

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

**APPLICATIONS OF MRC PERMIAN COMPANY
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

**CASE NOS. 25247-25248,
25250, & 25252-25254**

MOTION TO STRIKE

MRC Permian Company (“MRC”) hereby submits this motion to strike from the record American Energy Resources, LLC’s (“American Energy”) entry of appearance and notice of opposition to presentation by affidavit for the following reasons:

1. A party may only enter an appearance to an adjudicatory proceeding if they are entitled to notice. 19.15.4.10.A NMAC. Notice is provided to each owner of an interest in the mineral estate that an applicant seeks to pool. 19.15.4.12.A(1)(a) NMAC. That being said, American Energy is not entitled to notice in these cases.

2. First, MRC is not seeking to force pool American Energy.

3. Second, it is MRC’s understanding that American Energy claims a mineral interest in the W/2 W/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M., Eddy County, New Mexico. It appears this interest is subject to ongoing litigation regarding the ownership of the minerals and the trial court has apparently entered summary judgment that neither American Energy, nor its representative Mr. Jonathan Samaniego, owns an interest in the mineral estate within those lands. *See Exhibit A – Summary Judgment.*

4. Furthermore, regardless of the outcome of the above-referenced litigation, the minerals in the W/2 W/2 of Section 27 are subject to an oil and gas lease in which MRC is the current lessee; thus, MRC does not need to pool the interest anyway. *See Exhibit B – Oil & Gas Lease and Self-Affirmed Statement (Landman Chris Carleton).*

WHEREFORE, MRC respectfully requests that American Energy’s entry of appearance and

notice of opposition to presentation by affidavit be excluded from consideration by the Division.

Respectfully submitted,

Holland & Hart, LLP

A handwritten signature in blue ink, appearing to read "P. Vance", is positioned above a horizontal line.

Michael H. Feldewert
Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
pmvance@hollandhart.com

**ATTORNEYS FOR MRC PERMIAN COMPANY AND
MATADOR PRODUCTION COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Jonathan Samaniego
P.O. Box 114
Hagerman, NM 88232
energy.jrs@gmail.com

Representative of American Energy Resources, LLC

A handwritten signature in blue ink, appearing to read "Paula M. Vance", is written over a horizontal line.

Paula M. Vance

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

FILED
5th JUDICIAL DISTRICT COURT
Eddy County
7/12/2024 10:35 AM
MARTHA HUEREQUE
CLERK OF THE COURT
Gwyneth Gadbury

EXHIBIT

A

Margaret Dowling,
Plaintiff,

vs.

**Jonathan Samaniego and
BlackGold Developers, LLC and
American Energy Resources, LLC**
Defendant.

No. D-503-CV-2023-00669

FINAL SUMMARY JUDGMENT ENTERED UNDER NMRA 1-056

SUBMITTED BY:

Martin, Dugan & Martin
Kenneth D. Dugan
W.T. Martin, Jr.
509 W. Pierce St.
P.O. Box 2168
Carlsbad, NM 88221-2168
(575) 887-3528
Fax (575) 887-2136
e-mail: kdugan@lawmdm.com

XC Clerk of the Court

¹
ATTACHMENT A

CAME ON, for hearing on July 8, 2024, Plaintiff's Motion for Summary Judgment ("*Motion*") filed by Plaintiff William Scott Simpson ("*Plaintiff*") on May 1, 2024, against Defendants Jonathan Samaniego ("*Samaniego*"), BlackGold Developers, LLC ("*Blackgold*") and American Energy Resources, LLC ("*AER*") (collectively, "*Defendants*"). Plaintiff and Defendants were represented by counsel and provided opportunity to present all appropriate matters.

After considering all proper matters, the Court finds and hereby **ORDERS** that there are no disputed issues of material fact and judgment as a matter of law should be **GRANTED** to Plaintiff against Defendants as follows.

