not title) is confirmed by the language of Article XV (Other Provisions), which begins “[i]n connection with Article VIII(G) (“Assignability”) of this Operating Agreement...” and refers to assignment of the parties’ “partnership interest” in the contract area. Once again, the plain language of the assignability provision limits its effect to assignment of the parties’ contractual rights under the JOA.

Yet, even if the Court looks beyond the four corners of the contract, *see Mark V, Inc. v. Mellekas*, 1993-NMSC-001, ¶ 11, 114 N.M. 778, extrinsic evidence bolsters the conclusion that the assignability clause applies only to the assignment of contractual rights under the JOA. The JOA is based upon the 1977 AAPL Form 610 Model Form Operating Agreement. However, the

EXHIBIT A

original parties removed the standard Article VIII(G) from the 1977 form and replaced it with the language at-issue in this case. Article VIII(G) in the 1977 AAPL Form 610 Model Form Operating Agreement is titled “Preferential Right to Purchase” and provides:

Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Contract Area, it shall promptly give written notice to the other parties, with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties.

See 47 Rocky Mt. Min. L. Inst. 13-1, § 1306 Appendix (2001), filed as **Exhibit 4** (quoting language of Preferential Right to Purchase Provisions in different versions of model form JOA) (emphasis added). The decision to remove the “Preferential Right to Purchase” provision and, thus, intentionally exclude reference to the sale or assignment of “rights and interests in the Contract Area,” is significant. It evinces an intent by the parties to remove an constraint on alienation of the leases subject to the JOA and instead provide the parties with a consent right applicable only to the assignment of the JOA itself. For these reasons, Atlas’s interpretation of Article VIII(G) of the JOA as requiring written consent to assign leasehold interests within the subject area is unreasonable and incorrect.

- ii. Atlas’ interpretation of the JOA would result in an unreasonable restraint on alienation.

New Mexico has adopted the common-law rule that unreasonable restraints on alienation are not enforceable. See *Gartley v. Ricketts*, 1988-NMSC-067, ¶ 6, 107 N.M. 451 (citing *State ex rel. Bingaman v. Valley Sav. & Loan*, 1981-NMSC-108, 97 N.M. 8). When considering if a restraint on alienation is enforceable, New Mexico courts consider six factors, including whether:

EXHIBIT A

(1) the one imposing the restraint has some interest in land which he is seeking to protect by the enforcement of the restraint; (2) the restraint is limited in duration; (3) the enforcement of the restraint accomplishes a worthwhile purpose; (4) the type of conveyances prohibited are ones not likely to be employed to any substantial degree by the one restrained; (5) the number of persons to whom alienation is prohibited is small; [and] (6) the one upon whom the restraint is imposed is a charity.

Gartley, 1988-NMSC-067, ¶ 6. As to the first factor, Atlas has not identified a real property interest that it seeks to protect. As discussed above, its interest is purely economic. Second, Atlas's alleged right of restraint could continue in perpetuity as its term is concurrent with the term of the JOA. The JOA has been in existence since 1979, and will continue until as long as the wells subject to it provisions are producing. Compl. Ex. A, Article XIII (Term of Agreement). Third, Atlas has not identified a worthwhile purpose for this restraint on alienation. Fourth and Fifth, while transfer of the State Leases might affect only relatively small number of people, these types of transactions are routine and common in the oil and gas industry and should not be precluded. Sixth, none of the parties is a charity.

Accordingly, even if the Court agrees with Atlas's interpretation of the assignability clause of the JOA, it should nevertheless find that it is an unreasonable restraint on alienation.

iii. Three of the State Leases are not subject to the JOA at all.

Centennial has a right to pool because it owns an interest in each of the proposed horizontal spacing units separate and apart from the leases committed to the JOA. NMSA 1978, 70-2-17. In Case No. 22252, Centennial owns an interest in Section 18 by virtue of leases VC-0049 and VC-0076, which are not committed to the JOA. In Case No. 22253, in addition to owning an interest in Section 18, Centennial also owns an interest in Section 7 by lease VB-244, which is similarly not committed to the JOA. These ownership interests allow Centennial to pool, regardless of the outcome in this case. NMSA 1978, § 70-2-17. For this additional reason, Centennial should be allowed to proceed with its pooling applications before the NMOCD.

EXHIBIT A

B. If Centennial is not a party to the JOA, then Atlas's claim for breach of contract fails.

Under New Mexico law, “[t]he elements of a breach-of-contract action are the existence of a contract, breach of the contract, causation, and damages.” *Abreu v. N.M. Children, Youth & Families Dep’t*, 797 F. Supp. 2d 1199, 1247 (D.N.M. 2011) (citing *Camino Real Mobile Home Park P’ship v. Wolfe*, 1995-NMSC-013, ¶ 18, 119 N.M. 436). It is axiomatic that a defendant must be a party to a contract before it can be held liable for a breach of the contract. *See Ibe v. Jones*, 836 F.3d 515, 524 (5th Cir. 2016); *A&V 425 LLC Contr. Co. v. RFD 55th St. LLC*, 830 N.Y.S.2d 637, 643 (S.Ct. NY 2007) (“As a general rule, in order for someone to be liable for a breach of contract, that person must be a party to the contract.”). Atlas’s contract claim necessarily fails because the foundation of this lawsuit is Atlas’s insistence that Centennial is not a rightful party to the JOA. If Centennial is not a party to the JOA, as Atlas claims, then Centennial cannot have breached the Assignability provision (Article VIII(G)) or any other provision of the JOA, as a matter of law. Because Atlas cannot show a substantial likelihood of success on the merits of its contract claim, injunctive relief must be denied.

C. Atlas’s claim for slander of title fails because Atlas does not claim interest in the Property.

In New Mexico, “[t]he tort of slander of title occurs when one who, without the privilege to do so, wilfully records or publishes matter which is untrue and disparaging to another’s property rights in land, as would lead a reasonable man to foresee that the conduct of a third purchaser might be determined thereby.” *Den-Gar Enters. v. Romero*, 1980-NMCA-021, ¶ 16, 94 N.M. 425 (emphasis added). Malice is an essential element of slander of title. *Id.* Further, because “the gist of the action is recovery of special damages for the loss sustained by reason of the speaking and publication of slander concerning the plaintiffs’ title to property,” special damages must be pleaded and proven at trial. *Jemez Prop., Inc. v. Lucero*, 1979-NMCA-162, ¶ 18, 94 N.M. 181.

EXHIBIT A

Atlas cannot prevail on its slander of title claim for at least three reasons. First, and perhaps most importantly, Atlas cannot recover on its slander of title claim for the simple reason that Centennial has not reported or otherwise published false statements about Atlas's title to property. The allegations in the Complaint confirm this as Atlas concedes that it "does not dispute its attributed ownership percentage in the Property," Compl. ¶ 9, meaning that it does not dispute the ownership interest that Centennial attributes to Atlas in the filings before the NMOCD. By this admission, Atlas pleads itself out of a slander of title claim by acknowledging that Centennial's statements about Atlas's property interests are true and accurate.

Second, there is no evidence that Centennial acted with the requisite malice to prevail on a claim for slander of title. As supposed evidence of Centennial's wrongful state of mind, Atlas alleges that approximately six weeks ago, on October 15, 2021, "Plaintiff delivered formal correspondence to Defendant...specifically delineating both the failure of Defendant to obtain Plaintiff's consent and the purposeful avoidance of Plaintiff's exception to prior related notices." Compl. ¶ 11. Atlas purports to attach such correspondence as Exhibit B to the Complaint, but no such correspondence is attached thereto. Further, the applications for pooling in Case Nos. 22252 and 22253—which form the basis of Atlas's slander of title claim—were filed with the NMOCD on October 1, 2021, two weeks before Atlas's October 15, 2021 correspondence. Further, as will be explained above, Centennial has a good faith belief that it owns the mineral interests that are the subject of the pooling cases pending before the NMOCD.

Third and finally, the slander of title claim fails because Atlas has not sustained special damages as a result of Centennial's actions. In the Complaint, Atlas alleges that it will suffer damages if the pooling cases are allowed to proceed and the NMOCD ultimately enters pooling orders, by "not being paid any royalties due from Plaintiff's ownership in the Property until

EXHIBIT A

Defendant's costs of operations are paid *thrice*," Compl. ¶ 14 (emphasis in original), and "by Plaintiff in having to quiet title to the Property," Compl. ¶ 21. As to the claimed damages about royalties and risk-charge assessments, these damages are speculative and have not yet been incurred by Atlas as the NMOCD has not issued any pooling orders. Further, the costs associated with quieting title are similarly improper because, as will be explained below, Atlas does not have standing to quiet title Centennial's property interests. For the foregoing reasons, Atlas's slander of title claim fails, and entry of a preliminary injunction is not warranted.

D. Atlas's claim for quiet title fails.

Quiet title actions in New Mexico are governed by Article 6 of Chapter 42 of the New Mexico Statutes Annotated. In particular, Section 42-6-1 addresses by and against whom actions for quiet title may be brought and provides, in relevant part, as follow:

An action to determine and quiet the title of real property may be brought by anyone having or claiming an interest therein, or by the holder of any mortgage, mortgage deed, trust deed or any other written instrument which may operate as a mortgage, in an action brought to foreclose the said mortgage, mortgage deed, trust deed or such other written instrument, whether in or out of possession of the same, against any person or persons, claiming title thereto, or parcel or portion thereof, or lien thereon, whether such lien be a mortgage or otherwise.

(Emphasis added). Although a party need not be in possession of property to maintain a quiet title action, it must claim an interest in the property. *See Currier v. Gonzales*, 1967-NMSC-259, ¶ 6, 78 N.M. 541 ("Quiet title actions may be brought by anyone, in or out of possession, claiming an interest in real property."); *Sec. Inv. & Dev. Co. v. Capital City Bank*, 1917-NMSC-018, ¶ 5, 22 N.M. 469 (quiet title action by lien holder dismissed "because its right and interest in the premises was based upon a judgment lien which does not constitute title; nor is such claim within the purview of the statute"); *see also* NMSA 1978, § 42-6-2 ("The plaintiff must file his complaint in the district court...averring that he is credibly informed and believes that the defendant makes

EXHIBIT A

some claim adverse to the estate of the plaintiff, and praying for the establishment of the plaintiff's estate against such adverse claims...").

Therefore, as a matter of New Mexico law, Atlas lacks standing to bring a claim for quiet title because it does not allege an interest in the mineral estate that Centennial claims. As pleaded in the Complaint, "Plaintiff does not dispute its attributed ownership percentage in the Property," but "rather, Plaintiff disputes that Defendant ever lawfully acquired ownership of any portion of the Property in the first place." Compl. ¶ 9. Quiet title is not a vehicle for third parties to challenge title to property to which it does not claim an ownership interest. *See generally*, NMSA 1978, §§ 42-6-1 through 42-6-17. Therefore, as a matter of New Mexico law, Atlas cannot maintain a claim for quiet title, and Atlas's request for injunctive relief must be denied.

E. Atlas's claim for declaratory relief fails.

The New Mexico Declaratory Judgment Act creates "a cause of action in cases of actual controversy to declare rights, status, and other legal relations." *Gallegos v. Nev. Gen. Insur. Co.*, 2011-NMCA-004, ¶ 9, 149 N.M. 364. Even assuming that there is an actual controversy between the parties as to title in the mineral interests claimed by Centennial, Atlas is not likely to prevail on its claim for declaratory relief, which is fatal to its motion for preliminary injunction. Atlas is asking the Court to declare, among other things, that Centennial "has not succeeded to an ownership interest within any portion of the Property," Compl. ¶ 27, because Centennial (or its predecessor-in-interest) failed to obtain Atlas's written consent in accordance with the assignability provision of the JOA. As discussed above, Atlas's declaratory judgment claim fails because written consent was not a requirement to convey mineral interests subject to the JOA.

EXHIBIT A

III. Atlas has not established the threatened injury outweighs any damage the injunction might cause Centennial.

Not only has Atlas failed to demonstrate an irreparable injury, but it has not demonstrated that this injury outweighs any damage the injunction might cause Centennial. Centennial has expended considerable time and resources to develop this acreage, including arranging to commence drilling in March 2022. This timing is critical because State Leases VC-0049 and VC-0076 are otherwise set to expire April 1, 2022. Affidavit of Gavin Smith, ¶ 13, **Ex. 3**. To meet this timeline, however, it is imperative that Case Nos. 22252 and 22253 go to hearing before the NMOCD on December 2, 2021. Atlas may appeal any pooling orders issued by the NMOCD to the Oil Conservation Commission for a de novo hearing. NMSA 1978, § 70-2-13. To account for this additional administrative process, these pooling cases must heard as soon as possible if drilling is to commence in March 2022. As reflected on the Authorization for Expenditures, attached as Exhibit C4 to both pooling cases, **Exs. 1 and 2**, millions of dollars are being expended by Centennial to develop this acreage. As such, the damage to Centennial if a preliminary injunction is entered and the pooling cases are not permitted to go to hearing on December 2 significantly outweighs an injury to Atlas. Accordingly, a preliminary injunction is not appropriate.

IV. Atlas has not established issuance of the injunction will not be adverse to the public's interest.

It is the public policy of the State of New Mexico, as articulated in the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-13, “to prevent waste prohibited by this act and to protect correlative rights.” NMSA 1978, § 70-2-11. One way that the NMOCD accomplishes this is by pooling mineral interests in proposed spacing units. NMSA 1978, § 70-2-17 (pooling); *see also* NMAC 19.15.16.15 (Horizontal Wells). Specifically, Section 70-2-17(C) provides:

EXHIBIT A

When two or more separately owned tracts of land are embraced within a spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil and gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, the owner or owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owner or owners have not agreed to pool their interests, and where one such separate owner, or owners, who has the right to drill has drilled or proposes to drill a well on said unit to a common source of supply, the division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste, shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit.

(Emphasis added). The purpose of this section of the Oil and Gas Act, which expressly authorizes the NMOCD to pool mineral interests between parties that cannot reach agreement, is to avoid this very situation, whereby an interest owner such as Atlas arbitrarily attempts to prevent reasonable oil and gas development. Therefore, contrary to Atlas's assertion, the preliminary injunction requested by Atlas is contrary to the Oil and Gas Act and, therefore, adverse to the public's interest. The motion for preliminary injunction should be denied.

CONCLUSION

Wherefore, for the foregoing reasons, Centennial respectfully requests the Court to deny Atlas's Motion for Temporary Restraining Order and Preliminary Injunction.

EXHIBIT A

Respectfully submitted,

HOLLAND & HART LLP

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**ATTORNEYS FOR DEFENDANT CENTENNIAL
RESOURCE PRODUCTION, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I caused a true and correct copy of the foregoing to be filed and served electronically via Odyssey File and Serve, which caused all parties and counsel listed on the Court's Case Service Contacts to be served by electronic means.

By: /s/ Julia Broggi
Julia Broggi

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**EXHIBIT A
EXHIBIT 1**

**BEFORE THE OIL CONSERVATION DIVISION
EXAMINER HEARING NOVEMBER 04, 2021**

CASE No. 22252

GORDITA 6 STATE COM #601H-#603H WELLS

LEA COUNTY, NEW MEXICO



EXHIBIT A

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

**APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE NO. 22252

TABLE OF CONTENTS

- **Centennial Exhibit A:** Compulsory Pooling Application Checklist
- **Centennial Exhibit B:** Application of Centennial Production Company for Compulsory Pooling
- **Centennial Exhibit C:** Affidavit of Gavin Smith, Landman
 - Centennial Exhibit C-1: Draft C-102
 - Centennial Exhibit C-2: Land Tract Map
 - Centennial Exhibit C-3: Working Interest Ownership
 - Centennial Exhibit C-4: Sample Well Proposal Letter with AFE
 - Centennial Exhibit C-5: Chronology of Contacts
- **Centennial Exhibit D:** Affidavit of Isabel Harper, Geologist
 - Centennial Exhibit D-1: Locator Map
 - Centennial Exhibit D-2: Subsea structure map
 - Centennial Exhibit D-3: Cross-section map
 - Centennial Exhibit D-4: Stratigraphic cross-section
- **Centennial Exhibit E:** Notice Affidavit
- **Centennial Exhibit F:** Affidavit of Publication

EXHIBIT A

COMPULSORY POOLING APPLICATION CHECKLIST (pdf)

ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS

Case No. 22252	APPLICANT'S RESPONSE
Date: November 4, 2021	
Applicant	Centennial Resource Production LLC
Designated Operator & OGRID (affiliation if applicable)	Centennial Resource Production LLC (OGRID 372165)
Applicant's Counsel:	Holland & Hart LLP
Case Title:	APPLICATION OF CENTENNIAL RESOURCE PRODUCTION, LLC FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO
Entries of Appearance/Intervenors:	N/A
Well Family	Gordita 6 State Com wells
Formation/Pool	
Formation Name(s) or Vertical Extent:	Bone Spring
Primary Product (Oil or Gas):	Oil
Pooling this vertical extent:	Bone Spring
Pool Name and Pool Code:	Ojo Chiso; Bone Spring Pool (Pool Code 96553)
Well Location Setback Rules:	Statewide oil
Spacing Unit Size:	619.28-acres, more or less
Spacing Unit	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	619.28-acres, more or less
Building Blocks:	40-acre
Orientation:	Standup
Description: TRS/County	W/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico
<div style="text-align: center;"> <p>BEFORE THE OIL CONSERVATION DIVISION</p> <p>Santa Fe, New Mexico</p> <p>Exhibit No. A</p> <p>Submitted by: Centennial Resource Production, LLC</p> <p>Hearing Date: November 04, 2021</p> <p>Case No. 22252</p> </div>	
Standard Horizontal Well Spacing Unit (Y/N), If No, describe	Yes
Other Situations	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	Yes

Proximity Defining Well: if yes, description	<p align="center">EXHIBIT A</p> <p>Yes. The completed interval for the Gordita 6 State Com #602H well will remain within 330 feet of the quarter-quarter line separating the W/2 W/2 from the E/2 W/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit.</p>
Applicant's Ownership in Each Tract	Yes
Well(s)	
Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	
Well #1	<p>Gordita 6 State Com #601H well, API No. 30-025-49034 SHL:275 FSL and 1320 FWL (Unit N) of Section 6, Township 22 South, Range 35 East, NMPM. BHL:100 FSL and 598 FWL (Lot 4) of Section 18, Township 22 South, Range 35 East, NMPM.</p> <p>Completion Target: Bone Spring Well Orientation: Standup Completion Location expected to be: standard</p>
Well #2	<p>Gordita 6 State Com #602H well, API No. 30-025-49035 SHL:275 FSL and 1350 FWL (Unit N) of Section 6, Township 22 South, Range 35 East, NMPM. BHL:100 FSL and 1526 FWL (Lot N) of Section 18, Township 22 South, Range 35 East, NMPM.</p> <p>Completion Target: Bone Spring Well Orientation: Standup Completion Location expected to be: proximity tract</p>
Well #3	<p>Gordita 6 State Com #603H well, API No. 30-025-49036 SHL:275 FSL and 1380 FWL (Unit N) of Section 6, Township 22 South, Range 35 East, NMPM. BHL:100 FSL and 2456 FWL (Lot N) of Section 18, Township 22 South, Range 35 East, NMPM.</p> <p>Completion Target: Bone Spring Well Orientation: Standup Completion Location expected to be: NSL-Order NSL-8211</p>
Horizontal Well First and Last Take Points	Exhibit C-1

Completion Target (Formation, TVD and MD)

EXHIBIT A

Exhibit C-4, Exhibit D-4

AFE Capex and Operating Costs

Drilling Supervision/Month \$ \$8,500 (drilling) & \$850 (producing)/month

Production Supervision/Month \$ Exhibit C, C-4

Justification for Supervision Costs Exhibit C, C-4

Requested Risk Charge Exhibit C, C-4

Notice of Hearing

Proposed Notice of Hearing Exhibit B

Proof of Mailed Notice of Hearing (20 days before hearing) Exhibit E

Proof of Published Notice of Hearing (10 days before hearing) Exhibit F

Ownership Determination

Land Ownership Schematic of the Spacing Unit Exhibit C-2

Tract List (including lease numbers and owners) Exhibit C-3

Pooled Parties (including ownership type) Exhibit C-3, Exhibit E

Unlocatable Parties to be Pooled N/A

Ownership Depth Severance (including percentage above & below) N/A

Joinder

Sample Copy of Proposal Letter Exhibit C-4

List of Interest Owners (ie Exhibit A of JOA) Exhibit C-3, Exhibit E

Chronology of Contact with Non-Joined Working Interests Exhibit C-5

Overhead Rates In Proposal Letter Exhibit C-4

Cost Estimate to Drill and Complete Exhibit C-5

Cost Estimate to Equip Well Exhibit C-5

Cost Estimate for Production Facilities Exhibit C-5

Geology

Summary (including special considerations) Exhibit D

Spacing Unit Schematic Exhibit D-1

Gunbarrel/Lateral Trajectory Schematic N/A

Well Orientation (with rationale) Exhibit D-1

Target Formation Exhibit D-2, D-3, D-4

HSU Cross Section Exhibit D-4

Depth Severance Discussion N/A

Forms, Figures and Tables

C-102 Exhibit C-1

Tracts Exhibit C-2

EXHIBIT A


Summary of Interests, Unit Recapitulation (Tracts)	Exhibit C-3
General Location Map (including basin)	Exhibit D-1
Well Bore Location Map	Exhibit D-1
Structure Contour Map - Subsea Depth	Exhibit D-2
Cross Section Location Map (including wells)	Exhibit D-3, D-4
Cross Section (including Landing Zone)	Exhibit D-3, D-4
Additional Information	
Special Provisions/Stipulations	N/A
CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.	
Printed Name (Attorney or Party Representative):	Kaitlyn A. Luck
Signed Name (Attorney or Party Representative):	
Date:	2-Nov-21

EXHIBIT A

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

APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 22252

APPLICATION

Centennial Resource Production, LLC (“Centennial” or “Applicant”) (OGRID No. 372165), through its undersigned attorneys, hereby files this application with the Oil Conservation Division pursuant to the provisions of NMSA 1978, § 70-2-17, for an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the W/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico. In support of its application, Centennial states:

1. Applicant is a working interest owner in the proposed horizontal spacing unit and has the right to drill thereon.
2. Applicant proposes to dedicate the above-referenced spacing unit to the following proposed initial wells:
 - a. (1) the **Gordita 6 State Com #601H well(API No. 30-025-49034)**, to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SW/4 SW/4 (Lot 4) of Section 18; and

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. B

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

- b. (2) the **Gordita 6 State Com #602H well (API No. 30-025-49035)**, and (3) the **Gordita 6 State Com #603H well (API No. 30-025-49036)**, both are to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SE/4 SW/4 (Unit N) of Section 18.

3. The completed interval for the proposed **Gordita 6 State Com #602H well** will remain within 330 feet of the quarter-quarter line separating the W/2 W/2 from the E/2 W/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit.

4. Applicant has sought and been unable to obtain voluntary agreement for the development of these lands from all the working interest owners in the subject spacing unit.

5. The pooling of interests will avoid the drilling of unnecessary wells, will prevent waste, and will protect correlative rights.

6. In order to permit Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, all uncommitted interests in this horizontal spacing unit should be pooled, and Applicant should be designated the operator of the proposed horizontal wells and spacing unit.

WHEREFORE, Applicant requests that this application be set for hearing before an Examiner of the Oil Conservation Division on November 4, 2021, and, after notice and hearing as required by law, the Division enter an order:

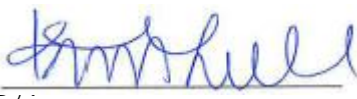
- A. Pooling all uncommitted interests in the horizontal spacing unit and approving the initial wells thereon;
- B. Designating Applicant as operator of the horizontal spacing unit and the horizontal wells to be drilled thereon;

EXHIBIT A

- C. Authorizing Applicant to recover its costs of drilling, equipping, and completing the wells;
- D. Approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures; and
- E. Imposing a 200% charge for the risk assumed by Applicant in drilling and completing the wells against any working interest owner who does not voluntarily participate in the drilling of the wells.

Respectfully submitted,

HOLLAND & HART LLP



Michael H. Feldewert
Adam G. Rankin
Julia Broggi
Kaitlyn A. Luck
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile
mhfeldewert@hollandhart.com
agrarkin@hollandhart.com
jbroggi@hollandhart.com
kaluck@hollandhart.com

ATTORNEYS FOR
CENTENNIAL RESOURCE PRODUCTION, LLC

EXHIBIT A

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

APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 22252

AFFIDAVIT OF GAVIN SMITH
IN SUPPORT OF CASE NO. 22252

Gavin Smith, of lawful age and being first duly sworn, declares as follows:

1. My name is Gavin Smith. I work for Centennial Resource Production, LLC (“Centennial”) as a Senior Landman.

2. I have previously testified before the New Mexico Oil Conservation Division as an expert witness in petroleum land matters. My credentials in petroleum land matters have been accepted by the Division and made a matter of record.

3. I am familiar with the application filed by Centennial in this case, and I am familiar with the status of the lands in the subject area.

4. None of the uncommitted parties in this case has indicated opposition to this pooling case proceeding by affidavits, and therefore I do not expect any opposition at the hearing.

5. In this case, Centennial seeks an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the W/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico.

6. Centennial seeks to dedicate this spacing unit to the proposed initial wells:

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

(1) the **Gordita 6 State Com #601H well (API No. 30-025-49034)**, to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SW/4 SW/4 (Lot 4) of Section 18; and

(2) the **Gordita 6 State Com #602H well (API No. 30-025-49035)**, and (3) the **Gordita 6 State Com #603H well (API No. 30-025-49036)**, both are to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SE/4 SW/4 (Unit N) of Section 18.

7. **Centennial Exhibit C-1** is the Form C-102 for the proposed initial well for this horizontal spacing unit that reflects that the well is located in the Ojo Chiso; Bone Spring Pool (Pool Code 96553).

8. The completed interval for the **Gordita 6 State Com #602H well** will remain within 330 feet of the quarter-quarter line separating the W/2 W/2 from the E/2 W/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit.

9. There are no depth severances in the Bone Spring formation in the proposed spacing unit.

10. **Centennial Exhibit C-2** contains a plat outlining the unit being pooled and identifies the tracts of land comprising the proposed spacing unit.

11. **Centennial Exhibit C-3** identifies the working interests in each tract, and their interest in the horizontal spacing unit. There are no unleased mineral interest owners. I have highlighted on this exhibit the parties that Centennial seeks to pool.

12. Centennial sent well proposal letters, together with corresponding AFEs, to the working interest owners. The costs reflected in the AFE are consistent with what other operators

EXHIBIT A

have incurred for drilling similar horizontal wells in the area. A copy of the well proposal letters, along with the AFE, are included with my affidavit as **Centennial Exhibit C-4**.

13. Centennial seeks approval of overhead and administrative costs at \$8,500/month while drilling and \$850/month while producing. These costs are consistent with what Centennial and other operators are charging in this area for these types of wells. Centennial respectfully requests that these administrative and overhead costs be incorporated into any order entered by the Division in this case.

14. Centennial has been able to locate contact information for all parties it seeks to pool and has undertaken good faith efforts to reach an agreement with the uncommitted interest owners. **Centennial Exhibit C-5** contains a chronology of the contacts with the working interest owners that Centennial seeks to pool in this case.

15. If Centennial reaches an agreement with any of the proposed pool parties before the Division enters any order, I will let the Division know that Centennial is no longer seeking to pool that party.

16. I provided the law firm of Holland & Hart LLP a list of names and addresses for the uncommitted interest owners shown on **Centennial Exhibit C-3**. In compiling these addresses, Centennial conducted a diligent search of all public records in the county where the proposed wells are located and of phone directories, including computer searches. All parties were locatable.

17. **Centennial Exhibits C-1 through C-5** were either prepared by me or compiled under my direction and supervision.

FURTHER AFFIANT SAYETH NOT.


EXHIBIT A



GAVIN SMITH

STATE OF COLORADO)
)
COUNTY OF Denver)

SUBSCRIBED and SWORN to before me this 2nd day of November
2021 by Gavin Smith.



NOTARY PUBLIC

My Commission Expires:

October 7, 2025

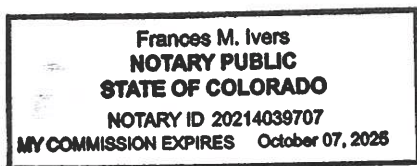


EXHIBIT A

State of New Mexico

Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION

1220 South St. Francis Dr.

Santa Fe, NM 87505

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C1
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

Form C-102

Revised August 1, 2011

Submit one copy to appropriate
District Office

☐ AMENDED REPORT

District I
1625 N. French Dr., Hobbs, NM 88240
Phone: (575) 393-6161 Fax: (575) 393-0720
District II
811 S. First St., Artesia, NM 88210
Phone: (575) 748-1283 Fax: (575) 748-9720
District III
1000 Rio Brazos Road, Aztec, NM 87410
Phone: (505) 334-6178 Fax: (505) 334-6170
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87505
Phone: (505) 476-3460 Fax: (505) 476-3462

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code	³ Pool Name
⁴ Property Code		⁵ Property Name GORDITA 6 STATE COM	
⁷ OGRID No.		⁸ Operator Name CENTENNIAL RESOURCE PRODUCTION, LLC	
		⁶ Well Number 601H	
		⁹ Elevation 3627.0'	

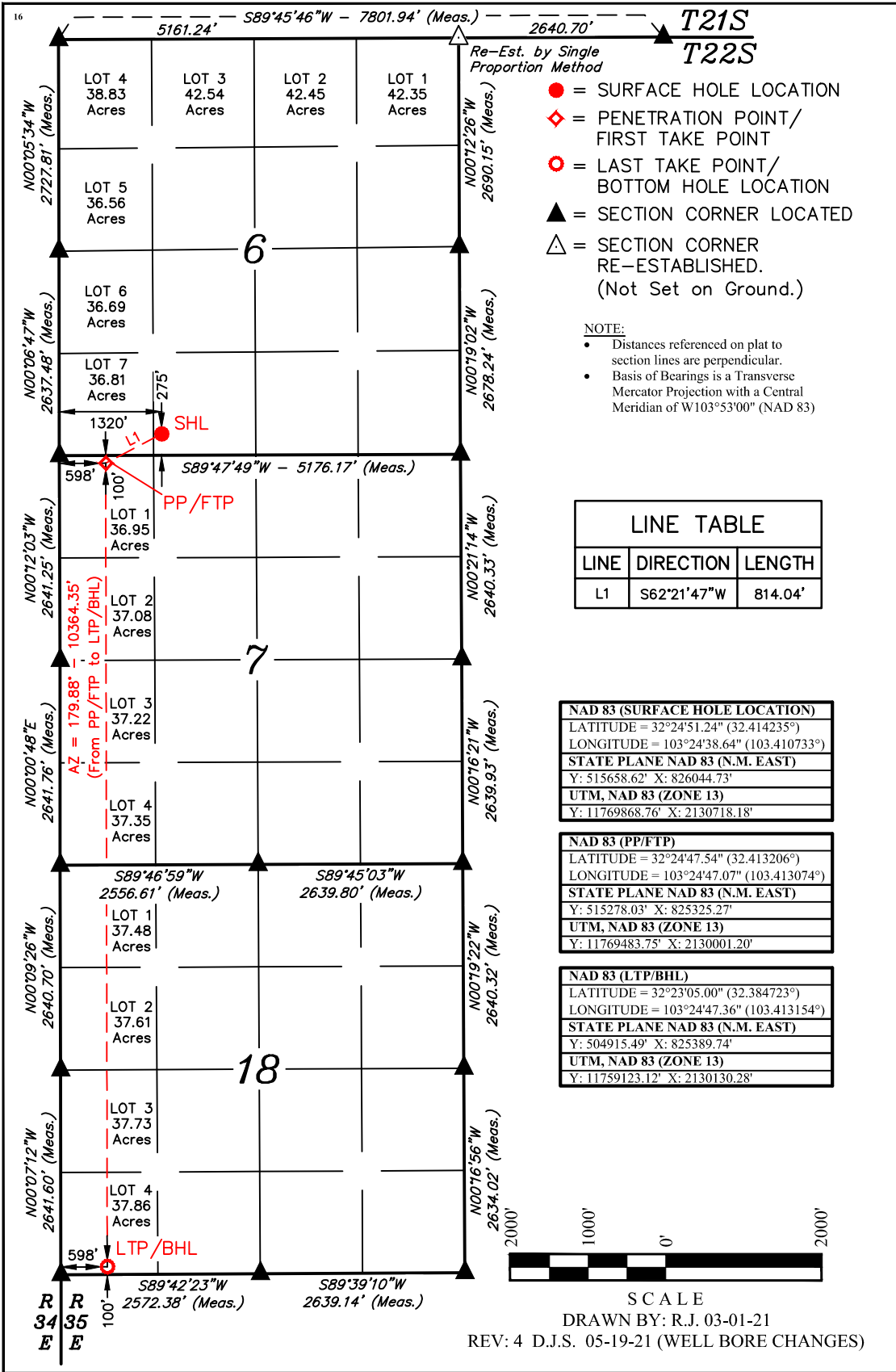
¹⁰ Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	6	22S	35E		275	SOUTH	1320	WEST	LEA

¹¹ Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
4	18	22S	35E		100	SOUTH	598	WEST	LEA
¹² Dedicated Acres 619.28		¹³ Joint or Infill		¹⁴ Consolidation Code		¹⁵ Order No.			

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.



¹⁷ OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Signature _____ Date _____

Printed Name _____

E-mail Address _____

¹⁸ SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

February 26, 2021

Date of Survey
Signature and Seal of Professional Surveyor:



Certificate Number: _____

EXHIBIT A

State of New Mexico

Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION

1220 South St. Francis Dr.

Santa Fe, NM 87505

Form C-102

Revised August 1, 2011

Submit one copy to appropriate

District Office

AMENDED REPORT

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Phone: (575) 393-6161 Fax: (575) 393-0720
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Phone: (575) 748-1283 Fax: (575) 748-9720
District III
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Phone: (505) 334-6178 Fax: (505) 334-6170
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87505
Phone: (505) 476-3460 Fax: (505) 476-3462

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code	³ Pool Name	
⁴ Property Code		⁵ Property Name GORDITA 6 STATE COM		⁶ Well Number 602H
⁷ OGRID No.		⁸ Operator Name CENTENNIAL RESOURCE PRODUCTION, LLC		⁹ Elevation 3626.6'

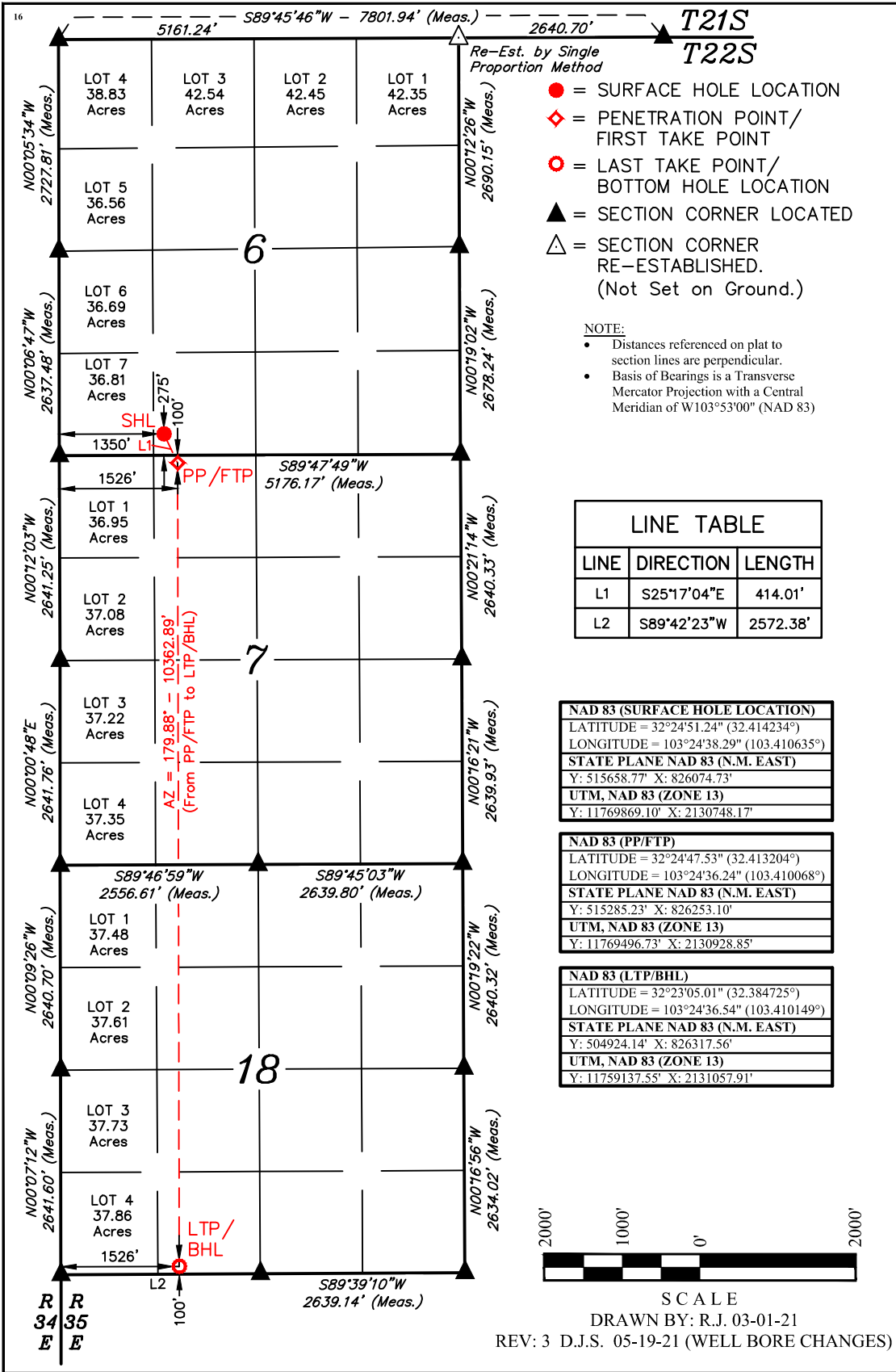
¹⁰ Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	6	22S	35E		275	SOUTH	1350	WEST	LEA

¹¹ Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	18	22S	35E		100	SOUTH	1526	WEST	LEA
¹² Dedicated Acres 619.28		¹³ Joint or Infill		¹⁴ Consolidation Code		¹⁵ Order No.			

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.



¹⁷ OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Signature Date

Printed Name

E-mail Address

¹⁸ SURVEYOR CERTIFICATION

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February 26, 2021

Date of Survey
Signature and Seal of Professional Surveyor:



Certificate Number:

EXHIBIT A

State of New Mexico

Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION

1220 South St. Francis Dr.

Santa Fe, NM 87505

Form C-102

Revised August 1, 2011

Submit one copy to appropriate District Office

AMENDED REPORT

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1220 S. St. Francis Dr., Santa Fe, NM 87505
Phone: (505) 476-3460 Fax: (505) 476-3462

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code	³ Pool Name
⁴ Property Code		⁵ Property Name GORDITA 6 STATE COM	
⁷ OGRID No.		⁸ Operator Name CENTENNIAL RESOURCE PRODUCTION, LLC	
		⁶ Well Number 603H	
		⁹ Elevation 3626.4'	

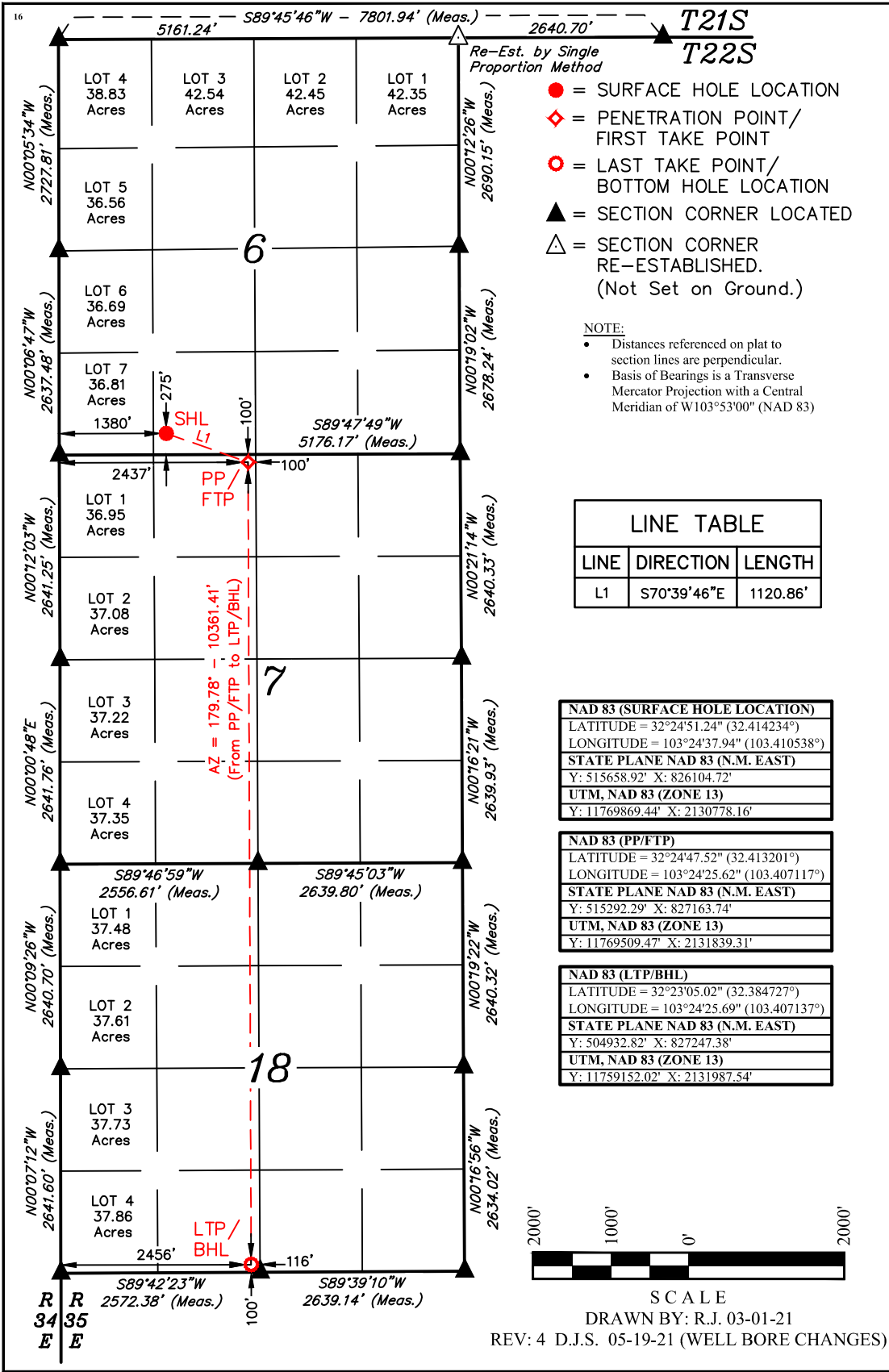
¹⁰ Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	6	22S	35E		275	SOUTH	1380	WEST	LEA

¹¹ Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	18	22S	35E		100	SOUTH	2456	WEST	LEA
¹² Dedicated Acres 619.28		¹³ Joint or Infill		¹⁴ Consolidation Code		¹⁵ Order No.			

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.



¹⁷ OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Signature _____ Date _____
Printed Name _____
E-mail Address _____

¹⁸ SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

February 26, 2021

Date of Survey
Signature and Seal of Professional Surveyor:



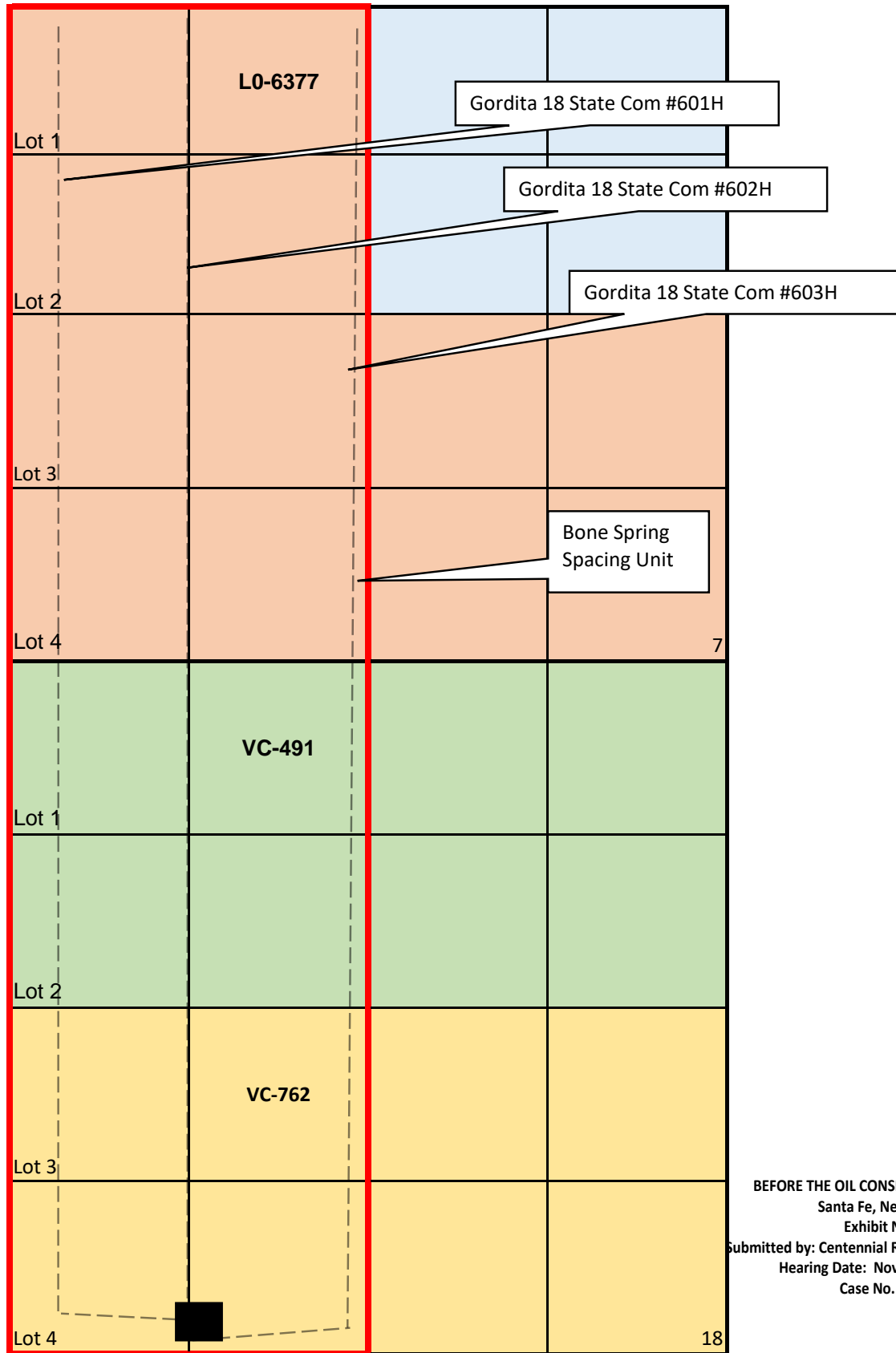
Certificate Number:

EXHIBIT A

Exhibit C-2

Ownership Map

Township 22 South, Range 35 East, Lea County, New Mexico



BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C2
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

Exhibit C-3

Gordita 18 State Com

Ownership Schedule

Name	Address	Interest Type	Working Interest
Owners to be Pooled			
Elk Range Royalties, LP	2850 N. Harwood Street, 19th Floor	ORRI	N/A
Legacy Reserves Operating, LP	303 W. Wall St., Ste. 1800 Midland, TX 79701	ORRI	N/A
Grewal (Royaly), LLC	45 Rockefeller Plaza, Ste. 2410 New York, NY 10111	ORRI	N/A
Pegasus Resources, LLC	P.O. Box 470698 Ft. Worth, TX 76147	ORRI	N/A
McMullen Minerals, LLC	P.O. Box 470857 Ft. Worth, TX 76147	ORRI	N/A
Leo K. Birkby	10432 E. Palo Brea Drive Scottsdale, AZ 85262	ORRI	N/A
Deets D. Justice	310 Pleasant Drive Austin, TX 78746	ORRI	N/A
YMC Royalty Company, LP	15603 Kuykendahl, Ste. 200 Houston, TX 77090	ORRI	N/A
Atlas OBO Energy, LP	1900 St. James Place, Suite 800 Houston, TX 77056	ORRI	N/A
David J. Darling	746 Palmer Avenue Glenwood Springs, CO 81601	ORRI	N/A
Amy Darling Wood	16602 Palm Royal Drive, Apt #1519	ORRI	N/A
Laurance Howard Merritt	221 S. Lomita Avenue Ojai, CA 93023	ORRI	N/A
Elodie Brown	15 Cypress Point Wimberely, TX 78676	ORRI	N/A
Pecas Management, LP	3138 Quail Valley East Drive Missouri City, TX 77489	ORRI	N/A
Karen Johnston	2017 Quail Hollow Run Carlsbad, NM 88220	ORRI	N/A
The Board of Regents of the Univeristy of Texas System for the use and benefit of The University of Texas M.D. Anderson Caner Center	P.O. Box 551 Midland, TX 79702	ORRI	N/A
Presbyterian Healthcare Foundation	8440 Walnut Hill Lane, Ste. 800 Dallas, TX 75231	ORRI	N/A
Presbyterian Village North Foundation	8440 Walnut Hill Lane, Ste. 800 Dallas, TX 75231	ORRI	N/A
Doil Oil & Gas Corporation	1536 Cole Blvd, Ste. 225 Golden, CO 80401	Working Interest	Pending Title
Atlas OBO Energy, LP	1900 St. James Place, Suite 800 Houston, TX 77056	Working Interest	0.04983206
Total:			0.04983206

ADD ORRI

Owners NOT being Pooled			
Centennial Resource Production, LLC	1001 17th St., Suite 1800 Denver, CO 80202	Working Interest	0.95016794
Total:			0.95016794

Total Working Interest:			1.00000000
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BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Exhibit No. C3

Submitted by: Centennial Resource Production, LLC

Hearing Date: November 04, 2021

Case No. 22252

EXHIBIT A

September 8, 2021

RE: Gordita 6 State Com #601H
SHL: 275' FSL Sec. 6 & 1320' FWL Sec. 6 T22S R35E
BHL: 100' FSL Sec. 18 & 598' FWL Sec. 18 T22S R35E
Lea County, New Mexico

To Whom it May Concern:

Centennial Resource Production, LLC ("CRP") proposes to drill and complete the Gordita 6 State Com #601H as a horizontal well to test the Bone Spring Formation at a TVD of 10,900 feet. The W/2 of the Section 7, Township 22 South, Range 35 East and the W/2 of Section 18, Township 22 South, Range 35 East, Lea County, New Mexico will be dedicated to the well as the proration unit being a total of 619.28 acres. Please see the enclosed AFE in the amount of \$8,165,101.00

Upon your response we will send a Joint Operating Agreement ("JOA") with an effective date of September 1, 2021. The JOA contains a proposed overhead rate of \$8,000 per month for drilling and \$800 per month for producing and provides for a 100%/300%/300% non-consent penalty.

In the space provided below, please indicate your election and return one original copy of this letter along with an original copy of the enclosed AFE or email me a copy at gavin.smith@cdevinc.com. Should you have any questions, please call me at (720) 499-1474.

Best Regards

A handwritten signature in blue ink that reads 'Gavin Smith'.

Gavin Smith, CPL
Senior Landman

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C4

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

Centennial Resource Production, LLC | 1001 Seventeenth Street, Suite 1800, Denver, Colorado 80202

EXHIBIT A

THE UNDERSIGNED HEREBY ELECTS **TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #601H WELLBORE AND TO WAIVE THE NEED FOR A COMPLETION ELECTION.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

THE UNDERSIGNED HEREBY ELECTS **NOT TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #601H WELLBORE, AND TO GO NONCONSENT.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

EXHIBIT A**Authorization for Expenditure**

AFE Number	401840	Original
Drilling Total (\$)	\$3,076,311	
Completion Total (\$)	\$3,489,587	
Facilities Total (\$)	\$891,833	
Flowback Total (\$)	\$707,370	
AFE Total (\$)	\$8,165,101	

AFE Description

Property Name	Well: Gordita 6 State Com 601H	State	New Mexico
AFE Type	Drill and Complete		
Operator	Centennial Resource Production, LLC	Field	Delaware Basin - NM
Scheduled Spud Date	Dec 14, 2021	Estimated TVD (ft)	
Target Zone	TBSG SAND	Estimated MD (ft)	

Non Operator Approval

Company	
Approved By	
Title	
Date	

Cost Estimate

Account	Description	Total (\$)	Account	Description	Total (\$)
8015.1000	IDC - PERMITS,LICENSES,ETC	\$15,000.00	8015.1100	IDC - STAKING & SURVEYING	\$15,000.00
8015.1200	IDC - LEGAL, TITLE SERVICES	\$13,000.00	8015.1300	IDC - SURFACE DAMAGE / ROW	\$15,000.00
8015.1400	IDC - ROAD, LOCATIONS, PITS	\$70,000.00	8015.1500	IDC - RIG MOB / TRUCKING	\$60,000.00
8015.1600	IDC - RIG MOB / STANDBY RATE	\$30,000.00	8015.1700	IDC - DAYWORK CONTRACT	\$336,000.00
8015.1800	IDC - FOOTAGE CONTRACT	\$0.00	8015.1900	IDC - DIRECTNL DRILL & SURVEY	\$300,000.00
8015.2000	IDC - CONDUCTOR HOLE & SERVICE	\$27,500.00	8015.2100	IDC - WIRELINE SVCS CASED&OPEN	\$0.00
8015.2200	IDC - BITS, TOOLS, STABILIZERS	\$70,000.00	8015.2300	IDC - FUEL / POWER	\$80,500.00
8015.2400	IDC - RIG WATER	\$17,000.00	8015.2500	IDC - MUD/CHEMICALS/ACIDIZING	\$165,000.00
8015.2600	IDC - MUD LOGGING	\$0.00	8015.2700	IDC - INSPECTION, TESTING & REPAIR	\$55,000.00
8015.2800	IDC - CORE ANALYSIS	\$0.00	8015.2900	IDC - OPEN/CASED HOLE LOGGING	\$0.00
8015.3000	IDC - CEMENT SERV/FLOAT EQUIP	\$195,000.00	8015.3100	IDC - CASING CREW & TOOLS	\$65,000.00
8015.3200	IDC - CONTRACT LABOR/ROUSTABOUT	\$20,000.00	8015.3400	IDC - MATERIALS & SUPPLIES	\$5,000.00
8015.3500	IDC - TRUCKING/VACUUM/ TRANSP	\$18,000.00	8015.3600	IDC - SOLIDS CONTROL/ CLOSED LOOP SYSTEM	\$44,000.00
8015.3700	IDC - DISPOSAL	\$105,000.00	8015.3800	IDC - WELLHEAD PREPARE/REPAIR	\$30,500.00
8015.3900	IDC - FISHING TOOLS & SERVICES	\$0.00	8015.4100	IDC - RENTAL EQUIPMENT	\$45,000.00
8015.4200	IDC - MANCAMP	\$47,000.00	8015.4300	IDC - WELLSITE SUPERVISION	\$99,000.00
8015.4400	IDC - SUPERVISION/ENGINEERING	\$0.00	8015.4600	IDC - SAFETY / ENVIRONMENTAL	\$12,400.00
8015.4800	IDC - OVERHEAD	\$0.00	8015.5000	IDC - WELL CONTROL INSURANCE	\$11,790.00
8015.5200	IDC - CONTINGENCY	\$130,961.40	8015.1310	IDC - PERMANENT EASEMENT	\$12,000.00
8015.1950	IDC - LOST IN HOLE	\$0.00	8015.2150	IDC - DRILL BIT	\$84,000.00
8015.2350	IDC - FUEL/MUD	\$100,000.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8020.1000	TDC - CASING - CONDUCTOR	\$0.00	8020.1100	TDC - CASING - SURFACE	\$68,796.88
8020.1200	TDC - CASING - INTERMEDIATE - 1	\$151,937.50	8020.1300	TDC - CASING - INTERMEDIATE 2	\$0.00
8020.1400	TDC - CASING - PRODUCTION	\$436,050.00	8020.1500	TDC - WELLHEAD EQUIPMENT	\$65,875.00
8020.1700	TDC - PACKER/DOWNHOLE TOOLS	\$60,000.00	8020.1800	TDC - CONTINGENCY	\$0.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8025.1000	ICC - STAKING & SURVEYING	\$0.00	8025.1100	ICC - ROAD, LOCATIONS, PITS	\$10,500.00

EXHIBIT A

8025.1200	ICC - COMPLETION RIG	\$.00	8025.1400	ICC - WIRELINE OPEN/CASED HOLE	\$20,000.00
8025.1500	ICC - FUEL / POWER	\$278,407.00	8025.1600	ICC - COILED TUBING	\$101,000.00
8025.1700	ICC - CEMENTING & SERVICES	\$.00	8025.1800	ICC - WATER DISPOSAL/VACUUM TRUCK	\$17,955.00
8025.1900	ICC - INSPECTION & TESTING	\$.00	8025.2000	ICC - TRUCKING	\$13,125.00
8025.2200	ICC - ELECTRIC LOGGING / PERFORATING	\$272,533.00	8025.2300	ICC - COMPLETION FLUIDS	\$10,000.00
8025.2400	ICC - CASING CREW AND TOOLS	\$.00	8025.2500	ICC - WELL STIMULATION/FRACTUR	\$1,830,482.00
8025.2600	ICC - CONTRACT LABOR/ROUSTABOUT	\$15,000.00	8025.3000	ICC - WATER HANDLING	\$150,298.00
8025.3100	ICC - WELLHEAD/FRACTURE REPAIR	\$40,000.00	8025.3200	ICC - FISHING TOOLS & SERVICES	\$.00
8025.3300	ICC - COMMUNICATIONS	\$.00	8025.3400	ICC - RENTAL EQUIPMENT	\$272,000.00
8025.3500	ICC - WELLSITE SUPERVISION	\$59,400.00	8025.3600	ICC - SUPERVISION/ENGINEERING	\$5,000.00
8025.3700	ICC - SAFETY / ENVIRONMENTAL	\$15,000.00	8025.3800	ICC - OVERHEAD	\$10,000.00
8025.4000	ICC - WELL CONTROL INSURANCE	\$.00	8025.4200	ICC - CONTINGENCY	\$.00
8025.3050	ICC - SOURCE WATER	\$321,637.00	8025.4400	ICC - COMPANY LABOR	\$.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8030.1000	TCC - CASING - PRODUCTION	\$.00	8030.1600	TCC - PROD LINER & EQUIPMENT	\$.00
8030.1700	TCC - PACKER/DOWNHOLE TOOLS	\$.00	8030.2000	TCC - WELLHEAD EQUIPMENT	\$47,250.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8035.1400	FAC - ROAD LOCATIONS PITS	\$20,000.00	8035.1600	FAC - TRANSPORTATION TRUCKING	\$10,000.00
8035.2200	FAC - CONTRACT LABOR / ROUSTAB	\$61,667.00	8035.2400	FAC - SUPERVISION	\$16,000.00
8035.2700	FAC - P-LINE F-LINE LINEPIPE	\$.00	8035.2900	FAC - TANK BATTERY	\$113,833.00
8035.3000	FAC - HEATER TREATER/SEPARATOR	\$52,000.00	8035.3200	FAC - VALVES FITTINGS & PIPE	\$187,500.00
8035.3300	FAC - CIRCULATING TRANSFER PUMP	\$9,667.00	8035.3400	FAC - METER & LACT	\$82,500.00
8035.3600	FAC - ELECTRICAL	\$13,333.00	8035.3700	FAC - COMM TELEMETRY & AUTOMAT	\$45,000.00
8035.3800	FAC - FLARE/COMBUSTER	\$21,667.00	8035.4500	FAC - CONTINGENCY	\$42,468.00
8035.1300	FAC - SURFACE DAMAGE / ROW	\$.00	8035.1500	FAC - MATERIALS & SUPPLIES	\$5,000.00
8035.1700	FAC - RENTAL EQUIPMENT	\$15,000.00	8035.1800	FAC - FUEL / POWER	\$.00
8035.1900	FAC - WATER DISPOSAL / SWD	\$.00	8035.2000	FAC - WASTE DISPOSAL	\$.00
8035.2100	FAC - INSPECTION & TESTING	\$.00	8035.2300	FAC - FRAC TANK RENTAL	\$.00
8035.2500	FAC - CONSULTING SERVICES	\$.00	8035.2600	FAC - INJECTION PUMP	\$.00
8035.3100	FAC - DEHYDRATOR EQUIPMENT	\$.00	8035.3500	FAC - COMPRESSOR	\$6,667.00
8035.4000	FAC - SAFETY / ENVIRONMENTAL	\$5,000.00	8035.4100	FAC - OVERHEAD	\$.00
8035.4300	FAC - INSURANCE	\$.00	8035.1310	FAC - PERMANENT EASEMENT	\$.00
8035.4400	FAC - COMPANY LABOR	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8036.1000	PLN - PERMITS LICENSES ETC	\$.00	8036.1100	PLN - STAKING & SURVEYING	\$.00
8036.1200	PLN - LEGAL TITLE SERVICES	\$.00	8036.1300	PLN - SURFACE DAMAGE / ROW	\$.00
8036.1310	PLN - PERMANENT EASEMENT	\$6,465.00	8036.1400	PLN - ROAD LOCATIONS PITS	\$.00
8036.1500	PLN - MATERIALS & SUPPLIES	\$.00	8036.1600	PLN - TRANSPORTATION TRUCKING	\$.00
8036.1700	PLN - RENTAL EQUIPMENT	\$.00	8036.1900	PLN - WATER DISPOSAL / SWD	\$.00
8036.2000	PLN - WASTE DISPOSAL	\$.00	8036.2100	PLN - INSPECTION & TESTING	\$.00
8036.2200	PLN - CONTRACT LABOR	\$.00	8036.2300	PLN - FRAC TANK RENTAL	\$.00
8036.2400	PLN - SUPERVISION	\$.00	8036.2500	PLN - CONSULTING SERVICES	\$.00
8036.2700	PLN - PIPELINE	\$165,440.00	8036.2800	PLN - FLOWLINE	\$.00
8036.2900	PLN - TANK BATTERY	\$.00	8036.3000	PLN - SEPARATOR / SCRUBBER	\$.00
8036.3100	PLN - TREATING EQUIPMENT	\$.00	8036.3200	PLN - VALVES FITTINGS & PIPE	\$.00
8036.3300	PLN - PUMP	\$.00	8036.3400	PLN - METER	\$.00
8036.3500	PLN - COMPRESSOR	\$.00	8036.3600	PLN - ELECTRICAL SUPPLIES	\$.00
8036.3610	PLN - POWER DISTRIBUTION MATERIAL	\$6,313.00	8036.3620	PLN - POWER DISTRIBUTION LABOR	\$6,313.00
8036.3700	PLN - AUTOMATION	\$.00	8036.4000	PLN - SAFETY / ENVIRONMENTAL	\$.00
8036.4300	PLN - INSURANCE	\$.00	8036.4400	PLN - COMPANY LABOR	\$.00
8036.4500	PLN - CONTINGENCY	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8040.1100	IFC - ROADS LOCATIONS / PITS	\$.00	8040.1200	IFC - COMPLETION RIG	\$9,200.00
8040.1400	IFC - WIRELINE OPEN/CASED HOLE	\$5,500.00	8040.1500	IFC - FUEL / POWER	\$.00
8040.1600	IFC - COILED TUBING	\$.00	8040.1700	IFC - CEMENTING & SERVICES	\$.00
8040.1899	IFC - FRAC WATER RECOVERY	\$227,470.28	8040.1900	IFC - INSPECTION & TESTING	\$.00
8040.2000	IFC - TRUCKING/VACUUM/TRANSP	\$20,000.00	8040.2200	IFC - ELECTRIC LOGGING/PERFORATING	\$.00
8040.2300	IFC - COMPLETION FLUID	\$.00	8040.2400	IFC - CASING CREW AND TOOLS	\$.00
8040.2600	IFC - CONTRACT LABOR/ROUSTABOUT	\$.00	8040.2800	IFC - MATERIAL & SUPPLIES	\$150,000.00
8040.2900	IFC - WELL TESTING / FLOWBACK	\$.00	8040.3100	IFC - WELLHEAD/FRACTURE TREE REPAIR	\$.00

EXHIBIT A

8040.3200	IFC - FISHING TOOLS & SERVICES	\$70,000.00	8040.3400	IFC - RENTAL EQUIPMENT	\$3,600.00
8040.3500	IFC - WELLSITE SUPERVISION	\$5,000.00	8040.3700	IFC - SAFETY / ENVIRONMENTAL	\$.00
8040.4200	IFC - CONTINGENCY	\$.00	8040.4400	IFC - COMPANY LABOR	\$.00
8040.4500	IFC - SWABBING	\$.00	8040.2500	IFC - WELL STIMULATION/FRACTURE	\$5,000.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8045.1100	TFC - TUBING	\$65,000.00	8045.1200	TFC - SUCKER RODS & ACCESSORY	\$.00
8045.1300	TFC - DOWNHOLE ARTIFICIAL LIFT EQPT	\$25,000.00	8045.1500	TFC - SUBSURFACE PUMPS	\$.00
8045.1600	TFC - PROD LINER & EQUIPMENT	\$.00	8045.1700	TFC - PACKER/DOWNHOLE TOOLS	\$8,500.00
8045.1900	TFC - PUMPING UNITS /SURFACE LIFT EQUIPMENT	\$.00	8045.2000	TFC - WELLHEAD EQUIPMENT	\$18,100.00
8045.2500	TFC - VALVES / CONNECTIONS / FITINGS	\$40,000.00	8045.3100	TFC - MEASUREMENT EQUIPMENT	\$15,000.00
8045.3200	TFC - COMM, TELEMETRY & AUTOMATION	\$.00	8045.3400	TFC - CONTRACTOR LABOR INSTALL	\$40,000.00
8045.3500	TFC - CONTINGENCY	\$.00	8045.4400	TFC - COMPANY LABOR	\$.00

EXHIBIT A

September 8, 2021

RE: Gordita 6 State Com #602H
SHL: 275' FSL Sec. 6 & 1350' FWL Sec. 6 T22S R35E
BHL: 100' FSL Sec. 18 & 1526' FWL Sec. 18 T22S R35E
Lea County, New Mexico

To Whom it May Concern:

Centennial Resource Production, LLC ("CRP") proposes to drill and complete the Gordita 6 State Com #602H as a horizontal well to test the Bone Spring Formation at a TVD of 10,900 feet. The W/2 of the Section 7, Township 22 South, Range 35 East and the W/2 of Section 18, Township 22 South, Range 35 East, Lea County, New Mexico will be dedicated to the well as the proration unit being a total of 619.28 acres. Please see the enclosed AFE in the amount of \$8,165,101.00

Upon your response we will send a Joint Operating Agreement ("JOA") with an effective date of September 1, 2021. The JOA contains a proposed overhead rate of \$8,000 per month for drilling and \$800 per month for producing and provides for a 100%/300%/300% non-consent penalty.

In the space provided below, please indicate your election and return one original copy of this letter along with an original copy of the enclosed AFE or email me a copy at gavin.smith@cdevinc.com. Should you have any questions, please call me at (720) 499-1474.

Best Regards

A handwritten signature in blue ink that reads "Gavin Smith".

Gavin Smith, CPL
Senior Landman

EXHIBIT A

THE UNDERSIGNED HEREBY ELECTS **TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #602H WELLBORE AND TO WAIVE THE NEED FOR A COMPLETION ELECTION.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

THE UNDERSIGNED HEREBY ELECTS **NOT TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #602H WELLBORE, AND TO GO NONCONSENT.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

EXHIBIT A**Authorization for Expenditure**

AFE Number	401841	Original
Drilling Total (\$)	\$3,076,311	
Completion Total (\$)	\$3,489,587	
Facilities Total (\$)	\$891,833	
Flowback Total (\$)	\$707,370	
AFE Total (\$)	\$8,165,101	

AFE Description

Property Name	Well: Gordita 6 State Com 602H	State	New Mexico
AFE Type	Drill and Complete		
Operator	Centennial Resource Production, LLC	Field	Delaware Basin - NM
Scheduled Spud Date	Dec 29, 2021	Estimated TVD (ft)	
Target Zone	TBSG SAND	Estimated MD (ft)	

Non Operator Approval

Company	
Approved By	
Title	
Date	

Cost Estimate

Account	Description	Total (\$)	Account	Description	Total (\$)
8015.1000	IDC - PERMITS,LICENSES,ETC	\$15,000.00	8015.1100	IDC - STAKING & SURVEYING	\$15,000.00
8015.1200	IDC - LEGAL, TITLE SERVICES	\$13,000.00	8015.1300	IDC - SURFACE DAMAGE / ROW	\$15,000.00
8015.1400	IDC - ROAD, LOCATIONS, PITS	\$70,000.00	8015.1500	IDC - RIG MOB / TRUCKING	\$60,000.00
8015.1600	IDC - RIG MOB / STANDBY RATE	\$30,000.00	8015.1700	IDC - DAYWORK CONTRACT	\$336,000.00
8015.1800	IDC - FOOTAGE CONTRACT	\$0.00	8015.1900	IDC - DIRECTNL DRILL & SURVEY	\$300,000.00
8015.2000	IDC - CONDUCTOR HOLE & SERVICE	\$27,500.00	8015.2100	IDC - WIRELINE SVCS CASED&OPEN	\$0.00
8015.2200	IDC - BITS, TOOLS, STABILIZERS	\$70,000.00	8015.2300	IDC - FUEL / POWER	\$80,500.00
8015.2400	IDC - RIG WATER	\$17,000.00	8015.2500	IDC - MUD/CHEMICALS/ACIDIZING	\$165,000.00
8015.2600	IDC - MUD LOGGING	\$0.00	8015.2700	IDC - INSPECTION, TESTING & REPAIR	\$55,000.00
8015.2800	IDC - CORE ANALYSIS	\$0.00	8015.2900	IDC - OPEN/CASED HOLE LOGGING	\$0.00
8015.3000	IDC - CEMENT SERV/FLOAT EQUIP	\$195,000.00	8015.3100	IDC - CASING CREW & TOOLS	\$65,000.00
8015.3200	IDC - CONTRACT LABOR/ROUSTABOUT	\$20,000.00	8015.3400	IDC - MATERIALS & SUPPLIES	\$5,000.00
8015.3500	IDC - TRUCKING/VACUUM/ TRANSP	\$18,000.00	8015.3600	IDC - SOLIDS CONTROL/ CLOSED LOOP SYSTEM	\$44,000.00
8015.3700	IDC - DISPOSAL	\$105,000.00	8015.3800	IDC - WELLHEAD PREPARE/REPAIR	\$30,500.00
8015.3900	IDC - FISHING TOOLS & SERVICES	\$0.00	8015.4100	IDC - RENTAL EQUIPMENT	\$45,000.00
8015.4200	IDC - MANCAMP	\$47,000.00	8015.4300	IDC - WELLSITE SUPERVISION	\$99,000.00
8015.4400	IDC - SUPERVISION/ENGINEERING	\$0.00	8015.4600	IDC - SAFETY / ENVIRONMENTAL	\$12,400.00
8015.4800	IDC - OVERHEAD	\$0.00	8015.5000	IDC - WELL CONTROL INSURANCE	\$11,790.00
8015.5200	IDC - CONTINGENCY	\$130,961.40	8015.1310	IDC - PERMANENT EASEMENT	\$12,000.00
8015.1950	IDC - LOST IN HOLE	\$0.00	8015.2150	IDC - DRILL BIT	\$84,000.00
8015.2350	IDC - FUEL/MUD	\$100,000.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8020.1000	TDC - CASING - CONDUCTOR	\$0.00	8020.1100	TDC - CASING - SURFACE	\$68,796.88
8020.1200	TDC - CASING - INTERMEDIATE - 1	\$151,937.50	8020.1300	TDC - CASING - INTERMEDIATE 2	\$0.00
8020.1400	TDC - CASING - PRODUCTION	\$436,050.00	8020.1500	TDC - WELLHEAD EQUIPMENT	\$65,875.00
8020.1700	TDC - PACKER/DOWNHOLE TOOLS	\$60,000.00	8020.1800	TDC - CONTINGENCY	\$0.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8025.1000	ICC - STAKING & SURVEYING	\$0.00	8025.1100	ICC - ROAD, LOCATIONS, PITS	\$10,500.00

EXHIBIT A

8025.1200	ICC - COMPLETION RIG	\$.00	8025.1400	ICC - WIRELINE OPEN/CASED HOLE	\$20,000.00
8025.1500	ICC - FUEL / POWER	\$278,407.00	8025.1600	ICC - COILED TUBING	\$101,000.00
8025.1700	ICC - CEMENTING & SERVICES	\$.00	8025.1800	ICC - WATER DISPOSAL/VACUUM TRUCK	\$17,955.00
8025.1900	ICC - INSPECTION & TESTING	\$.00	8025.2000	ICC - TRUCKING	\$13,125.00
8025.2200	ICC - ELECTRIC LOGGING / PERFORATING	\$272,533.00	8025.2300	ICC - COMPLETION FLUIDS	\$10,000.00
8025.2400	ICC - CASING CREW AND TOOLS	\$.00	8025.2500	ICC - WELL STIMULATION/FRACTUR	\$1,830,482.00
8025.2600	ICC - CONTRACT LABOR/ROUSTABOUT	\$15,000.00	8025.3000	ICC - WATER HANDLING	\$150,298.00
8025.3100	ICC - WELLHEAD/FRACTURE REPAIR	\$40,000.00	8025.3200	ICC - FISHING TOOLS & SERVICES	\$.00
8025.3300	ICC - COMMUNICATIONS	\$.00	8025.3400	ICC - RENTAL EQUIPMENT	\$272,000.00
8025.3500	ICC - WELLSITE SUPERVISION	\$59,400.00	8025.3600	ICC - SUPERVISION/ENGINEERING	\$5,000.00
8025.3700	ICC - SAFETY / ENVIRONMENTAL	\$15,000.00	8025.3800	ICC - OVERHEAD	\$10,000.00
8025.4000	ICC - WELL CONTROL INSURANCE	\$.00	8025.4200	ICC - CONTINGENCY	\$.00
8025.3050	ICC - SOURCE WATER	\$321,637.00	8025.4400	ICC - COMPANY LABOR	\$.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8030.1000	TCC - CASING - PRODUCTION	\$.00	8030.1600	TCC - PROD LINER & EQUIPMENT	\$.00
8030.1700	TCC - PACKER/DOWNHOLE TOOLS	\$.00	8030.2000	TCC - WELLHEAD EQUIPMENT	\$47,250.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8035.1400	FAC - ROAD LOCATIONS PITS	\$20,000.00	8035.1600	FAC - TRANSPORTATION TRUCKING	\$10,000.00
8035.2200	FAC - CONTRACT LABOR / ROUSTAB	\$61,667.00	8035.2400	FAC - SUPERVISION	\$16,000.00
8035.2700	FAC - P-LINE F-LINE LINEPIPE	\$.00	8035.2900	FAC - TANK BATTERY	\$113,833.00
8035.3000	FAC - HEATER TREATER/SEPARATOR	\$52,000.00	8035.3200	FAC - VALVES FITTINGS & PIPE	\$187,500.00
8035.3300	FAC - CIRCULATING TRANSFER PUMP	\$9,667.00	8035.3400	FAC - METER & LACT	\$82,500.00
8035.3600	FAC - ELECTRICAL	\$13,333.00	8035.3700	FAC - COMM TELEMETRY & AUTOMAT	\$45,000.00
8035.3800	FAC - FLARE/COMBUSTER	\$21,667.00	8035.4500	FAC - CONTINGENCY	\$42,468.00
8035.1300	FAC - SURFACE DAMAGE / ROW	\$.00	8035.1500	FAC - MATERIALS & SUPPLIES	\$5,000.00
8035.1700	FAC - RENTAL EQUIPMENT	\$15,000.00	8035.1800	FAC - FUEL / POWER	\$.00
8035.1900	FAC - WATER DISPOSAL / SWD	\$.00	8035.2000	FAC - WASTE DISPOSAL	\$.00
8035.2100	FAC - INSPECTION & TESTING	\$.00	8035.2300	FAC - FRAC TANK RENTAL	\$.00
8035.2500	FAC - CONSULTING SERVICES	\$.00	8035.2600	FAC - INJECTION PUMP	\$.00
8035.3100	FAC - DEHYDRATOR EQUIPMENT	\$.00	8035.3500	FAC - COMPRESSOR	\$6,667.00
8035.4000	FAC - SAFETY / ENVIRONMENTAL	\$5,000.00	8035.4100	FAC - OVERHEAD	\$.00
8035.4300	FAC - INSURANCE	\$.00	8035.1310	FAC - PERMANENT EASEMENT	\$.00
8035.4400	FAC - COMPANY LABOR	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8036.1000	PLN - PERMITS LICENSES ETC	\$.00	8036.1100	PLN - STAKING & SURVEYING	\$.00
8036.1200	PLN - LEGAL TITLE SERVICES	\$.00	8036.1300	PLN - SURFACE DAMAGE / ROW	\$.00
8036.1310	PLN - PERMANENT EASEMENT	\$6,465.00	8036.1400	PLN - ROAD LOCATIONS PITS	\$.00
8036.1500	PLN - MATERIALS & SUPPLIES	\$.00	8036.1600	PLN - TRANSPORTATION TRUCKING	\$.00
8036.1700	PLN - RENTAL EQUIPMENT	\$.00	8036.1900	PLN - WATER DISPOSAL / SWD	\$.00
8036.2000	PLN - WASTE DISPOSAL	\$.00	8036.2100	PLN - INSPECTION & TESTING	\$.00
8036.2200	PLN - CONTRACT LABOR	\$.00	8036.2300	PLN - FRAC TANK RENTAL	\$.00
8036.2400	PLN - SUPERVISION	\$.00	8036.2500	PLN - CONSULTING SERVICES	\$.00
8036.2700	PLN - PIPELINE	\$165,440.00	8036.2800	PLN - FLOWLINE	\$.00
8036.2900	PLN - TANK BATTERY	\$.00	8036.3000	PLN - SEPARATOR / SCRUBBER	\$.00
8036.3100	PLN - TREATING EQUIPMENT	\$.00	8036.3200	PLN - VALVES FITTINGS & PIPE	\$.00
8036.3300	PLN - PUMP	\$.00	8036.3400	PLN - METER	\$.00
8036.3500	PLN - COMPRESSOR	\$.00	8036.3600	PLN - ELECTRICAL SUPPLIES	\$.00
8036.3610	PLN - POWER DISTRIBUTION MATERIAL	\$6,313.00	8036.3620	PLN - POWER DISTRIBUTION LABOR	\$6,313.00
8036.3700	PLN - AUTOMATION	\$.00	8036.4000	PLN - SAFETY / ENVIRONMENTAL	\$.00
8036.4300	PLN - INSURANCE	\$.00	8036.4400	PLN - COMPANY LABOR	\$.00
8036.4500	PLN - CONTINGENCY	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8040.1100	IFC - ROADS LOCATIONS / PITS	\$.00	8040.1200	IFC - COMPLETION RIG	\$9,200.00
8040.1400	IFC - WIRELINE OPEN/CASED HOLE	\$5,500.00	8040.1500	IFC - FUEL / POWER	\$.00
8040.1600	IFC - COILED TUBING	\$.00	8040.1700	IFC - CEMENTING & SERVICES	\$.00
8040.1899	IFC - FRAC WATER RECOVERY	\$227,470.28	8040.1900	IFC - INSPECTION & TESTING	\$.00
8040.2000	IFC - TRUCKING/VACUUM/TRANSP	\$20,000.00	8040.2200	IFC - ELECTRIC LOGGING/PERFORATING	\$.00
8040.2300	IFC - COMPLETION FLUID	\$.00	8040.2400	IFC - CASING CREW AND TOOLS	\$.00
8040.2600	IFC - CONTRACT LABOR/ROUSTABOUT	\$.00	8040.2800	IFC - MATERIAL & SUPPLIES	\$150,000.00
8040.2900	IFC - WELL TESTING / FLOWBACK	\$.00	8040.3100	IFC - WELLHEAD/FRACTURE TREE REPAIR	\$.00

EXHIBIT A

8040.3200	IFC - FISHING TOOLS & SERVICES	\$70,000.00	8040.3400	IFC - RENTAL EQUIPMENT	\$3,600.00
8040.3500	IFC - WELLSITE SUPERVISION	\$5,000.00	8040.3700	IFC - SAFETY / ENVIRONMENTAL	\$.00
8040.4200	IFC - CONTINGENCY	\$.00	8040.4400	IFC - COMPANY LABOR	\$.00
8040.4500	IFC - SWABBING	\$.00	8040.2500	IFC - WELL STIMULATION/FRACTURE	\$5,000.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8045.1100	TFC - TUBING	\$65,000.00	8045.1200	TFC - SUCKER RODS & ACCESSORY	\$.00
8045.1300	TFC - DOWNHOLE ARTIFICIAL LIFT EQPT	\$25,000.00	8045.1500	TFC - SUBSURFACE PUMPS	\$.00
8045.1600	TFC - PROD LINER & EQUIPMENT	\$.00	8045.1700	TFC - PACKER/DOWNHOLE TOOLS	\$8,500.00
8045.1900	TFC - PUMPING UNITS /SURFACE LIFT EQUIPMENT	\$.00	8045.2000	TFC - WELLHEAD EQUIPMENT	\$18,100.00
8045.2500	TFC - VALVES / CONNECTIONS / FITINGS	\$40,000.00	8045.3100	TFC - MEASUREMENT EQUIPMENT	\$15,000.00
8045.3200	TFC - COMM, TELEMETRY & AUTOMATION	\$.00	8045.3400	TFC - CONTRACTOR LABOR INSTALL	\$40,000.00
8045.3500	TFC - CONTINGENCY	\$.00	8045.4400	TFC - COMPANY LABOR	\$.00

EXHIBIT A

September 8, 2021

RE: Gordita 6 State Com #603H
SHL: 275' FSL Sec. 6 & 1380' FWL Sec. 6 T22S R35E
BHL: 100' FSL Sec. 18 & 2456' FWL Sec. 18 T22S R35E
Lea County, New Mexico

To Whom it May Concern:

Centennial Resource Production, LLC ("CRP") proposes to drill and complete the Gordita 6 State Com #603H as a horizontal well to test the Bone Spring Formation at a TVD of 10,900 feet. The W/2 of the Section 7, Township 22 South, Range 35 East and the W/2 of Section 18, Township 22 South, Range 35 East, Lea County, New Mexico will be dedicated to the well as the proration unit being a total of 619.28 acres. Please see the enclosed AFE in the amount of \$8,165,101.00

Upon your response we will send a Joint Operating Agreement ("JOA") with an effective date of September 1, 2021. The JOA contains a proposed overhead rate of \$8,000 per month for drilling and \$800 per month for producing and provides for a 100%/300%/300% non-consent penalty.