1. Summary judgment is properly granted when no genuine issues of material fact exist and the movant is entitled to judgment as a matter of law. *Self v. United Parcel Serv., Inc.*, 1998-NMSC-046, ¶ 6, 126 N.M. 396. The movant must make a *prima facie* showing that summary judgment is merited. *Roth v. Thompson*, 1992-NMSC-022, 113 N.M. 331. "By a *prima facie* showing is meant such evidence as is sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted." *Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 10, 148 N.M. 713 (quoting *Goodman v. Brock*, 83 N.M. 789, 792-93, 498 P.2d 676, 679-80 (1972)). Upon such a *prima facie* showing, the burden shifts to the party opposing summary judgment to provide specific admissible evidence that creates "a reasonable doubt as to whether a genuine issue for trial exists." *Koenig v. Perez*, 1986-NMSC-066, ¶ 9, 104 N.M. 664. *Id.* General assertions of a triable issue are insufficient. *Clough v. Adventist Health Sys., Inc.*, 108 N.M. 801, 803, 780 P.2d 627 (1989). "New Mexico law requires that the alleged facts at issue be material to survive summary judgment." *Romero*, 2010-NMSC-035, ¶ 11. The inquiry's focus should be on whether, under substantive law, the fact is necessary to give rise to a claim. *Id.*; *Martin v. Franklin Capital Corp.*, 2008-NMCA-152, ¶ 6, 145 N.M. 179 ("An issue of fact is 'material' if the existence (or non-existence) of the fact is of consequence under the substantive rules of law governing the parties'").

dispute.”). “Mere argument or contention of existence of material issue of fact ... does not make it so.” *Spears v. Canon de Carnue Land Grant*, 1969-NMSC-163, 80 N.M. 766. Rather, “[t]he party opposing the summary judgment motion must adduce evidence to justify a trial on the issues.” *Clough v. Adventist Health Sys., Inc.*, 108 N.M. 801, 803, 780 P.2d 627, 629 (N.M. 1989).

2. Where the facts are undisputed, the rights of the party are determined as a matter of law. *Aktiengesellschaft Der Harlander Buamwollspinnerei und Zwirn-Fabrik v. Lawrence Walker Cotton Co.*, 60 N.M. 154, 288 P.2d 691 (N.M. 1955)(granting summary judgment); *Spears v. Canon de Carnue Land Grant*, 80 N.M. 766, 769, 461 P.2d 415, 418 (1969); 23 *Williston on Contracts*, § 63:15 (4th ed.). The construction of a deed and its legal effect is also a matter of law. *Pacheco v. Martinez*, 1981-NMCA-116, ¶ 41, 97 N.M. 37, 45, 636 P.2d 308, 316.
3. Plaintiff met her burden, and Defendants did not meet their burden once the burden shifted.
4. Plaintiff filed suit against Defendants for allegedly, wrongfully taking her real property in Eddy County.
5. As used herein, the term “Property” shall be as defined as follows:

The W1/2 W1/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M. in Eddy County, New Mexico, consisting of 160 acres of fee land and all mineral rights.
6. Plaintiff sought summary judgment on Count One (failure of acknowledgment), Count Four (failure of consideration) and County Five (declaratory judgment).
7. Section II of Plaintiff’s Motion set forth a concise statement of 30 material facts as to which Plaintiff contended there was no genuine issue of material fact.
8. Defendants filed no response to Plaintiff’s Motion.
9. Pursuant to NMRA 1-056(D), as a result of failing to file a response, the 30 material facts set forth in Section II of the Motion “shall be deemed admitted.”