In the space provided below, please indicate your election and return one original copy of this letter along with an original copy of the enclosed AFE or email me a copy at gavin.smith@cdevinc.com. Should you have any questions, please call me at (720) 499-1474.

Best Regards

A handwritten signature in blue ink that reads "Gavin Smith".

Gavin Smith, CPL
Senior Landman

EXHIBIT A

THE UNDERSIGNED HEREBY ELECTS **TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #603H WELLBORE AND TO WAIVE THE NEED FOR A COMPLETION ELECTION.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

THE UNDERSIGNED HEREBY ELECTS **NOT TO PARTICIPATE** IN THE CAPTIONED GORDITA 6 STATE COM #603H WELLBORE, AND TO GO NONCONSENT.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

EXHIBIT A**Authorization for Expenditure**

AFE Number	401842	Original
Drilling Total (\$)	\$3,076,311	
Completion Total (\$)	\$3,489,587	
Facilities Total (\$)	\$891,833	
Flowback Total (\$)	\$707,370	
AFE Total (\$)	\$8,165,101	

AFE Description

Property Name	Well: Gordita 6 State Com 603H	State	New Mexico
AFE Type	Drill and Complete		
Operator	Centennial Resource Production, LLC	Field	Delaware Basin - NM
Scheduled Spud Date	Jan 13, 2022	Estimated TVD (ft)	
Target Zone	TBSG SAND	Estimated MD (ft)	

Non Operator Approval

Company	
Approved By	
Title	
Date	

Cost Estimate

Account	Description	Total (\$)	Account	Description	Total (\$)
8015.1000	IDC - PERMITS,LICENSES,ETC	\$15,000.00	8015.1100	IDC - STAKING & SURVEYING	\$15,000.00
8015.1200	IDC - LEGAL, TITLE SERVICES	\$13,000.00	8015.1300	IDC - SURFACE DAMAGE / ROW	\$15,000.00
8015.1400	IDC - ROAD, LOCATIONS, PITS	\$70,000.00	8015.1500	IDC - RIG MOB / TRUCKING	\$60,000.00
8015.1600	IDC - RIG MOB / STANDBY RATE	\$30,000.00	8015.1700	IDC - DAYWORK CONTRACT	\$336,000.00
8015.1800	IDC - FOOTAGE CONTRACT	\$0.00	8015.1900	IDC - DIRECTNL DRILL & SURVEY	\$300,000.00
8015.2000	IDC - CONDUCTOR HOLE & SERVICE	\$27,500.00	8015.2100	IDC - WIRELINE SVCS CASED&OPEN	\$0.00
8015.2200	IDC - BITS, TOOLS, STABILIZERS	\$70,000.00	8015.2300	IDC - FUEL / POWER	\$80,500.00
8015.2400	IDC - RIG WATER	\$17,000.00	8015.2500	IDC - MUD/CHEMICALS/ACIDIZING	\$165,000.00
8015.2600	IDC - MUD LOGGING	\$0.00	8015.2700	IDC - INSPECTION, TESTING & REPAIR	\$55,000.00
8015.2800	IDC - CORE ANALYSIS	\$0.00	8015.2900	IDC - OPEN/CASED HOLE LOGGING	\$0.00
8015.3000	IDC - CEMENT SERV/FLOAT EQUIP	\$195,000.00	8015.3100	IDC - CASING CREW & TOOLS	\$65,000.00
8015.3200	IDC - CONTRACT LABOR/ROUSTABOUT	\$20,000.00	8015.3400	IDC - MATERIALS & SUPPLIES	\$5,000.00
8015.3500	IDC - TRUCKING/VACUUM/ TRANSP	\$18,000.00	8015.3600	IDC - SOLIDS CONTROL/ CLOSED LOOP SYSTEM	\$44,000.00
8015.3700	IDC - DISPOSAL	\$105,000.00	8015.3800	IDC - WELLHEAD PREPARE/REPAIR	\$30,500.00
8015.3900	IDC - FISHING TOOLS & SERVICES	\$0.00	8015.4100	IDC - RENTAL EQUIPMENT	\$45,000.00
8015.4200	IDC - MANCAMP	\$47,000.00	8015.4300	IDC - WELLSITE SUPERVISION	\$99,000.00
8015.4400	IDC - SUPERVISION/ENGINEERING	\$0.00	8015.4600	IDC - SAFETY / ENVIRONMENTAL	\$12,400.00
8015.4800	IDC - OVERHEAD	\$0.00	8015.5000	IDC - WELL CONTROL INSURANCE	\$11,790.00
8015.5200	IDC - CONTINGENCY	\$130,961.40	8015.1310	IDC - PERMANENT EASEMENT	\$12,000.00
8015.1950	IDC - LOST IN HOLE	\$0.00	8015.2150	IDC - DRILL BIT	\$84,000.00
8015.2350	IDC - FUEL/MUD	\$100,000.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8020.1000	TDC - CASING - CONDUCTOR	\$0.00	8020.1100	TDC - CASING - SURFACE	\$68,796.88
8020.1200	TDC - CASING - INTERMEDIATE - 1	\$151,937.50	8020.1300	TDC - CASING - INTERMEDIATE 2	\$0.00
8020.1400	TDC - CASING - PRODUCTION	\$436,050.00	8020.1500	TDC - WELLHEAD EQUIPMENT	\$65,875.00
8020.1700	TDC - PACKER/DOWNHOLE TOOLS	\$60,000.00	8020.1800	TDC - CONTINGENCY	\$0.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8025.1000	ICC - STAKING & SURVEYING	\$0.00	8025.1100	ICC - ROAD, LOCATIONS, PITS	\$10,500.00

EXHIBIT A

8025.1200	ICC - COMPLETION RIG	\$.00	8025.1400	ICC - WIRELINE OPEN/CASED HOLE	\$20,000.00
8025.1500	ICC - FUEL / POWER	\$278,407.00	8025.1600	ICC - COILED TUBING	\$101,000.00
8025.1700	ICC - CEMENTING & SERVICES	\$.00	8025.1800	ICC - WATER DISPOSAL/VACUUM TRUCK	\$17,955.00
8025.1900	ICC - INSPECTION & TESTING	\$.00	8025.2000	ICC - TRUCKING	\$13,125.00
8025.2200	ICC - ELECTRIC LOGGING / PERFORATING	\$272,533.00	8025.2300	ICC - COMPLETION FLUIDS	\$10,000.00
8025.2400	ICC - CASING CREW AND TOOLS	\$.00	8025.2500	ICC - WELL STIMULATION/FRACTUR	\$1,830,482.00
8025.2600	ICC - CONTRACT LABOR/ROUSTABOUT	\$15,000.00	8025.3000	ICC - WATER HANDLING	\$150,298.00
8025.3100	ICC - WELLHEAD/FRACTREE REPAIR	\$40,000.00	8025.3200	ICC - FISHING TOOLS & SERVICES	\$.00
8025.3300	ICC - COMMUNICATIONS	\$.00	8025.3400	ICC - RENTAL EQUIPMENT	\$272,000.00
8025.3500	ICC - WELLSITE SUPERVISION	\$59,400.00	8025.3600	ICC - SUPERVISION/ENGINEERING	\$5,000.00
8025.3700	ICC - SAFETY / ENVIRONMENTAL	\$15,000.00	8025.3800	ICC - OVERHEAD	\$10,000.00
8025.4000	ICC - WELL CONTROL INSURANCE	\$.00	8025.4200	ICC - CONTINGENCY	\$.00
8025.3050	ICC - SOURCE WATER	\$321,637.00	8025.4400	ICC - COMPANY LABOR	\$.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8030.1000	TCC - CASING - PRODUCTION	\$.00	8030.1600	TCC - PROD LINER & EQUIPMENT	\$.00
8030.1700	TCC - PACKER/DOWNHOLE TOOLS	\$.00	8030.2000	TCC - WELLHEAD EQUIPMENT	\$47,250.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8035.1400	FAC - ROAD LOCATIONS PITS	\$20,000.00	8035.1600	FAC - TRANSPORTATION TRUCKING	\$10,000.00
8035.2200	FAC - CONTRACT LABOR / ROUSTAB	\$61,667.00	8035.2400	FAC - SUPERVISION	\$16,000.00
8035.2700	FAC - P-LINE F-LINE LINEPIPE	\$.00	8035.2900	FAC - TANK BATTERY	\$113,833.00
8035.3000	FAC - HEATER TREATER/SEPERATOR	\$52,000.00	8035.3200	FAC - VALVES FITTINGS & PIPE	\$187,500.00
8035.3300	FAC - CIRCULATING TRNSFER PUMP	\$9,667.00	8035.3400	FAC - METER & LACT	\$82,500.00
8035.3600	FAC - ELECTRICAL	\$13,333.00	8035.3700	FAC - COMM TELEMETRY & AUTOMAT	\$45,000.00
8035.3800	FAC - FLARE/COMBUSTER	\$21,667.00	8035.4500	FAC - CONTINGENCY	\$42,468.00
8035.1300	FAC - SURFACE DAMAGE / ROW	\$.00	8035.1500	FAC - MATERIALS & SUPPLIES	\$5,000.00
8035.1700	FAC - RENTAL EQUIPMENT	\$15,000.00	8035.1800	FAC - FUEL / POWER	\$.00
8035.1900	FAC - WATER DISPOSAL / SWD	\$.00	8035.2000	FAC - WASTE DISPOSAL	\$.00
8035.2100	FAC - INSPECTION & TESTING	\$.00	8035.2300	FAC - FRAC TANK RENTAL	\$.00
8035.2500	FAC - CONSULTING SERVICES	\$.00	8035.2600	FAC - INJECTION PUMP	\$.00
8035.3100	FAC - DEHYDRATOR EQUIPMENT	\$.00	8035.3500	FAC - COMPRESSOR	\$6,667.00
8035.4000	FAC - SAFETY / ENVIRONMENTAL	\$5,000.00	8035.4100	FAC - OVERHEAD	\$.00
8035.4300	FAC - INSURANCE	\$.00	8035.1310	FAC - PERMANENT EASEMENT	\$.00
8035.4400	FAC - COMPANY LABOR	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8036.1000	PLN - PERMITS LICENSES ETC	\$.00	8036.1100	PLN - STAKING & SURVEYING	\$.00
8036.1200	PLN - LEGAL TITLE SERVICES	\$.00	8036.1300	PLN - SURFACE DAMAGE / ROW	\$.00
8036.1310	PLN - PERMANENT EASEMENT	\$6,465.00	8036.1400	PLN - ROAD LOCATIONS PITS	\$.00
8036.1500	PLN - MATERIALS & SUPPLIES	\$.00	8036.1600	PLN - TRANSPORTATION TRUCKING	\$.00
8036.1700	PLN - RENTAL EQUIPMENT	\$.00	8036.1900	PLN - WATER DISPOSAL / SWD	\$.00
8036.2000	PLN - WASTE DISPOSAL	\$.00	8036.2100	PLN - INSPECTION & TESTING	\$.00
8036.2200	PLN - CONTRACT LABOR	\$.00	8036.2300	PLN - FRAC TANK RENTAL	\$.00
8036.2400	PLN - SUPERVISION	\$.00	8036.2500	PLN - CONSULTING SERVICES	\$.00
8036.2700	PLN - PIPELINE	\$165,440.00	8036.2800	PLN - FLOWLINE	\$.00
8036.2900	PLN - TANK BATTERY	\$.00	8036.3000	PLN - SEPARATOR / SCRUBBER	\$.00
8036.3100	PLN - TREATING EQUIPMENT	\$.00	8036.3200	PLN - VALVES FITTINGS & PIPE	\$.00
8036.3300	PLN - PUMP	\$.00	8036.3400	PLN - METER	\$.00
8036.3500	PLN - COMPRESSOR	\$.00	8036.3600	PLN - ELECTRICAL SUPPLIES	\$.00
8036.3610	PLN - POWER DISTRIBUTION MATERIAL	\$6,313.00	8036.3620	PLN - POWER DISTRIBUTION LABOR	\$6,313.00
8036.3700	PLN - AUTOMATION	\$.00	8036.4000	PLN - SAFETY / ENVIRONMENTAL	\$.00
8036.4300	PLN - INSURANCE	\$.00	8036.4400	PLN - COMPANY LABOR	\$.00
8036.4500	PLN - CONTINGENCY	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8040.1100	IFC - ROADS LOCATIONS / PITS	\$.00	8040.1200	IFC - COMPLETION RIG	\$9,200.00
8040.1400	IFC - WIRELINE OPEN/CASED HOLE	\$5,500.00	8040.1500	IFC - FUEL / POWER	\$.00
8040.1600	IFC - COILED TUBING	\$.00	8040.1700	IFC - CEMENTING & SERVICES	\$.00
8040.1899	IFC - FRAC WATER RECOVERY	\$227,470.28	8040.1900	IFC - INSPECTION & TESTING	\$.00
8040.2000	IFC - TRUCKING/VACUUM/TRANSP	\$20,000.00	8040.2200	IFC - ELECTRIC LOGGING/PERFORATING	\$.00
8040.2300	IFC - COMPLETION FLUID	\$.00	8040.2400	IFC - CASING CREW AND TOOLS	\$.00
8040.2600	IFC - CONTRACT LABOR/ROUSTABOUT	\$.00	8040.2800	IFC - MATERIAL & SUPPLIES	\$150,000.00
8040.2900	IFC - WELL TESTING / FLOWBACK	\$.00	8040.3100	IFC - WELLHEAD/FRAC TREE REPAIR	\$.00

EXHIBIT A

8040.3200	IFC - FISHING TOOLS & SERVICES	\$70,000.00	8040.3400	IFC - RENTAL EQUIPMENT	\$3,600.00
8040.3500	IFC - WELLSITE SUPERVISION	\$5,000.00	8040.3700	IFC - SAFETY / ENVIRONMENTAL	\$.00
8040.4200	IFC - CONTINGENCY	\$.00	8040.4400	IFC - COMPANY LABOR	\$.00
8040.4500	IFC - SWABBING	\$.00	8040.2500	IFC - WELL STIMULATION/FRACTURE	\$5,000.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8045.1100	TFC - TUBING	\$65,000.00	8045.1200	TFC - SUCKER RODS & ACCESSORY	\$.00
8045.1300	TFC - DOWNHOLE ARTIFICIAL LIFT EQPT	\$25,000.00	8045.1500	TFC - SUBSURFACE PUMPS	\$.00
8045.1600	TFC - PROD LINER & EQUIPMENT	\$.00	8045.1700	TFC - PACKER/DOWNHOLE TOOLS	\$8,500.00
8045.1900	TFC - PUMPING UNITS /SURFACE LIFT EQUIPMENT	\$.00	8045.2000	TFC - WELLHEAD EQUIPMENT	\$18,100.00
8045.2500	TFC - VALVES / CONNECTIONS / FITINGS	\$40,000.00	8045.3100	TFC - MEASUREMENT EQUIPMENT	\$15,000.00
8045.3200	TFC - COMM, TELEMETRY & AUTOMATION	\$.00	8045.3400	TFC - CONTRACTOR LABOR INSTALL	\$40,000.00
8045.3500	TFC - CONTINGENCY	\$.00	8045.4400	TFC - COMPANY LABOR	\$.00

EXHIBIT A

Exhibit C-5

Date	Action
September 8, 2021	Sent initial well proposals for Gordita 18 State Com #601H-#603H
September 10, 2021	Attempted to contact remaining principle owners of Doil Oil & Gas Corp.
September 29, 2021	Contacted by Tony James at Atlas OBO Energy, LP and answered various questions about planned development
October 5, 2021	Filed for compulsory pooling hearing
October 7, 2021	Sent Atlas OBO Energy, LP an Operating Agreement to review

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico

Exhibit No. C5

Submitted by: Centennial Resource Production, LLC

Hearing Date: November 04, 2021

Case No. 22252

EXHIBIT A

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

APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 22252

AFFIDAVIT OF ISABEL HARPER
IN SUPPORT OF CASE NO. 22252

Isabel harper, of lawful age and being first duly sworn, declares as follows:

1. My name is Isabel Harper. I work for Centennial Resource Production, LLC (“Centennial”) as a Geologist.
2. I have previously testified before the New Mexico Oil Conservation Division as an expert witness in petroleum geology. My credentials as a petroleum geologist have been accepted by the Division and made a matter of record.
3. I am familiar with the application filed by Centennial in this case, and I have conducted a geologic study of the lands in the subject area.
4. Centennial is targeting the Third Bone Spring interval, within the Bone Spring formation, with the proposed **Gordita 6 State Com #601H well, Gordita 6 State Com #602H well, and Gordita 6 State Com #603H well.**
5. **Centennial Exhibit D-1** are two project locator maps, reflecting the proposed spacing unit in Sections 7 and 18 in relation to the surrounding area. This map shows the proposed Third Bone Spring wells, depicted by dashed lines and the offsetting Third Bone Spring Sand producing wells.
6. **Centennial Exhibit D-2** is a subsea structure map that I prepared for the Base of the Bone Spring formation and that is representative of the targeted intervals. The structure map

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

shows that the formation is gently dipping to the Southwest in this area. I do not observe any faulting, pinchouts, or other geologic impediments to developing the targeted interval with horizontal wells in this area.

7. **Centennial Exhibit D-3** overlays a cross-section line in blue consisting of three wells penetrating the Bone Spring formation that I used to construct a stratigraphic cross-section from A to A'. I consider these wells to be representative of the geology in the area.

8. **Centennial Exhibit D-4** is a cross section using the representative wells depicted on Exhibit D-3. Each well in the cross-section contains gamma ray, resistivity, and porosity logs. The proposed targeted interval in the Bone Spring formations is labeled on the exhibit. The cross-section demonstrates that the targeted interval extends across the proposed spacing unit.

9. In my opinion, the stand-up orientation of the proposed wells is the preferred orientation for horizontal well development in this area and is appropriate to efficiently and effectively develop the subject acreage.

10. Based on my geologic study, the Bone Spring formation underlying the subject area is suitable for development by horizontal wells, and the acreage comprising the proposed spacing units will contribute more-or-less equally to the production from the wellbores.

11. In my opinion, the granting of Centennial application in this case will be in the best interest of conservation, the prevention of waste, and protection of correlative rights.

12. **Centennial Exhibits D-1** through **D-4** were either prepared by me or compiled under my direction and supervision.

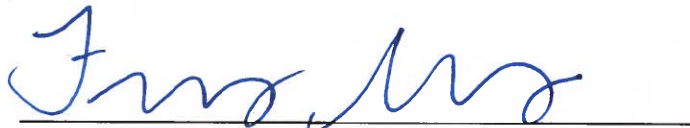
FURTHER AFFIANT SAYETH NOT.

EXHIBIT A


Isabel Harper

STATE OF COLORADO)
)
COUNTY OF Denver)

SUBSCRIBED and SWORN to before me this 2nd day of November
2021 by Isabel Harper.


NOTARY PUBLIC

My Commission Expires:

October 7, 2025

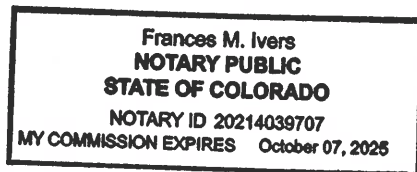
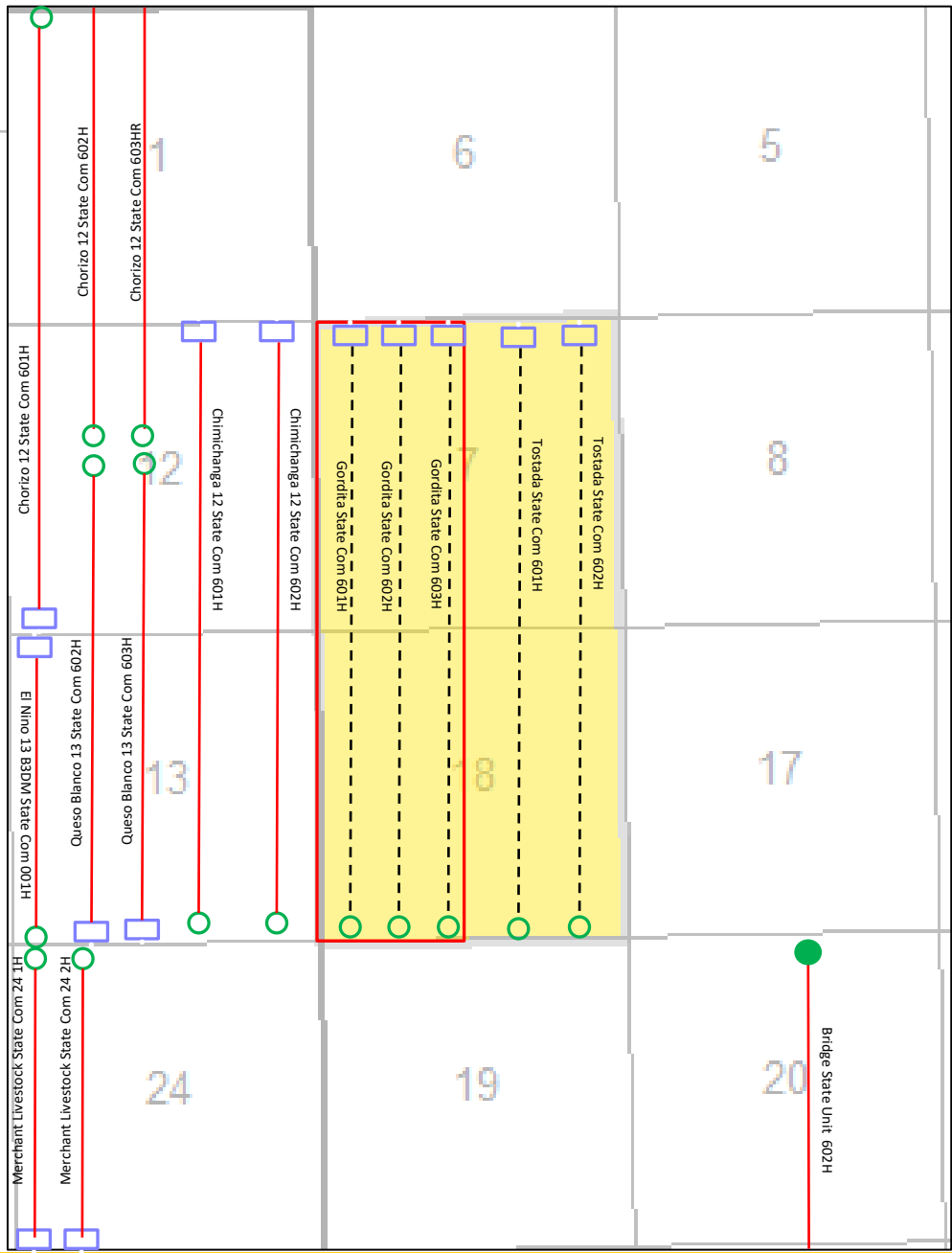


EXHIBIT A

Bone Spring Pool

Gordita State Com 601H, 602H, 603H

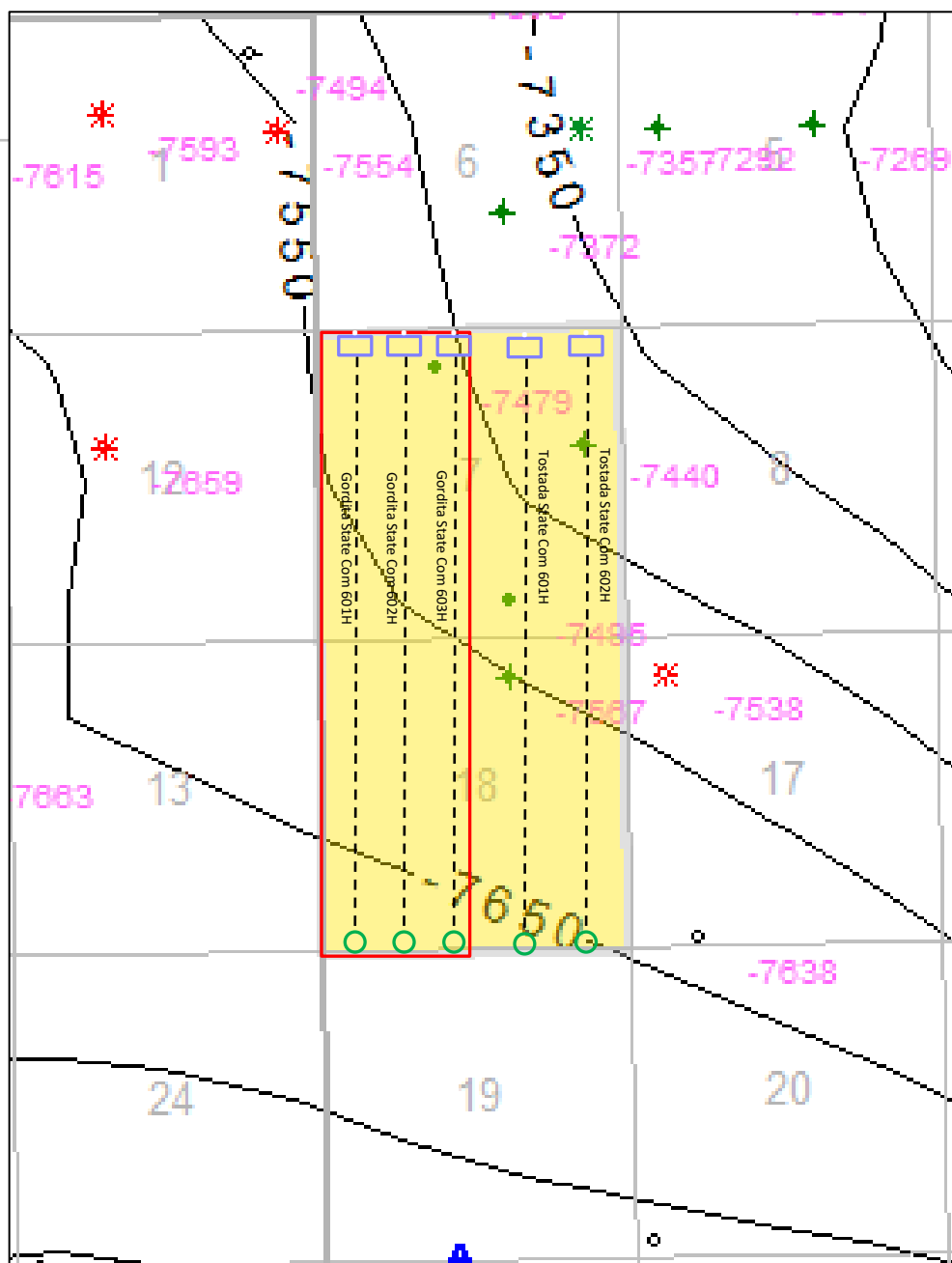


Map Legend

- SHL [Blue Square]
- BHL [Green Circle]
- CDEV- Horizontal Location [Dashed Line]
- Producing Third Bone Spring Wells [Red Line]
- CDEV Operating Acreage [Yellow Box]
- Gordita State Com Unit [Red Outline Box]

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D1
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

Bone Spring Pool
WFMP Structure Grid



SHL

CDEV- Horizontal Location

BHL

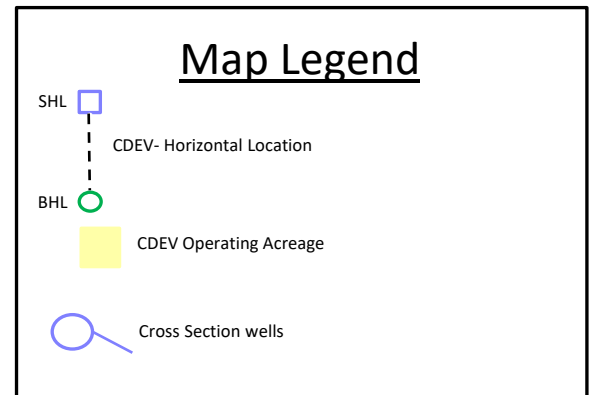
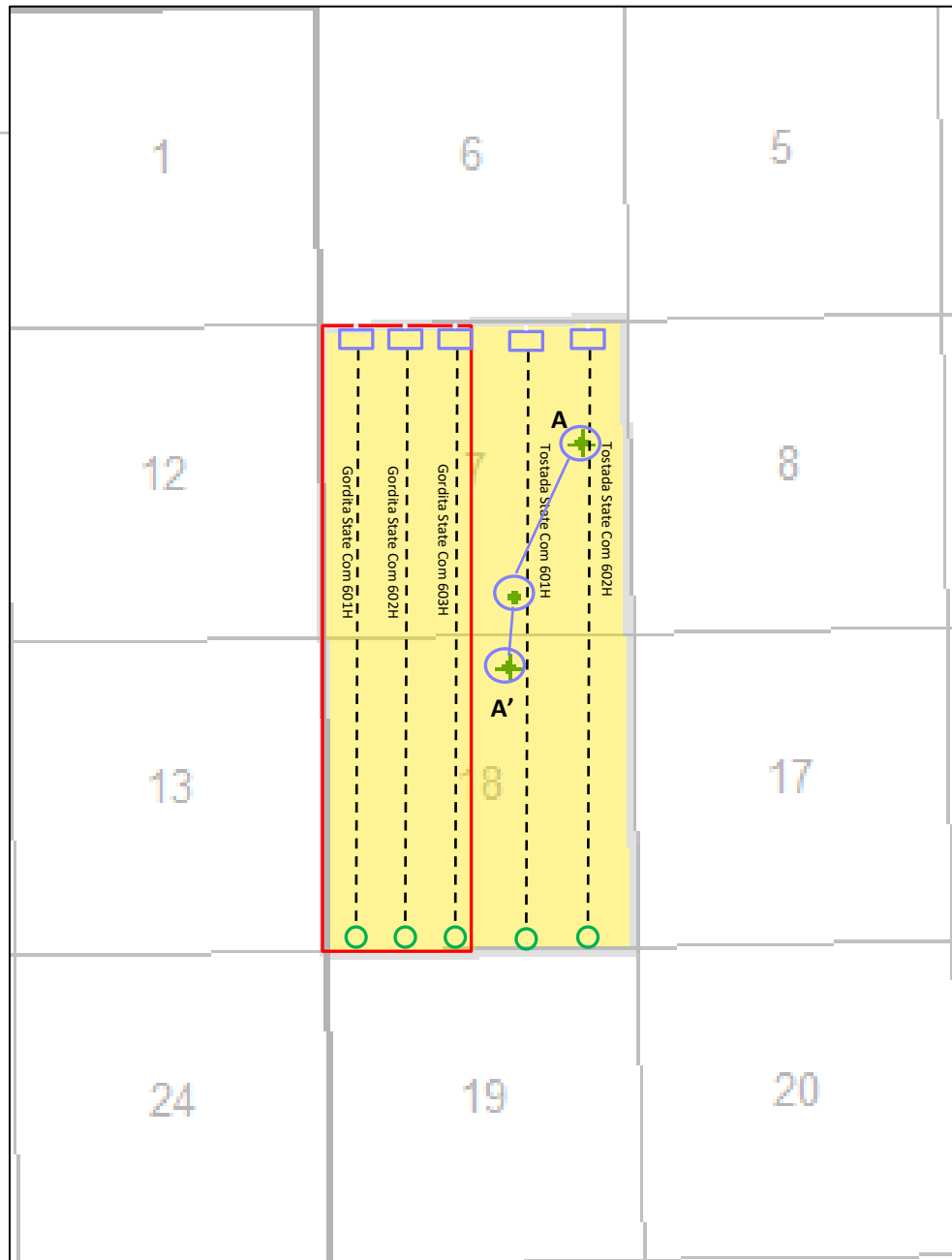
Wolfcamp Structure
CI: 100'

CDEV Operating Acreage

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D2
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

Cross Section TBSG Pool Gordita State Com 601H-603H



BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D3
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

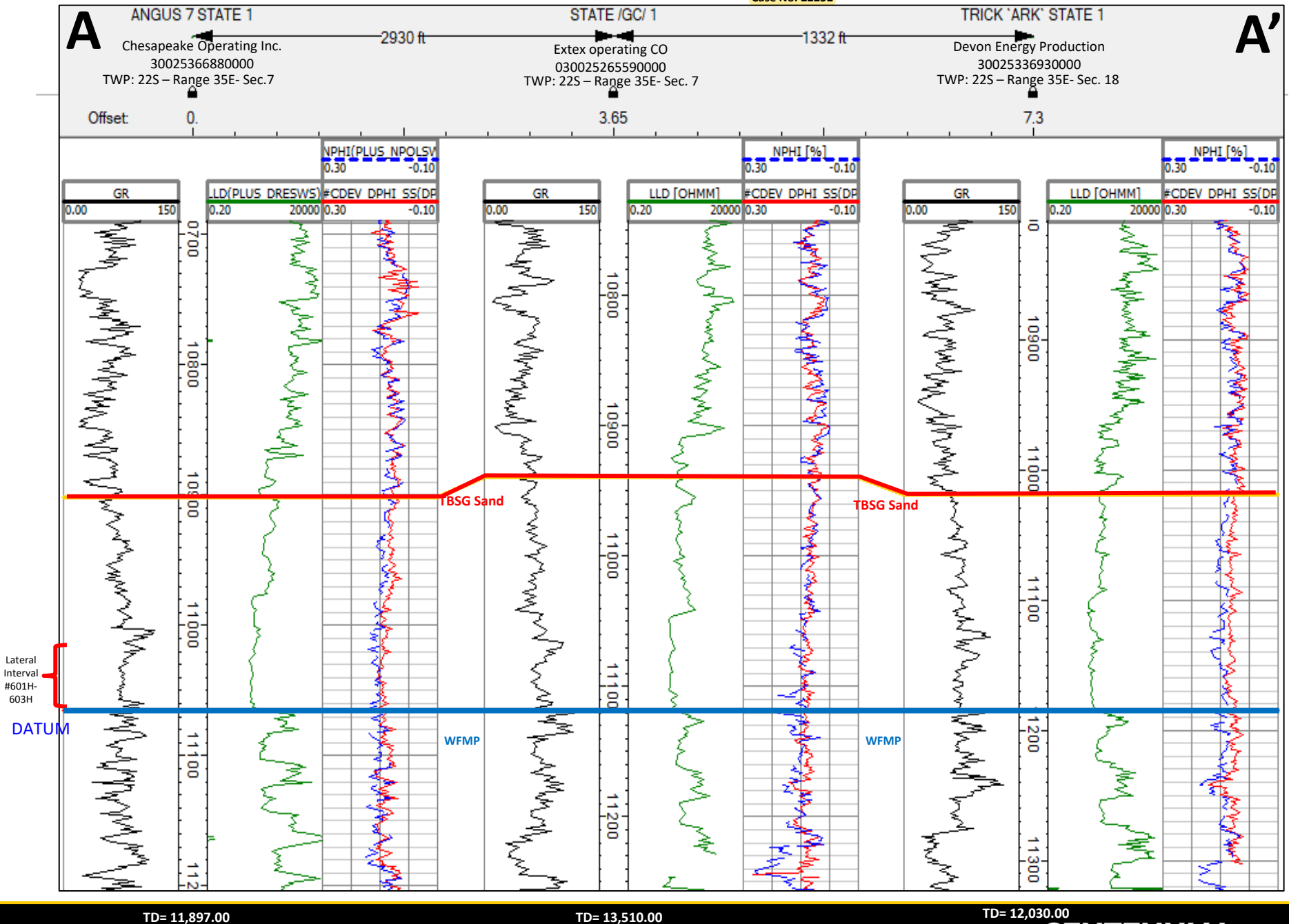


EXHIBIT A

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

**APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE NO. 22252

AFFIDAVIT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

Kaitlyn A. Luck, attorney in fact and authorized representative of Centennial Resource Production, LLC, the Applicant herein, being first duly sworn, upon oath, states that the above-referenced Application has been provided under the notice letters and proof of receipts attached hereto.



Kaitlyn A. Luck

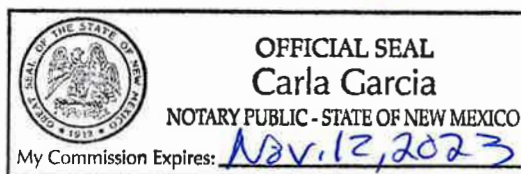
SUBSCRIBED AND SWORN to before me this 2nd day of November, 2021 by Kaitlyn A. Luck.



Notary Public

My Commission Expires:

Nov. 12, 2023



BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. E

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

Kaitlyn A. Luck
Associate
Phone (505) 988-4421
kaluck@hollandhart.com

October 15, 2021

VIA CERTIFIED MAIL
CERTIFIED RECEIPT REQUESTED

TO: ALL INTEREST OWNERS SUBJECT TO POOLING PROCEEDINGS

**Re: Application of Centennial Resource Production, LLC for Compulsory Pooling, Lea County, New Mexico.
Gordita 6 State Com #601H-603H well**

Ladies & Gentlemen:

This letter is to advise you that Centennial Resource Production, LLC, has filed the enclosed application with the New Mexico Oil Conservation Division.

During the COVID-19 Public Health Emergency, state buildings are closed to the public and hearings will be conducted remotely. The hearing will be conducted on November 4, 2021 beginning at 8:15 a.m., until it is concluded. To participate in the electronic hearing, see the instructions posted on the OCD Hearings website: <https://www.emnrd.nm.gov/ocd/hearing-info/>.

You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date. Parties appearing in cases are required by Division Rule 19.15.4.13.B to file a Pre-hearing Statement four business days in advance of a scheduled hearing. This statement must be filed online or in person at the Division's Santa Fe office and should include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

If you have any questions about this matter, please contact Gavin Smith, at (720) 499-1474, or Gavin.Smith@cdevinc.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kaitlyn Luck", written over a horizontal line.

Kaitlyn A. Luck
ATTORNEY FOR CENTENNIAL RESOURCE
PRODUCTION, LLC

T 505.988.4421 F 505.983.6043
110 North Guadalupe, Suite 1, Santa Fe, NM 87501-1849
Mail to: P.O. Box 2208, Santa Fe, NM 87504-2208
www.hollandhart.com

Alaska
Colorado
Idaho

Montana
Nevada
New Mexico

Utah
Washington, D.C.
Wyoming

EXHIBIT A

Case No. 22252 postal delivery report

TrackingNo	ToName	DeliveryAddress	City	State	Zip	USPS_Status
9414811898765850504696	Doil Oil & Gas Corporation	1536 Cole Blvd Ste 225	Lakewood	CO	80401-3413	We attempted to deliver your package at 11:38 am on October 18, 2021 in GOLDEN, CO 80401 but could not access the delivery location. We will redeliver on the next business day.
9414811898765850504108	Grewal Royaly, LLC	45 Rockefeller Plz Ste 2410	New York	NY	10111-2493	Your item was delivered to the front desk, reception area, or mail room at 1:47 pm on October 25, 2021 in NEW YORK, NY 10111.
9414811898765850504191	Pegasus Resources, LLC	PO Box 470698	Fort Worth	TX	76147-0698	Your item was delivered at 9:29 am on October 18, 2021 in FORT WORTH, TX 76147.
9414811898765850504146	McMullen Minerals, LLC	PO Box 470857	Fort Worth	TX	76147-0857	Your item was delivered at 9:27 am on October 18, 2021 in FORT WORTH, TX 76147.
9414811898765850504184	McMullen Minerals, LLC	2821 W 7th St Ste 515	Fort Worth	TX	76107-8912	Your item was delivered to an individual at the address at 1:09 pm on October 18, 2021 in FORT WORTH, TX 76107.
9414811898765850504139	Leo K. Birkby	10432 E Palo Brea Dr	Scottsdale	AZ	85262-3332	Your item was delivered to an individual at the address at 1:01 pm on October 19, 2021 in SCOTTSDALE, AZ 85262.
9414811898765850504313	Deets D. Justice	310 Pleasant Dr	Austin	TX	78746-5519	Your item was delivered to an individual at the address at 4:26 pm on October 19, 2021 in AUSTIN, TX 78746.
9414811898765850504351	YMC Royalty Company, LP	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to an individual at the address at 11:20 am on October 19, 2021 in HOUSTON, TX 77090.
9414811898765850504306	Atlas OBO Energy	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to an individual at the address at 11:20 am on October 19, 2021 in HOUSTON, TX 77090.
9414811898765850504399	David J. Darling1	746 Palmer Ave	Glenwood Springs	CO	81601-3541	Your item was delivered to an individual at the address at 4:11 pm on October 18, 2021 in GLENWOOD SPRINGS, CO 81601.
9414811898765850504344	Amy Darling Wood	16602 Palm Royal Dr Apt 1519	Tampa	FL	33647-2686	Your item was delivered to an individual at the address at 9:14 am on October 22, 2021 in LUTZ, FL 33559.
9414811898765850504641	Doil Oil & Gas Corporation	12045 Tavel Cir	Dallas	TX	75230-2233	Your item was delivered to the front desk, reception area, or mail room at 6:09 pm on October 18, 2021 in DALLAS, TX 75230.
9414811898765850504382	Amy Darling Wood	5255 Shoreline Cir	Sanford	FL	32771-7167	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850504337	Laurance Howard Merritt	221 S Lomita Ave	Ojai	CA	93023-2216	Your item has been delivered to an agent for final delivery in OJAI, CA 93023 on October 18, 2021 at 12:25 pm.
9414811898765850504375	Elodie Brown	15 Cypress Pt	Wimberley	TX	78676-9414	Your item was delivered to an individual at the address at 2:47 pm on October 21, 2021 in DALLAS, TX 75208.
9414811898765850504016	Elodie Brown	3231 W Shandon Ave	Midland	TX	79705-6248	Your item departed our USPS facility in ALBUQUERQUE, NM 87101 on October 27, 2021 at 6:36 pm. The item is currently in transit to the destination.
9414811898765850504054	Pecas Management, LP	3138 Quail Valley East Dr	Missouri City	TX	77489-6088	Your item was delivered to an individual at the address at 2:55 pm on October 21, 2021 in MISSOURI CITY, TX 77489.
9414811898765850504023	Karen Johnston	2017 Quail Hollow Run	Carlsbad	NM	88220-4181	Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.
9414811898765850504009	Karen Johnston	2504 N Crown Cir	Carlsbad	NM	88220-8808	Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.
9414811898765850504047	System For The Use And Benefit Of The Board of Regents for the Univeristy of Texas University Of Texas M.D. Anderson Caner Center	PO Box 551	Midland	TX	79702-0551	Your item was picked up at a postal facility at 11:39 am on October 21, 2021 in MIDLAND, TX 79701.
9414811898765850504085	Presbyterian Healthcare Foundation	8440 Walnut Hill Ln Ste 800	Dallas	TX	75231-3825	Your item was delivered to an individual at the address at 5:52 pm on October 18, 2021 in DALLAS, TX 75231.

EXHIBIT A

Case No. 22252 postal delivery report

9414811898765850504030	Presbyterian Village North Foundation	8560 Anderson Creek Cir	Dallas	TX	75243-1375	Your item was delivered to the front desk, reception area, or mail room at 4:02 pm on October 18, 2021 in DALLAS, TX 75243.
9414811898765850504689	Pioneer Exploration, LLC	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to the front desk, reception area, or mail room at 3:42 pm on October 21, 2021 in HOUSTON, TX 77056.
9414811898765850504634	Pioneer Exploration, LLC / Atlas Operating	3501 Allen Pkwy	Houston	TX	77019-1809	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850504672	Saba Energy, Inc.	2112 Hurd Dr	Irving	TX	75038-4332	Your item departed our COPPELL TX DISTRIBUTION CENTER destination facility on October 28, 2021 at 8:52 am. The item is currently in transit to the destination.
9414811898765850504115	Saba Energy, Inc.	4500 W Illinois Ave Ste 213	Midland	TX	79703-5485	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850504153	Saba Energy, Inc.	1603 E 19th St Ste 202	Edmond	OK	73013-6625	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850504160	Legacy Reserves Operating, LP	303 W Wall St Ste 1800	Midland	TX	79701-5106	Your item has been delivered to an agent for final delivery in MIDLAND, TX 79705 on October 25, 2021 at 11:15 am.
9414811898765850504122	Legacy Reserves Operating, LP	15 Smith Rd Ste 3000	Midland	TX	79705-5461	Your item has been delivered to an agent for final delivery in MIDLAND, TX 79705 on October 21, 2021 at 12:06 pm.

EXHIBIT A**Affidavit of Publication**STATE OF NEW MEXICO
COUNTY OF LEA

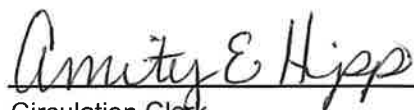
I, Daniel Russell, Publisher of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, solemnly swear that the clipping attached hereto was published in the regular and entire issue of said newspaper, and not a supplement thereof for a period of 1 issue(s).

Beginning with the issue dated
October 22, 2021
and ending with the issue dated
October 22, 2021.



Publisher

Sworn and subscribed to before me this
22nd day of October 2021.



Circulation Clerk

My commission expires
October 29, 2022

(Seal)



OFFICIAL SEAL
Amity E. Hipp
NOTARY PUBLIC - STATE OF NEW MEXICO

My Commission Expires: 10/29/22

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937 and payment of fees for said

LEGAL NOTICE
October 22, 2021**STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION SANTA FE, NEW MEXICO**

The State of New Mexico, Energy Minerals and Natural Resources Department, Oil Conservation Division ("Division") hereby gives notice that the Division will hold public hearings before a hearing examiner on the following case. During the COVID-19 Public Health Emergency, state buildings are closed to the public and Division hearings will be conducted remotely. The public hearing for the following case will be electronic and conducted remotely. The hearing will be conducted on **Thursday, November 4, 2021, beginning at 8:15 a.m.** To participate in the electronic hearing, see the instructions posted below. The docket may be viewed at <https://www.emnrd.nm.gov/ocd/hearing-info/> or obtained from Marlene Salvidrez, at Marlene.Salvidrez@state.nm.us. Documents filed in the case may be viewed at <http://ocdimage.emnrd.state.nm.us/imaging/CaseFileCriteria.aspx>. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in a hearing, contact Marlene Salvidrez at Marlene.Salvidrez@state.nm.us, or the New Mexico Relay Network at 1-800-659-1779, no later than **October 24, 2021**.

Persons may view and participate in the hearings through the following link:

<https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e12bd776b32e14edf7deee3425ea99347>
Event number: 2497 665 1056
Event password: JYvF8wjp55w

Join by video: 24976651056@nmemnrd.webex.com
Numeric Password: 256526
You can also dial 173.243.2.68 and enter your meeting number

Join by audio: 1-844-992-4726 United States Toll Free
Access code: 2497 665 1056

STATE OF NEW MEXICO TO:
All named parties and persons
having any right, title, interest
or claim in the following case
and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

To: All overriding royalty interest owners and pooled parties, including: Doil Oil & Gas Corporation; Pioneer Exploration, LLC; Pioneer Exploration, LLC / Atlas Operating; Saba Energy, Inc.; Legacy Reserves Operating, LP; Grewal (Royalty), LLC; Pegasus Resources, LLC; McMullen Minerals, LLC; Leo K. Birkby, his heirs and devisees; Deets D. Justice, his or her heirs and devisees; YMC Royalty Company, LP; Atlas OBO Energy; David J. Darling, his heirs and devisees; Amy Darling Wood, her heirs and devisees; Laurance Howard Merritt, his heirs and devisees; Elodie Brown, her heirs and devisees; Pecos Management, LP; Karen Johnston, her heirs and devisees; The Board of Regents of the University of Texas System for the use and benefit of The University of Texas M.D. Anderson Cancer Center; Presbyterian Healthcare Foundation; and Presbyterian Village North Foundation.

Case No. 22252: Application of Centennial Resource Production, LLC for compulsory pooling, Lea County, New Mexico. Applicant in the above-styled cause seeks an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the W/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico. Said horizontal spacing unit is to be dedicated to the proposed wells: (1) the **Gordita 6 State Com #601H well**, to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SW/4 SW/4 (Lot 4) of Section 18; and (2) the **Gordita 6 State Com #602H well**, and (3) the **Gordita 6 State Com #603H well**, both are to be horizontally drilled from a surface location in the SE/4 SW/4 (Unit N) of Section 6, to a bottom hole location in the SE/4 SW/4 (Unit N) of Section 18. The completed interval of the proposed **Gordita 6 State Com #602H well** will remain within 330 feet of the quarter-quarter line separating the W/2 W/2 from the E/2 W/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit. Also to be considered will be the cost of drilling and completing the wells and the allocation of the cost thereof, the actual operating costs and charges for supervision, the designation of applicant as operator of the wells, and a 200% charge for risk involved in drilling said wells. Said area is located approximately 14 miles west of Eunice, New Mexico.
#36953

67100754

00259775

HOLLAND & HART LLC
PO BOX 2208
SANTA FE, NM 87504-2208

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. F

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22252

EXHIBIT A

STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT COURT

FILED
5th JUDICIAL DISTRICT COURT
Lea County
11/29/2021 1:43 PM
NELDA CUELLAR
CLERK OF THE COURT
Sandy Long

ATLAS OBO ENERGY LP,

Plaintiff,

No. D-506-CV-2021-00991

v.

CENTENNIAL RESOURCE PRODUCTION,
LLC,

Defendant.

EXHIBITS 2 - 4

**to Defendant Centennial Resource Production, LLC's
Response in Opposition to Plaintiff's Motion for
Temporary Restraining Order
and Preliminary Injunction**

EXHIBIT A

Respectfully submitted,

HOLLAND & HART LLP

By: /s/ Julia Broggi
Adam G. Rankin
Julia Broggi
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
Tel: 505.988.4421
jbroggi@hollandhart.com
agrarkin@hollandhart.com

- and -

HOLLAND & HART LLP

/s/ Elizabeth H. Titus
Elizabeth H. Titus (admitted *pro hac vice*)
State Bar of Colorado No. 38070
State Bar of North Dakota No. 08243
P.O. Box 8749
555 17th Street, Suite 3200
Denver, Colorado 80201-8749 / 80202
Tel: 303.295.8438
Fax: 303.223.3426
ehtitus@hollandhart.com

**ATTORNEYS FOR DEFENDANT CENTENNIAL
RESOURCE PRODUCTION, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I caused a true and correct copy of the foregoing to be filed and served electronically via Odyssey File and Serve, which caused all parties and counsel listed on the Court's Case Service Contacts to be served by electronic means.

By: /s/ Julia Broggi
Julia Broggi

17800049_v1

**EXHIBIT A
EXHIBIT 2**

**BEFORE THE OIL CONSERVATION DIVISION
EXAMINER HEARING NOVEMBER 04, 2021**

CASE No. 22253

TOSTADA 7 STATE COM #601H-602H WELL

LEA COUNTY, NEW MEXICO



EXHIBIT A

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

**APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE NO. 22253

TABLE OF CONTENTS

- **Centennial Exhibit A:** Compulsory Pooling Application Checklist
- **Centennial Exhibit B:** Application of Centennial Production Company for Compulsory Pooling
- **Centennial Exhibit C:** Affidavit of Gavin Smith, Landman
 - Centennial Exhibit C-1: Draft C-102
 - Centennial Exhibit C-2: Land Tract Map
 - Centennial Exhibit C-3: Working Interest Ownership
 - Centennial Exhibit C-4: Sample Well Proposal Letter with AFE
 - Centennial Exhibit C-5: Chronology of Contacts
- **Centennial Exhibit D:** Affidavit of Isabel Harper, Geologist
 - Centennial Exhibit D-1: Locator Map
 - Centennial Exhibit D-2: Subsea structure map
 - Centennial Exhibit D-3: Cross-section map
 - Centennial Exhibit D-4: Stratigraphic cross-section
- **Centennial Exhibit E:** Notice Affidavit
- **Centennial Exhibit F:** Affidavit of Publication

EXHIBIT A

COMPULSORY POOLING APPLICATION CHECKLIST (pdf)

ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS

Case No. 22253	APPLICANT'S RESPONSE
Date: November 4, 2021	
Applicant	Centennial Resource Production LLC
Designated Operator & OGRID (affiliation if applicable)	Centennial Resource Production LLC (OGRID 372165)
Applicant's Counsel:	Holland & Hart LLP
Case Title:	APPLICATION OF CENTENNIAL RESOURCE PRODUCTION, LLC FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO
Entries of Appearance/Intervenors:	N/A
Well Family	Tostada 7 State Com wells
Formation/Pool	
Formation Name(s) or Vertical Extent:	Bone Spring
Primary Product (Oil or Gas):	Oil
Pooling this vertical extent:	Bone Spring
Pool Name and Pool Code:	(Red Hills; Bone Spring, North Pool (Pool Code 96434)
Well Location Setback Rules:	Statewide oil
Spacing Unit Size:	240-acres
Spacing Unit	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	240-acres
Building Blocks:	40-acre
Orientation:	Standup
Description: TRS/County	W/2 E/2 of Section 22, and the W/2 NE/4 of Section 27, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico
Standard Horizontal Well Spacing Unit (Y/N), If No, describe	Yes
Other Situations	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	Yes, Tostada 7 State Com #601H well will remain within 330 feet of the quarter-quarter line separating the W/2 E/2 from the E/2 E/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit

BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Exhibit No. A

Submitted by: Centennial Resource Production, LLC

Hearing Date: November 04, 2021

Case No. 22253

Proximity Defining Well: if yes, description	EXHIBIT A Tostada 7 State Com #601H well will remain within 330 feet of the quarter-quarter line separating the W/2 E/2 from the E/2 E/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit
Applicant's Ownership in Each Tract	Yes
Well(s)	
Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	
Well #1	Tostada 7 State Com 601H well , API No. 30-025-pending SHL:210 FNL and 1420 FEL (Unit B) of Section 7, Township 22 South, Range 35 East, NMPM. BHL:100 FSL and 1640 FEL (Unit O) of Section 18, Township 22 South, Range 35 East, NMPM. Completion Target: Bone Spring Well Orientation: Standup Completion Location expected to be: standard
Well #2	Tostada 7 State Com 602H well , API No. 30-025-pending SHL:210 FNL and 1390 FEL (Unit B) of Section 7, Township 22 South, Range 35 East, NMPM. BHL:100 FSL and 640 FEL (Unit P) of Section 18, Township 22 South, Range 35 East, NMPM. Completion Target: Bone Spring Well Orientation: Standup Completion Location expected to be: proximity tract well
Horizontal Well First and Last Take Points	Exhibit C-1
Completion Target (Formation, TVD and MD)	Exhibit C-4, Exhibit D-4
AFE Capex and Operating Costs	
Drilling Supervision/Month \$	\$8,500 (drilling) & \$850 (producing)/month
Production Supervision/Month \$	Exhibit C, C-4
Justification for Supervision Costs	Exhibit C, C-4
Requested Drilling Charge	Exhibit C, C-4

EXHIBIT A

Notice of Hearing	
Proposed Notice of Hearing	Exhibit B
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit E
Proof of Published Notice of Hearing (10 days before hearing)	Exhibit F
Ownership Determination	
Land Ownership Schematic of the Spacing Unit	Exhibit C-2
Tract List (including lease numbers and owners)	Exhibit C-3
Pooled Parties (including ownership type)	Exhibit C-3, Exhibit E
Unlocatable Parties to be Pooled	N/A
Ownership Depth Severance (including percentage above & below)	N/A
Joinder	
Sample Copy of Proposal Letter	Exhibit C-4
List of Interest Owners (ie Exhibit A of JOA)	Exhibit C-3, Exhibit E
Chronology of Contact with Non-Joined Working Interests	Exhibit C-5
Overhead Rates In Proposal Letter	Exhibit C-4
Cost Estimate to Drill and Complete	Exhibit C-5
Cost Estimate to Equip Well	Exhibit C-5
Cost Estimate for Production Facilities	Exhibit C-5
Geology	
Summary (including special considerations)	Exhibit D
Spacing Unit Schematic	Exhibit D-1
Gunbarrel/Lateral Trajectory Schematic	N/A
Well Orientation (with rationale)	Exhibit D-1
Target Formation	Exhibit D-2, D-3, D-4
HSU Cross Section	Exhibit D-4
Depth Severance Discussion	N/A
Forms, Figures and Tables	
C-102	Exhibit C-1
Tracts	Exhibit C-2
Summary of Interests, Unit Recapitulation (Tracts)	Exhibit C-3
General Location Map (including basin)	Exhibit D-1
Well Bore Location Map	Exhibit D-1
Structure Contour Map - Subsea Depth	Exhibit D-2
Cross Section Location Map (including wells)	Exhibit D-3, D-4
Cross Section (including Landing Zone)	Exhibit D-3, D-4
Additional Information	
Special Provisions/Stipulations	N/A

EXHIBIT A**CERTIFICATION:** I hereby certify that the information provided in this checklist is complete and accurate.


Printed Name (Attorney or Party Representative):	Kaitlyn A. Luck
Signed Name (Attorney or Party Representative):	
Date:	2-Nov-21

EXHIBIT A

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

APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 22253

APPLICATION

Centennial Resource Production, LLC (“Centennial” or “Applicant”) (OGRID No. 372165), through its undersigned attorneys, hereby files this application with the Oil Conservation Division pursuant to the provisions of NMSA 1978, § 70-2-17, for an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the E/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico. In support of its application, Centennial states:

1. Applicant is a working interest owner in the proposed horizontal spacing unit and has the right to drill thereon.
2. Applicant proposes to dedicate the above-referenced spacing unit to the following proposed initial wells:
 - a. (1) the **Tostada 7 State Com #601H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SW/4 SE/4 (Unit O) of Section 18; and

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. B

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

- b. (2) the **Tostada 7 State Com #602H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SE/4 SE/4 (Unit P) of Section 18.

3. The completed interval for the proposed **Tostada 7 State Com #601H well** will remain within 330 feet of the quarter-quarter line separating the W/2 E/2 from the E/2 E/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit.

4. Applicant has sought and been unable to obtain voluntary agreement for the development of these lands from all the working interest owners in the subject spacing unit.

5. The pooling of interests will avoid the drilling of unnecessary wells, will prevent waste, and will protect correlative rights.

6. In order to permit Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, all uncommitted interests in this horizontal spacing unit should be pooled, and Applicant should be designated the operator of the proposed horizontal wells and spacing unit.

WHEREFORE, Applicant requests that this application be set for hearing before an Examiner of the Oil Conservation Division on November 4, 2021, and, after notice and hearing as required by law, the Division enter an order:

- A. Pooling all uncommitted interests in the horizontal spacing unit and approving the initial wells thereon;
- B. Designating Applicant as operator of the horizontal spacing unit and the horizontal wells to be drilled thereon;
- C. Authorizing Applicant to recover its costs of drilling, equipping, and completing the wells;

EXHIBIT A

- D. Approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures; and
- E. Imposing a 200% charge for the risk assumed by Applicant in drilling and completing the wells against any working interest owner who does not voluntarily participate in the drilling of the wells.

Respectfully submitted,

HOLLAND & HART LLP

By:  _____

Michael H. Feldewert
Adam G. Rankin
Julia Broggi
Kaitlyn A. Luck
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile
mhfeldewert@hollandhart.com
agrarkin@hollandhart.com
jbroggi@hollandhart.com
kaluck@hollandhart.com

**ATTORNEYS FOR
CENTENNIAL RESOURCE PRODUCTION, LLC**

EXHIBIT A

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

**APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

CASE NO. 22253

**AFFIDAVIT OF GAVIN SMITH
IN SUPPORT OF CASE NO. 22253**

Gavin Smith, of lawful age and being first duly sworn, declares as follows:

1. My name is Gavin Smith. I work for Centennial Resource Production, LLC (“Centennial”) as a Senior Landman.
2. I have previously testified before the New Mexico Oil Conservation Division as an expert witness in petroleum land matters. My credentials in petroleum land matters have been accepted by the Division and made a matter of record.
3. I am familiar with the application filed by Centennial in this case, and I am familiar with the status of the lands in the subject area.
4. None of the uncommitted parties in this case has indicated opposition to this pooling case proceeding by affidavits, and therefore I do not expect any opposition at the hearing.
5. In this case, Centennial seeks an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the E/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico.
6. Centennial seeks to dedicate this spacing unit to the proposed initial wells:

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

(1) the **Tostada 7 State Com #601H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SW/4 SE/4 (Unit O) of Section 18; and

(2) the **Tostada 7 State Com #602H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SE/4 SE/4 (Unit P) of Section 18.

7. **Centennial Exhibit C-1** is the Form C-102 for the proposed initial well for this horizontal spacing unit that reflects that the well is located in the Ojo Chiso; Bone Spring Pool (Pool Code 96553).

8. The completed interval for the **Tostada 7 State Com #601H well** will remain within 330 feet of the quarter-quarter line separating the W/2 E/2 from the E/2 E/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit.

9. There are no depth severances in the Bone Spring formation in the proposed spacing unit.

10. **Centennial Exhibit C-2** contains a plat outlining the unit being pooled and identifies the tracts of land comprising the proposed spacing unit.

11. **Centennial Exhibit C-3** identifies the working interests in each tract, and their interest in the horizontal spacing unit. There are no unleased mineral interest owners. I have highlighted on this exhibit the parties that Centennial seeks to pool.

12. Centennial sent well proposal letters, together with corresponding AFEs, to the working interest owners. The costs reflected in the AFE are consistent with what other operators

EXHIBIT A

have incurred for drilling similar horizontal wells in the area. A copy of the well proposal letters, along with the AFE, are included with my affidavit as **Centennial Exhibit C-4**.

13. Centennial seeks approval of overhead and administrative costs at \$8,500/month while drilling and \$850/month while producing. These costs are consistent with what Centennial and other operators are charging in this area for these types of wells. Centennial respectfully requests that these administrative and overhead costs be incorporated into any order entered by the Division in this case.

14. Centennial has been able to locate contact information for all parties it seeks to pool and has undertaken good faith efforts to reach an agreement with the uncommitted interest owners. **Centennial Exhibit C-5** contains a chronology of the contacts with the working interest owners that Centennial seeks to pool in this case.


15. If Centennial reaches an agreement with any of the proposed pool parties before the Division enters any order, I will let the Division know that Centennial is no longer seeking to pool that party.

16. I provided the law firm of Holland & Hart LLP a list of names and addresses for the uncommitted interest owners shown on **Centennial Exhibit C-3**. In compiling these addresses, Centennial conducted a diligent search of all public records in the county where the proposed wells are located and of phone directories, including computer searches. All parties were locatable.

17. **Centennial Exhibits C-1 through C-5** were either prepared by me or compiled under my direction and supervision.

FURTHER AFFIANT SAYETH NOT.

EXHIBIT A

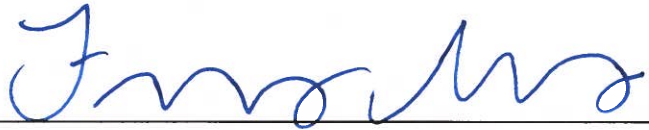


GAVIN SMITH

STATE OF COLORADO)

COUNTY OF Denver)

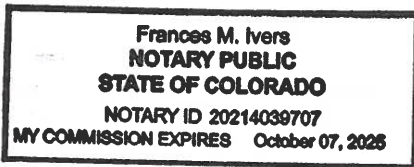
SUBSCRIBED and SWORN to before me this 2nd day of November
2021 by Gavin Smith.



NOTARY PUBLIC

My Commission Expires:

October 7, 2025



District I
1625 N. French Dr., Hobbs, NM 88240
Phone: (575) 393-6161 Fax: (575) 393-0720
District II
811 S. First St., Artesia, NM 88210
Phone: (575) 748-1283 Fax: (575) 748-9720
District III
1000 Rio Brazos Road, Aztec, NM 87410
Phone: (505) 334-6178 Fax: (505) 334-6170
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87505
Phone: (505) 476-3460 Fax: (505) 476-3462

EXHIBIT A
State of New Mexico
Energy, Minerals & Natural Resources Department
OIL CONSERVATION DIVISION
1220 South St. Francis Dr.
Santa Fe, NM 87505

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C1
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253
Form C-102
Revised August 1, 2011
Submit one copy to appropriate District Office

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code	³ Pool Name	
⁴ Property Code		⁵ Property Name TOSTADA 7 STATE COM		⁶ Well Number 601H
⁷ OGRID No.		⁸ Operator Name CENTENNIAL RESOURCE PRODUCTION, LLC		⁹ Elevation 3616.7'

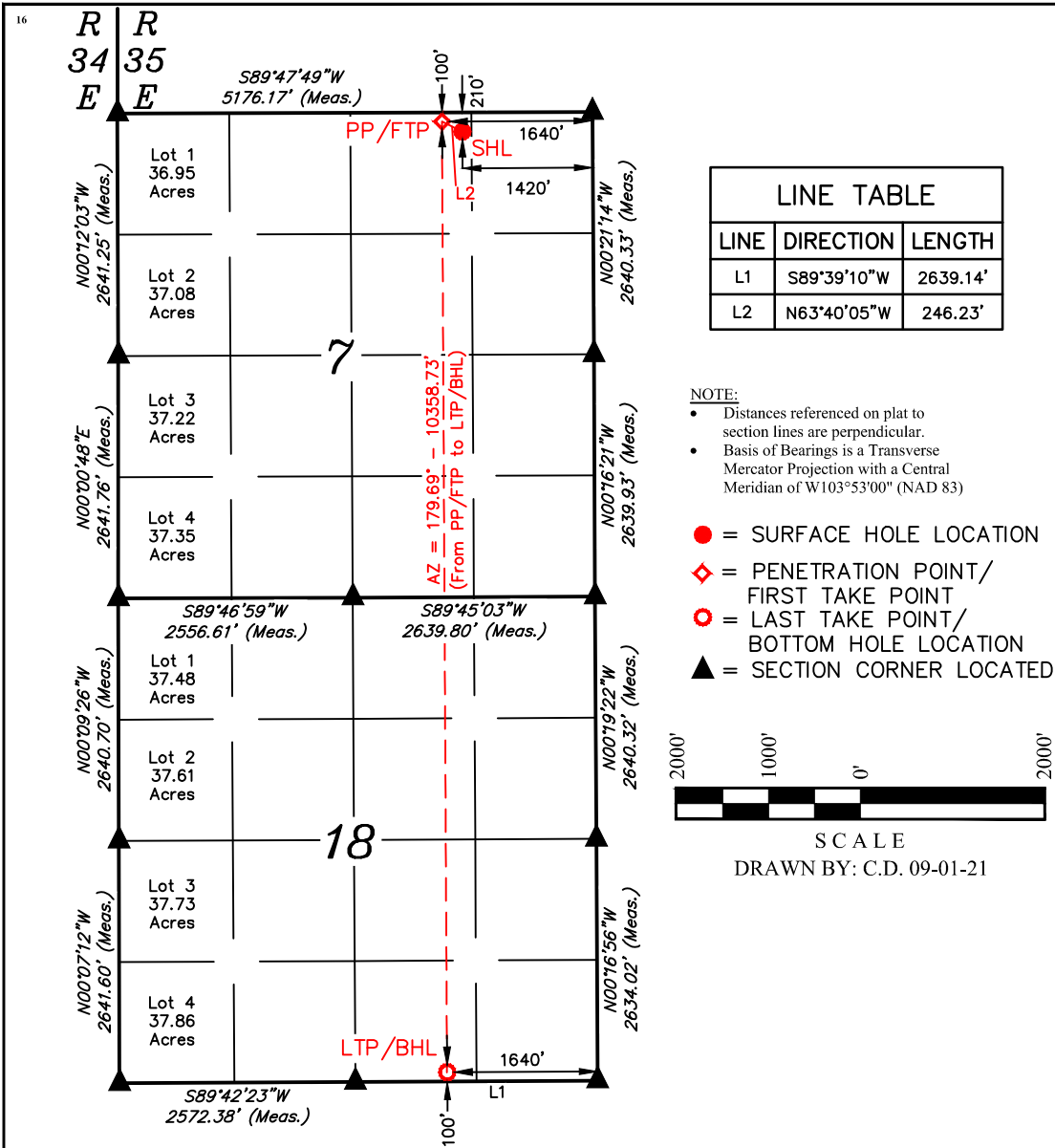
¹⁰ Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
B	7	22S	35E		210	NORTH	1420	EAST	LEA

¹¹ Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
O	18	22S	35E		100	SOUTH	1640	EAST	LEA
¹² Dedicated Acres		¹³ Joint or Infill		¹⁴ Consolidation Code		¹⁵ Order No.			

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.



¹⁷ OPERATOR CERTIFICATION
I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Signature _____ Date _____

Printed Name _____

E-mail Address _____

¹⁸ SURVEYOR CERTIFICATION
I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

August 24, 2021
Date of Survey
Signature and Seal of Professional Surveyor:



Certificate Number:

NAD 83 (SURFACE HOLE LOCATION)
LATITUDE = 32°24'46.42" (32.412896°)
LONGITUDE = 103°24'10.23" (103.402841°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 515192.54' X: 828484.27'
UTM, NAD 83 (ZONE 13)
Y: 11769417.97' X: 2133160.27'

NAD 83 (PP/FTP)
LATITUDE = 32°24'47.51" (32.413198°)
LONGITUDE = 103°24'12.80" (103.403555°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 515300.81' X: 828263.17'
UTM, NAD 83 (ZONE 13)
Y: 11769524.85' X: 2132938.52'

NAD 83 (LTP/BHL)
LATITUDE = 32°23'05.03" (32.384731°)
LONGITUDE = 103°24'12.69" (103.403525°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 504944.15' X: 828362.38'
UTM, NAD 83 (ZONE 13)
Y: 11759170.31' X: 2133102.30'

EXHIBIT A

State of New Mexico

Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION

1220 South St. Francis Dr.

Santa Fe, NM 87505

Form C-102

Revised August 1, 2011

Submit one copy to appropriate

District Office

AMENDED REPORT

District I
1625 N. French Dr., Hobbs, NM 88240
Phone: (575) 393-6161 Fax: (575) 393-0720
District II
811 S. First St., Artesia, NM 88210
Phone: (575) 748-1283 Fax: (575) 748-9720
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1000 Rio Brazos Road, Aztec, NM 87410
Phone: (505) 334-6178 Fax: (505) 334-6170
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87505
Phone: (505) 476-3460 Fax: (505) 476-3462

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code		³ Pool Name	
⁴ Property Code		⁵ Property Name TOSTADA 7 STATE COM			⁶ Well Number 602H
⁷ OGRID No.		⁸ Operator Name CENTENNIAL RESOURCE PRODUCTION, LLC			⁹ Elevation 3616.8'

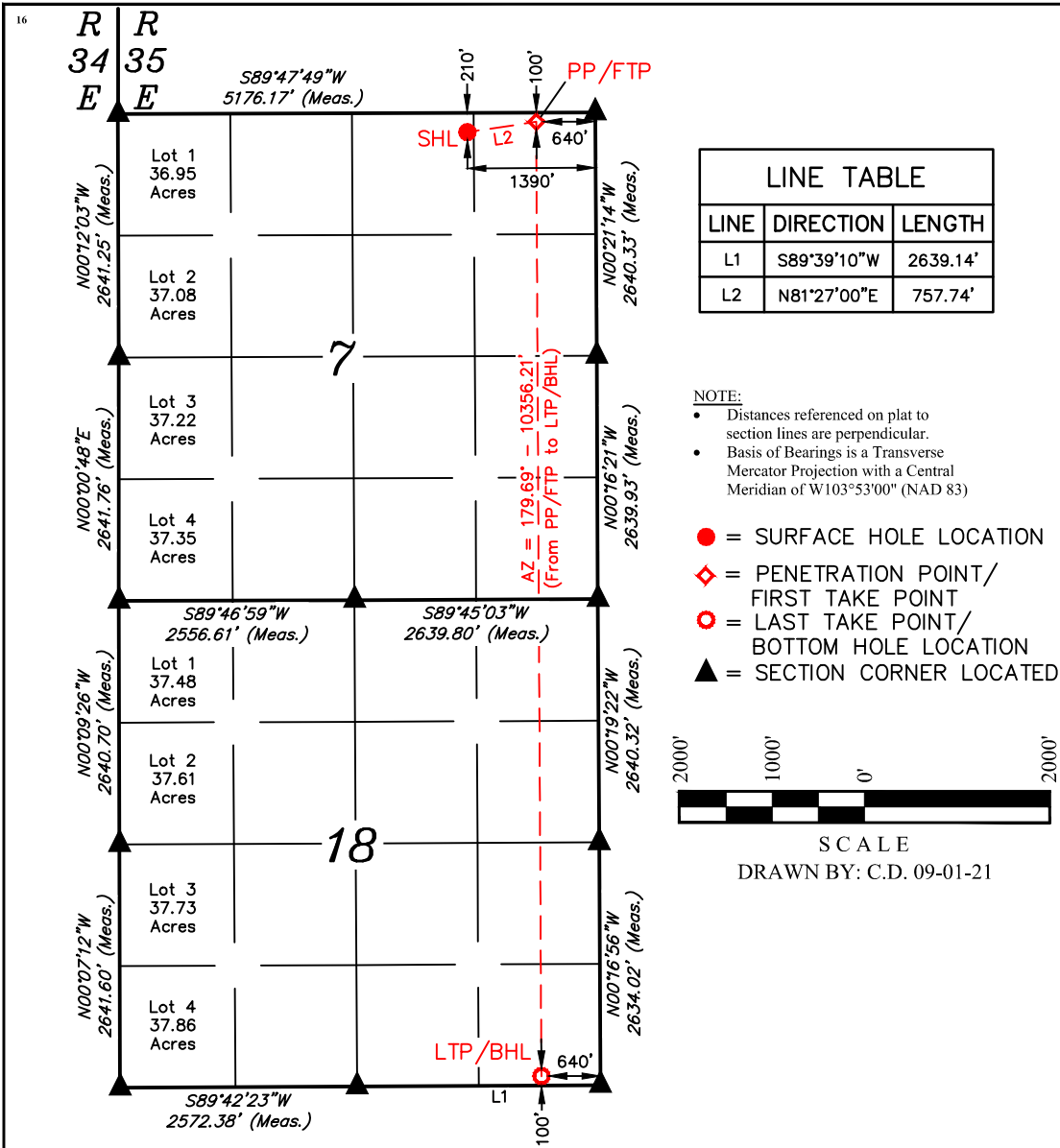
¹⁰ Surface Location

UL or lot no. B	Section 7	Township 22S	Range 35E	Lot Idn	Feet from the 210	North/South line NORTH	Feet from the 1390	East/West line EAST	County LEA
--------------------	--------------	-----------------	--------------	---------	----------------------	---------------------------	-----------------------	------------------------	---------------

¹¹ Bottom Hole Location If Different From Surface

UL or lot no. P	Section 18	Township 22S	Range 35E	Lot Idn	Feet from the 100	North/South line SOUTH	Feet from the 640	East/West line EAST	County LEA
¹² Dedicated Acres		¹³ Joint or Infill		¹⁴ Consolidation Code		¹⁵ Order No.			

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.



¹⁷ OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Signature _____ Date _____
Printed Name _____
E-mail Address _____

¹⁸ SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

August 24, 2021

Date of Survey
Signature and Seal of Professional Surveyor:



Certificate Number:

NAD 83 (SURFACE HOLE LOCATION)
LATITUDE = 32°24'46.42" (32.412896°)
LONGITUDE = 103°24'09.88" (103.402744°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 515192.77' X: 828514.26'
UTM, NAD 83 (ZONE 13)
Y: 11769418.39' X: 2133190.26'

NAD 83 (PP/FTP)
LATITUDE = 32°24'47.50" (32.413196°)
LONGITUDE = 103°24'01.13" (103.400315°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 515308.57' X: 829262.99'
UTM, NAD 83 (ZONE 13)
Y: 11769538.84' X: 2133938.15'

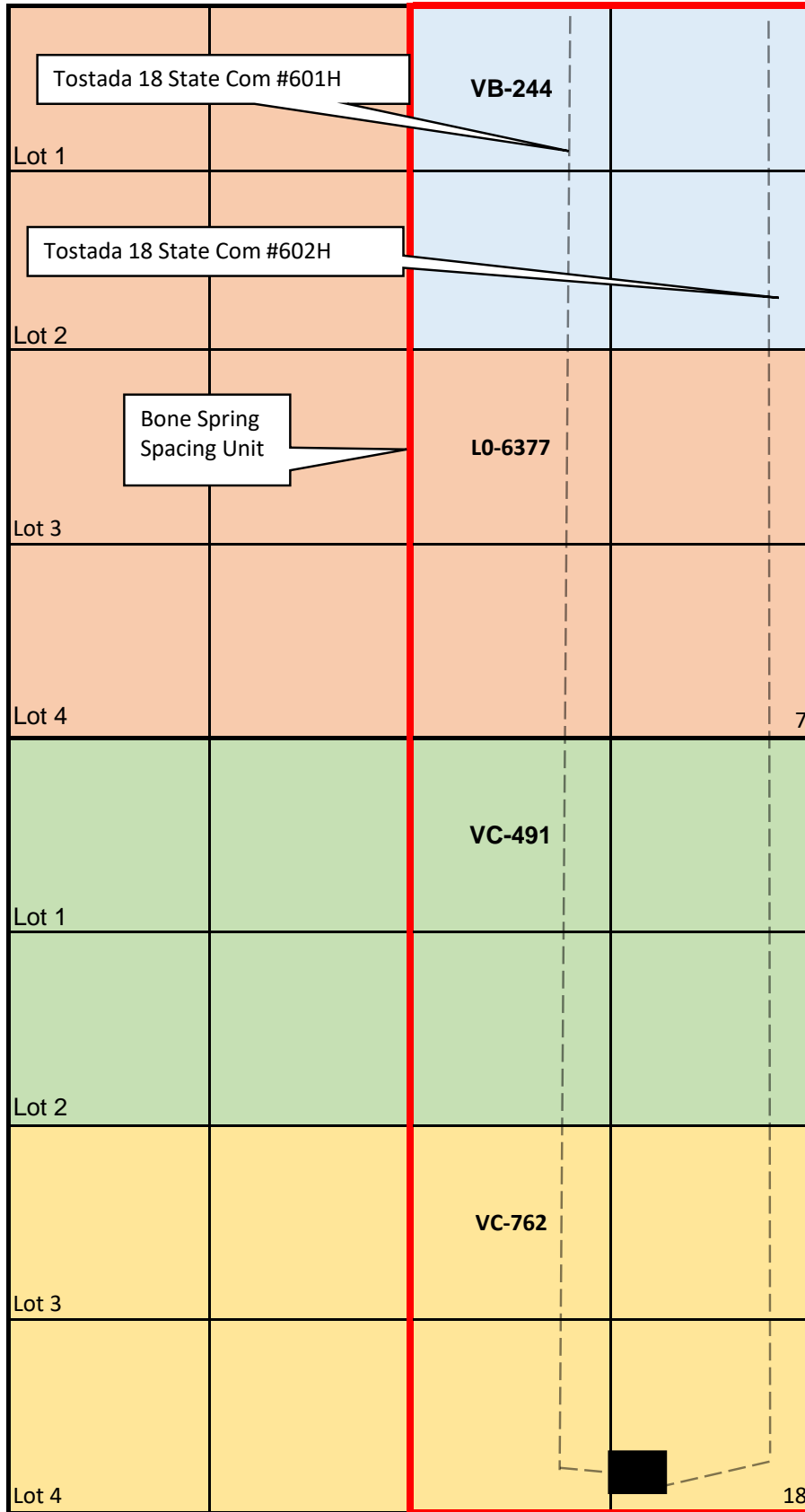
NAD 83 (LTP/BHL)
LATITUDE = 32°23'05.05" (32.384735°)
LONGITUDE = 103°24'01.03" (103.400286°)
STATE PLANE NAD 83 (N.M. EAST)
Y: 504954.42' X: 829362.17'
UTM, NAD 83 (ZONE 13)
Y: 11759186.81' X: 2134101.89'

EXHIBIT A

Exhibit C-2

Ownership Map

Township 22 South, Range 35 East, Lea County, New Mexico



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EXHIBIT A
Exhibit C-3

Tostada 18 State Com
Ownership Schedule

Name	Address	Interest Type	Working Interest
Owners to be Pooled			
Elk Range Royalties, LP	2850 N. Harwood Street, 19th Floor	ORRI	N/A
Legacy Reserves Operating, LP	303 W. Wall St., Ste. 1800 Midland, TX 79701	ORRI	N/A
Grewal (Royaly), LLC	45 Rockefeller Plaza, Ste. 2410 New York, NY 10111	ORRI	N/A
Pegasus Resources, LLC	P.O. Box 470698 Ft. Worth, TX 76147	ORRI	N/A
McMullen Minerals, LLC	P.O. Box 470857 Ft. Worth, TX 76147	ORRI	N/A
Leo K. Birkby	10432 E. Palo Brea Drive Scottsdale, AZ 85262	ORRI	N/A
Deets D. Justice	310 Pleasant Drive Austin, TX 78746	ORRI	N/A
YMC Royalty Company, LP	15603 Kuykendahl, Ste. 200 Houston, TX 77090	ORRI	N/A
Atlas OBO Energy, LP	1900 St. James Place, Suite 800 Houston, TX 77056	ORRI	N/A
David J. Darling	746 Palmer Avenue Glenwood Springs, CO 81601	ORRI	N/A
Amy Darling Wood	16602 Palm Royal Drive, Apt #1519	ORRI	N/A
Laurance Howard Merritt	221 S. Lomita Avenue Ojai, CA 93023	ORRI	N/A
Elodie Brown	15 Cypress Point Wimberely, TX 78676	ORRI	N/A
Pecas Management, LP	3138 Quail Valley East Drive Missouri City, TX 77489	ORRI	N/A
Karen Johnston	2017 Quail Hollow Run Carlsbad, NM 88220	ORRI	N/A
The Board of Regents of the Univeristy of Texas System for the use and benefit of The University of Texas M.D. Anderson Caner Center	P.O. Box 551 Midland, TX 79702	ORRI	N/A
Presbyterian Healthcare Foundation	8440 Walnut Hill Lane, Ste. 800 Dallas, TX 75231	ORRI	N/A
Presbyterian Village North Foundation	8440 Walnut Hill Lane, Ste. 800 Dallas, TX 75231	ORRI	N/A
Doil Oil & Gas Corporation	1536 Cole Blvd, Ste. 225 Golden, CO 80401	Working Interest	Pending Title
Atlas OBO Energy, LP	1900 St. James Place, Suite 800 Houston, TX 77056	Working Interest	0.02500000
MRC Permian Company	5400 LBJ Freeway, Suite 1500 Dallas, TX 75240	Working Interest	0.09375000
Total:			0.11875000
ADD ORRI			
Owners NOT being Pooled			
Centennial Resource Production, LLC	1001 17th St., Suite 1800 Denver, CO 80202	Working Interest	0.88125000
Total:			0.88125000
Total Working Interest:			
			1.00000000

BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Exhibit No. C3

Submitted by: Centennial Resource Production, LLC

Hearing Date: November 04, 2021

Case No. 22253



September 7, 2021

RE: Tostada 7 State Com #601H
SHL: 210' FNL Sec. 7 & 1420' FEL Sec. 7 T22S R35E
BHL: 100' FSL Sec. 18 & 1640' FEL Sec. 18 T22S R35E
Lea County, New Mexico

To Whom it May Concern:

Centennial Resource Production, LLC ("CRP") proposes to drill and complete the Tostada 7 State Com #601H as a horizontal well to test the Bone Spring Formation at a TVD of 10,900 feet. The E/2 of Section 7, Township 22 South, Range 35 East and the E/2 of Section 18, Township 22 South, Range 35 East, Lea County, New Mexico will be dedicated to the well as the proration unit being a total of 640.00 acres. Please see the enclosed AFE in the amount of \$8,726,301.00

Upon your response we will send a Joint Operating Agreement ("JOA") with an effective date of September 1, 2021. The JOA contains a proposed overhead rate of \$8,000 per month for drilling and \$800 per month for producing and provides for a 100%/300%/300% non-consent penalty.