10. Moreover, Plaintiff's 30 material facts were supported by one or both of (a) the Affidavit of Margaret Dowling attached to the Motion and/or (b) the deemed admissions attached to the Motion as Exhibits 2, 3 and 4.
11. The unrefuted, Affidavit of Margaret Dowling proves conclusively (a) Ms. Dowling did not execute the Deed (attached as Exhibit A to the Complaint, the Motion and this Order) and (b) that Deed was not executed in the presence of a notary. (Ex. 1, ¶¶8-9).
12. The unrefuted Affidavit of Ms. Dowling further proves conclusively Ms. Dowling received no consideration for that Deed or transfer of the Property. (Ex. 1, ¶10).
13. Pursuant to NMRA Rule 1-036(A), a matter is deemed admitted if a party fails to serve answers to requests for admission within the required thirty (30) day period. Pursuant to NMRA Rule 1-036(B), the deemed matter is "conclusively established."
14. It is undisputed Defendants failed to answer the Requests for Admission (Exs. 2, 3 and 4) within the required time. Those requests are deemed admitted. Those deemed admissions conclusively establish Plaintiff is entitled to judgment as requested in the Motion.
15. Plaintiff requested in her Complaint a declaration that the deeds at issue are "unenforceable, null, void and/or voidable." (Complaint, ¶104). Among other doctrines, Plaintiff pleaded the deeds are void and/or voidable based on failure of consideration (Complaint, ¶¶100-101) and failure to notarize the Deed in Plaintiff's presence (Complaint, ¶¶ 54-58).
16. Defendants admitted the relevant facts in their deemed admissions. Defendants American Energy and BlackGold admitted the deeds at issue (Exs. A, E and F) are void and voidable. (Exs. 2 and 3, Adm. 23-28). All of the Defendants admitted Defendant Samaniego is the alter ego of the BlackGold and American Energy. (Exs. 2, 3 and 4, Adm. 18). The same counsel represents all Defendants. Accordingly, the admissions of BlackGold and American Energy are binding on Defendant Samaniego herein.

17. Even without such vicarious admissions, however, that is the practical result of the other deemed admissions. All of the Defendants admitted facts sufficient to void the deeds (Exs. A, E and F) for lack of consideration. All of the Defendants admitted the Property is worth over \$1,000,000. (Exs. 2, 3 and 4, Adm. 3). All Defendants admitted no consideration was given for any of the three deeds at issue – Exhibits A, E and F. (Exs. 2, 3 and 4: Adm. 1, 2, 13, 15, 20, and 22). An instrument for which no consideration was given is unenforceable, void and/or voidable and cannot pass title. *Primus v. Clark*, 1944-NMSC-030, ¶ 33, 48 N.M. 240; *Cordova v. World Fin. Corp. of NM*, 2009-NMSC-021, ¶ 14, 146 N.M. 256; *Bencoe v. Bencoe*, 1956-NMSC-126, ¶ 11, 62 N.M. 95, 100; *Morgan v. Thompson*, 1942-NMSC-028, ¶ 14, 46 N.M. 282; *Knoebel v. Chief Pontiac, Inc.*, 1956-NMSC-020, ¶ 8, 61 N.M. 53.
18. Unless a party is a good faith purchaser, he may acquire no greater title than his grantor. *O'Brien v. Chandler*, 1988-NMSC-094, ¶ 13, 107 N.M. 797. A bona fide (good faith) purchaser is a party that has acquired property for valuable consideration in good faith without notice of defects in the chain of title to the property, including adverse rights or claims of other parties. See *Jeffers v. Doel*, 1982-NMSC-116, ¶ 7, 99 N.M. 351. Defendants American Energy and BlackGold could not be good faith purchasers without notice because all Defendants admit Samaniego was the alter ego of Defendants. (Exs. 2, 3 and 4, Adm. 18). Notice by Samaniego is imputed on Defendants American Energy and BlackGold. Moreover, Defendants American Energy and BlackGold both admitted they are not good faith purchasers of the Property. (Exs. 3 and 4, Adm. 19 and 21). Accordingly, their respective deeds are unenforceable and voidable by Plaintiff.
19. Additionally, Defendants Samaniego, American Energy and BlackGold all admitted the Deed under which Samaniego acquired his interest, Exhibit A, was not executed in the presence of a notary. (Ex. 2, 3 and 4, Adm. 7). A deed is unenforceable if it is not notarized in the presence of

the affiant. NMSA § 14-14-1, et seq; NMSA § 14-12-1, et seq. The notarization of the Deed outside of Plaintiff's presence is illegal. NMSA § 14-12A-11. Under N.M.S.A. § 14-8-4, the Deed should not have been recorded and "may not be considered of record" because it was not properly acknowledged in the presence of a notary.

20. Plaintiff is entitled to judgment declaring her the legal owner of the Property. The Affidavit of Margaret Dowling, Exhibit 1, confirms Plaintiff's title in the Property. Mrs. Dowling acquired her interests pursuant to Exhibits B and D attached to the Motion. (Ex. 1, ¶4).
21. Because the deeds at issue are void and voidable, Plaintiff is entitled to a judgment declaring her the rightful owner of the Property. Also, Defendants BlackGold and American Energy admitted Plaintiff is entitled to a judgment herein declaring that Plaintiff is the rightful owner of the Property as against Defendants and all other unknown claimants. (Exs. 3 and 4, Adm. 29, 32-33). Defendants BlackGold and American Energy admitted they have no legal or equitable interest in the Property and that title in the Property should be quieted in Plaintiff. (Exs. 3 and 4, Adm. 30-34).
22. Accordingly, this Court shall enter judgment declaring Plaintiff is the lawful owner of the Property and that title to the Property be established in Plaintiff against Defendants and all other unknown claimants. (Exs. 3 and 4, Adm.31-34).
23. Further, this Court shall enter judgment declaring the deeds attached to the Complaint and hereto as exhibits A, E, and F are unenforceable, void, and voidable, and striking them from the real estate records.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, DECLARED AND DECREED:

- A. The deeds attached to the Complaint and hereto as Exhibits A, E and F are unenforceable, voidable, void, null, and of no effect, and they are hereby stricken from the real estate records.

B. The Court hereby declares:

- a. Plaintiff is the lawful owner of the Property, both fee and mineral interests, and her title to the Property and mineral interests is hereby established against the Defendants and all other claimants; and
- b. Each Defendant is barred and forever estopped from having or claiming any lien or other interest upon any right or title to the Property or mineral interests; and
- c. Plaintiff is declared 100% owner of the Property and mineral interests; and
- d. Title to the Property and mineral interests is forever quieted and set at rest in Plaintiff's name.

C. It is further hereby declared and judgment is entered that Defendants are ejected from the Property and must immediately vacate the Property, and ownership and possession of the Property shall lie solely and exclusively with Plaintiff; and


D. It is further declared and judgment is entered that this Judgment is entered pursuant to N.M.R.A. 1-070 and has the effect of a conveyance executed in due form of law, dating back to February 21, 2017.

E. This is a final judgment.

IT IS SO ORDERED.


HONORABLE JUDGE JANE SCHULER-GRAY

APPROVED AS TO FORM ONLY:

By 
Kenneth D. Dugan
Attorney for Plaintiff

By ___/s/ by email 7-10-24 (attached)_____
Jacob Candelaria
Attorney for Defendants

EXHIBIT
B

AFTER RECORDING RETURN TO
GUARANTY TITLE COMPANY
Producer's 88—(Producer's Revised 1967) (New Mexico) Form 342-U
CARLSBAD, NEW MEXICO 88220

2-23-47-8114-80601113

Printed and for sale by Hall-Poorbaugh Press, Inc., Roswell, N. M.

OIL & GAS LEASE

THIS AGREEMENT made this 29th day of March, 1973, betweenO. J. Dowling and wife, Frances V. DowlingP. O. Box 142of Carlsbad, New Mexico 88220

(Post Office Address)

Union Oil Company of California

herein called lessor (whether one or more) and Union Oil Company of California, lessee:
1. Lessor, in consideration of TEN AND OTHER DOLLARS in hand paid, receipt of which is here acknowledged, and of the royalties herein provided and of the agreements of the lessee herein contained, hereby grants, leases and lets exclusively unto lessee for the purpose of investigating, exploring, prospecting, drilling, and operating for and producing oil and gas, injecting gas, waters, other fluids, and air into subsurface strata, laying pipe lines, storing oil, building tanks, roadways, telephone lines, and other structures and things thereon to produce, save, take care of, treat, process, store and transport said minerals, the

following described land in Eddy County, New Mexico, to-wit:

Township 22 South, Range 28 East, N.M.P.M.Section 27: W/2 W/2

For the purpose of calculating the rental payments hereinafter provided for, said land is estimated to comprise 160.00 acres, whether it actually comprises more or less.

2. Subject to the other provisions herein contained, this lease shall remain in force for a term of five (5) years from this date (called "primary term"), and as long thereafter as oil or gas, or both, is produced from said land or land with which said land is pooled.