In the space provided below, please indicate your election and return one original copy of this letter along with an original copy of the enclosed AFE or email me a copy at gavin.smith@cdevinc.com. Should you have any questions, please call me at (720) 499-1474.

Best Regards

A handwritten signature in blue ink, appearing to read "Gavin Smith", written over a horizontal line.

Gavin Smith, CPL
Senior Landman

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. C4
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253



THE UNDERSIGNED HEREBY ELECTS **TO PARTICIPATE** IN THE CAPTIONED TOSTADA 7 STATE COM #601H WELLBORE AND TO WAIVE THE NEED FOR A COMPLETION ELECTION.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

THE UNDERSIGNED HEREBY ELECTS **NOT TO PARTICIPATE** IN THE CAPTIONED TOSTADA 7 STATE COM #601H WELLBORE, AND TO GO NONCONSENT.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

EXHIBIT A**Authorization for Expenditure**

AFE Number	401843	Original
Drilling Total (\$)	\$3,154,283	
Completion Total (\$)	\$3,441,467	
Facilities Total (\$)	\$1,422,381	
Flowback Total (\$)	\$708,170	
AFE Total (\$)	\$8,726,301	

AFE Description

Property Name	Well: Tostada 7 State Com 601H	State	New Mexico
AFE Type	Drill and Complete		
Operator	Centennial Resource Production, LLC	Field	Delaware Basin - NM
Scheduled Spud Date	Dec 14, 2021	Estimated TVD (ft)	
Target Zone	TBSG SAND	Estimated MD (ft)	

Non Operator Approval

Company	
Approved By	
Title	
Date	

Cost Estimate

Account	Description	Total (\$)	Account	Description	Total (\$)
8015.1000	IDC - PERMITS,LICENSES,ETC	\$15,000.00	8015.1100	IDC - STAKING & SURVEYING	\$15,000.00
8015.1200	IDC - LEGAL, TITLE SERVICES	\$13,000.00	8015.1300	IDC - SURFACE DAMAGE / ROW	\$15,000.00
8015.1400	IDC - ROAD, LOCATIONS, PITS	\$105,000.00	8015.1500	IDC - RIG MOB / TRUCKING	\$90,000.00
8015.1600	IDC - RIG MOB / STANDBY RATE	\$45,000.00	8015.1700	IDC - DAYWORK CONTRACT	\$336,000.00
8015.1800	IDC - FOOTAGE CONTRACT	\$0.00	8015.1900	IDC - DIRECTNL DRILL & SURVEY	\$300,000.00
8015.2000	IDC - CONDUCTOR HOLE & SERVICE	\$27,500.00	8015.2100	IDC - WIRELINE SVCS CASED&OPEN	\$0.00
8015.2200	IDC - BITS, TOOLS, STABILIZERS	\$70,000.00	8015.2300	IDC - FUEL / POWER	\$80,500.00
8015.2400	IDC - RIG WATER	\$17,000.00	8015.2500	IDC - MUD/CHEMICALS/ACIDIZING	\$165,000.00
8015.2600	IDC - MUD LOGGING	\$0.00	8015.2700	IDC - INSPECTION, TESTING & REPAIR	\$55,000.00
8015.2800	IDC - CORE ANALYSIS	\$0.00	8015.2900	IDC - OPEN/CASED HOLE LOGGING	\$0.00
8015.3000	IDC - CEMENT SERV/FLOAT EQUIP	\$195,000.00	8015.3100	IDC - CASING CREW & TOOLS	\$65,000.00
8015.3200	IDC - CONTRACT LABOR/ROUSTABOUT	\$20,000.00	8015.3400	IDC - MATERIALS & SUPPLIES	\$5,000.00
8015.3500	IDC - TRUCKING/VACUUM/ TRANSP	\$18,000.00	8015.3600	IDC - SOLIDS CONTROL/ CLOSED LOOP SYSTEM	\$44,000.00
8015.3700	IDC - DISPOSAL	\$105,000.00	8015.3800	IDC - WELLHEAD PREPARE/REPAIR	\$30,500.00
8015.3900	IDC - FISHING TOOLS & SERVICES	\$0.00	8015.4100	IDC - RENTAL EQUIPMENT	\$45,000.00
8015.4200	IDC - MANCAMP	\$47,000.00	8015.4300	IDC - WELLSITE SUPERVISION	\$99,000.00
8015.4400	IDC - SUPERVISION/ENGINEERING	\$0.00	8015.4600	IDC - SAFETY / ENVIRONMENTAL	\$12,400.00
8015.4800	IDC - OVERHEAD	\$0.00	8015.5000	IDC - WELL CONTROL INSURANCE	\$11,781.25
8015.5200	IDC - CONTINGENCY	\$130,960.88	8015.1310	IDC - PERMANENT EASEMENT	\$12,000.00
8015.1950	IDC - LOST IN HOLE	\$0.00	8015.2150	IDC - DRILL BIT	\$84,000.00
8015.2350	IDC - FUEL/MUD	\$100,000.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8020.1000	TDC - CASING - CONDUCTOR	\$0.00	8020.1100	TDC - CASING - SURFACE	\$68,796.88
8020.1200	TDC - CASING - INTERMEDIATE - 1	\$151,937.50	8020.1300	TDC - CASING - INTERMEDIATE 2	\$0.00
8020.1400	TDC - CASING - PRODUCTION	\$434,031.25	8020.1500	TDC - WELLHEAD EQUIPMENT	\$65,875.00
8020.1700	TDC - PACKER/DOWNHOLE TOOLS	\$60,000.00	8020.1800	TDC - CONTINGENCY	\$0.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8025.1000	ICC - STAKING & SURVEYING	\$0.00	8025.1100	ICC - ROAD, LOCATIONS, PITS	\$10,500.00

EXHIBIT A

8025.1200	ICC - COMPLETION RIG	\$.00	8025.1400	ICC - WIRELINE OPEN/CASED HOLE	\$20,000.00
8025.1500	ICC - FUEL / POWER	\$280,740.00	8025.1600	ICC - COILED TUBING	\$101,000.00
8025.1700	ICC - CEMENTING & SERVICES	\$.00	8025.1800	ICC - WATER DISPOSAL/VACUUM TRUCK	\$15,435.00
8025.1900	ICC - INSPECTION & TESTING	\$.00	8025.2000	ICC - TRUCKING	\$13,125.00
8025.2200	ICC - ELECTRIC LOGGING / PERFORATING	\$279,100.00	8025.2300	ICC - COMPLETION FLUIDS	\$10,000.00
8025.2400	ICC - CASING CREW AND TOOLS	\$.00	8025.2500	ICC - WELL STIMULATION/FRACTUR	\$1,830,482.00
8025.2600	ICC - CONTRACT LABOR/ROUSTABOUT	\$15,000.00	8025.3000	ICC - WATER HANDLING	\$150,298.00
8025.3100	ICC - WELLHEAD/FRACTREE REPAIR	\$40,000.00	8025.3200	ICC - FISHING TOOLS & SERVICES	\$.00
8025.3300	ICC - COMMUNICATIONS	\$.00	8025.3400	ICC - RENTAL EQUIPMENT	\$204,000.00
8025.3500	ICC - WELLSITE SUPERVISION	\$72,900.00	8025.3600	ICC - SUPERVISION/ENGINEERING	\$5,000.00
8025.3700	ICC - SAFETY / ENVIRONMENTAL	\$15,000.00	8025.3800	ICC - OVERHEAD	\$10,000.00
8025.4000	ICC - WELL CONTROL INSURANCE	\$.00	8025.4200	ICC - CONTINGENCY	\$.00
8025.3050	ICC - SOURCE WATER	\$321,637.00	8025.4400	ICC - COMPANY LABOR	\$.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8030.1000	TCC - CASING - PRODUCTION	\$.00	8030.1600	TCC - PROD LINER & EQUIPMENT	\$.00
8030.1700	TCC - PACKER/DOWNHOLE TOOLS	\$.00	8030.2000	TCC - WELLHEAD EQUIPMENT	\$47,250.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8035.1400	FAC - ROAD LOCATIONS PITS	\$.00	8035.1600	FAC - TRANSPORTATION TRUCKING	\$10,000.00
8035.2200	FAC - CONTRACT LABOR / ROUSTAB	\$177,500.00	8035.2400	FAC - SUPERVISION	\$16,000.00
8035.2700	FAC - P-LINE F-LINE LINEPIPE	\$.00	8035.2900	FAC - TANK BATTERY	\$174,900.00
8035.3000	FAC - HEATER TREATER/SEPERATOR	\$115,000.00	8035.3200	FAC - VALVES FITTINGS & PIPE	\$152,000.00
8035.3300	FAC - CIRCULATING TRNSFER PUMP	\$21,750.00	8035.3400	FAC - METER & LACT	\$136,250.00
8035.3600	FAC - ELECTRICAL	\$75,000.00	8035.3700	FAC - COMM TELEMETRY & AUTOMAT	\$55,000.00
8035.3800	FAC - FLARE/COMBUSTER	\$37,500.00	8035.4500	FAC - CONTINGENCY	\$67,732.43
8035.1300	FAC - SURFACE DAMAGE / ROW	\$.00	8035.1500	FAC - MATERIALS & SUPPLIES	\$.00
8035.1700	FAC - RENTAL EQUIPMENT	\$26,950.00	8035.1800	FAC - FUEL / POWER	\$.00
8035.1900	FAC - WATER DISPOSAL / SWD	\$.00	8035.2000	FAC - WASTE DISPOSAL	\$.00
8035.2100	FAC - INSPECTION & TESTING	\$.00	8035.2300	FAC - FRAC TANK RENTAL	\$.00
8035.2500	FAC - CONSULTING SERVICES	\$.00	8035.2600	FAC - INJECTION PUMP	\$.00
8035.3100	FAC - DEHYDRATOR EQUIPMENT	\$.00	8035.3500	FAC - COMPRESSOR	\$.00
8035.4000	FAC - SAFETY / ENVIRONMENTAL	\$2,500.00	8035.4100	FAC - OVERHEAD	\$.00
8035.4300	FAC - INSURANCE	\$.00	8035.1310	FAC - PEMANENT EASEMENT	\$.00
8035.4400	FAC - COMPANY LABOR	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8036.1000	PLN - PERMITS LICENSES ETC	\$.00	8036.1100	PLN - STAKING & SURVEYING	\$.00
8036.1200	PLN - LEGAL TITLE SERVICES	\$.00	8036.1300	PLN - SURFACE DAMAGE / ROW	\$.00
8036.1310	PLN - PEMANENT EASEMENT	\$24,000.00	8036.1400	PLN - ROAD LOCATIONS PITS	\$.00
8036.1500	PLN - MATERIALS & SUPPLIES	\$.00	8036.1600	PLN - TRANSPORTATION TRUCKING	\$.00
8036.1700	PLN - RENTAL EQUIPMENT	\$.00	8036.1900	PLN - WATER DISPOSAL / SWD	\$.00
8036.2000	PLN - WASTE DISPOSAL	\$.00	8036.2100	PLN - INSPECTION & TESTING	\$.00
8036.2200	PLN - CONTRACT LABOR	\$.00	8036.2300	PLN - FRAC TANK RENTAL	\$.00
8036.2400	PLN - SUPERVISION	\$.00	8036.2500	PLN - CONSULTING SERVICES	\$.00
8036.2700	PLN - PIPELINE	\$313,632.00	8036.2800	PLN - FLOWLINE	\$.00
8036.2900	PLN - TANK BATTERY	\$.00	8036.3000	PLN - SEPARATOR / SCRUBBER	\$.00
8036.3100	PLN - TREATING EQUIPMENT	\$.00	8036.3200	PLN - VALVES FITTINGS & PIPE	\$.00
8036.3300	PLN - PUMP	\$.00	8036.3400	PLN - METER	\$.00
8036.3500	PLN - COMPRESSOR	\$.00	8036.3600	PLN - ELECTRICAL SUPPLIES	\$.00
8036.3610	PLN - POWER DISTRIBUTION MATERIAL	\$8,333.33	8036.3620	PLN - POWER DISTRIBUTION LABOR	\$8,333.33
8036.3700	PLN - AUTOMATION	\$.00	8036.4000	PLN - SAFETY / ENVIRONMENTAL	\$.00
8036.4300	PLN - INSURANCE	\$.00	8036.4400	PLN - COMPANY LABOR	\$.00
8036.4500	PLN - CONTINGENCY	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8040.1100	IFC - ROADS LOCATIONS / PITS	\$.00	8040.1200	IFC - COMPLETION RIG	\$9,200.00
8040.1400	IFC - WIRELINE OPEN/CASED HOLE	\$5,500.00	8040.1500	IFC - FUEL / POWER	\$.00
8040.1600	IFC - COILED TUBING	\$.00	8040.1700	IFC - CEMENTING & SERVICES	\$.00
8040.1899	IFC - FRAC WATER RECOVERY	\$227,470.28	8040.1900	IFC - INSPECTION & TESTING	\$.00
8040.2000	IFC - TRUCKING/VACUUM/TRANSP	\$20,000.00	8040.2200	IFC - ELECTRIC LOGGING/PERFORATING	\$.00
8040.2300	IFC - COMPLETION FLUID	\$.00	8040.2400	IFC - CASING CREW AND TOOLS	\$.00
8040.2600	IFC - CONTRACT LABOR/ROUSTABOUT	\$.00	8040.2800	IFC - MATERIAL & SUPPLIES	\$150,000.00
8040.2900	IFC - WELL TESTING / FLOWBACK	\$.00	8040.3100	IFC - WELLHEAD/FRAC TREE REPAIR	\$.00

EXHIBIT A

8040.3200	IFC - FISHING TOOLS & SERVICES	\$70,000.00	8040.3400	IFC - RENTAL EQUIPMENT	\$3,600.00
8040.3500	IFC - WELLSITE SUPERVISION	\$5,000.00	8040.3700	IFC - SAFETY / ENVIRONMENTAL	\$.00
8040.4200	IFC - CONTINGENCY	\$.00	8040.4400	IFC - COMPANY LABOR	\$.00
8040.4500	IFC - SWABBING	\$.00	8040.2500	IFC - WELL STIMULATION/FRACTURE	\$5,000.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8045.1100	TFC - TUBING	\$65,000.00	8045.1200	TFC - SUCKER RODS & ACCESSORY	\$.00
8045.1300	TFC - DOWNHOLE ARTIFICIAL LIFT EQPT	\$25,000.00	8045.1500	TFC - SUBSURFACE PUMPS	\$.00
8045.1600	TFC - PROD LINER & EQUIPMENT	\$.00	8045.1700	TFC - PACKER/DOWNHOLE TOOLS	\$8,500.00
8045.1900	TFC - PUMPING UNITS /SURFACE LIFT EQUIPMENT	\$.00	8045.2000	TFC - WELLHEAD EQUIPMENT	\$18,900.00
8045.2500	TFC - VALVES / CONNECTIONS / FITINGS	\$40,000.00	8045.3100	TFC - MEASUREMENT EQUIPMENT	\$15,000.00
8045.3200	TFC - COMM, TELEMETRY & AUTOMATION	\$.00	8045.3400	TFC - CONTRACTOR LABOR INSTALL	\$40,000.00
8045.3500	TFC - CONTINGENCY	\$.00	8045.4400	TFC - COMPANY LABOR	\$.00



September 7, 2021

RE: Tostada 7 State Com #602H
SHL: 210' FNL Sec. 7 & 1390' FEL Sec. 7 T22S R35E
BHL: 100' FSL Sec. 18 & 640' FEL Sec. 18 T22S R35E
Lea County, New Mexico


To Whom it May Concern:

Centennial Resource Production, LLC ("CRP") proposes to drill and complete the Tostada 7 State Com #602H as a horizontal well to test the Bone Spring Formation at a TVD of 10,900 feet. The E/2 of Section 7, Township 22 South, Range 35 East and the E/2 of Section 18, Township 22 South, Range 35 East, Lea County, New Mexico will be dedicated to the well as the proration unit being a total of 640.00 acres. Please see the enclosed AFE in the amount of \$8,726,301.00

Upon your response we will send a Joint Operating Agreement ("JOA") with an effective date of September 1, 2021. The JOA contains a proposed overhead rate of \$8,000 per month for drilling and \$800 per month for producing and provides for a 100%/300%/300% non-consent penalty.

In the space provided below, please indicate your election and return one original copy of this letter along with an original copy of the enclosed AFE or email me a copy at gavin.smith@cdevinc.com. Should you have any questions, please call me at (720) 499-1474.

Best Regards


Gavin Smith, CPL
Senior Landman



THE UNDERSIGNED HEREBY ELECTS TO PARTICIPATE IN THE CAPTIONED TOSTADA 7 STATE COM #602H WELLBORE AND TO WAIVE THE NEED FOR A COMPLETION ELECTION.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

THE UNDERSIGNED HEREBY ELECTS NOT TO PARTICIPATE IN THE CAPTIONED TOSTADA 7 STATE COM #602H WELLBORE, AND TO GO NONCONSENT.

AGREED TO and ACCEPTED this ____ day of _____, 2021.

Owner Name: _____

Signature: _____

By: _____

Title: _____

EXHIBIT A**Authorization for Expenditure**

AFE Number	401844	Original
Drilling Total (\$)	\$3,154,283	
Completion Total (\$)	\$3,441,467	
Facilities Total (\$)	\$1,422,381	
Flowback Total (\$)	\$708,170	
AFE Total (\$)	\$8,726,301	

AFE Description

Property Name	Well: Tostada 7 State Com 602H	State	New Mexico
AFE Type	Drill and Complete		
Operator	Centennial Resource Production, LLC	Field	Delaware Basin - NM
Scheduled Spud Date	Dec 29, 2021	Estimated TVD (ft)	
Target Zone	TBSG SAND	Estimated MD (ft)	

Non Operator Approval

Company	
Approved By	
Title	
Date	

Cost Estimate

Account	Description	Total (\$)	Account	Description	Total (\$)
8015.1000	IDC - PERMITS,LICENSES,ETC	\$15,000.00	8015.1100	IDC - STAKING & SURVEYING	\$15,000.00
8015.1200	IDC - LEGAL, TITLE SERVICES	\$13,000.00	8015.1300	IDC - SURFACE DAMAGE / ROW	\$15,000.00
8015.1400	IDC - ROAD, LOCATIONS, PITS	\$105,000.00	8015.1500	IDC - RIG MOB / TRUCKING	\$90,000.00
8015.1600	IDC - RIG MOB / STANDBY RATE	\$45,000.00	8015.1700	IDC - DAYWORK CONTRACT	\$336,000.00
8015.1800	IDC - FOOTAGE CONTRACT	\$0.00	8015.1900	IDC - DIRECTNL DRILL & SURVEY	\$300,000.00
8015.2000	IDC - CONDUCTOR HOLE & SERVICE	\$27,500.00	8015.2100	IDC - WIRELINE SVCS CASED&OPEN	\$0.00
8015.2200	IDC - BITS, TOOLS, STABILIZERS	\$70,000.00	8015.2300	IDC - FUEL / POWER	\$80,500.00
8015.2400	IDC - RIG WATER	\$17,000.00	8015.2500	IDC - MUD/CHEMICALS/ACIDIZING	\$165,000.00
8015.2600	IDC - MUD LOGGING	\$0.00	8015.2700	IDC - INSPECTION, TESTING & REPAIR	\$55,000.00
8015.2800	IDC - CORE ANALYSIS	\$0.00	8015.2900	IDC - OPEN/CASED HOLE LOGGING	\$0.00
8015.3000	IDC - CEMENT SERV/FLOAT EQUIP	\$195,000.00	8015.3100	IDC - CASING CREW & TOOLS	\$65,000.00
8015.3200	IDC - CONTRACT LABOR/ROUSTABOUT	\$20,000.00	8015.3400	IDC - MATERIALS & SUPPLIES	\$5,000.00
8015.3500	IDC - TRUCKING/VACUUM/ TRANSP	\$18,000.00	8015.3600	IDC - SOLIDS CONTROL/ CLOSED LOOP SYSTEM	\$44,000.00
8015.3700	IDC - DISPOSAL	\$105,000.00	8015.3800	IDC - WELLHEAD PREPARE/REPAIR	\$30,500.00
8015.3900	IDC - FISHING TOOLS & SERVICES	\$0.00	8015.4100	IDC - RENTAL EQUIPMENT	\$45,000.00
8015.4200	IDC - MANCAMP	\$47,000.00	8015.4300	IDC - WELLSITE SUPERVISION	\$99,000.00
8015.4400	IDC - SUPERVISION/ENGINEERING	\$0.00	8015.4600	IDC - SAFETY / ENVIRONMENTAL	\$12,400.00
8015.4800	IDC - OVERHEAD	\$0.00	8015.5000	IDC - WELL CONTROL INSURANCE	\$11,781.25
8015.5200	IDC - CONTINGENCY	\$130,960.88	8015.1310	IDC - PERMANENT EASEMENT	\$12,000.00
8015.1950	IDC - LOST IN HOLE	\$0.00	8015.2150	IDC - DRILL BIT	\$84,000.00
8015.2350	IDC - FUEL/MUD	\$100,000.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8020.1000	TDC - CASING - CONDUCTOR	\$0.00	8020.1100	TDC - CASING - SURFACE	\$68,796.88
8020.1200	TDC - CASING - INTERMEDIATE - 1	\$151,937.50	8020.1300	TDC - CASING - INTERMEDIATE 2	\$0.00
8020.1400	TDC - CASING - PRODUCTION	\$434,031.25	8020.1500	TDC - WELLHEAD EQUIPMENT	\$65,875.00
8020.1700	TDC - PACKER/DOWNHOLE TOOLS	\$60,000.00	8020.1800	TDC - CONTINGENCY	\$0.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8025.1000	ICC - STAKING & SURVEYING	\$0.00	8025.1100	ICC - ROAD, LOCATIONS, PITS	\$10,500.00

EXHIBIT A

8025.1200	ICC - COMPLETION RIG	\$.00	8025.1400	ICC - WIRELINE OPEN/CASED HOLE	\$20,000.00
8025.1500	ICC - FUEL / POWER	\$280,740.00	8025.1600	ICC - COILED TUBING	\$101,000.00
8025.1700	ICC - CEMENTING & SERVICES	\$.00	8025.1800	ICC - WATER DISPOSAL/VACUUM TRUCK	\$15,435.00
8025.1900	ICC - INSPECTION & TESTING	\$.00	8025.2000	ICC - TRUCKING	\$13,125.00
8025.2200	ICC - ELECTRIC LOGGING / PERFORATING	\$279,100.00	8025.2300	ICC - COMPLETION FLUIDS	\$10,000.00
8025.2400	ICC - CASING CREW AND TOOLS	\$.00	8025.2500	ICC - WELL STIMULATION/FRACTUR	\$1,830,482.00
8025.2600	ICC - CONTRACT LABOR/ROUSTABOUT	\$15,000.00	8025.3000	ICC - WATER HANDLING	\$150,298.00
8025.3100	ICC - WELLHEAD/FRACTREE REPAIR	\$40,000.00	8025.3200	ICC - FISHING TOOLS & SERVICES	\$.00
8025.3300	ICC - COMMUNICATIONS	\$.00	8025.3400	ICC - RENTAL EQUIPMENT	\$204,000.00
8025.3500	ICC - WELLSITE SUPERVISION	\$72,900.00	8025.3600	ICC - SUPERVISION/ENGINEERING	\$5,000.00
8025.3700	ICC - SAFETY / ENVIRONMENTAL	\$15,000.00	8025.3800	ICC - OVERHEAD	\$10,000.00
8025.4000	ICC - WELL CONTROL INSURANCE	\$.00	8025.4200	ICC - CONTINGENCY	\$.00
8025.3050	ICC - SOURCE WATER	\$321,637.00	8025.4400	ICC - COMPANY LABOR	\$.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8030.1000	TCC - CASING - PRODUCTION	\$.00	8030.1600	TCC - PROD LINER & EQUIPMENT	\$.00
8030.1700	TCC - PACKER/DOWNHOLE TOOLS	\$.00	8030.2000	TCC - WELLHEAD EQUIPMENT	\$47,250.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8035.1400	FAC - ROAD LOCATIONS PITS	\$.00	8035.1600	FAC - TRANSPORTATION TRUCKING	\$10,000.00
8035.2200	FAC - CONTRACT LABOR / ROUSTAB	\$177,500.00	8035.2400	FAC - SUPERVISION	\$16,000.00
8035.2700	FAC - P-LINE F-LINE LINEPIPE	\$.00	8035.2900	FAC - TANK BATTERY	\$174,900.00
8035.3000	FAC - HEATER TREATER/SEPERATOR	\$115,000.00	8035.3200	FAC - VALVES FITTINGS & PIPE	\$152,000.00
8035.3300	FAC - CIRCULATING TRNSFER PUMP	\$21,750.00	8035.3400	FAC - METER & LACT	\$136,250.00
8035.3600	FAC - ELECTRICAL	\$75,000.00	8035.3700	FAC - COMM TELEMETRY & AUTOMAT	\$55,000.00
8035.3800	FAC - FLARE/COMBUSTER	\$37,500.00	8035.4500	FAC - CONTINGENCY	\$67,732.43
8035.1300	FAC - SURFACE DAMAGE / ROW	\$.00	8035.1500	FAC - MATERIALS & SUPPLIES	\$.00
8035.1700	FAC - RENTAL EQUIPMENT	\$26,950.00	8035.1800	FAC - FUEL / POWER	\$.00
8035.1900	FAC - WATER DISPOSAL / SWD	\$.00	8035.2000	FAC - WASTE DISPOSAL	\$.00
8035.2100	FAC - INSPECTION & TESTING	\$.00	8035.2300	FAC - FRAC TANK RENTAL	\$.00
8035.2500	FAC - CONSULTING SERVICES	\$.00	8035.2600	FAC - INJECTION PUMP	\$.00
8035.3100	FAC - DEHYDRATOR EQUIPMENT	\$.00	8035.3500	FAC - COMPRESSOR	\$.00
8035.4000	FAC - SAFETY / ENVIRONMENTAL	\$2,500.00	8035.4100	FAC - OVERHEAD	\$.00
8035.4300	FAC - INSURANCE	\$.00	8035.1310	FAC - PERMANENT EASEMENT	\$.00
8035.4400	FAC - COMPANY LABOR	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8036.1000	PLN - PERMITS LICENSES ETC	\$.00	8036.1100	PLN - STAKING & SURVEYING	\$.00
8036.1200	PLN - LEGAL TITLE SERVICES	\$.00	8036.1300	PLN - SURFACE DAMAGE / ROW	\$.00
8036.1310	PLN - PERMANENT EASEMENT	\$24,000.00	8036.1400	PLN - ROAD LOCATIONS PITS	\$.00
8036.1500	PLN - MATERIALS & SUPPLIES	\$.00	8036.1600	PLN - TRANSPORTATION TRUCKING	\$.00
8036.1700	PLN - RENTAL EQUIPMENT	\$.00	8036.1900	PLN - WATER DISPOSAL / SWD	\$.00
8036.2000	PLN - WASTE DISPOSAL	\$.00	8036.2100	PLN - INSPECTION & TESTING	\$.00
8036.2200	PLN - CONTRACT LABOR	\$.00	8036.2300	PLN - FRAC TANK RENTAL	\$.00
8036.2400	PLN - SUPERVISION	\$.00	8036.2500	PLN - CONSULTING SERVICES	\$.00
8036.2700	PLN - PIPELINE	\$313,632.00	8036.2800	PLN - FLOWLINE	\$.00
8036.2900	PLN - TANK BATTERY	\$.00	8036.3000	PLN - SEPARATOR / SCRUBBER	\$.00
8036.3100	PLN - TREATING EQUIPMENT	\$.00	8036.3200	PLN - VALVES FITTINGS & PIPE	\$.00
8036.3300	PLN - PUMP	\$.00	8036.3400	PLN - METER	\$.00
8036.3500	PLN - COMPRESSOR	\$.00	8036.3600	PLN - ELECTRICAL SUPPLIES	\$.00
8036.3610	PLN - POWER DISTRIBUTION MATERIAL	\$8,333.33	8036.3620	PLN - POWER DISTRIBUTION LABOR	\$8,333.33
8036.3700	PLN - AUTOMATION	\$.00	8036.4000	PLN - SAFETY / ENVIRONMENTAL	\$.00
8036.4300	PLN - INSURANCE	\$.00	8036.4400	PLN - COMPANY LABOR	\$.00
8036.4500	PLN - CONTINGENCY	\$.00			
Account	Description	Total (\$)	Account	Description	Total (\$)
8040.1100	IFC - ROADS LOCATIONS / PITS	\$.00	8040.1200	IFC - COMPLETION RIG	\$9,200.00
8040.1400	IFC - WIRELINE OPEN/CASED HOLE	\$5,500.00	8040.1500	IFC - FUEL / POWER	\$.00
8040.1600	IFC - COILED TUBING	\$.00	8040.1700	IFC - CEMENTING & SERVICES	\$.00
8040.1899	IFC - FRAC WATER RECOVERY	\$227,470.28	8040.1900	IFC - INSPECTION & TESTING	\$.00
8040.2000	IFC - TRUCKING/VACUUM/TRANSP	\$20,000.00	8040.2200	IFC - ELECTRIC LOGGING/PERFORATING	\$.00
8040.2300	IFC - COMPLETION FLUID	\$.00	8040.2400	IFC - CASING CREW AND TOOLS	\$.00
8040.2600	IFC - CONTRACT LABOR/ROUSTABOUT	\$.00	8040.2800	IFC - MATERIAL & SUPPLIES	\$150,000.00
8040.2900	IFC - WELL TESTING / FLOWBACK	\$.00	8040.3100	IFC - WELLHEAD/FRAC TREE REPAIR	\$.00

EXHIBIT A

8040.3200	IFC - FISHING TOOLS & SERVICES	\$70,000.00	8040.3400	IFC - RENTAL EQUIPMENT	\$3,600.00
8040.3500	IFC - WELLSITE SUPERVISION	\$5,000.00	8040.3700	IFC - SAFETY / ENVIRONMENTAL	\$.00
8040.4200	IFC - CONTINGENCY	\$.00	8040.4400	IFC - COMPANY LABOR	\$.00
8040.4500	IFC - SWABBING	\$.00	8040.2500	IFC - WELL STIMULATION/FRACTURE	\$5,000.00
Account	Description	Total (\$)	Account	Description	Total (\$)
8045.1100	TFC - TUBING	\$65,000.00	8045.1200	TFC - SUCKER RODS & ACCESSORY	\$.00
8045.1300	TFC - DOWNHOLE ARTIFICIAL LIFT EQPT	\$25,000.00	8045.1500	TFC - SUBSURFACE PUMPS	\$.00
8045.1600	TFC - PROD LINER & EQUIPMENT	\$.00	8045.1700	TFC - PACKER/DOWNHOLE TOOLS	\$8,500.00
8045.1900	TFC - PUMPING UNITS /SURFACE LIFT EQUIPMENT	\$.00	8045.2000	TFC - WELLHEAD EQUIPMENT	\$18,900.00
8045.2500	TFC - VALVES / CONNECTIONS / FITINGS	\$40,000.00	8045.3100	TFC - MEASUREMENT EQUIPMENT	\$15,000.00
8045.3200	TFC - COMM, TELEMETRY & AUTOMATION	\$.00	8045.3400	TFC - CONTRACTOR LABOR INSTALL	\$40,000.00
8045.3500	TFC - CONTINGENCY	\$.00	8045.4400	TFC - COMPANY LABOR	\$.00

EXHIBIT A

Exhibit C-5

Date	Action
September 7, 2021	Discussed planned development with MRC Permian
September 8, 2021	Sent initial well proposals for Tostada 18 State Com #601H-#602H
September 10, 2021	Attempted to contact remaining principle owners of Doil Oil & Gas Corp.
September 29, 2021	Contacted by Tony James at Atlas OBO Energy, LP and answered various questions about planned development
October 5, 2021	Filed for compulsory pooling hearing
October 7, 2021	Sent Atlas OBO Energy, LP an Operating Agreement to review

BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Exhibit No. C5

Submitted by: Centennial Resource Production, LLC

Hearing Date: November 04, 2021

Case No. 22253

EXHIBIT A

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

APPLICATION OF CENTENNIAL
RESOURCE PRODUCTION, LLC FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 22253

AFFIDAVIT OF ISABEL HARPER
IN SUPPORT OF CASE NO. 22253

Isabel Harper, of lawful age and being first duly sworn, declares as follows:

1. My name is Isabel Harper. I work for Centennial Resource Production, LLC (“Centennial”) as a Geologist.
2. I have previously testified before the New Mexico Oil Conservation Division as an expert witness in petroleum geology. My credentials as a petroleum geologist have been accepted by the Division and made a matter of record.
3. I am familiar with the application filed by Centennial in this case, and I have conducted a geologic study of the lands in the subject area.
4. Centennial is targeting the Third Bone Spring interval, within the Bone Spring formation, with the proposed **Tostada 7 State Com #601H well**, and **Tostada 7 State Com #602H well**.
5. **Centennial Exhibit D-1** are two project locator maps, reflecting the proposed spacing unit in Sections 7 and 18 in relation to the surrounding area. This map shows the proposed Third Bone Spring wells, depicted by dashed lines and the offsetting Third Bone Spring Sand producing wells.

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D

Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

6. **Centennial Exhibit D-2** is a subsea structure map that I prepared for the Base of the Bone Spring formation and that is representative of the targeted intervals. The structure map shows that the formation is gently dipping to the Southwest in this area. I do not observe any faulting, pinchouts, or other geologic impediments to developing the targeted interval with horizontal wells in this area.

7. **Centennial Exhibit D-3** overlays a cross-section line in blue consisting of three wells penetrating the Bone Spring formation that I used to construct a stratigraphic cross-section from A to A'. I consider these wells to be representative of the geology in the area.

8. **Centennial Exhibit D-4** is a cross section using the representative wells depicted on Exhibit D-3. Each well in the cross-section contains gamma ray, resistivity, and porosity logs. The proposed targeted interval in the Bone Spring formations is labeled on the exhibit. The cross-section demonstrates that the targeted interval extends across the proposed spacing unit.

9. In my opinion, the stand-up orientation of the proposed wells is the preferred orientation for horizontal well development in this area and is appropriate to efficiently and effectively develop the subject acreage.

10. Based on my geologic study, the Bone Spring formation underlying the subject area is suitable for development by horizontal wells, and the acreage comprising the proposed spacing units will contribute more-or-less equally to the production from the wellbores.

11. In my opinion, the granting of Centennial application in this case will be in the best interest of conservation, the prevention of waste, and protection of correlative rights.

12. **Centennial Exhibits D-1** through **D-4** were either prepared by me or compiled under my direction and supervision.

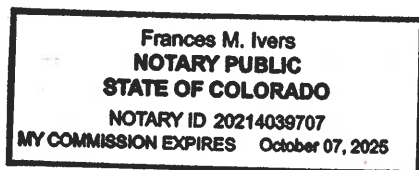
FURTHER AFFIANT SAYETH NOT.

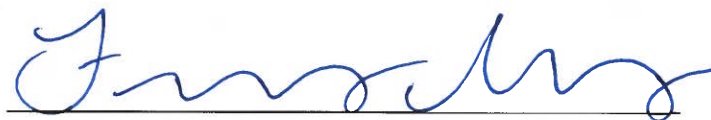
EXHIBIT A


Isabel Harper

STATE OF COLORADO)
)
COUNTY OF Denver)

SUBSCRIBED and SWORN to before me this 2nd day of November
2021 by Isabel Harper.