3/16

3. The royalties to be paid by lessee are: (a) on oil, and on other liquid hydrocarbons saved at the well, one-eighth of that produced and saved from said land, same to be delivered at the well or to the credit of lessor in the pipe line to which the wells may be connected; (b) on gas, including casinghead gas and air gases, same to be delivered at the well or to the credit of lessor in the pipe line to which the wells may be connected; (c) on gas sold or used in the manufacture of gasoline or other product therefrom, the market value at the time of sale or use, less the cost of production, to be paid to lessor in the pipe line to which the wells may be connected. If the gas so sold or used, provided that on gas sold at the well the royalty shall be one-eighth of the amount realized from such sale, and at any time when this lease is not validated by other provisions hereof and there is a gas and or condensate well on said land, or land pooled therewith, but gas and or condensate is not being so sold or used and such well is shut in, either before or after production therefrom, then on or before 90 days after said well is shut in, and thereafter at annual intervals, lessee may pay or tender an advance annual shut-in royalty equal to the amount of delay rentals provided for in this lease for the acre then held under this lease by the party making such payment or tender, and so long as said shut-in royalty is paid or tendered this lease shall not terminate and it will be considered under all clauses hereof that gas is being produced from the leased premises in paying quantities. Each such payment shall be paid or tendered to the party or parties who at the time of such payment would be entitled to receive the royalties which would be paid under this lease if the well were in fact producing, or be paid or tendered to the credit of such party or parties in the depository bank and in the manner hereinafter provided for the payment of rentals.

3/16

4. If operations for drilling are not commenced on said land or on land pooled therewith on or before one (1) year from this date, this lease shall terminate as to both parties, unless on or before one (1) year from this date lessee shall pay or tender to the lessor a rental of \$ 160.00 which shall cover the privilege of deferring commencement of such operations for a period of twelve (12) months. In like manner and upon like payments or tenders, annually the commencement of said operations may be further deferred for successive periods of twelve (12) months each during the primary term. Payment

or tender may be made to the lessor or to the credit of the lessor in the Carlsbad National Bank

Carlsbad, New Mexico

5. Lessee is hereby granted the right and power, from time to time, to pool or combine this lease, the land covered by it or any part or horizon thereof with any other land, lease, leases, mineral estates or parts thereof for the production of oil or gas. Units pooled hereunder shall not exceed the standard production unit fixed by law or by the New Mexico Oil Conservation Commission or by other lawful authority for the pool or area in which said land is situated, plus a tolerance of 10%. Lessee shall file written unit designations in the county in which the premises are located and such units may be designated from time to time and either before or after the completion of wells. Drilling operations on or production from any part of any such unit shall be considered for all purposes except the payment of royalty, as operations conducted upon or production from the land described in this lease. There shall be allocated to the land covered by this lease included in any such unit that portion of the total production of pooled minerals from wells in the unit, after deducting any used in lease or unit operations, which the number of surface acres in the land covered by this lease included in the unit bears to the total number of surface acres in the unit. The production so allocated shall be considered for all purposes, including the payment or delivery of royalty, to be the entire production of pooled minerals from the portion of said land covered hereby and included in said unit in the same manner as though produced from said land under the terms of this lease. Any pooled unit designated by lessee, as provided herein, may be dissolved by lessee by recording an appropriate instrument in the County where the land is situated at any time after the completion of a dry hole or the cessation of production on said unit. Lessee is further granted the right and power to submit this lease as to all or any portion of the above described lands or horizons thereof to any unit agreement for the purpose of conserving the natural resources of any oil or gas pool, field or area covered thereby; provided, such unit agreement contains usual and customary provisions for the allocation of oil and gas produced from the unit area and such unit agreement embraces lands of either the United States or State of New Mexico or both, and the form of unit agreement has been approved by either the United States Geological Survey or Commissioner of Public Lands of both and the New Mexico Oil Conservation Commission, and such unit agreement the provisions of this lease shall be conform to the unit agreement.

6. If prior to the discovery of oil or gas hereunder, lessee should drill and abandon a dry hole or holes hereunder, or if after discovery of oil or gas the production thereof should cease for any cause, this lease shall not terminate if lessee commences reworking or additional drilling operations within 60 days thereafter and diligently prosecutes the same, or if it be within the primary term commences or resumes the payment or tender of rentals or commences operations for drilling or reworking on or before the rental paying date next ensuing after the expiration of three months from date of abandonment of said dry hole or holes or the cessation of production. If at the expiration of the primary term oil or gas is not being produced but lessee is then engaged in operations for drilling or reworking of any well, this lease shall remain in force so long as such operations are diligently prosecuted with no cessation of more than 60 consecutive days. If during the drilling or reworking of any well under this paragraph, lessee loses or sinks the hole or well and after diligent efforts in good faith is unable to complete said operations then within 30 days after the abandonment of said operations lessee may commence another well and drill the same with due diligence. If any drilling, additional drilling, or reworking operations hereunder result in production, then this lease shall remain in full force so long thereafter as oil or gas is produced hereunder.

7. Lessee shall have free use of oil, gas and water from said land, except water from lessor's wells and tanks, for all operations hereunder, and the royalty shall be computed after deducting any so used. Lessee shall have the right at any time during or after the expiration of this lease to remove all property and fixtures placed by lessee on said land, including the right to draw and remove all casing. When required by lessee, lessee will bury all pipe lines on cultivated lands below ordinary plow depth, and no well shall be drilled within two hundred feet (200 ft.) of any residence or barn now on said land without lessor's consent. Lessor shall have the privilege, at his risk and expense, of using gas from any gas well on said land for stoves and inside lights in the principal dwelling thereon, out of any surplus gas not needed for operations hereunder.

8. The rights of either party hereunder may be assigned in whole or in part and the provisions hereof shall extend to the heirs, executors, administrators, successors and assigns; but no change or division in the ownership of the land, or in the ownership of or right to receive rentals, royalties or payments, however accomplished shall operate to enlarge the obligations or diminish the rights of lessee; and no such change or division shall be binding upon lessee for any purpose until 30 days after lessee has been furnished by certified mail at lessee's principal place of business with acceptable instruments or certified copies thereof constructing the chain of title from the original lessor. If any such change in ownership occurs through the death of the owner, lessee may pay or tender any rentals, royalties or payments to the credit of the deceased or his estate in the depository bank until such time as lessee has been furnished with evidence satisfactory to lessee as to the persons entitled to such sums. In the event of an assignment of this lease as to a segregated portion of said land, the rentals payable hereunder shall be apportioned as between the several leasehold owners ratably according to the surface area of each, and default in rental payment by one shall not affect the rights of other leasehold owners hereunder. An assignment of this lease, in whole or in part, shall, to the extent of such assignment, release and discharge lessee of any obligations hereunder, and, if lessee or assignee of part or parts hereof shall fail or make default in the payment of the proportionate part of the rentals due from such lessee or assignee or fail to comply with any other provision of the lease, such default shall not affect this lease in so far as it covers a part of said lands upon which lessee or any assignee thereof shall so comply or make such payments. Rentals as used in this paragraph shall also include shut-in royalty.

9. Should lessee be prevented from complying with any express or implied covenant of this lease, or from conducting drilling or reworking operations hereunder, or from producing oil or gas hereunder by reason of scarcity or inability to obtain or use equipment or material, or by operation of force majeure, or by any Federal or state law or any order, rule or regulation of governmental authority, then while so prevented, lessee's duty shall be suspended, and lessee shall not be liable for failure to comply therewith; and this lease shall be extended while and so long as lessee is prevented by any such cause from conducting drilling or reworking operations on or from producing oil or gas hereunder; and the time while lessee is so prevented shall not be counted against lessee, anything in this lease to the contrary notwithstanding.