NOTARY PUBLIC

My Commission Expires:

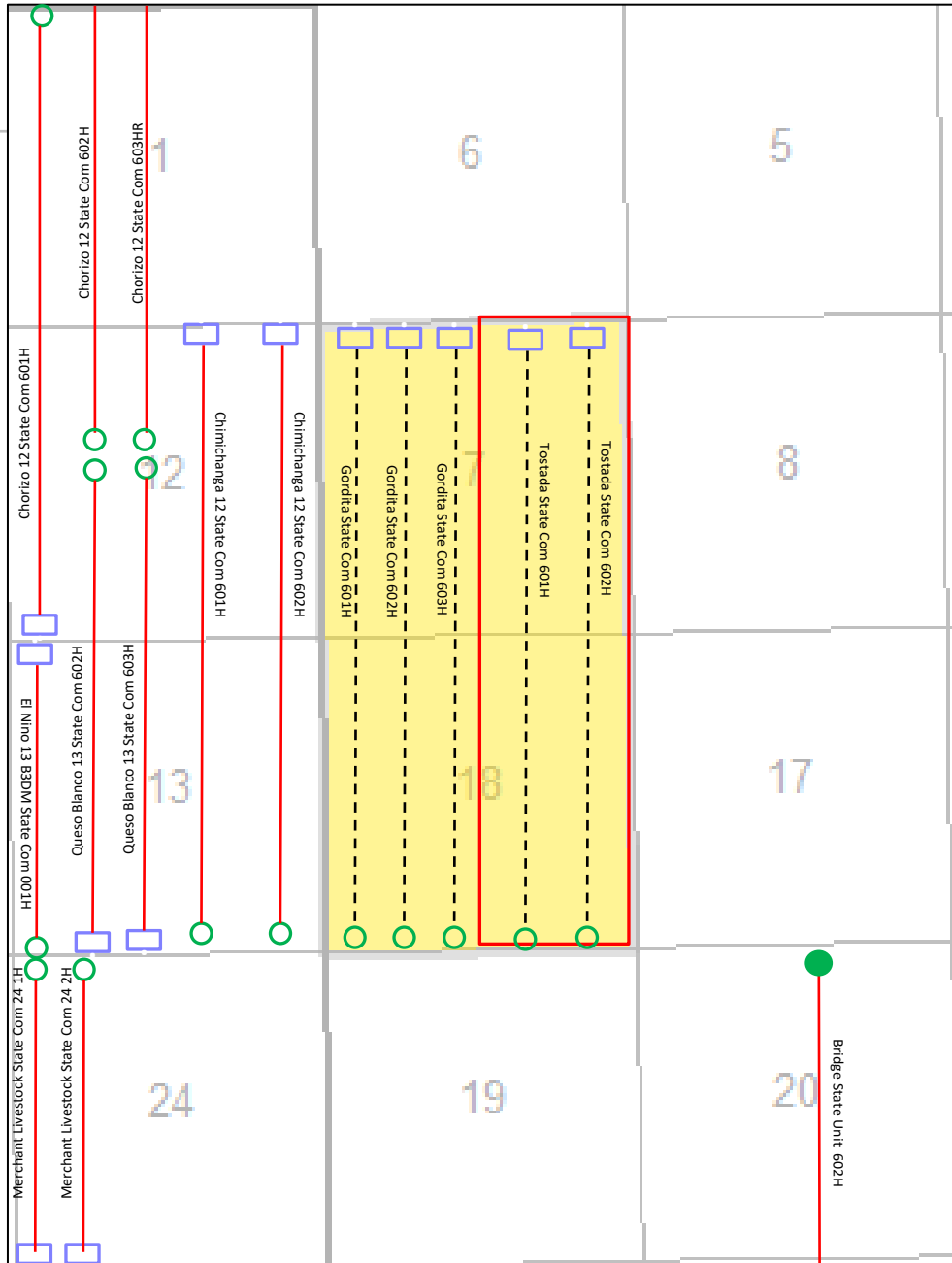
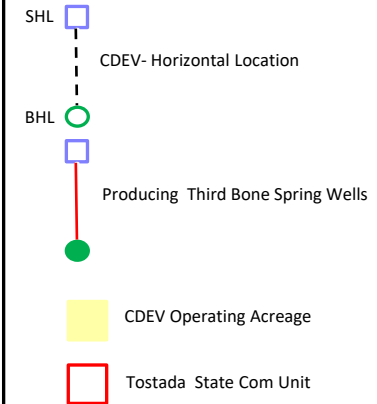
October 7, 2025

EXHIBIT A

Bone Spring Pool

Tostada State Com 601H, 602H

Map Legend



BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Exhibit No. D1

Submitted by: Centennial Resource Production, LLC

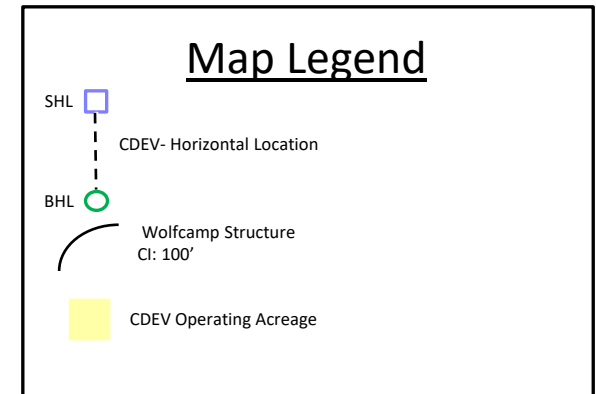
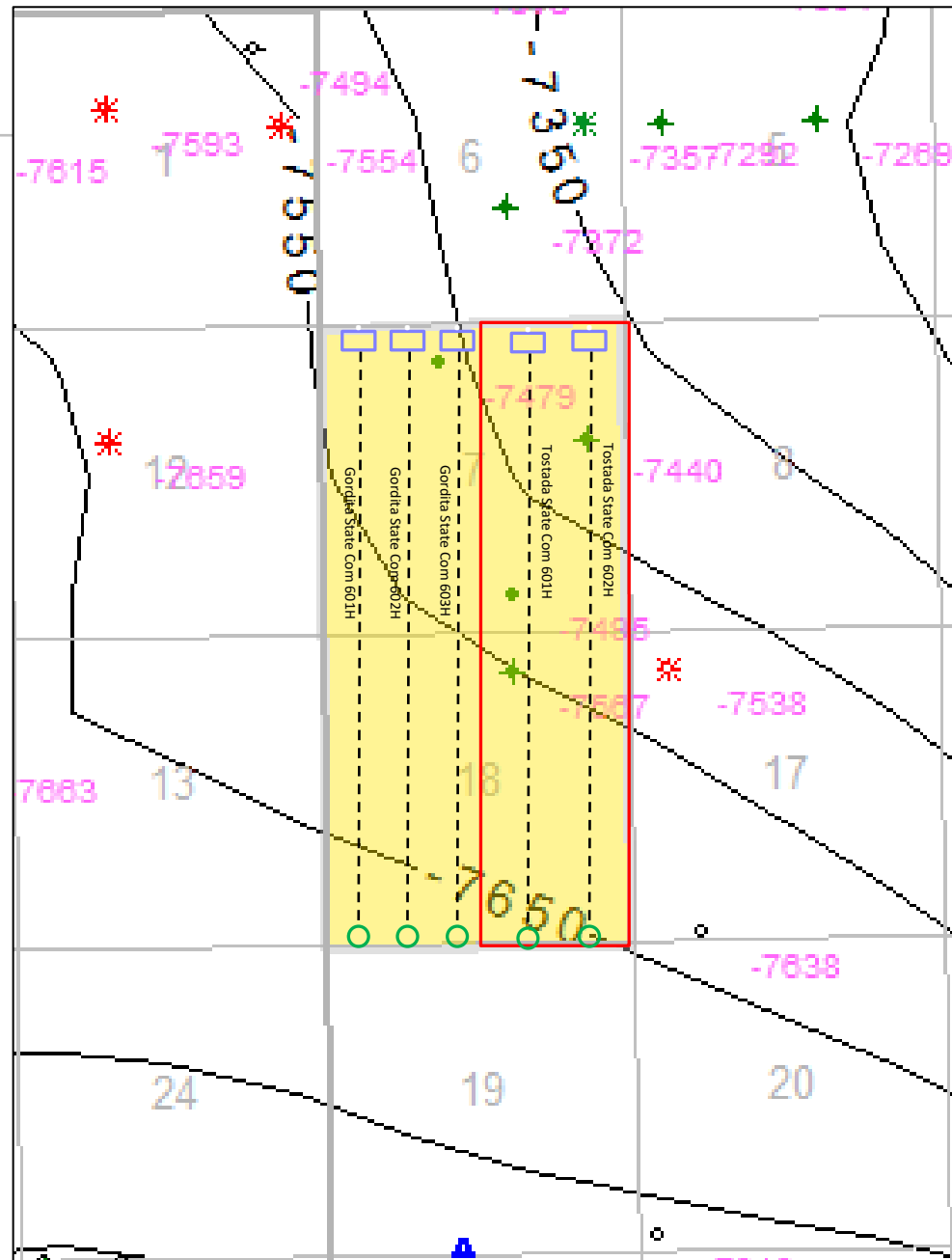
Hearing Date: November 04, 2021

Case No. 22253

CENTENNIAL

EXHIBIT A

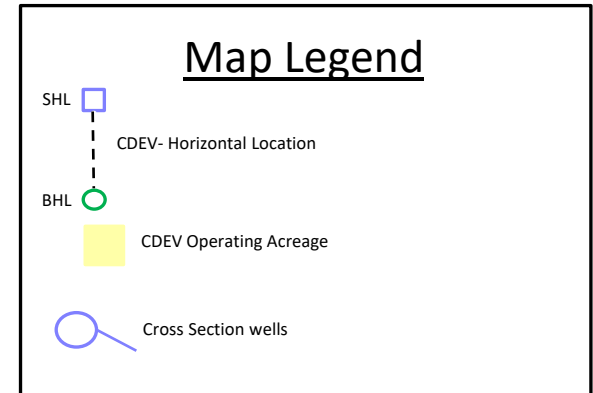
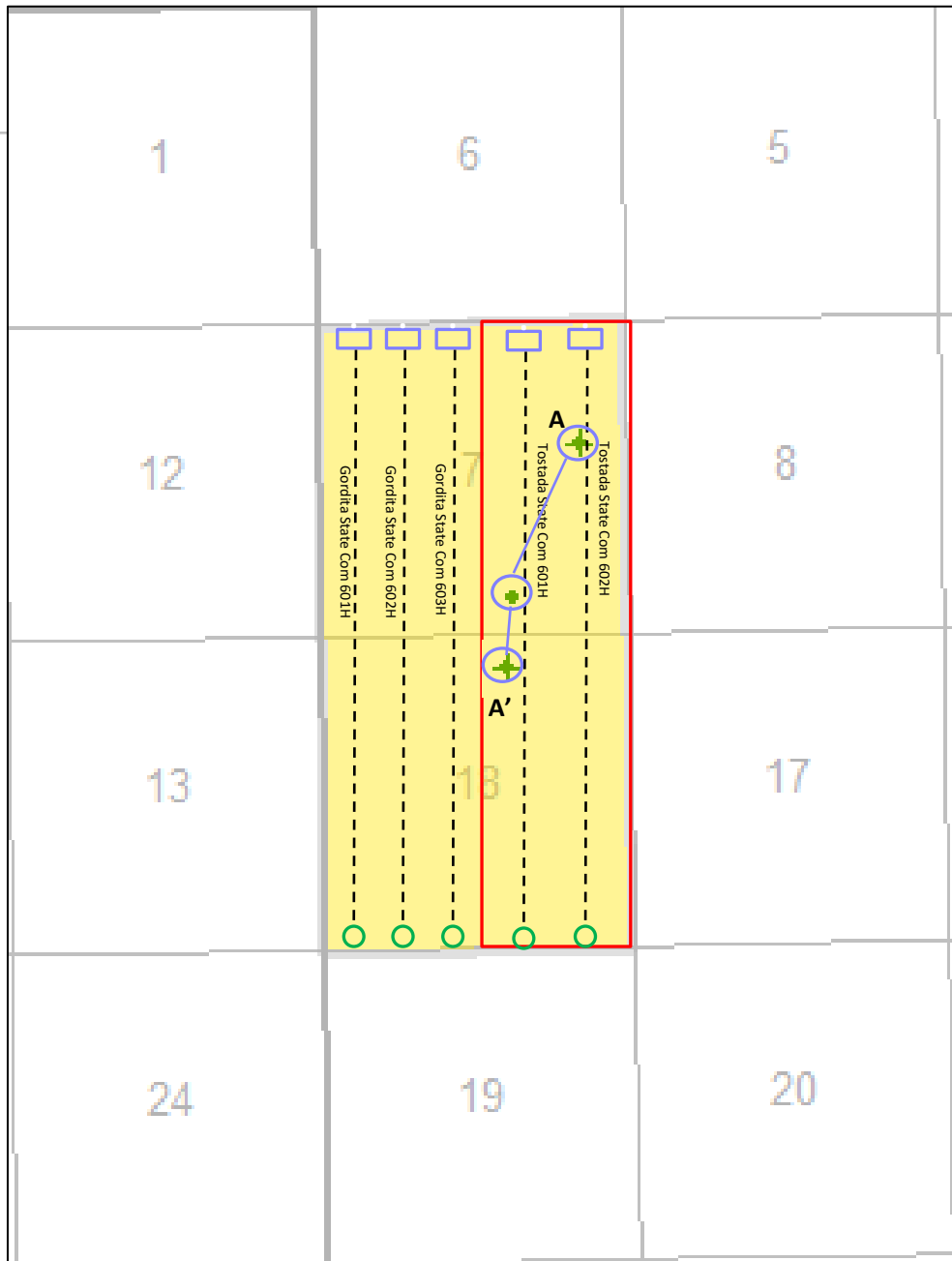
Bone Spring Pool WFMP Structure Grid



BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D2
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

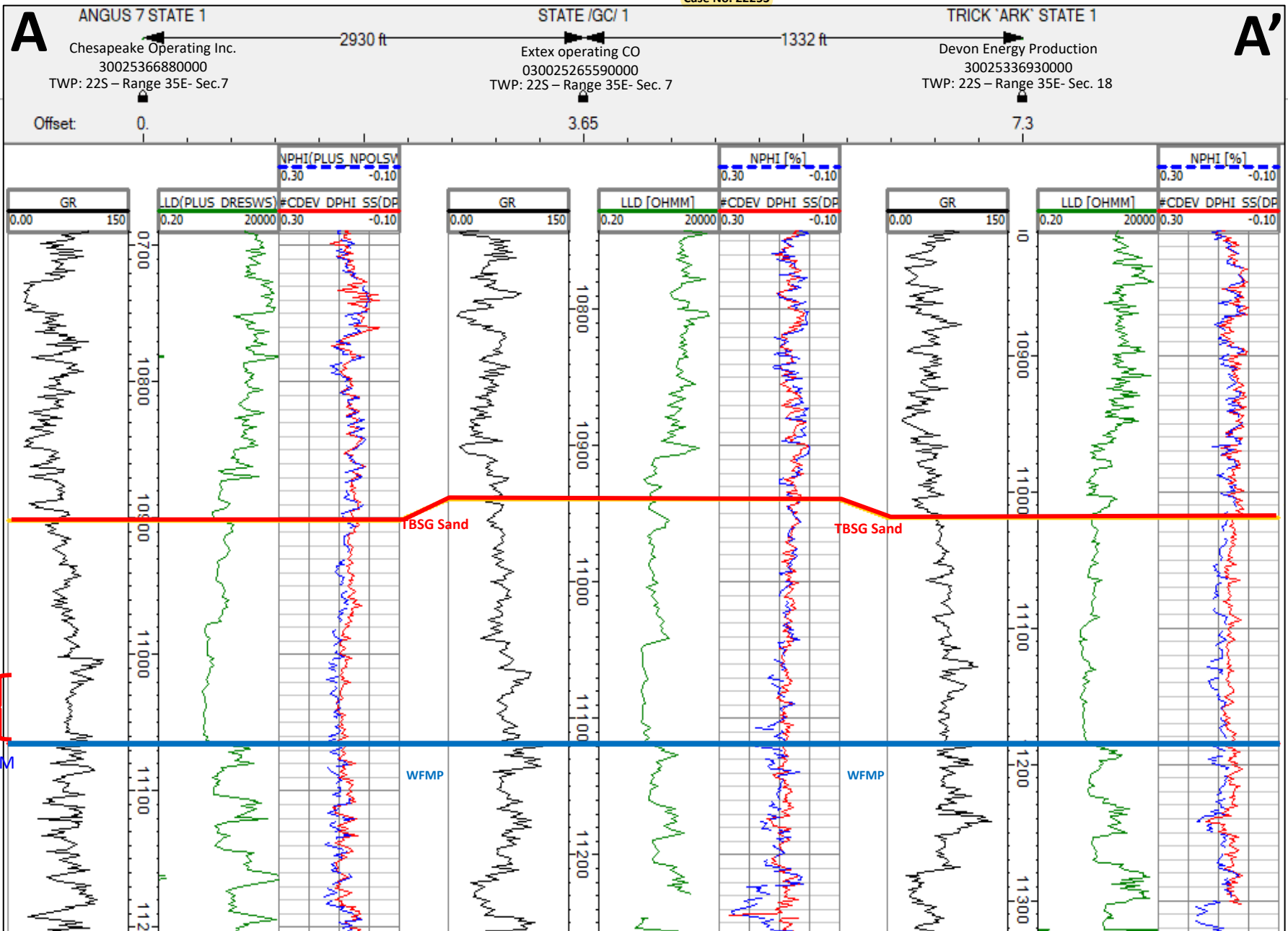
Cross Section TBSG Pool Tostada State Com 601H, 602H



BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. D3
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

BEFORE THE OIL CONSERVATION DIVISION
 Santa Fe, New Mexico
 Exhibit No. D4
 Submitted by: Centennial Resource Production, LLC
 Hearing Date: November 04, 2021
 Case No. 22253



TD= 11,897.00

TD= 13,510.00

TD= 12,030.00

CENTENNIAL

4

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


CASE NO. 22253

[illegible]

Frank Hull

Kaitlyn A. Luck

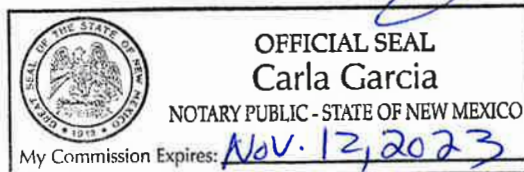
SUBSCRIBED AND SWORN to before me this 2nd day of November, 2021 by Kaitlyn
A. Luck.



Notary Public

My Commission Expires:

Nov. 12, 2023



Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A

Kaitlyn A. Luck
Associate
Phone (505) 988-4421
kaluck@hollandhart.com

October 15, 2021

VIA CERTIFIED MAIL
CERTIFIED RECEIPT REQUESTED

TO: ALL INTEREST OWNERS SUBJECT TO POOLING PROCEEDINGS

**Re: Application of Centennial Resource Production, LLC for Compulsory Pooling, Lea County, New Mexico.
Tostada 7 State Com #601H-602H well**

Ladies & Gentlemen:

This letter is to advise you that Centennial Resource Production, LLC, has filed the enclosed application with the New Mexico Oil Conservation Division.

During the COVID-19 Public Health Emergency, state buildings are closed to the public and hearings will be conducted remotely. The hearing will be conducted on November 4, 2021 beginning at 8:15 a.m., until it is concluded. To participate in the electronic hearing, see the instructions posted on the OCD Hearings website: <https://www.emnrd.nm.gov/ocd/hearing-info/>.

You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date. Parties appearing in cases are required by Division Rule 19.15.4.13.B to file a Pre-hearing Statement four business days in advance of a scheduled hearing. This statement must be filed online or in person at the Division's Santa Fe office and should include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

If you have any questions about this matter, please contact Gavin Smith, at (720) 499-1474, or Gavin.Smith@cdevinc.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kaitlyn Luck", written over a horizontal line.

Kaitlyn A. Luck
ATTORNEY FOR CENTENNIAL RESOURCE
PRODUCTION, LLC

T 505.988.4421 F 505.983.6043
110 North Guadalupe, Suite 1, Santa Fe, NM 87501-1849
Mail to: P.O. Box 2208, Santa Fe, NM 87504-2208
www.hollandhart.com

Alaska
Colorado
Idaho

Montana
Nevada
New Mexico

Utah
Washington, D.C.
Wyoming

EXHIBIT A

Case No. 22253 Postal Delivery Report

TrackingNo	ToName	DeliveryAddress	City	State	Zip	USPS_Status
9414811898765850138549	Doil Oil & Gas Corporation	1536 Cole Blvd Ste 225	Lakewood	CO	80401-3413	We attempted to deliver your package at 11:38 am on October 18, 2021 in GOLDEN, CO 80401 but could not access the delivery location. We will redeliver on the next business day.
9414811898765850137245	Grewal Royaly, LLC	45 Rockefeller Plz Ste 2410	New York	NY	10111-2493	Your item was delivered to the front desk, reception area, or mail room at 1:47 pm on October 25, 2021 in NEW YORK, NY 10111.
9414811898765850137283	Pegasus Resources, LLC	PO Box 470698	Ft Worth	TX	76147-0698	Your item was delivered at 9:29 am on October 18, 2021 in FORT WORTH, TX 76147.
9414811898765850137238	McMullen Minerals, LLC	PO Box 470857	Ft Worth	TX	76147-0857	Your item was delivered at 9:28 am on October 18, 2021 in FORT WORTH, TX 76147.
9414811898765850137276	McMullen Minerals, LLC	2821 W 7th St Ste 515	Ft Worth	TX	76107-8912	Your item was delivered to an individual at the address at 1:09 pm on October 18, 2021 in FORT WORTH, TX 76107.
9414811898765850137818	Leo K. Birkby	10432 E Palo Brea Dr	Scottsdale	AZ	85262-3332	Your item was delivered to an individual at the address at 1:01 pm on October 19, 2021 in SCOTTSDALE, AZ 85262.
9414811898765850137856	Deets D. Justice	310 Pleasant Dr	Austin	TX	78746-5519	Your item was delivered to an individual at the address at 4:26 pm on October 19, 2021 in AUSTIN, TX 78746.
9414811898765850137863	YMC Royalty Company, LP	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to an individual at the address at 11:20 am on October 19, 2021 in HOUSTON, TX 77090.
9414811898765850137801	Atlas OBO Energy	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to an individual at the address at 11:20 am on October 19, 2021 in HOUSTON, TX 77090.
9414811898765850137849	SBI West Texas I, LLC	6702 Broadway St	Galveston	TX	77554-8906	Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.
9414811898765850137832	MRC Permian Company	5400 Lbj Fwy Ste 1500	Dallas	TX	75240-1017	Your item was delivered to the front desk, reception area, or mail room at 11:07 am on October 18, 2021 in DALLAS, TX 75240.
9414811898765850138587	Doil Oil & Gas Corporation	12045 Tavel Cir	Dallas	TX	75230-2233	Your item was delivered to the front desk, reception area, or mail room at 6:09 pm on October 18, 2021 in DALLAS, TX 75230.
9414811898765850138532	Pioneer Exploration, LLC	15603 Kuykendahl Rd Ste 200	Houston	TX	77090-3655	Your item was delivered to the front desk, reception area, or mail room at 3:42 pm on October 21, 2021 in HOUSTON, TX 77056.
9414811898765850137214	Pioneer Exploration, LLC / Atlas Operating	3501 Allen Pkwy	Houston	TX	77019-1809	Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.
9414811898765850137252	Saba Energy, Inc.	2112 Hurd Dr	Irving	TX	75038-4332	Your item departed our COPPELL TX DISTRIBUTION CENTER destination facility on October 28, 2021 at 8:52 am. The item is currently in transit to the destination.
9414811898765850137269	Saba Energy, Inc.	4500 W Illinois Ave Ste 213	Midland	TX	79703-5485	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850137221	Saba Energy, Inc.	1603 E 19th St Ste 202	Edmond	OK	73013-6625	Your item was returned to the sender on October 27, 2021 at 4:00 pm in SANTA FE, NM 87501 because the addressee moved and left no forwarding address.
9414811898765850137207	Legacy Reserves Operating, LP	303 W Wall St Ste 1800	Midland	TX	79701-5106	Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.
9414811898765850137290	Legacy Reserves Operating, LP	15 Smith Rd Ste 3000	Midland	TX	79705-5461	Your item has been delivered to an agent for final delivery in MIDLAND, TX 79705 on October 18, 2021 at 11:05 am.

EXHIBIT A**Affidavit of Publication**STATE OF NEW MEXICO
COUNTY OF LEA

I, Daniel Russell, Publisher of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, solemnly swear that the clipping attached hereto was published in the regular and entire issue of said newspaper, and not a supplement thereof for a period of 1 issue(s).

Beginning with the issue dated
October 21, 2021
and ending with the issue dated
October 21, 2021.


Publisher

Sworn and subscribed to before me this
21st day of October 2021.


Circulation Clerk

My commission expires
October 29, 2022
(Seal)



OFFICIAL SEAL
Amity E. Hipp
NOTARY PUBLIC - STATE OF NEW MEXICO

My Commission Expires: 10/29/22

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937 and payment of fees for said

LEGAL NOTICE
October 21, 2021**STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION SANTA FE, NEW MEXICO**

The State of New Mexico, Energy Minerals and Natural Resources Department, Oil Conservation Division ("Division") hereby gives notice that the Division will hold public hearings before a hearing examiner on the following case. During the COVID-19 Public Health Emergency, state buildings are closed to the public and Division hearings will be conducted remotely. The public hearing for the following case will be electronic and conducted remotely. The hearing will be conducted on **Thursday, November 4, 2021, beginning at 8:15 a.m.** To participate in the electronic hearing, see the instructions posted below. The docket may be viewed at <https://www.emnrd.nm.gov/ocd/hearing-info/> or obtained from Marlene Salvidrez, at Marlene.Salvidrez@state.nm.us. Documents filed in the case may be viewed at <http://ocdimage.emnrd.state.nm.us/imaging/CaseFileCriteria.aspx>. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in a hearing, contact Marlene Salvidrez at Marlene.Salvidrez@state.nm.us, or the New Mexico Relay Network at 1-800-659-1779, no later than **October 24, 2021**.

Persons may view and participate in the hearings through the following link:

<https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e12bd776b32e14edf7deee3425ea99347>
Event number: 2497 665 1056
Event password: JYvf8wjp55w

Join by video: 24976651056@nmemnrd.webex.com
Numeric Password: 256526
You can also dial 173.243.2.68 and enter your meeting number

Join by audio: 1-844-992-4726 United States Toll Free
Access code: 2497 665 1056

STATE OF NEW MEXICO TO:
All named parties and persons
having any right, title, interest
or claim in the following case
and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

To: All overriding royalty interest owners and pooled parties, including: Doil Oil & Gas Corporation; Pioneer Exploration, LLC; Pioneer Exploration, LLC / Atlas Operating; Saba Energy, Inc.; Legacy Reserves Operating, LP; Grewal (Royalty), LLC; Pegasus Resources, LLC; McMullen Minerals, LLC; Leo K. Birkby, his heirs and devisees; Deets D. Justice, his or her heirs and devisees; YMC Royalty Company, LP; Atlas OBO Energy; SBI West Texas I, LLC; and MRC Permian Company.

Case No. 22253: Application of Centennial Resource Production, LLC for compulsory pooling, Lea County, New Mexico. Applicant in the above-styled cause seeks an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the E/2 of Sections 7 and 18, Township 22 South, Range 35 East, NMPM, Lea County, New Mexico. Said horizontal spacing unit is to be dedicated to the proposed wells: (1) the **Tostada 7 State Com #601H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SW/4 SE/4 (Unit O) of Section 18; and (2) the **Tostada 7 State Com #602H well**, to be horizontally drilled from a surface location in the NW/4 NE/4 (Unit B) of Section 7, to a bottom hole location in the SE/4 SE/4 (Unit P) of Section 18. The completed interval of the proposed **Tostada 7 State Com #601H well** will remain within 330 feet of the quarter-quarter line separating the W/2 E/2 from the E/2 E/2 of Sections 7 and 18, to allow inclusion of this acreage into a standard horizontal well spacing unit. Also to be considered will be the cost of drilling and completing the wells and the allocation of the cost thereof, the actual operating costs and charges for supervision, the designation of applicant as operator of the wells, and a 200% charge for risk involved in drilling said wells. Said area is located approximately 14 miles west of Eunice, New Mexico.

#36950

67100754

HOLLAND & HART LLC
PO BOX 2208
SANTA FE, NM 87504-2208

00259753

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Exhibit No. F
Submitted by: Centennial Resource Production, LLC
Hearing Date: November 04, 2021
Case No. 22253

EXHIBIT A EXHIBIT 3

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

ATLAS OBO ENERGY LP,

Plaintiff,

No. D-506-CV-2021-00991

v.

**CENTENNIAL RESOURCE PRODUCTION,
LLC,**

Defendant.

**AFFIDAVIT OF GAVIN SMITH
IN SUPPORT OF
CENTENNIAL RESOURCE PRODUCTION, LLC'S REPSONSE BRIEF**

Gavin Smith, of lawful age and being first duly sworn, declares as follows:

1. My name is Gavin Smith, and I am a Senior Landman at Centennial Resource Production, LLC ("Centennial").
2. In my capacity as a landman, I have been involved in the development plan of the Bone Spring formation underlying Sections 7 and 18, Township 22 South, Range 35 East, NMPM in Lea County, New Mexico.
3. Because Centennial was unable to reach agreement with all interest owners in the proposed spacing units, I worked with the Holland & Hart law firm to file compulsory pooling applications in Case Nos. 22252 and 22253.
4. In Case No. 22252, Centennial is seeking to pool all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the W/2 of Sections 7 and 18, and dedicating this spacing unit to the proposed Gordita 6 State Com wells.

EXHIBIT A

5. In Case No. 22253, Centennial is seeking to pool all uncommitted interests in the Bone Spring formation underlying a standard 640-acre, more or less, horizontal spacing unit comprised of the E/2 of Sections 7 and 18, and dedicating this spacing unit to the proposed Tostada 7 State Com wells.

6. Centennial derives its mineral interest in the N/2 of Section 18 from State Lease VC-0049 and its mineral interest in the S/2 of Section 18 from State Lease CV-0076.

7. Centennial owns 100% of the working interest in Section 18.

8. Centennial derives its interest in the NW/4 and the S/2 of Section 7 from State Lease L-6377. In this area, Centennial owns 90% of the working interest, and Atlas OBO Energy LP ("Atlas") owns the remaining 10% of the working interest.

9. Centennial derives its mineral interest in the NE/4 of Section 7 from State Lease VB-244. It owns more than 60% of the working interest in this area.

10. Atlas owns no working interest in either the NE/4 of Section 7 or any portion of Section 18.

11. I have prepared an ownership map for the W/2 of Sections 7 and 18 (Case No. 22252), showing the corresponding leases and ownership interests. This map is attached hereto as **Exhibit 3-A**.

12. I have prepared an ownership map for the E/2 of Sections 7 and 18 (Case No. 22253) showing the corresponding leases and ownership interests. This map is attached hereto as **Exhibit 3-B**.

13. Centennial has made arrangements for a rig to be on location and to commence drilling of the Gordita 6 State Com wells and the Tostado 7 State Com well in March 2022 in

EXHIBIT A

order to perpetuate State Lease VC-0049 and State Lease VC-0076 which expire on April 1, 2022.

Gavin Smith
GAVIN SMITH

STATE OF COLORADO)
)
COUNTY OF *Denver*)

SUBSCRIBED and SWORN to before me this 29th day of November 2021 by Gavin Smith.

Carl J. Messina III
NOTARY PUBLIC

My Commission Expires: *11-16-2025*

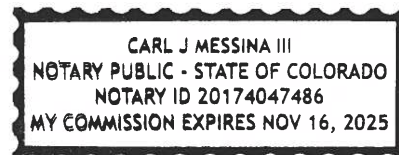


EXHIBIT A-A

Exhibit C-2

Ownership Map

Township 22 South, Range 35 East, Lea County, New Mexico

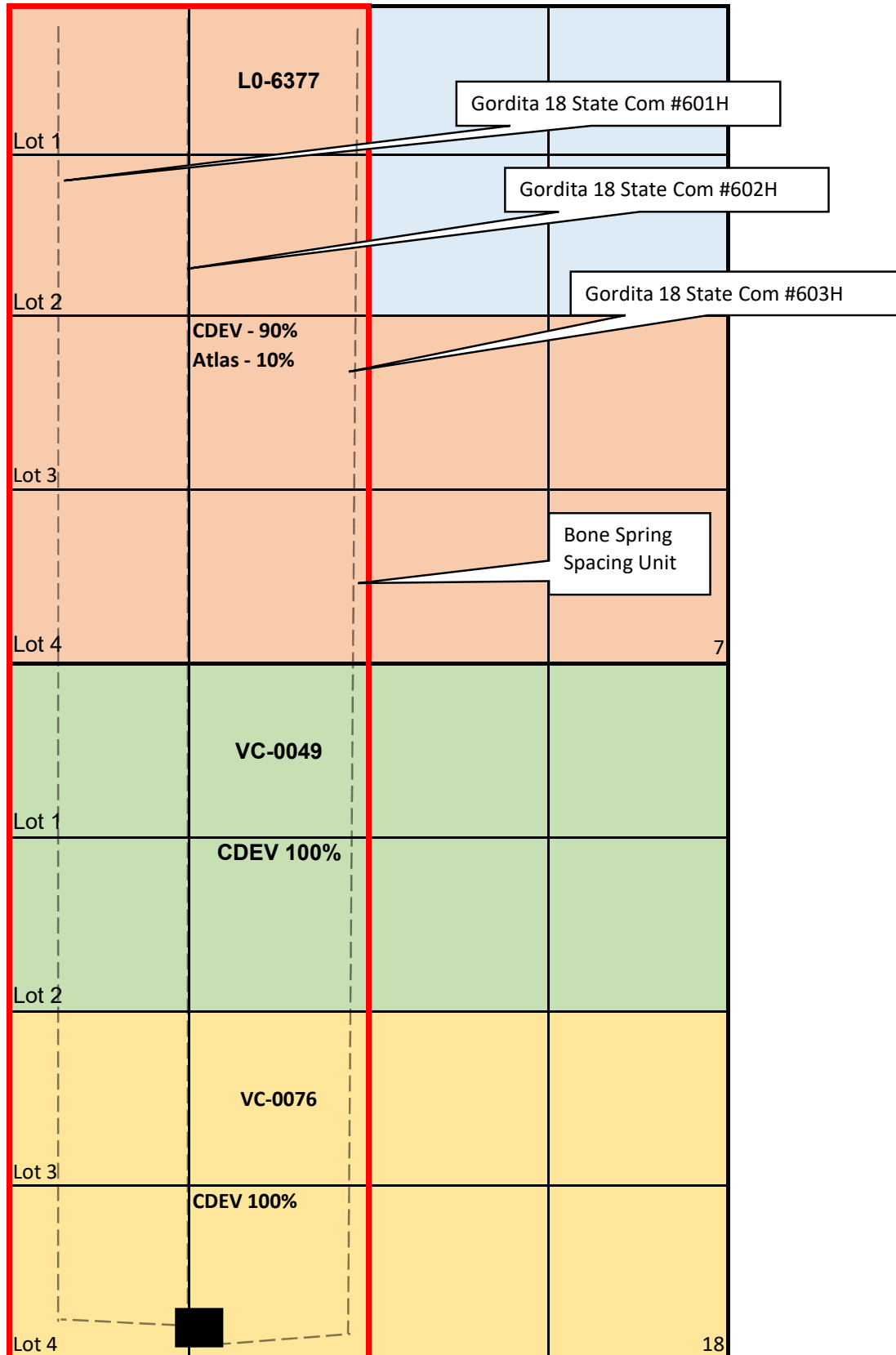
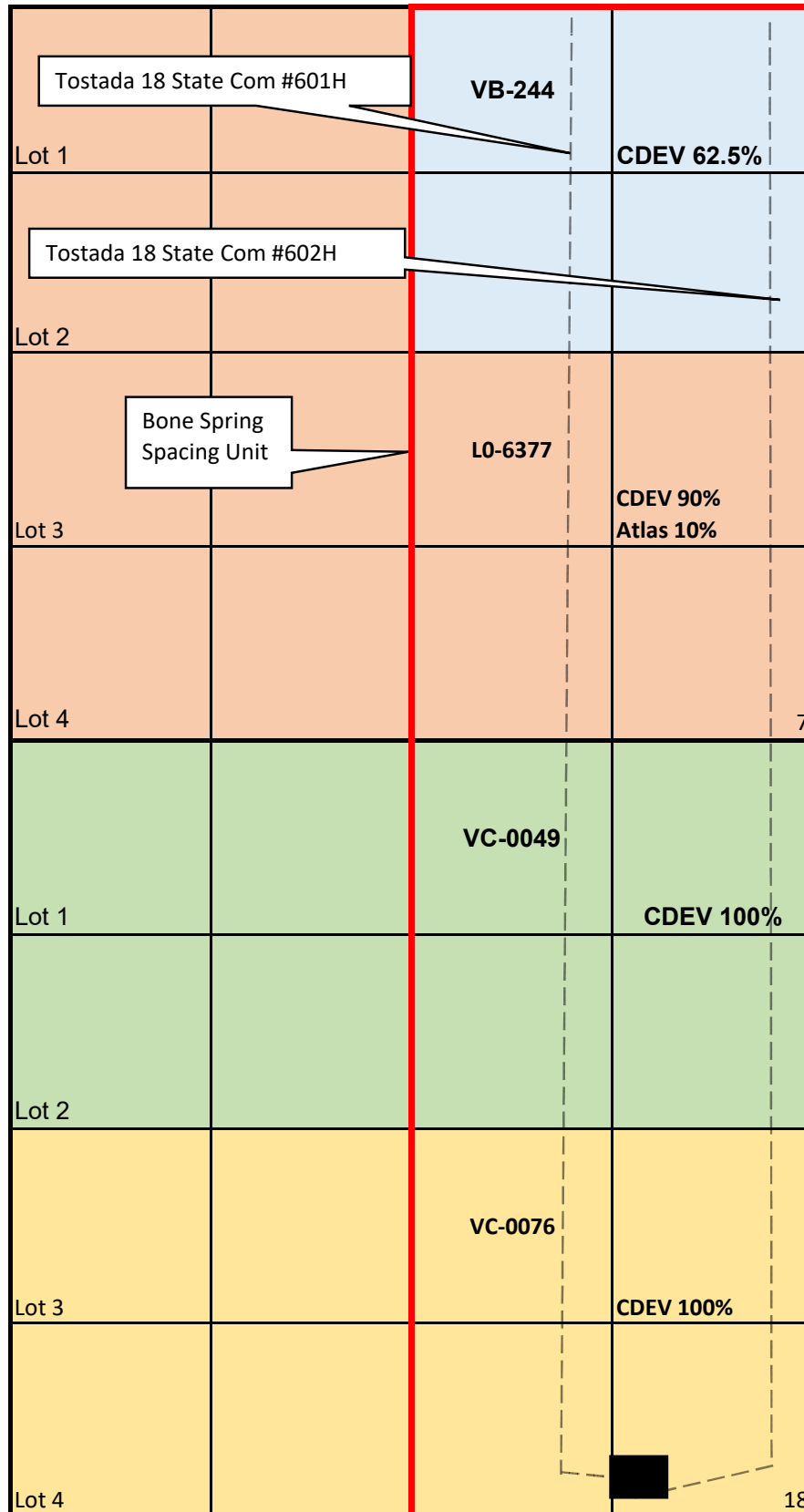


Exhibit C-2

Ownership Map

Township 22 South, Range 35 East, Lea County, New Mexico



**EXHIBIT A
EXHIBIT 4****47 Rocky Mt. Min. L. Inst. 13-1 2001**

**Rocky Mountain Mineral Law Foundation Annual and Special Institutes > Annual Institutes > (2001)
Volume 47 > Chapter 13 (A.A.P.L. FORM 610 MODEL FORM OPERATING AGREEMENT: SELECTED
PROVISIONS IMPACTING ONSHORE PRODUCING PROPERTY TRANSFERS)**

**A.A.P.L. FORM 610 MODEL FORM OPERATING AGREEMENT: SELECTED
PROVISIONS IMPACTING ONSHORE PRODUCING PROPERTY TRANSFERS**

Timothy W. Dowdy¹
Thompson & Knight L.L.P.
Dallas, Texas

§ 13.01 Introduction

"[T]he essential facts of this case are largely undisputed and relatively uncomplicated. These facts, however, are enveloped within the mass and maze of a record typical of oil and gas cases, and groaning further from the Byzantine nature of joint operating agreements. Not surprisingly, the author has spent many months wandering in strange and mostly wrong valleys searching for the answers to the imponderables presented in this case."

Judge David Wellington Chew, Court of Appeals of Texas, Eighth District, El Paso, from his opinion in *Hill v. Heritage Resources, Inc.*

The joint development and operation of oil and gas properties are complex undertakings. As evidenced by Judge Chew's lament above, agreements attempting to define the relationship of parties to such undertakings can be equally complex. In the early days of the industry, no standard form operating agreement existed that was widely accepted and used.² In the early 1950s, the American Association of Petroleum Landmen (now known as the American Association of Professional Landmen) (in either case, A-A.P.L.) spearheaded a cooperative effort by a number of industry professionals to produce such a standard form. In 1956, the A.A.P.L. published its first version. Since that time, the A.A.P.L. has produced four different versions of the Form 610 Model Form Operating Agreement (the 1956 form with major revisions in 1977, 1982, and 1989) which the oil and gas industry has used extensively in connection with the joint development and operation of onshore oil and gas properties (the Form 610 Model Form Operating Agreement generally shall be called the "**JOA**" in this chapter and each particular version shall be called the "1956 **JOA**", the "1977 **JOA**," the "1982 **JOA**," and the "1989 **JOA**," respectively).

The transfer of properties is a fundamental aspect of the oil and gas industry. A substantial number of these properties are jointly owned and are covered by one of the four versions of the **JOA**. Transfers or other dispositions of properties can result in significant and negative consequences triggered under

¹ Partner, Thompson & Knight L.L.P., Dallas, Texas.

² John R. Reeves, "Significant Cases Governing the Onshore Operating Agreement," *49th Inst. on Oil & Gas L. & Tax'n* 2-1, § 2.02 at 2-4 (Sw. L. Fdn. 1998).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

certain provisions of the JOA. Therefore, in every transaction involving the transfer or other disposition of properties, all applicable JOAs must be reviewed to determine the impact of the JOA provisions. Among these provisions are (1) the preferential right to purchase, (2) the maintenance of uniform interest, and (3) the change of operator. This paper shall focus on the evolution of these three provisions in the various versions of the JOA and on certain issues regarding their interpretation, enforceability, and application in the context of property transfers. The various versions of these provisions are set forth in the Appendix in section 13.06.

§ 13.02 Preferential Right to Purchase

A preferential right to purchase in the oil and gas context has been defined as a "right reserved to parties...to buy any part of a committed working interest which a party proposes to sell; before the sale by the latter may be made, he must offer to sell the same interest to the other parties on the same terms at which the proposed sale is to be made".³ The nature of this right is characterized as a conditional option, a right that matures into an option upon the occurrence of a triggering event.⁴ While not as prevalent as they once were, preferential rights to purchase are still common in the oil and gas industry.⁵ Each version of the JOA contains a preferential right to purchase provision.⁶

In analyzing and interpreting the JOA, very little case law exists. However, there are cases on preferential rights from other industries and a substantial body of literature applying these cases in an oil and gas context.⁷ These articles are excellent and rather than duplicate their efforts, the reader is generally referred to these articles for additional authority and analysis-

[1] Purpose of the Preferential Right Provision

The JOA itself is silent as to the purpose of the preferential right provision. However, two purposes generally have been attributed to this provision. The first purpose is the assurance that the preferential right holder has an opportunity to acquire additional interests in the Contract Area if another party to the JOA wishes to sell.⁸ The preferential right holder may have put substantial amounts of money and

³ Howard R. Williams & Charles J. Meyers, *Manual of Oil and Gas Terms* 832 (11th ed. 2000).

⁴ Ryan M. Tew, "Rights of First Refusal: The 'Options' That Are Not Options, But May Become Options," 10 *E. Min. L. Inst.* 7-1, 7-4 (1989).

⁵ Terry I. Cross, "The Ties That Bind: Preemptive Rights and Restraints on Alienation That Commonly Burden Oil and Gas Properties," 5 *Tex. Wesleyan L. Rev.* 193, 194 (1999).

⁶ Section 18 of the 1956 JOA; Art. VIII.G. of the 1977 JOA; Art. VIII.F. of the 1982 JOA; Art. VIII.F. of the 1989 JOA.

⁷ James C.T. Hardwick, "Something Old, Something New-Current Issues Under the Joint Operating Agreement," 51 *Inst. on Oil & Gas L. & Tax'n* 6-1 (Sw. L. Fdn. 2000); Arnold J. Johnson, "The Preferential Right to Purchase in the Texas Oil Patch," *St. B. Sec. Rep., Oil, Gas & Min. L.* 4 (Mar. 2000); Cross, *supra* note 5; J. R. Cooney & L.P. Ausherman, "Preferential Purchase Rights in Mineral Agreements," 37 *Rocky Mt. Min. L. Inst.* 9-1 (1991); Tew, *supra* note 4; Gary B. Conine, "Property Provisions of the Operating Agreement-Interpretation, Validity and Enforceability," 19 *Tex. Tech. L. Rev.* 1263 (1988); George F. Kutzschbach, "Operating Agreement Considerations in Acquisitions of Producing Properties," 36 *Inst. on Oil & Gas L. & Tax'n* 7-1 (Sw. L. Fdn. 1985); Harlan Abright, "Preferential Right Provisions and Their Applicability to Oil and Gas Instruments," 32 *Sw. L.J.* 803 (1978); Harry M. Reasoner, "Preferential Purchase Rights in Oil and Gas Instruments," 46 *Tex. L. Rev.* 57 (1968); John S. Sellingsloh, "Preferential Purchase Rights," 11 *Rocky Mt. Min. L. Inst.* 35 (1965).

⁸ *Questa Energy Corp. v. Vantage Point Energy, Inc.*, 887 S.W.2d 217, 222 (Tex. Ct. App.-Amarillo 1994, writ denied); Cross, *supra* note 5, at 194; Conine, *supra* note 7, at 1317; Kutzschbach, *supra* note 7, at 7-16; Abright, *supra* note 7, at 815; Sellingsloh, *supra* note 7, at 36.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

effort into the development of the properties and assumed substantial risk, and would like the opportunity to increase its investment- If another party desires to sell, the preferential right holder is given priority over a prospective purchaser who has not so invested.

The second purpose is to permit a party to the JOA to exclude undesirable participants.⁹ If a party who may not be able to meet its financial obligations or who may have competing operating or engineering philosophies is a prospective purchaser, the preferential right holder can exclude such undesirable party from any involvement in the Contract Area by purchasing the interest itself-

[2] Enforceability of the Preferential Right Provision

Preferential rights generally have been recognized as valid, but have been attacked on various fronts.¹⁰ Most of the attacks have come in the areas of the statute of frauds, restraint on alienation, and the rule against perpetuities.¹¹ One argument made with respect to the statute of frauds is that the terms of the provision, particularly price, are not sufficiently specific to meet the requirements of the statute.¹² However, courts have held that if a mode or method of ascertaining such terms exists, then the statute of frauds is satisfied.¹³ A provision that requires exercise upon the same terms as a bona fide third party offer is a sufficient mode or method to ascertain such terms.¹⁴ Pursuant to the *Restatement of Property*, preferential rights are not restraints on alienation if they are reasonable and do not violate the rule against perpetuities.¹⁵ Preferential rights are not unreasonable restraints on alienation when they may be exercised at a fixed price offered by a third party.¹⁶ Finally, the preferential right to purchase generally has been held not to violate the rule against perpetuities.¹⁷ While some attacks on preferential rights in other contexts have succeeded, such successes are rare. In cases where the challenges have succeeded, they generally were based on flaws or omissions in the language of the particular provisions, which flaws and omissions are not present in the preferential right to purchase provision of the JOA.

[3] Specific Language in the JOA

The language of the preferential right provision has not changed substantially in the 45 years since the printing of the first version of the JOA. In all of the JOAs, if a party should desire to sell all or any part of its interests under the agreement, or its rights and interests in the Contract Area,¹⁸ the selling

⁹ *Id.*

¹⁰ Kutzschbach, *supra* note 7, at 7-3.

¹¹ *Id.* at 7-4; Reasoner, *supra* note 7, at 58; Tew, *supra* note 4, at 7-34.

¹² Kutzschbach, *supra* note 7, at 7-4.

¹³ Annotation, "Requisite Definiteness of Price to be Paid in Event of Exercise of Option for Purchase of Property," 2 A.L.R. 3d 701 (1965).

¹⁴ *Id.*

¹⁵ *Restatement of the Law of Property*, § 413 (1944); Perritt Co. v. Mitchell, 663 S.W.2d 696 (Tex. Ct. App.-Fort Worth 1983).

¹⁶ Sellingsloh, *supra* note 7, at 43, and authorities cited therein.

¹⁷ Cherokee Water Co. v. Forderhause, 641 S.W.2d 522, 526 (Tex. 1982); Perritt Co. v. Mitchell, 663 S.W.2d 696, 698-99 (Tex. Ct. App.-Fort Worth 1983); Cooney & Ausherman, *supra* note 7, at 9-15.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

party gives written notice to the other parties of such sale (and the terms and conditions thereof), then the other parties have ten days in which to purchase the interest being sold on the same terms and conditions as being offered to the third party-

[a] Transfers and Transactions Explicitly Excluded from the Preferential Right Provision

There are certain transfers or transactions specifically excluded from application of the preferential right provision. Each version of the preferential right provision generally has excluded the same types of transfers and transactions, although there have been some important variations. The 1956 version reads in relevant part as follows:

However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all its assets, or a sale or transfer of its interests to a subsidiary or parent company, or subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.¹⁹

The exclusions can be grouped into four categories: (1) mortgage of interests, (2) disposition by merger, reorganization, or consolidation, (3) sale of all its assets to any third party, and (4) sale or transfer to specified affiliates-

The 1977 JOA contains essentially the same exclusion except the phrase "sale of all its assets" was modified to read "sale of all or substantially all of its assets." Unfortunately, this is not all that was modified. The phrase "or a sale or transfer of its interests" was deleted, resulting in a phrase that reads in relevant part: "sale of all or substantially all of its assets to a subsidiary or parent company, or subsidiary of a parent company, or to any company in which any one party owns a majority of the stock."²⁰ The revision eliminated the exclusion for sales of all assets to a third party and limited the exclusion for sales to certain affiliates to sales of all or substantially all of its assets- Regrettably, this revision was apparently a typographical or reproduction error.²¹ The phrase "or a sale or transfer of its interest" was inadvertently left out. The reason for the omission is not as important as the result; the scope of the exclusion clause is significantly reduced. Note also that this provision was not revised in 1982, therefore the exclusion clause and the error were carried forward into the 1982 JOA form.

The 1989 JOA corrected this omission. With some slight additions, it has restored the four categories: (1) mortgage of its interests, or transfer to mortgagee in lieu of or pursuant to foreclosure, (2) disposition of its interests by merger, reorganization, or consolidation, (3) sale of all or substantially all of its Oil and Gas assets to any party, and (4) transfer of its interests to the same affiliates specified in all of the previous forms. The 1989 form clarified that transfers to a mortgagee in lieu of or pursuant to foreclosure are exclusions. It also permitted sales to third parties so long as it was a sale of all or substantially all of its Oil and Gas assets. Finally, it clarified that if a company has more than one line of business, a sale of just its Oil and Gas assets still would be excluded if the quantity test was met.

¹⁸In the 1956 JOA, the "agreement" is called the "contract" and the "Contract Area" is called the "Unit Area," but otherwise the relevant language is identical.

¹⁹Section 18 of the 1956 JOA.

²⁰Article VIII.G. of the 1977 JOA; Article VIII.F. of the 1982 JOA.

²¹Derman, *Joint Operating Agreement: Working Manual* 37 (Monograph Series No. 2, Nat. Res. L. Sec. of the ABA); Hardwick, *supra* note 7, at 6-49.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

[b] What Is (Or Is Not) a "Sale"?

An interesting issue involves the types of transactions covered by the provision. The preferential right is triggered by a "sale," but the JOA does not define the term "sale." An assignment of an oil and gas lease or leases by a working interest owner for cash is clearly a "sale" within the meaning of the provision.²² A transfer for cash of a fee or mineral interest or the leasing of a fee or mineral interest would also be a "sale" contemplated by the preferential right provision.²³ These kinds of transactions are easily recognized as "sales" and are precisely the kinds of transactions intended to be covered by the right. The more difficult issue is whether other kinds of transfers of property, including those for non-cash consideration, constitute a "sale" under the preferential right provision.²⁴

[i] Transfers Held to Be "Sales"

There is little authority as to what constitutes a "sale" under the preferential right provision. However, there are a few cases. For example, a lease of a mineral interest for a cash consideration has been held to be a "sale" for preferential right purposes.²⁵ Additionally, a transfer to a friend for full value is a "sale."²⁶

[ii] Transfers Held Not to Be "Sales"

Again, as with those holding certain transfers to be "sales," the cases holding certain transfers are "not sales" are not abundant. Some cases have held that donative transfers, such as inter vivos gifts, testamentary dispositions, and intestate succession, are not considered sales.²⁷ Involuntary transfers such as descent or public sales by administrators, condemnations, and judicial sales (including foreclosure sales, estate sales, and partition sales) are also not sales.²⁸ Transfer of a working interest in consideration of an agreement to drill has been held to be an exchange and not a "sale."²⁹ Transfer of property to a family corporation is not a "sale" for preferential right purposes.³⁰ Transfer without

²² *Cherokee Water Co. v. Forderhause*, 641 S.W.2d 522, 525 (Tex. 1982) (defining the term "sale" when used in a property context as a conveyance of an estate for money or money's worth).

²³ *Id.* at 525 ("Used alone, 'sale' does not qualify the duration or quantity of the property interest conveyed, and a purchase of a fee simple, determinable fee, fee subject to a condition subsequent, or life estate would each be considered a 'sale' of those interests." *Id.*).

²⁴ See Annotation, "Landlord and Tenant: What Amounts to 'Sale' of Property for Purposes of Provision Giving Tenant Right of First Refusal if Landlord Desires to Sell," 70 A.L.R. 3d 203 (1976).

²⁵ *Cherokee Water Co. v. Forderhause*, 641 S.W.2d 522, 525 (Tex. 1982).

²⁶ *Perritt Co. v. Mitchell*, 663 S.W.2d 696, 698 (Tex. Ct. App.-Fort Worth 1983) (petitioner tried to argue that a sale to a friend was not an arm's-length transaction).

²⁷ *Id.*; Cross, *supra* note 5, at 196, and authorities cited therein; Cooney & Ausherman, *supra* note 7, at 9-16, and authorities cited therein. Also, donative transfers are not sales because there is no value given in connection with the transfer of property.

²⁸ *Draper v. Gochman*, 400 S.W.2d 545 (Tex. 1966); Cross, *supra* note 5, at 198-99; Conine, *supra* note 7, at 1318. Since the right is triggered only when the selling party has a "desire to sell," the preferential right should apply only to voluntary transfers. The 1989 JOA confirmed this intention by specifically adding transfers to a mortgagee in lieu of or pursuant to foreclosure among those transfers expressly excluded.

²⁹ *Panuco Oil Leases, Inc. v. Conroe Drilling Co.*, 202 F. Supp. 108 (S.D. Tex. 1961); but cf. *Anderson v. Armour & Co.*, 473 P.2d 84, 89 (Kan. 1970).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

consideration by an individual to a corporation of which he was president and chief financial officer in order to carry out his fiduciary obligations to that corporation is deemed not to be a "sale."³¹ A transfer to a co-tenant is not a "sale."³² A transfer of working interests to a third party in exchange for cash and the majority stock of that third party (as a part of a tax free exchange under [section 351 of the Internal Revenue Code](#)) is not a transfer to an "outside party" and, therefore, not a "sale."³³

[iii] How Should the Provision Be Construed?

From the few cases cited above, the following general observations are made: (1) when the transfer involves a voluntary, arm's-length transfer for cash consideration, the transfer was held to be a "sale," and (2) when the transfer involved either (a) an involuntary transfer, (b) a non-arm's-length transfer, or (c) no consideration or a non-cash consideration, the transfer was held to be not a "sale." Based on the results of the cases cited above, a strict definition of the term "sale" appears to apply.³⁴

In a fairly recent case dealing with whether a preferential right was triggered by a two-step transaction (a transfer of properties to a subsidiary followed by a sale of the subsidiary's stock to a third party), the Texas Supreme Court strongly disapproved of a lower court's reasoning that, under similar facts, the intent and purpose of the parties was dispositive.³⁵ The *Tenneco* court stated that "[s]ound corporate jurisprudence requires that courts narrowly construe rights of first refusal...."³⁶ In this case, the Texas Supreme Court clearly expressed its dislike for restrictive provisions like the preferential right to purchase provision- Whether the court will narrowly construe the preferential right provision in a non-stock transaction remains to be seen.

However, the types of transfers and transactions specifically excluded from application of the provision could imply a broader interpretation.³⁷ For example, mortgages, mergers, reorganizations, and consolidations are not sales in the strictest sense, and their exclusion is unnecessary if the narrow interpretation is intended.³⁸ Additionally, the 1956 *JOA* and the 1989 *JOA* exclude "transfers" to certain affiliates.³⁹ The term "transfer" is even broader than the term "sale"- Again, if the parties

³⁰ [Kroehnke v. Zimmerman, 467 P.2d 265 \(Colo. 1970\)](#) (transfer was solely for the convenience of family members in managing the property and was not a sale).

³¹ [Rainbow Oil Co. v. Christmann, 656 P.2d 538 \(Wyo. 1982\)](#).

³² [Wilson v. Grey, 560 S.W.2d 561 \(Ky. 1978\)](#) (transfer to co-lessor is not a sale under preferential right provision); [Baker v. McCarthy, 443 A.2d 138 \(N.H. 1982\)](#) (sale to co-tenant did not trigger the preferential right); [Texas Co. v. Graf, 221 S.W.2d 865 \(Tex. Civ. App.-Fort Worth 1949\)](#) (transfer to co-tenant not a sale under the preferential right).

³³ [Questa Energy Corp. v. Vantage Point Energy, Inc., 887 S.W.2d 217 \(Tex. Ct. App.-Amarillo 1994, writ denied\)](#).

³⁴ Conine, *supra* note 7, at 1318 (Professor Conine comes to this same conclusion: "Though by no means universally accepted, it appears that most courts will require a transfer of property resulting from an arms-length transaction between willing parties entailing a cash consideration before the pre-emptive right is effective." *Id.*).

³⁵ [Tenneco Inc. v. Enterprise Products Co., 925 S.W.2d 640 \(Tex. 1996\)](#).

³⁶ *Id.* at 646.

³⁷ Section 18 of the 1956 *JOA*; Article *VIII.G.* of the 1977 *JOA*; Article *VIII.F.* of the 1982 *JOA*; Article *VIII.F.* of the 1989 *JOA*.

³⁸ Cross, *supra* note 5, at 196.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

intend the narrow sense, there is no need to exclude transfers to affiliates; exclusion of sales to affiliates would have been sufficient. While the foregoing argument may have some appeal when grasping for guidance, nothing in the preferential right provision is conclusive as to whether a strict or more expansive interpretation of the term "sale" should apply.

While the courts who have addressed the issue of what constitutes a "sale" generally have taken a narrower view, it is not yet an established principle. There continues to be uncertainty about what constitutes a "sale." The failure to define this term has created unnecessary confusion. All too often, in connection with transactions that most would agree should not trigger the provision, lawyers and other professionals agonize over whether the right is inadvertently triggered.

[iv] Package Sales

An extremely important issue, particularly given that multiple property sales are so common in the industry today, is whether a so-called "package sale" or "multi-property sale" is covered by the preferential right to purchase provision. While there is little authority in the oil and gas context, the overwhelming majority of the cases dealing with this issue have held that preferential rights do apply to package sales.⁴⁰ The courts generally have upheld application of the preferential right on two bases: (1) the language of the preferential right did not express an intent to prohibit application to package sales,⁴¹ and (2) the seller should not be able to defeat the preferential right simply by selling the affected property with other properties.⁴² Although the intent to cover package sales is not explicit in the JOA, a review of the exclusion language may show such intent by implication. The provision specifically permits sales to certain affiliated companies, and in some versions, sales of all or substantially all of the party's assets to a third party. These are multi-property sales. Therefore, since the provision contemplates and permits certain multi-property sales, all other multi-property sales trigger the right.

However, since the term "sale" is not defined and this issue has not been specifically addressed in the JOA context by the courts, its application is still questioned.⁴³ Some argue that the preferential right provision in connection with a package sale violates the Statute of Frauds if the third party offer does not provide a means of ascertaining the "price" applicable to the burdened parcel.⁴⁴ Another question

³⁹ The 1977 JOA and 1982 JOA exclude only "sales" to certain affiliates. These versions had "gremlins in the press" that inadvertently omitted the reference to, and reduced the scope of, certain transfers. See Hardwick, *supra* note 7, at 6-48.

⁴⁰ Ollie v. Rainbolt, 669 P.2d 275, 281 (Okla. 1983); Anderson v. Armour & Co., 473 P.2d 84 (Kan. 1970); Riley v. Campeau Home (Texas), Inc., 808 S.W.2d 184 (Tex. Ct. App.-Houston 1991, writ dismissed by agr.); Thomas & Son Transfer Line, Inc. v. Kenyon, Inc., 574 P.2d 107, 112 (Colo. Ct. App. 1977).

⁴¹ Anderson v. Armour & Co., 473 P.2d 84 (Kan. 1970); Riley v. Campeau Home (Texas), Inc., 808 S.W.2d 184, 189 (Tex. Ct. App.-Houston 1991, writ dismissed by agr.).

⁴² Ollie v. Rainbolt, 669 P.2d 275, 281 (Okla. 1983); Thomas & Son Transfer Line, Inc. v. Kenyon, Inc., 574 P.2d 107, 112 (Colo. Ct. App. 1977).

⁴³ Cross, *supra* note 5, at 199 (after 42 years [now 45] since the first AAPL form, 3 revisions, and thousands of committee man-hours, "the AAPL form does not acknowledge that package sales occur by expressly stating either that the preferential right does or does not apply to such sales nor by addressing any of the other issues that arise in multi-property sales"); Sellingsloh, *supra* note 7, at 50 (with respect to "package sales" we "have to guess at the proper answer, but the courts have made this question easier by turning it into a multiple choice question. The courts have provided us with several possible answers from which to choose.").

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

is whether the preferential right holder can meet the "same terms and conditions" requirement in a package sale.⁴⁵ The right holder must purchase on the same terms and conditions offered by a third party- Purchasing only the property subject to the preferential right in a multi-property transaction is not purchasing on the same terms and conditions. The most common and most practical solution is to allocate the total purchase price among the various properties in the package and treat each property subject to a preferential right as a separate single property sale with the price being the price allocated to that particular property.⁴⁶

[v] Sale of Stock

An important and frequent transaction in the oil and gas industry is the stock sale. It is a well established principle that a sale of stock does not constitute a "sale" under the preferential right provision.⁴⁷ However, a common result of a stock sale is the change of control over properties subject to a JOA. For example, if Company A owns oil and gas properties subject to a JOA and Company B purchases a controlling interest in the stock of Company A, then, notwithstanding the fact that Company A still exists and is the owner of the properties, Company B has effective control over Company A and its properties. While not directly owning the properties, Company B could nonetheless impose changes in the operating and engineering philosophies of Company A.

One of the espoused purposes of the preferential right was to exclude participants whose operating and engineering philosophies were opposed to those of the current parties. But a party who has opposing philosophies may become a participant through a change of control since the preferential right to purchase is triggered by a sale of assets, not by a change of control. The drafters must not have intended a change of control to trigger the preferential right provision since such a provision could easily be added.

[4] Is the Sale of Non-Operating Interests Covered by the Preferential Right?

To this point, most of the analysis has focused on the interpretation of the term "sale" to determine which transfers or transactions are covered. Another important clause necessary for the right to be triggered is "all or any part of its interests in the Contract Area." May this clause further limit the types of transactions that are subject to application of the preferential right?

The preferential right to purchase provision is triggered by a party's "desire to sell all or any part of its interests in the Contract Area." The JOA is an agreement between working interest owners and other

⁴⁴ Cooney & Ausherman, *supra* note 7, at 9-20; Abright, *supra* note 7, at 807; Reasoner, *supra* note 7, at 60.

⁴⁵ Cross, *supra* note 5, at 205.

⁴⁶ Sometimes a purchaser may wish to discourage the holders of preferential rights from exercising by allocating the purchase price among the properties in such a way that the properties subject to the preferential right have a disproportionate amount of the purchase price allocated. But see Dorchester Hugoton, Ltd. v. Dorchester Master Limited P'ship, 898 P.2d 1311 (Okla. Ct. App. 1993) (a seller who knowingly permits the proposed buyer to adjust the purchase price allocations applicable to the encumbered properties with the goal of discouraging the exercise of the preferential purchase right may face liability to the preferential rights holder). If the purchase price is allocated among the properties in a package sale by the buyer, the seller may want to get a representation from the buyer in the purchase and sale agreement that the buyer's allocation of the purchase price is a fair allocation.

⁴⁷ Tenneco Inc. v. Enterprise Products Co., 925 S.W.2d 640 (Tex. 1996); Capital Parks, Inc. v. Southeastern Adver. & Sales Sys. Inc., 30 F.3d 627 (5th Cir. 1994); Gamble v. Cornell Oil Co., 154 F. Supp. 581 (W.D. Okla. 1957), *aff'd*, 260 F.2d 860 (10th Cir. 1958); Cross, *supra* note 5, at 209; Johnson, *supra* note 7, at 11; Hardwick, *supra* note 7, at 6-34.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

parties who own operating interests,⁴⁸ and its sole function is to define the rights and obligations of parties who desire to jointly develop and operate certain oil and gas properties.⁴⁹ Clearly, the provision applies if the "interests" sold are working interests and unleased fee and mineral interests, but does it apply to the sale of nonoperating interests such as royalties, overriding royalties, net profits interests, and production payments? Unfortunately, as with other important issues in this provision, the answer is not entirely clear.

[a] Does the JOA Language Provide the Answer?

The provision is triggered by a sale of "all or any part of its interests under this agreement, or its rights and interests in the Contract Area."⁵⁰ The term "Contract Area" is defined in the 1977 JOA as "all lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated for oil and gas purposes under this agreement- The lands, oil and gas leasehold interests and the oil and gas interests are described in Exhibit 'A'."⁵¹ The term "oil and gas leasehold" is defined to mean oil and gas leases.⁵² The term "oil and gas interests" is defined to mean unleased fee and mineral interests.⁵³ The term "interests" in the preferential right provision is broad enough to include non-operating interests. However, an argument can be made that the language "lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated" in the definition of the Contract Area excludes the application of the provision to non-operating interests because non-operating interests by definition are not intended to be developed and operated.⁵⁴

[b] Are the Purposes Served?

The issue of whether the purposes of the preferential right provision are served by including non-operating interests has been addressed by some commentators who, receiving no guidance in the agreement or from reported cases, resorted to analysis.⁵⁵ Their analysis, however, is inconclusive- The first purpose of being able to acquire additional interests is clearly served, while the second purpose of excluding financially weak parties or competing philosophies is not. The latter purpose applies only to parties with an operating interest. However, another commentator, also analyzing the purposes,

⁴⁸ The JOA also covers unleased fee and mineral interests which include operating interests. Operating interests have been defined as "the mineral interest minus the royalty interest. An interest in oil and gas that is burdened with the cost of development and operation of the property." Williams & Meyers, *supra* note 3, at 746.

⁴⁹ The recital at the beginning of the 1956 JOA states: "the parties to this agreement are owners of oil and gas leases covering and, if so indicated, unleased mineral interests in the tracts of land described in Exhibit 'A', and all parties have reached an agreement to explore and develop these leases and interests for oil and gas to the extent and as hereinafter provided." The 1977 JOA, 1982 JOA, and the 1989 JOA have comparable recitals.

⁵⁰ The 1977 JOA, 1982 JOA, and 1989 JOA use the term Contract Area. The 1956 JOA uses the term Unit Area, but the definition is virtually identical.

⁵¹ Article I.D., 1977 JOA.

⁵² Article I.B., 1977 JOA.

⁵³ Article I.C., 1977 JOA.

⁵⁴ Kutzschbach, *supra* note 7, at 7-16.

⁵⁵ Abright, *supra* note 7, at 815; Sellingsloh, *supra* note 7, at 48.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

suggested that while the latter purpose was not directly served, it might be indirectly served.⁵⁶ If non-operating interests were not subject to the preferential right provision, a party might use a two-step conveyance to circumvent it. For example, a party could convey a substantial overriding royalty to a third party purchaser and then follow with a sale of the working interest (which now has an unattractively reduced net revenue interest) to that same purchaser. Although the sale of the working interest would trigger the right, the other parties to the JOA would not want to purchase such a burdened interest. Therefore, the purchaser would end up with the same interest owned by the seller prior to either of the two conveyances. Based on this analysis, one might conclude that non-operating interests should be subject to the preferential right.⁵⁷

[c] *IMCO Oil and Gas Co. v. Mitchell Energy Corp.*

One fairly recent reported case addresses the issue of whether a non-operating interest is subject to the preferential purchase right: *IMCO Oil and Gas Co. v. Mitchell Energy Corp.*⁵⁸ The case involved certain disputes in connection with a failed sales transaction- One of the issues was whether an overriding royalty was subject to the preferential right to purchase provision contained in an operating agreement dated March 6, 1972 (the 1972 Operating Agreement).⁵⁹ Westland Oil Development Corporation (Westland), a working interest owner whose interest was subject to the 1972 Operating Agreement, conveyed an overriding royalty to an employee.⁶⁰ More than 20 years later, Westland and the overriding royalty owner both proposed to sell their respective interests to a third party purchaser, IMCO Oil and Gas Company (IMCO)- Westland sent notice of the pending sale to Mitchell Energy Corporation (Mitchell), the preferential right holder. Mitchell exercised its preferential right and acquired the interests. The existence of a prior operating agreement covering the same lands led IMCO to question the effectiveness of the 1972 Operating Agreement and Mitchell's preferential right. IMCO sued Mitchell for tortious interference with contract and sought specific performance. The court concluded that since the overriding royalty was created by Westland, a party to the operating agreement, the overriding royalty interest was subject to the preferential right provision.⁶¹

Unfortunately, this case did not analyze whether non-operating interests were "interests" covered by the language of the operating agreement in question. It simply assumed that they were covered and, in order for the preferential right to apply, it only needed to establish that the overriding royalty was subject to the operating agreement. The court relied on some undisclosed terms in the operating agreement stating that overriding royalties created out of a working interest subject to such operating agreement were also subject to the agreement.⁶² While this case offers little guidance, it is clearly

⁵⁶ Kutzschbach, *supra* note 7, at 7-16.

⁵⁷ *Id.*

⁵⁸ [911 S.W.2d 916 \(Tex. Ct. App.-Fort Worth 1995\)](#).

⁵⁹ It is not clear from the opinion whether the 1972 Operating Agreement was a 1956 JOA. If it is a model form JOA, it must be a 1956 version since it was executed in 1972 and the next version of the JOA did not appear until 1977. The language in the preferential right provision was neither quoted nor discussed. The only language quoted from the 1972 Operating Agreement was some language at the very beginning of the agreement which set forth the date of execution and the names of the parties. This quoted language is identical to the language at the beginning of the 1956 JOA. However, *see* note 62 *infra*.

⁶⁰ Apparently no one complained that this transfer triggered the preferential right.

⁶¹ [IMCO, 911 S.W.2d at 921](#).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

authority for the proposition that sales of non-operating interests do trigger the preferential right- It also stands for the proposition that non-operating interests created prior to execution of the JOA would not be subject to the preferential right provision.

[d] Transfers of Non-Operating Interests That May Not Be Sales

Even if non-operating interests are generally covered, many common transactions involving the transfer of non-operating interests may not be "sales" and, therefore, are not subject to the preferential right. A transfer of an overriding royalty to the owner's children for little or no consideration is a gift and not a sale.⁶³ Some common non-operating interest transfers include transfers of overriding royalties to employees or employee pools as bonuses or additional compensation, and transfers of overriding royalties to consultants (such as geologists, engineers, landmen, and attorneys) for services in connection with a particular property or properties- As stated previously, a transfer of a working interest in consideration of an agreement to drill is an exchange and not a sale that triggers the preferential right.⁶⁴ Under *Panuco*, a transfer of a non-operating interest in consideration of an agreement to provide employment or consulting services would not trigger the preferential right. Even if these transfers of non-operating interests were sales, given the personal nature of the consideration, there is also an issue whether the preferential right holder can meet the same terms and conditions requirement.

[5] Avoiding the Preferential Right?

As discussed above, the preferential right to purchase provision does not apply to a transfer that is not a "sale" within the meaning of the preferential right provision. Additionally, it does not apply to transfers that are specifically excluded from application of the preferential right provision. The number of transfers in a particular transaction is not a basis for triggering the preferential right. Therefore, the preferential right does not apply to a transaction consisting of multiple transfers, so long as each of the transfers is either a non-sale or specifically excluded from the application of the provision. These multiple transfers occur frequently in the oil and gas industry for legitimate business purposes. However, multiple transfer transactions can be used as a device to circumvent the preferential right provision.

[a] The Texas Two Step**[i] The Two-Step Transaction**

One multiple transfer transaction has been scrutinized as an attempt to defeat the preferential right to purchase. Preferential right holders complain that this transaction is simply a disguised sale designed to avoid triggering the preferential right. Under this two-step approach, the seller transfers oil and gas properties to a subsidiary (often newly-formed) and then sells the stock of such subsidiary to a third party. The preferential right provision does not apply to this transaction because it consists of a

⁶² *Id.* Such terms are not readily apparent in the 1956 JOA. One commentator presumed that the court referred to a "subsequently created interest" provision. *See Cross, supra* note 5, at 198. If this is so, then the 1972 Operating Agreement could not have been a 1956 JOA because subsequently created interest provisions did not appear in the JOAs until the 1977 version.

⁶³ *Rainbow Oil Co. v. Christmann*, 656 P.2d 538, 544 (Wyo. 1982).

⁶⁴ *Panuco Oil Leases, Inc. v. Conroe Drilling Co.*, 202 F. Supp. 108 (S.D. Tex. 1961).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

transfer to a subsidiary, an excluded transfer, and of a transfer of stock to a third party, a non-sale. Note that the 1956 and 1989 versions of the JOA permit a sale of the burdened interest to a subsidiary without triggering the preferential right. However, the 1977 and 1982 versions only permit a sale to a subsidiary if it is a sale of "all or substantially all of its assets." To make this approach work under the 1977 and 1982 forms, unless it really is the sale of all or substantially all of the assets of the seller (which typically it is not), one would have to characterize the creation and transfer of the burdened property to a new subsidiary as a reorganization, which is specifically excluded from preferential right application, or characterize it as not a "sale."⁶⁵

[iii] *Tenneco Inc. v. Enterprise Products Co.*

In *Tenneco Inc. v. Enterprise Products Co.*,⁶⁶ the Texas Supreme Court addressed the issue of whether a multiple transfer transaction triggers a preferential right to purchase provision- In this case, the parties were owners of a natural gas fractionation plant. The plant was subject to a Restated Operating Agreement that contained a right of first refusal. Just like the provision in the JOA, the right was triggered by a "sale" and a transfer to a subsidiary was excluded from the application of the provision. In the first step of the transaction, Tenneco Oil Company conveyed its Ownership Interest in the natural gas fractionation plant to its newly-formed and wholly-owned subsidiary, Tenneco Natural Gas Liquids-a transfer specifically excluded from the application of the provision. In the second step, Tenneco Oil Company sold its stock in the subsidiary to Enron Gas Processing Company, a non-sale.⁶⁷ Tenneco and Enron began negotiations on an asset sale, but somewhere in the process it became a stock sale. Enterprise Products Co., Texaco, Meridian, and Union Pacific, the preferential right holders, argued that regardless how the transaction was structured, it was really a sale of an Ownership Interest.

The preferential right holders relied on a Texas Court of Appeals case, *Galveston Terminals, Inc. v. Tenneco Oil Co.*,⁶⁸ which had been decided just the year before and had reviewed a similar two-step transaction- The court in *Galveston Terminals*, after placing emphasis on the need to view the transfers as a single transaction to determine the intent and purpose of the parties, found that the two-step transaction was actually an asset sale subject to the preferential right provision.

However, the Texas Supreme Court in *Enterprise Products* expressly disapproved the reasoning in *Galveston Terminals* and held that the two-step transaction did not trigger the preferential right.⁶⁹ In support of its holding the court stated: "Sound corporate jurisprudence requires that courts narrowly construe rights of first refusal-...Viewing several separate transactions as a single transaction to invoke the right of first refusal compromises the law's unfavorable estimation of such restrictive

⁶⁵ *Fina Oil & Chemical Co. v. Amoco Prod. Co.*, 673 So. 2d 668, 675 (La. Ct. App. 1996) writ denied, 679 So. 2d 1353 (La. 1996) ("[r]eorganizations can be accomplished by spin offs of subsidiaries"); Hardwick, *supra* note 7, at 6-49.

⁶⁶ 925 S.W.2d 640 (Tex. 1996).

⁶⁷ There was actually a third transfer-a second sale of the stock to another Enron entity (another non-sale), but this transfer is not necessary for the analysis.

⁶⁸ *Galveston Terminals, Inc. v. Tenneco Oil Co.*, 904 S.W.2d 787 (Tex. Civ. App.-Houston 1995), set aside without reference to the merits, 922 S.W.2d 549 (Tex. 1996).

⁶⁹ *Enterprise Products*, 925 S.W.2d at 646.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

provisions."⁷⁰ The court also emphasized that the parties could have included change of control restrictions in the preferential right, but had failed to do so. Therefore, the preferential right holder should not be heard to complain when a change of control occurred.⁷¹ In Texas, therefore, it appears that the preferential right provision shall be narrowly construed, and if the parties have failed to include a change of control provision, a transaction may be structured as a two-step transaction and the preferential right avoided, regardless of the intent and purpose of the parties-

[b] The Louisiana Crawfish: *Fina Oil and Chemical Co. v. Amoco Production Co.*

The State of Louisiana also has addressed the issue of application of preferential rights in connection with multiple transfer transactions.⁷² In this case, Amoco Production Company (Amoco) owned a 50% interest in, and operated, three fields located in Louisiana-Charenton, Lake Boeuf, and Lake Boudreaux- Amoco's interests in these three fields were each subject to joint operating agreements that contained preferential right provisions. In step one, Amoco transferred its interest in the leases in these three fields, along with other property, to a subsidiary, MW Petroleum Corporation (MW), which had been created as part of a restructuring plan to divest non-core assets of Amoco. In step two, Amoco sold all of its stock in MW to Apache Corporation (Apache) about nine months later.

Fina Oil and Chemical Company (Fina), which owned the other 50% interest in the three fields and who was the preferential right holder under the JOAs, claimed that the transaction triggered its preferential right and sued Amoco, MW, and Apache to enforce it. First, the court analyzed the step one transfer from Amoco to its subsidiary MW and determined that, since it was a spin-off of assets from one corporation to a new corporation, it was a reorganization exempted from the preferential right provision. Next, it held that the step two transfer, the sale of stock, did not trigger the provision. However, the court stated that it needed to answer another question: should MW as a corporate entity be disregarded and the sale treated as a prohibited sale of assets? While the court went through the analysis with respect to piercing the corporate veil and alter ego, the real question it was trying to answer was whether MW was created merely to circumvent Fina's rights under the JOAs.⁷³ The court stated that the record contained overwhelming evidence that Amoco had a legitimate business purpose as its goal in creating MW- The goal (as stated by Amoco executives and its investment banker) was one of reorganization, not circumvention of the preferential rights. The reorganization had as its goal to maximize the economic benefits of the non-core assets through a spin-off to a new subsidiary. MW was created before Apache was on the scene, and Amoco marketed MW, not the individual leases. Apache never submitted an offer for the lease interests, but only for the stock of MW. Thus, the court concluded that the corporate entity of the subsidiary should not be disregarded.

It appears that in Louisiana a two-step transaction probably will not trigger the preferential right. However, Louisiana appears willing to give weight to the intent and purpose of the parties. Having some legitimate business purpose (other than circumventing the preferential right provision) in creating the new subsidiary would be sufficient to avoid triggering the preferential right.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Fina Oil & Chemical Co. v. Amoco Prod. Co.*, 673 So. 2d 668 (La. Ct. App. 1996), writ denied, 679 So. 2d 1353 (La. 1996).

⁷³ See *Pennmark Resources Co. v. Okla. Corp. Comm'n*, 6 P.3d 1076 (Okla. Civ. App. 2000) (for insight on how the State of Oklahoma might deal with this issue).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

[c] The Wyoming Tetons: *Williams Gas Processing-Wamsutter Co. v. Union Pacific Resources Co.*

The Wyoming Supreme Court also has addressed this issue in the very recent case, *Williams Gas Processing-Wamsutter Co. v. Union Pacific Resources Co.*^{73.1} In this case, Union Pacific Resources Company (UPRC) transferred its interest in a certain gas plant and associated gas gathering system (the Echo System), along with other assets, in a two-step transaction. In step one, UPRC transferred its interests in the System to a newly-formed second tier subsidiary, Fuels Acquisition Company (FAC), which had been created pursuant to the terms of a merger agreement between UPRC and the buyer, Duke Energy Field Services (Duke). In step two, UPRC sold all of its stock in Union Pacific Fuels, Inc., a first tier subsidiary of UPRC and the parent of FAC, to Duke.

The Echo System was subject to two Construction, Ownership and Operation Agreements, one for the gas plant and one for the gathering system, which contained identical preferential right provisions. These preferential right provisions are very similar to the provision found in the JOAs. Each of the provisions was triggered by a "sale" and contained exceptions for transfers to an affiliate and transfers by merger. Williams was a co-owner in the Echo System and complained that the transfer of the Echo System was really a sale, and had been structured as a two-step transaction to circumvent its preferential rights. The district court found that the transaction was a merger and not a sale triggering the preferential right provision. However, the Wyoming Supreme Court reversed the district court's decision and held that, for purposes of the preferential right provision, the transaction was a "sale." Relying on prior Wyoming case law, the court refused to construe the preferential right provision narrowly in the context of stock transfers because UPRC's position rested upon a "highly tortured and technical reading of the contract terms."^{73.2} The court stated that while it found the *Tenneco Inc. v. Enterprise Products Co.* and *Fina Oil and Chemical Co. v. Amoco Production Co.* cases instructive, it could not erase the rights Williams had bargained for and received when UPRC sold certain assets packaged in the form of an affiliate.

[6] Observations and Suggestions

Preferential rights are controversial and are frequently deleted from the JOA. One of the problems that adds to the controversy surrounding the provision is that, if interpreted broadly, the provision may inadvertently apply to transactions that are not intended to be covered. It creates enormous transactions costs, and careful consideration should be given before including the provision in a JOA. Even when not deleted, there are so many exceptions to its application that it may not be a very effective provision.

One issue that a draftsman must clarify is the definition of "sale." It must be determined if a narrow or broad interpretation is desired. Other issues to address are: (1) whether the provision applies to non-operating interests (if not excluded altogether, the draftsman may consider limiting the quantum of non-operating interest that can be conveyed without triggering the provision and/or creating specific exceptions for transfers to employees, consultants, and as part of financing transactions); (2) whether a change-of-control provision should be included to guard against the Texas Two Step; and (3) whether package sales should be specifically included or excluded from the application of the provision. As a

^{73.1} [25 P.3d 1064 \(Wyo. 2001\)](#).

^{73.2} [Id. at 1072](#).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

drafting reminder, do not stray too far from the current format of the provision so that enforceability will not become an issue.

§ 13.03 Maintenance of Uniform Interest

Another provision that needs to be considered in connection with producing property transfers is the Maintenance of Uniform Interest (MUI) provision.⁷⁴ This provision, like the preferential right to purchase provision, is a restraint on alienation- The MUI provision restricts transfers of non-uniform interests within the Contract Area. Non-uniform interests can be created in a variety of ways. A transfer of deep rights, shallow rights, or an individual formation subject to a JOA with no depth limitations creates a non-uniform interest. So would an assignment or reservation of all or part of a particular drilling and spacing or proration unit, drill site, or wellbore within a multiwell unit.

[1] Purpose of the MUI Provision

The MUI provision in the 1956 JOA, the 1977 JOA, and the 1982 JOA states that its purpose is "maintaining uniformity of ownership in the oil and gas leasehold interests covered by this agreement." The 1989 JOA expands the stated purpose to maintaining uniformity not only in the ownership of leasehold interests, but also in the ownership of unleased mineral fee interests, wells, equipment, and production. The most obvious next question is what is so important about maintaining uniform ownership?

Several commentators state that preventing undue expense and administrative burden on the operator having to deal with multiple variations of ownership is the primary function of the MUI provision.⁷⁵ Kutzschbach states that administrative efficiency is probably the only justifiable basis-⁷⁶ Other purposes also have been given for the existence of the clause: (1) maintaining a balance of the risks and benefits among the parties,⁷⁷ (2) avoiding the requirement of different notices and responses with respect to each well,⁷⁸ (3) protecting the non-consent clause,⁷⁹ (4) eliminating the necessity of separate metering and tankage,⁸⁰ (5) avoiding special problems with respect to voting procedures,⁸¹ (6) avoiding severe complication in the maintaining of gas imbalances accounts necessary for split-stream sales,⁸² (7) avoiding special problems in determining the proportions and rights of preferential right holders,⁸³ and (8) devaluing the operator's lien rights-⁸⁴

⁷⁴ 1956 JOA, Section 20 (Maintenance of Unit Ownership); 1977 JOA, Art. VIII.E.; 1982 JOA, Art. VIII. D.; and 1989 JOA, Art. VIII. D.

⁷⁵ Cross, *supra* note 5, at 213; Conine, *supra* note 7, at 1327; Kutzschbach, *supra* note 7, at 7-27.

⁷⁶ Kutzschbach, *supra* note 7, at 7-27.

⁷⁷ Conine, *supra* note 7, at 1329.

⁷⁸ *Id.* at 1327.

⁷⁹ Cross, *supra* note 5, at 213-14; Conine, *supra* note 7, at 1328.

⁸⁰ Cross, *supra* note 5, at 215.

⁸¹ *Id.* at 214.

⁸² Conine, *supra* note 7, at 1327.

⁸³ Cross, *supra* note 5, at 214.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

[2] Enforceability of the MUI Provision

The MUI provision is a restraint on alienation and, therefore, its enforceability can be challenged. Pursuant to the *Restatement of Property* there are three kinds of restraints on alienation: a disabling restraint, a promissory restraint, and a forfeiture restraint.⁸⁵ A disabling restraint is an attempt by an otherwise effective conveyance or contract to cause a later conveyance to be void.⁸⁶ A promissory restraint is an attempt by an otherwise effective conveyance or contract to cause a later conveyance to impose contractual liability on the later grantor for breach of an agreement not to convey.⁸⁷ A forfeiture restraint is an attempt by an otherwise effective conveyance or contract to cause a later conveyance to terminate or subject to termination all or a part of the property interest conveyed.⁸⁸

Generally, disabling restraints are invalid.⁸⁹ Promissory restraints and forfeiture restraints may be valid if: (1) the restraint is qualified so as to permit alienation to some though not all possible alienees, (2) the restraint is reasonable under the circumstances, and (3) if the restraint is a forfeiture restraint, the rule against perpetuities is not violated.⁹⁰ These rules apply not only to indefeasible estates, but also to defeasible estates.⁹¹ The MUI provision by its own terms does not purport to void any transfer made in violation thereof or to cause a forfeiture of the interest conveyed- Therefore, the provision is most likely a promissory restraint.⁹²

Pursuant to the *Restatement of Property*, the MUI provision would be valid as a promissory restraint if: (1) the restraint is qualified so as to permit alienation to some though not all possible alienees, and (2) the restraint is reasonable under the circumstances. Because not all transfers are prohibited in the MUI provision, the first test is most likely met. Therefore, the provision is enforceable if it is reasonable.

Even if it is enforceable, there may not be a satisfactory remedy for its violation. The comments to section 404 of the *Restatement of Property* discuss the remedy for violation of a valid promissory restraint:

[T]he effect of making a conveyance in violation of the [promissory] restraint is that the person so making such conveyance is subject either to damages, or, in a proper case, to equitable relief by way

⁸⁴ Cross, *supra* note 5, at 214; Conine, *supra* note 7, at 1328.

⁸⁵ *Restatement of the Law of Property*, § 404 (1944).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.* § 405.

⁹⁰ *Id.* § 406.

⁹¹ *Id.* § 407.

⁹² Kutzschbach, *supra* note 7, at 7-29; Hardwick, *supra* note 7, at 6-7. There currently are no reported appellate decisions dealing directly with the MUI provision. One unreported case out of Oklahoma, *Chalk Hill Gas, Inc. v. Texaco Producing Inc.*, No. 78,545 (Okla. Ct. App., Feb. 17, 1993), reviewed a trial court's holding that a MUI provision was a disabling restraint and unenforceable. On appeal, Chalk Hill argued that the MUI provision was a suitably limited promissory restraint. The court did not decide the issue directly, but concluded that while a disabling restraint was invalid, a suitably limited promissory or forfeiture restraint could be valid.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

of specific performance or an injunction, or some combination of these types of relief....Sometimes the only available remedy may be one for damages, and that even may be only a remedy for nominal damages. If this is true, of course, the promissory restraint does not operate as a significant impediment to the alienation of the property.⁹³

[3] Specific Language in the JOA

The relevant language in all four versions of the JOA is substantially the same and generally reads as follows (see the complete provisions in the Appendix at section 13.06):

no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Contract Area and in wells, equipment and production unless such disposition covers either:

- 1. the entire interest of the party in all leases and equipment and production; or**
- 2. an equal undivided interest in all leases and equipment and production in the Contract Area.**

The MUI provision applies to a much broader range of transfers than the preferential right provision. The MUI provision embraces not only sales, but also gifts, exchanges, mortgages, and any other encumbrance, transfer, or disposition.⁹⁴ A nonuniform transfer of an overriding royalty, production payment, net profits interest, and the like also may violate the provision.⁹⁵ The language in the provision probably is broad enough to also apply to involuntary transfers as well as voluntary ones.

The 1956 JOA, the 1977 JOA, and the 1982 JOA do not refer specifically to unleased mineral interests. Therefore, there is a question about whether the provision in these forms covers these interests.⁹⁶ The 1989 JOA corrects this omission by specifically including these interests in the provision- Some commentators have pointed out an uncertainty in the JOAs prior to the 1989 JOA regarding the language excluding application of the provision for transfers of "an equal undivided interest."⁹⁷ The 1989 JOA fixes this concern by revising the language to read: "an equal undivided percent of the party's present interest...."

[4] Observations and Suggestions

Notwithstanding that various commentators have identified possible justifications for the MUI provision, most of these same commentators have strongly criticized the provision as ineffective. The MUI provision is often deleted from the JOA. If not deleted, it is frequently violated, ignored, or

⁹³ *Restatement of the Law of Property* §§ 404, 2385 (1944).

⁹⁴ Conine, *supra* note 7, at 1326.

⁹⁵ Cross, *supra* note 5, at 213.

⁹⁶ Conine, *supra* note 7, at 1326.

⁹⁷ *Id.* ("it may refer to the conveyance of an equal fractional share of one's interest in each of his leases, or to an assignment of the same fractional interest in each lease. In the latter instance, the conveyance of an undivided one-half interest in each of two leases within the unit area in which the assignee [sic] initially owned a one-half and a three-quarters interest, respectively, may comply with the literal requirements of the provision by granting the assignee a uniform interest but result in a lack of uniformity of the assignor's interest").

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

waived.⁹⁸ When the provision is violated, such violations, if noticed, are typically tolerated.⁹⁹ Whatever the objectives of the MUI provision, it is not very workable.¹⁰⁰

Perhaps the primary reason the provision is so often violated and ignored is that the problems it is designed to avoid simply are not that great- When the clause first appeared in the 1956 JOA, there may have been a legitimate concern about the administrative burden of manually accounting for these interests. However, with today's computers and accounting software, such concerns seem nominal at best. If it is simply a matter of additional expense, providing that the party creating the additional expense is responsible for such additional expense is a far less restrictive and workable solution than a requirement to maintain uniform ownership. One commentator suggested a provision to replace the MUI that addresses the additional expense of separate metering: "In the event any party hereto creates a necessity for separate measurement facilities by virtue of any encumbrance or conveyance, the assignee shall alone bear the costs of acquisition, operation, maintenance and repair of such facility."¹⁰¹ This suggested provision could easily be expanded to require the assignee of a non-uniform interest to pay for any additional costs incurred by the operator resulting from the transfer of such non-uniform interest, not just those associated with separate measurement. With respect to special problems with notices, responses, voting procedures, preferential right procedures, a trustee or agent might be appointed to represent the interests derived through the party who created the non-uniform interest, similar to comparable provisions that already exist in the JOA.¹⁰²

Admittedly, sometimes the reason for creating a non-uniform interest is the avoidance of the non-consent penalty.¹⁰³ If a new well is proposed within the Contract Area (whether related to increased density drilling or otherwise), a party who cannot or chooses not to participate in the drilling of such well can obtain current value for that portion of its interest by assigning or farming out the relevant part of the Contract Area.¹⁰⁴ Sometimes this is accomplished by assigning or farming out the entire Contract Area and reserving a wellbore interest or small tracts associated with producing wells- If this concern is important to a party, a provision specifically dealing with this issue would be more effective.

This is not to say that the MUI provision is to be taken lightly. Parties can and have enforced the provision. However, the provision in its current form has proven generally ineffective. A party, when drafting a new JOA, may be better served by (1) determining which objectives, if any, purportedly

⁹⁸ Hardwick, *supra* note 7, at 6-4; Cross, *supra* note 5, at 213; Kutzschbach, *supra* note 7, at 7-33.

⁹⁹ Cross, *supra* note 5, at 213.

¹⁰⁰ Robert C. Bledsoe, "Ten Unworkable Aspects of the Model Form Operating Agreement and Suggestions," *Advanced Oil, Gas & Mineral Law Course* ch. 16(State Bar of Tex., Sept. 2000).

¹⁰¹ *Id.* at 10.

¹⁰² For example, see the third paragraph of the Maintenance of Uniform Interest provision, Article VIII. D. of the 1989 JOA, in which the Operator may require, in cases where a party's interest is divided among four or more co-owners, the appointment of a single trustee or agent with full authority to represent the co-owners with respect to notices, approval of expenditures, receipt of billings, and approval and payment of joint expenses, and to deal generally with and bind the co-owners within the scope of the operations embraced in the operating agreement.

¹⁰³ Hardwick, *supra* note 7, at 6-4.

¹⁰⁴ Bruce R. Rooker, "Acquiring Interest in an Area Covered by a Joint Operating Agreement," *The Landman* 64 (July/Aug. 1988).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

served by the MUI provision are most important, (2) deleting the MUI provision, and (3) replacing it with provisions that specifically address these pre-determined objectives.

§ 13.04 Change of Operator

Other provisions, while not restraints on alienation, that could have a significant impact on the value of the transaction to a purchaser who desires to operate the acquired properties are the "change of operator" provisions.¹⁰⁵ Purchasers commonly, but mistakenly, believe that if they are purchasing the rights and interests of the Operator, they automatically get to operate the acquired properties.¹⁰⁶ Even if the seller-Operator owns a majority of the interest covered by the JOA, there is no guarantee under the 1977 JOA, the 1982 JOA, and the 1989 JOA that the purchaser will succeed the seller as Operator.

[1] Purpose of the Change of Operator Provisions

At the time the JOA is executed, a party is named as the Operator. That party shall continue as Operator under the JOA until and unless particular events or circumstances occur. For example, a change in the Operator becomes necessary if the present Operator resigns or is removed. There also must be a change of Operator if the Operator sells its entire interest in the Contract Area to a non-affiliated third party. The purpose of the change of operator provisions is to describe the events and circumstances under which the present Operator shall no longer continue as Operator, and to establish a procedure for selecting a new Operator.

[2] Specific Language in the JOA**[a] 1956 JOA**

Like the other provisions discussed in this paper, change of operator provisions have existed since the 1956 version, although the form and substance have changed over time. The 1956 JOA provides in relevant part: "Should a sale be made by Operator of its rights and interests, the other parties have a right within sixty (60) days after the date of the sale, by majority of vote in interest, to select a new Operator."¹⁰⁷ If a new Operator is not selected within the 60-day period, the transferee of the present Operator automatically becomes the Operator.¹⁰⁸

Under the terms of this provision, a purchaser of the Operator's rights and interests would become Operator only if (1) the Purchaser is selected by majority vote in interest within the 60-day selection period, or (2) no new Operator is selected during such selection period. The selection procedure only requires a majority vote in interest, therefore a single party with the majority interest controls selection of the new Operator. If the present Operator's interest is a majority interest, then the purchaser could select itself as Operator. However, if the purchaser buys a majority interest from one or more Non-

¹⁰⁵ The term "change of operator" provisions as used herein shall mean sections 19 and 21 of the 1956 JOA; Articles V.B.1 and V.B.2 of the 1977 JOA and 1982 JOA; and Articles V.B.1, V.B.2, and V.B.3 of the 1989 JOA. The 1956 JOA provides for the selection of a new Operator in the event of a sale by the present Operator of its rights and interests and in the event the present Operator resigns.

¹⁰⁶ Robert C. Bledsoe, "Ten Most Common Defects That Impede Closings and What to Do," *43d Inst. on Oil & Gas L. & Tax'n* 2-1, § 2.06 at 2-17 (Sw. L. Fdn. 1992).

¹⁰⁷ Article 19, "Selection of New Operator," of the 1956 JOA.

¹⁰⁸ *Id.*

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

Operators, the purchaser could not assume operations because the provision applies only to the sale of the Operator's rights and interests. In this case, the purchaser could only become Operator if the present Operator subsequently sold its rights and interests (thus triggering the opportunity to select a new Operator by majority vote), if the present Operator resigned, or if the Operator is removed.¹⁰⁹

The purchaser could also become Operator if it is buying the present Operator's interest and the present Operator only owns 50% of the interest- Since a new Operator must be selected by a majority vote, a purchaser with a 50% interest can effectively block the selection of a new Operator. Once the 60-day selection period expires, the purchaser of the present Operator automatically assumes the duties and acts as the Operator under the express terms of the provision. This is a particularly important element of this provision when there are only two parties to the JOA, each owning a 50% interest. Even though a purchaser may assure itself of selection as the new Operator in certain circumstances, the right to continue as Operator is not absolute.¹¹⁰

[i] Change of Operator Provision in 1956 JOA Triggered by "Sale"

Like the preferential right to purchase provision, the change of operator provision in the 1956 JOA applies only to a "sale" by the Operator. It is not clear if the cases dealing with the issue of whether certain transfers are "sales," previously discussed in the preferential right context, are equally applicable here.¹¹¹ This provision is not a restraint on alienation and may not be as narrowly construed- Beginning with the 1977 JOA, the change of operator provision applies when the Operator no longer owns an interest in the Contract Area, clearly a much broader concept than a "sale."

Perhaps a more significant difference from the preferential right provision is that there are no express exceptions for sales to affiliates or, to the extent they might be considered a sale, for dispositions by merger, reorganization, or consolidation. Therefore, with respect to properties covered by a 1956 JOA in which the Operator owns less than a 50% interest, an Operator who, for various tax, corporate restructuring, or other reasons, disposes of properties to an affiliate or as part of a merger, reorganization, or consolidation may inadvertently lose its right to operate.¹¹² If the disposition is accomplished by a stock sale rather than an asset sale, the provision does not apply since these dispositions are not sales-¹¹³

[ii] Cases Interpreting the 1956 JOA Language

¹⁰⁹ The 1956 JOA does not provide a contractual right to remove the Operator. Judicial removal is most likely available, but would be difficult and expensive. See Fabene W. Talbot, "Removal of Operator Under the JOA," *Advanced Oil, Gas & Mineral Law Course* (State Bar of Tex., Sept. 1996).

¹¹⁰ Tammy J. Owen, "Selected Legal Issues Concerning the Transfer of Operatorship of Oil and Gas Properties," 14 *E. Min. L. Inst.* 24-1, § 24.02[2] (1993).

¹¹¹ See *supra* notes 22 through 33 and accompanying text.

¹¹² Kutzschbach, *supra* note 7, at 7-40; J. Colbert Peurifoy, "Acquisition and Financing Techniques-Panel Discussion: Other Legal Considerations," 20th *Inst. on Oil & Gas L. & Tax'n* 282, 296 (Sw. L. Fdn. 1969).

¹¹³ *Tenneco Inc. v. Enterprise Products Co.*, 925 S.W.2d 640 (Tex. 1996); *Capital Parks, Inc. v. Southeastern Adver. & Sales Sys. Inc.*, 30 F.3d 627 (5th Cir. 1994); *Gamble v. Cornell Oil Co.*, 154 F. Supp. 581 (W.D. Okla. 1957), *aff'd*, 260 F.2d 860 (10th Cir. 1958).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

A few issues with respect to the language in section 19 of the 1956 JOA have been addressed by the courts, including (1) whether the phrase "other parties" includes the assignee of the present Operator, and (2) whether a vote to select a new Operator can be unilaterally changed by a party prior to the expiration of the selection period.

Duncan Oil Properties, Inc. v. Vastar Resources, Inc. Under the 1956 JOA, when the Operator sells its interest, the "other parties" have the right to select a new Operator. Do the "other parties" include the purchaser of the Operator's rights and interests? This issue was addressed specifically in *Duncan Oil Properties, Inc. v. Vastar Resources, Inc.*¹¹⁴ In this case Vastar purchased Unocal's 39-34895% interest in the Ellis Unit. The unit was covered by a 1956 JOA. After the sale by Unocal to Vastar, both Vastar and Duncan, who held a combined 30.35467% interest in the unit, each held an election for a successor operator. Vastar's ballot included Vastar as a party and Duncan's ballot did not. Under the Vastar ballot, Vastar had the majority vote and under the Duncan ballot, Duncan had the majority. The Oklahoma Court of Appeals held that the equitable and logical construction of the phrase "other parties" includes the assignee of the present Operator's interest.¹¹⁵ Because the present Operator might technically be a party during the selection period (due to its duty to continue operations for as long as 120 days after its divestiture), the phrase simply clarifies that only the present Operator is not entitled to vote.¹¹⁶ The assignee is a party to the JOA during the selection process and should be included in the vote for a successor-

Oxley v. General Atlantic Resources, Inc. Other litigation regarding the 1956 JOA language involved whether the selection of a new Operator is binding once the parties vote within the 60-day period, or whether a party may change its vote any time prior to the expiration of the 60-day period.¹¹⁷ General Atlantic Resources, Inc- (GARI) purchased the rights and interests of the Operator in the Hooks Unit which was subject to a 1956 JOA. GARI sent notice of the sale to the non-operators along with ballots and a request that it be selected as the new Operator. A few days later, Oxley, one of the non-operators, sent a letter requesting that Oxley be selected. Another non-operator, Eberly, first voted for GARI, then still within the 60-day selection period, changed its vote to Oxley. Eberly's interest was sufficient to first give the majority to GARI, and then after it changed its vote, to give the majority to Oxley. GARI, asserting that Eberly could not change its vote, would not give up operations. The litigation ensued. The court found that the agreement was ambiguous with respect to this issue and required construction. GARI argued that it must be construed according to custom and usage in the oil and gas industry. Secondly, GARI contended that Eberly was estopped from changing its vote because GARI detrimentally relied upon it. The case was remanded with instructions that, *inter alia*, if the evidence shows that it is the custom and usage that vote changes are not permitted, then the JOA should be so interpreted.¹¹⁸

[b] 1977 JOA

¹¹⁴ [16 P.3d 465 \(Okla. Civ. App. 2000\)](#).

¹¹⁵ [Id. at 467](#).

¹¹⁶ *Id.*

¹¹⁷ See [Oxley v. General Atlantic Resources, Inc., 936 P.2d 943 \(Okla. 1997\)](#).

¹¹⁸ [Id. at 946](#).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

In 1977, the change of operator provisions were revised substantially.¹¹⁹ Under the new scheme, if the Operator terminates its legal existence, no longer owns an interest in the Contract Area, or is no longer capable of serving as Operator, it shall cease to be Operator without any action by Non-Operator, except the selection of a successor-¹²⁰ The selection procedures are found in a separate provision and state in relevant part:

Upon the resignation or removal of Operator, a successor Operator shall be selected by the Parties. The successor Operator shall be selected from the parties owning an interest in the Contract Area at the time such successor Operator is selected. If the Operator that is removed fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A," and not on the number of parties remaining after excluding the voting interest of the Operator that was removed.¹²¹

This provision, however, literally applies only upon the resignation or removal of the Operator and not when Operator ceases to be Operator- Additionally, the voting procedure involves only instances where the Operator that is removed fails to vote or votes only to succeed itself. Notwithstanding the foregoing, it is the only procedure for selection of a new Operator and by implication must apply to cessations as well.¹²² Therefore, under the terms of the 1977 JOA in the context of a producing property sale, if the Operator assigns all of its interest in the Contract Area to a purchaser, the Operator will cease to be Operator since it no longer owns an interest therein. Presumably, the parties to the JOA then must select a successor Operator by the affirmative vote of two or more parties who have a majority interest.

Additionally, the 1977 JOA dropped the concept from the 1956 JOA that if no new Operator is selected, then the purchaser of the Operator shall be the new Operator. This omission creates several potential voting issues. First, if there are only two parties to the JOA, the voting must be unanimous. In other words, one party, regardless of how small its interest, could block the selection of the successor Operator. Second, if one party has at least 50% of the interest, regardless of the number of other parties, that one party could block selection of a new Operator. Third, if the voting ends in a tie, whether between two or more prospective Operators, then the selection process is thwarted. Some commentators have stated that since the provision makes the cessation of the Operator's rights contingent on the action of the parties to select a successor, inaction by the parties on the selection of a successor may waive this provision.¹²³ The JOA is silent as to the procedure if the voting ends in a tie or if a new Operator is not selected pursuant to the procedure-

The 1977 JOA also changed the triggering event from a sale of the Operator's rights and interests to the Operator no longer owning an interest in the Contract Area. This new concept is much broader and includes any kind of transfer or disposition, not just a sale. It also is a more objective standard.¹²⁴ It

¹¹⁹ Articles V.B.1 and V.B.2 of the 1977 JOA; Talbot, *supra* note 109, at 2.

¹²⁰ Article V.B.1 of the 1977 JOA.

¹²¹ Article V.B.2 of the 1977 JOA.

¹²² Talbot, *supra* note 109, at 5. However, it may be argued that since the contract does not specifically address voting in the cessation context, common law principles would apply.

¹²³ Robert C. Bledsoe, "Current Problems Between Operators and Non-Operators in Operating Agreements," *40th Inst. on Oil & Gas L. & Tax'n* 8-1, § 8.02 at 8-4 (1989); Talbot, *supra* note 109, at 2.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

also clarifies that the Operator shall be selected by the "Parties"¹²⁵ and from parties owning an interest in the Contract Area at the time the successor Operator is selected.¹²⁶ Because the selection is not triggered until after title is no longer vested in the Operator, the purchaser is a party at such time and is entitled to vote. The provision only requires owning an interest in the Contract Area and a record title interest has been held to be sufficient to meet this requirement.¹²⁷ In the case of overlapping JOAs, a party might still own an interest in the Contract Area, but not own an interest covered by that particular JOA.¹²⁸

The provision also creates an exception that reads as follows: "A change of a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary, parent or successor corporation shall not be the basis for removal of Operator."¹²⁹ The language of the exception explicitly states that these changes and transfers cannot be the basis for removal of the Operator. However, the subject matter of the exception is totally unrelated to the basis for removal. Under the 1977 JOA, an Operator may be removed only if it fails or refuses to carry out its duties, or becomes insolvent, or bankrupt or is placed in receivership.¹³⁰ The exception more appropriately applies to instances where Operator no longer owns an interest in the Contract Area. A name change, a change in structure, and a transfer of all of Operator's interest to an affiliate are all events that could be construed to leave the Operator without an interest. However, the exception language clearly contemplates that these types of changes and transfers should not trigger the selection of a new Operator. This is generally consistent with the exception in the preferential right to purchase provision that permits similar events without triggering that provision.¹³¹ The exception further limits the transfer to a single entity. The language also permits transfers to successor corporations. However, it is not clear whether this would include successor partnerships, limited liability companies, or other business entities that are not corporations.

[c] 1982 JOA and 1989 JOA

While the change of operator provisions of the 1982 JOA and the 1989 JOA are substantially similar to the 1977 JOA, there are some important differences. The revised language reads in relevant part: "If Operator terminates its legal existence, no longer owns an interest hereunder in the Contract Area, or is no longer capable of serving as Operator, Operator shall be deemed to have resigned without any action by NonOperators, except the selection of a successor."¹³²

¹²⁴ Talbot, *supra* note 109, at 2.

¹²⁵ The 1977 JOA uses the term "Parties" in this provision, but Parties is not defined in the JOA.

¹²⁶ Article V.B.2 of the 1977 JOA.

¹²⁷ [*Hill v. Heritage Resources, Inc.*, 964 S.W.2d 89 \(Tex. Ct. App.-El Paso 1997\).](#)

¹²⁸ Talbot, *supra* note 109, at 6.

¹²⁹ Article V.B.1 of the 1977 JOA.

¹³⁰ *Id.*

¹³¹ See Article VIII.G. of the 1977 JOA.

¹³² Article V.B.1 of the 1982 JOA.

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

The 1982 JOA revisions (and as carried forward in the 1989 JOA) clarify some of the concerns raised above regarding the 1977 JOA- First, the outcome of no longer owning an interest is a deemed resignation, not cessation of operatorship. This, coupled with the added references to resignation in the selection of successor operator provision, confirms that the provision and the voting procedure apply to resignations (deemed or otherwise), not just removals. Second, the potential gap in the voting procedure is now closed; an affirmative vote of two (2) or more parties owning a majority interest is required to select a successor operator, not just required in situations where the Operator does not vote or only votes to succeed itself. Third, with respect to the ownership requirement, the 1982 JOA and 1989 JOA confirm that the ownership interest must be with respect to that particular JOA, not in a different JOA covering all or part of the Contract Area.

[3] Are Operator's Rights Assignable?: *Santa Fe Energy Operating Partners, L.P. v. Universal Resources Corp.*

At least one unpublished opinion raises an interesting issue whether an Operator may assign its rights to operate to a purchaser notwithstanding the change of operator provisions in the 1982 JOA.¹³³ The court reasoned that contract rights are assignable unless the contract relies on the personal trust, confidence, skill, character, or credit of the parties.¹³⁴ The court found intent by the parties that the JOA be assignable by pointing to language in the 1982 JOA (which language incidentally exists in all four versions of the JOA) stating that the agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, legal representatives, successors, and assigns.¹³⁵ Because it found that the Operator's rights and obligations under the JOA are not so unique in the oil and gas industry as to involve a degree of personal trust and confidence sufficient to meet the exception, the court held, as a matter of law, that the Operator's rights to operate were assignable to its purchaser.¹³⁶

The non-operator had argued that the resignation and removal clause in Article V.B.1 of the JOA superceded and negated the assignment clause. Without analysis, the court dismissed the non-operator's argument by invoking a canon of construction that it must seek an interpretation that does not render any provision of the contract meaningless.

The court cited three cases as support for its conclusion that the rights to operate were freely assignable. In the case of *Producers Oil Co. v. Gore*,¹³⁷ the defendant non-operator argued that the operating agreements in question imposed personal nondelegable duties upon the operator, rendering them unassignable- The court found that the parties intended the agreements to be assignable since it contained language making the agreement binding on successors and assigns, and since the duties to be performed were not sufficiently personal.¹³⁸ However, in this case, at issue was whether the

¹³³ See [Santa Fe Energy Operating Partners, L.P. v. Universal Resources Corp., No. 07-95-0342-CV, 1996 Tex. App. LEXIS 3540 \(Tex. Ct. App.-Amarillo Aug. 14, 1996\)](#) (unpublished opinion).

¹³⁴ See *id.* at *7.

¹³⁵ See *id.*

¹³⁶ See *id.* at *8.

¹³⁷ [437 F. Supp. 737 \(E.D. Okla. 1977\)](#).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

preferential purchase rights could be assigned, not the rights to operate. Preferential rights are not rights unique to the Operator under the JOA, nor are there provisions specifically negating the right to assign preferential rights.

A second case is *Purvis Oil Corp. v. Hillin*.¹³⁹ In *Purvis*, the facts involved a party that acted as "suboperator" or contract operator to an Operator who was in bankruptcy- It was anticipated that the suboperator would acquire the Operator's interest, but this never occurred. At one point the Operator petitioned the court to permit assignment to the suboperator of its rights to receive and disburse proceeds from oil and gas sales. The suboperator was subsequently elected Operator prior to the time that it owned an interest in the Contract Area. Later it obtained an interest in the Contract Area from parties other than the Operator. The issue in the case was whether the suboperator had been properly selected as Operator at the time it did not own an interest in the Contract Area, not whether the operating rights were assignable. The Operator did assign to the suboperator, with the bankruptcy court's permission, certain rights to receive oil and gas proceeds. However, this was in its capacity as suboperator under a suboperating agreement with the Operator, not in its capacity as purchaser of the Operator's interest.

Finally, the court in *Santa Fe* relied on *Somont Oil Co. v. Nutter*.¹⁴⁰ In *Somont*, an unleased mineral owner and a lessee entered into a "supplemental agreement to operate the mineral interests" of the unleased mineral owner.¹⁴¹ This six-page supplemental agreement was not a JOA and did not contain a prohibition on assignment. The lessee eventually assigned its leasehold interest and the supplemental agreement to Somont. The unleased mineral owner, after having disputes with the new lessee, filed suit claiming, among other things, that the supplemental agreement was personal in nature and unassignable. The court acknowledged that the principle of free assignability of contracts did not include contracts that are personal in nature, but found that the duties imposed on the lessee as operator of the properties were not so unique in the oil and gas industry as to prohibit assignment. This case did not contain change of operator provisions and did not deal with this issue at all.

These three cases clearly stand for the proposition that operations under the JOA are not so unique in the oil and gas industry as to involve a degree of personal trust and confidence sufficient to meet the exception, and that the Operator's rights to operate are generally assignable. However, the *Santa Fe* court erroneously concluded that the assignment clause is not superceded by the change of operator provisions in the context of a sale of all of the Operator's interest.

The case specifically cites the language of Article V.B.1 of the 1982 JOA which states that if the Operator no longer owns an interest in the Contract Area, it shall be deemed to resign without any action by Non-Operators, except the selection of a successor. When an Operator assigns all of its interest in the Contract Area, as did the Operator in the case at hand, the Operator is deemed to have resigned and no longer has rights of operation to assign. As discussed above, there are voting procedures set forth to select a new Operator in this circumstance and the purchaser of the Operator

¹³⁸ See [id. at 739](#).

¹³⁹ [890 S.W.2d 931 \(Tex. Ct. App.-El Paso 1994, no writ\)](#).

¹⁴⁰ [743 P.2d 1016 \(Mont. 1987\)](#).

¹⁴¹ [Id. at 1017](#).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

gets to vote. To ignore this provision and find that the Operator's rights are assignable to the purchaser when the Operator sells all of its interests in the Contract Area is contrary to the court's stated objective: to give effect to all provisions so none will be rendered meaningless.

These cases are particularly interesting and meaningful, however, in the context of an assignment by the Operator of less than all of its interest in the Contract Area. In that event, the change of operator provisions are not triggered and, under the authority of these cases, the Operator could assign its rights of operation to its purchaser. Coupled with the conclusion in *Hill v. Heritage Resources, Inc.*¹⁴² that a record title interest is sufficient to satisfy the requirement that the Operator own an interest in the Contract Area, a purchaser hypothetically could become the Operator and avoid triggering the change of operator provisions by having the Operator assign all of its interest in the Contract Area to the purchaser except a 1% record title interest, and assign its rights of operation- Of course, the interplay of these provisions and other provisions in the JOA, particularly the preferential right to purchase, would need to be examined.

[4] Observations and Suggestions

Like the other provisions discussed herein, there are still some unresolved issues. One very important issue that should be addressed is the voting procedure for selecting a successor operator in the event no party receives the affirmative vote of two or more parties having a majority of the interest. For selecting a successor operator in situations where the Operator no longer owns an interests, in the event a selection is not made following the procedures, then the 1956 JOA concept can be revived to automatically permit the purchaser of the Operator's interest to become the new Operator.¹⁴³ The exception language regarding a transfer of Operator's interest to any single subsidiary, parent corporation, or successor corporation should be modified, if desired, to also include other noncorporate successors such as partnerships, limited liability companies, etc- Finally, if the parties intend that the rights to operate are not to be assignable, then clear language evidencing that intent should be added to the JOA.

§ 13.05 Conclusion

The Joint Operating Agreement is a principal document to the oil and gas industry and has served it well. However, it is surprising how poorly some of the provisions are written. While no one can anticipate every gap or ambiguity in drafting a contract provision, the JOA still does not address a number of fundamental issues, particularly with respect to transfers of properties. The JOA is a very complex instrument and may always have a Byzantine nature. But perhaps, by addressing some of the issues raised herein, the number of strange and wrong valleys and imponderables may be somewhat reduced.

§ 13.06 Appendix¹⁴⁴

¹⁴² [*964 S.W.2d 89 \(Tex. Ct. App.-El Paso 1997\).*](#)

¹⁴³ Any revisions to the voting procedures also must address failures to select a new Operator in the event of a resignation or removal of the Operator. However, that topic is outside the scope of this paper.

¹⁴⁴ The provisions published here are taken from the 1956, 1977, 1982, and 1989 versions of the A.A.P.L. Form 610 Model Form Operating Agreement and are reprinted here with the permission of the American Ass'n of Professional Landmen (A.A.P.L.).

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

[1] Preferential Right to Purchase Provisions**[a] 1956 Version****18. Preferential Right to Purchase**

Should any party desire to sell all or any part of its interests under this contract, or its rights and interests in the Unit Area, it shall promptly give written notice to the other parties, with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all of its assets, or a sale or transfer of its interests to a subsidiary or parent company, or subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.

[b] 1977 Version**Article VIII. G. Preferential Right to Purchase**

Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Contract Area, it shall promptly give written notice to the other parties, with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all or substantially all of its assets to a subsidiary or parent company or to a subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.

[c] 1982 Version**Article VIII. F. Preferential Right to Purchase**

Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Contract Area, it shall promptly give written notice to the other parties, with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

all or substantially all of its assets to a subsidiary or parent company or to a subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.

[d] 1989 Version

Article VIII. F. Preferential Right to Purchase (Optional - Must check box to make effective)

Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Contract Area, it shall promptly give written notice to the other parties, with full information concerning its proposed disposition, which shall include the name and address of the prospective transferee (who must be ready, willing and able to purchase), the purchase price, a legal description sufficient to identify the property, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after the notice is delivered, to purchase for the stated consideration on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to transfer its interests to its mortgagee in lieu of or pursuant to foreclosure of a mortgage of its interests, or to dispose of its interests by merger, reorganization, consolidation, or by sale of all or substantially all of its Oil and Gas assets to any party, or by transfer of its interests to a subsidiary or parent company or to a subsidiary of a parent company, or to any company in which such party owns a majority of the stock.

[2] Maintenance of Uniform Interest Provisions**[a] 1956 Version****20. Maintenance of Unit Ownership**

For the purpose of maintaining uniformity of ownership in the oil and gas leasehold interests covered by this contract, and notwithstanding any other provisions to the contrary, no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Unit Area and in wells, equipment and production unless such disposition covers either:

- (1) the entire interest of the party in all leases and equipment and production; or
- (2) an equal undivided interest in all leases and equipment and production in the Unit Area.

Every such sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement, and shall be made without prejudice to the rights of the other parties.

If at any time the interest of any party is divided among and owned by four or more co-owners, Operator may, at its discretion, require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interest within the scope of the operations embraced in this contract; however, all such co-owners shall enter into and execute all contracts or agreements for the disposition of their respective shares of the oil and gas produced from the Unit Area and they shall have the right to receive, separately, payment of the sale proceeds thereof.

[b] 1977 Version

Article VIII. E. Maintenance of Uniform Interest

JULIA 5691 BROGGI

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

For the purpose of maintaining uniformity of ownership in the oil and gas leasehold interests covered by this agreement, and notwithstanding any other provisions to the contrary, no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Contract Area and in wells, equipment and production unless such disposition covers either:

1. the entire interest of the party in all leases and equipment and production; or
2. an equal undivided interest in all leases and equipment and production in the Contract Area.

Every such sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement, and shall be made without prejudice to the rights of the other parties.

If, at any time the interest of any party is divided among and owned by four or more co-owners, Operator, at its discretion, may require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interest within the scope of the operations embraced in this agreement; however, all such co-owners shall have the right to enter into and execute all contracts or agreements for the disposition of their respective shares of the oil and gas produced from the Contract Area and they shall have the right to receive, separately, payment of the sale proceeds hereof.

[c] 1982 Version**Article VIII. D. Maintenance of Uniform Interest**

For the purpose of maintaining uniformity of ownership in the oil and gas leasehold interests covered by this agreement, no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Contract Area and in wells, equipment and production unless such disposition covers either:

1. the entire interest of the party in all leases and equipment and production; or
2. an equal undivided interest in all leases and equipment and production in the Contract Area.

Every such sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement and shall be made without prejudice to the right of the other parties.

If, at any time the interest of any party is divided among and owned by four or more co-owners, Operator, at its discretion, may require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interest within the scope of the operations embraced in this agreement; however, all such co-owners shall have the right to enter into and execute all contracts or agreements for the disposition of their respective shares of the oil and gas produced from the Contract Area and they shall have the right to receive, separately, payment of the sale proceeds hereof.

[d] 1989 Version**Article VIII. D. Assignment, Maintenance of Uniform Interest**

For the purpose of maintaining uniformity of ownership in the Contract Area in the Oil and Gas Leases, Oil and Gas Interests, wells, equipment and production interests covered by this agreement no party shall sell, encumber, transfer or make other disposition of its interest in the Oil and Gas Leases and Oil and Gas Interests embraced within the Contract Area or in wells, equipment and production unless such disposition covers either:

JULIA 5691 BROGGI

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

1. the entire interest of the party in all Oil and Gas Leases, Oil and Gas Interests, wells, equipment and production; or
2. an equal undivided percent of the party's present interest in all Oil and Gas Leases, Oil and Gas Interests, wells, equipment and production in the Contract Area.

Every sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement and shall be made without prejudice to the right of the other parties, and any transferee of an ownership interest in any Oil and Gas Lease or Interest shall be deemed a party to this agreement as to the interest conveyed from and after the effective date of the transfer of ownership; provided, however, that the other parties shall not be required to recognize any such sale, encumbrance, transfer or other disposition for any purpose hereunder until thirty (30) days after they have received a copy of the instrument of transfer or other satisfactory evidence thereof in writing from the transferor or transferee. No assignment or other disposition of interest by a party shall relieve such party of obligations previously incurred by such party hereunder with respect to the interest transferred, including without limitation the obligation of a party to pay all costs attributable to an operation conducted hereunder in which such party has agreed to participate prior to making such assignment, and the lien and security interest granted by Article VII.B. shall continue to burden the interest transferred to secure payment of any such obligations.

If, at any time the interest of any party is divided among and owned by four or more co-owners, Operator, at its discretion, may require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interest within the scope of the operations embraced in this agreement; however, all such co-owners shall have the right to enter into and execute all contracts or agreements for the disposition of their respective shares of the Oil and Gas produced from the Contract Area and they shall have the right to receive, separately, payment of the sale proceeds hereof.

[3] Change of Operator Provisions**[a] 1956 Version****19. Selection of New Operator**

Should a sale be made by Operator of its rights and interests, the other parties shall have the right within sixty (60) days after the date of such sale, by majority of vote in interest, to select a new Operator. If a new Operator is not so selected, the transferee of the present Operator shall assume the duties of and act as Operator. In either case, the retiring Operator shall continue to serve as Operator, and discharge its duties in that capacity under this agreement, until its successor Operator is selected and begins to function, but the present Operator shall not be obligated to continue the performance of its duties for more than 120 days after the sale of its rights and interests has been completed.

[b] 1977 Version**Article V.B. Resignation or Removal of Operator and Selection of Successor**

1. Resignation or Removal of Operator: Operator may resign at any time by giving written notice thereof to Non-Operators. If Operator terminates its legal existence, no longer owns an interest in the Contract Area, or is no longer capable of serving as Operator, it shall cease to be Operator without any action by Non-Operator, except the selection of a successor. Operator may be removed if it fails or

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

refuses to carry out its duties hereunder, or becomes insolvent, bankrupt or is placed in receivership, by the affirmative vote of two (2) or more Non-Operators owning a majority interest based on ownership as shown on Exhibit "A", and not on the number of parties remaining after excluding the voting interest of Operator. Such resignation or removal shall not become effective until 7:00 o'clock A.M. on the first day of the calendar month following the expiration of ninety (90) days after the giving of notice of resignation by Operator or action by the Non-Operators to remove Operator, unless a successor Operator has been selected and assumes the duties of Operator at an earlier date. Operator, after effective date of resignation or removal, shall be bound by the terms hereof as a Non-Operator. A change of a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary, parent or successor corporation shall not be the basis for removal of Operator.

2. Selection of Successor Operator: Upon the resignation or removal of Operator, a successor Operator shall be selected by the Parties. The successor Operator shall be selected from the parties owning an interest in the Contract Area at the time such successor Operator is selected. If the Operator that is removed fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A", and not on the number of parties remaining after excluding the voting interest of the Operator that was removed.

[c] 1982 Version

Article V.B. Resignation or Removal of Operator and Selection of Successor:

1. Resignation or Removal of Operator: Operator may resign at any time by giving written notice thereof to Non-Operators. If Operator terminates its legal existence, no longer owns an interest hereunder in the Contract Area, or is no longer capable of serving as Operator, Operator shall be deemed to have resigned without any action by Non-Operators, except the selection of a successor. Operator may be removed if it fails or refuses to carry out its duties hereunder, or becomes insolvent, bankrupt or is placed in receivership, by the affirmative vote of two (2) or more Non-Operators owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of Operator. Such resignation or removal shall not become effective until 7:00 o'clock A.M. on the first day of the calendar month following the expiration of ninety (90) days after the giving of notice of resignation by Operator or action by the Non-Operators to remove Operator, unless a successor Operator has been selected and assumes the duties of Operator at an earlier date. Operator, after effective date of resignation or removal, shall be bound by the terms hereof as a Non-Operator. A change of a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary, parent or successor corporation shall not be the basis for removal of Operator.

2. Selection of Successor Operator: Upon the resignation or removal of Operator, a successor Operator shall be selected by the parties. The successor Operator shall be selected from the parties owning an interest in the Contract Area at the time such successor Operator is selected. The successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A"; provided however, if an Operator which has been removed fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of the Operator that was removed.

[d] 1989 Version

JULIA 5691 BROGGI

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

Article V.B. Resignation or Removal of Operator and Selection of Successor:

1. Resignation or Removal of Operator: Operator may resign at any time by giving written notice thereof to Non-Operators. If Operator terminates its legal existence, no longer owns an interest hereunder in the Contract Area, or is no longer capable of serving as Operator, Operator shall be deemed to have resigned without any action by Non-Operators, except the selection of a successor. Operator may be removed only for good cause by the affirmative vote of Non-Operators owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of Operator, such vote shall not be deemed effective until a written notice has been delivered to the Operator by a Non-Operator detailing the alleged default and Operator has failed to cure the default within thirty (30) days from its receipt of the notice or, if the default concerns an operation then being conducted, within forty-eight (48) hours of its receipt of the notice. For purposes hereof, "good cause" shall mean not only gross negligence or willful misconduct, but also the material breach of or inability to meet the standards of operation contained in Article V.A. or material failure or inability to perform its obligations under this agreement.

Subject to Article VII.D.1., such resignation or removal shall not become effective until 7:00 o'clock A.M. on the first day of the calendar month following the expiration of ninety (90) days after the giving of notice of resignation by Operator or action by the Non-Operators to remove Operator, unless a successor Operator has been selected and assumes the duties of Operator at an earlier date. Operator, after effective date of resignation or removal, shall be bound by the terms hereof as a Non-Operator. A change of a corporate name or structure of Operator or transfer of Operator's interest to any single subsidiary, parent or successor corporation shall not be the basis for removal of Operator.

2. Selection of Successor Operator: Upon the resignation or removal of Operator under any provision of this agreement, a successor Operator shall be selected by the parties. The successor Operator shall be selected from the parties owning an interest in the Contract Area at the time such successor Operator is selected. The successor Operator shall be selected by the affirmative vote of two (2) or more parties owning a majority interest based on ownership as shown on Exhibit "A"; provided however, if an Operator which has been removed or is deemed to have resigned fails to vote or votes only to succeed itself, the successor Operator shall be selected by the affirmative vote of the party or parties owning a majority interest based on ownership as shown on Exhibit "A" remaining after excluding the voting interest of the Operator that was removed or resigned. The former Operator shall promptly deliver to the successor Operator all records and data relating to the operations conducted by the former Operator to the extent such records and data are not already in the possession of the successor operator. Any cost of obtaining or copying the former Operator's records and data shall be charged to the joint account.

3. Effect of Bankruptcy: If Operator becomes insolvent, bankrupt or is placed in receivership, it shall be deemed to have resigned without any action by Non-Operators, except the selection of a successor. If a petition for relief under the federal bankruptcy laws is filed by or against Operator, and the removal of Operator is prevented by the federal bankruptcy court, all Non-Operators and Operator shall comprise an interim operating committee to serve until Operator has elected to reject or assume this agreement pursuant to the Bankruptcy Code, and an election to reject this agreement by the Operator as a debtor in possession, or by a trustee in bankruptcy, shall be deemed a resignation as Operator without any action by Non-Operators, except the selection of a successor. During the period of time the operating committee controls operations, all actions shall require the approval of two (2) or

EXHIBIT A

47 Rocky Mt. Min. L. Inst. 13-1 2001

more parties owning a majority interest based on ownership as shown on Exhibit "A." In the event there are only two (2) parties to this agreement, during the period of time the operating committee controls operations, a third party acceptable to Operator, Non-Operator and the federal bankruptcy court shall be selected as a member of the operating committee, and all actions shall require the approval of two (2) members of the operating committee without regard for their interest in the Contract Area based on Exhibit "A."

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