10. Lessee hereby warrants and agrees to defend the title to said land, and agrees that lessee, at its option, may discharge any tax, mortgage, or other lien upon said land, and in the event lessee does so, it shall be subrogated to such lien with the right to enforce same and apply rentals and royalties accruing hereunder toward satisfying same. Without impairment of lessee's rights under the warranty, if this lease covers a less interest in the oil or gas in all or any part of said land than the entire and undivided fee simple estate (whether lessor's interest is herein specified or not) then the royalties, shut-in royalty, rental, and other payments, if any, accruing from any part as to which this lease covers less than such full interest, shall be paid only in the proportion which the interest therein, if any, covered by this lease, bears to the whole and undivided fee simple estate therein. Should any one or more of the parties named above as lessors fail to execute this lease, it shall nevertheless be binding upon the party or parties executing the same.

11. Lessee, its successors, heirs and assigns, shall have the right at any time to surrender this lease, in whole or in part, to lessor or his heirs, successors, and assigns by delivering or mailing a release thereof to the lessor, or by placing a release thereof of record in the county in which said land is situated; thereupon lessee shall be relieved from all obligations, expressed or implied, of this agreement as to acreage so surrendered, and thereafter the rentals and shut-in royalty payable hereunder shall be reduced in the proportion that the acreage covered hereby is reduced by said release or releases.

Executed the day and year first above written.

O. J. Dowling - S.S.# 525-01-1004Frances V. Dowling
Frances V. Dowling, his wife

R

114

STATE OF NEW MEXICO,

County of EDDY

INDIVIDUAL ACKNOWLEDGMENT (New Mexico Short Form)

The foregoing instrument was acknowledged before me this 30 day of March, 1974 by D. J. Dowling and wife, Frances V. Dowling

My Commission expires Jan. 22, 1974 Elita S. Simmons
Notary Public

STATE OF NEW MEXICO,

County of _____

INDIVIDUAL ACKNOWLEDGMENT (New Mexico Short Form)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____

My Commission expires _____, 19____ Notary Public

STATE OF NEW MEXICO,

County of _____

INDIVIDUAL ACKNOWLEDGMENT (New Mexico Short Form)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____

My Commission expires _____, 19____ Notary Public

STATE OF _____

County of _____

INDIVIDUAL ACKNOWLEDGMENT (New Mexico Short Form)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____

My Commission expires _____, 19____ Notary Public

| | |
|--|---|
| No. _____ | OIL AND GAS LEASE NEW MEXICO |
| FROM | TO |
| Date _____, 19____ | Section _____, Township _____, Range _____ |
| No. of Acres _____ | County, New Mexico |
| Term _____ | STATE OF NEW MEXICO COUNTY OF <u>EDDY</u> |
| I hereby certify that this instrument was filed for record on the <u>30th</u> day of <u>April</u> , A. D., 19 <u>73</u> , at <u>4:00</u> o'clock <u>P.</u> m., and was duly recorded in Book <u>99</u> at Page <u>113</u> of the Records of said County. | |
| By <u>Elita S. Simmons</u> Notary Public | By <u>Franklin H. Haddock</u> County Clerk |
| By <u>Elita S. Simmons</u> Deputy | |

STATE OF NEW MEXICO

County of _____

CORPORATION ACKNOWLEDGMENT (New Mexico Short Form)

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

My Commission Expires: _____ Notary Public

STATE OF _____

County of _____

CORPORATION ACKNOWLEDGMENT (New Mexico Short Form)

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

My Commission Expires: _____ Notary Public

SELF-AFFIRMED STATEMENT OF CHRIS CARLETON

1. My name is Chris Carleton. I work for MRC Energy Company, an affiliate of MRC Permian Company ("MRC"), as a Senior Vice President - Land.

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

3. I am familiar with the application filed by MRC in Case Nos. 25247-25248, 25250, & 25252-25254, and I am familiar with the status of the lands in the subject area. I can attest that MRC owns a lessee working interest in each of the proposed spacing units in the above-referenced cases.

4. In addition, attached hereto is an Oil and Gas Lease, dated March 29, 1973, between O. J. Dowling and wife, Frances V. Dowling, as lessors, and Union Oil Company of California, as lessee, covering the W/2 W/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M., Eddy County, a copy of which was recorded in Book 99, Page 113 in the records of Eddy County, New Mexico (the "Lease"). I have reviewed MRC's title information with respect to the Lease and can confirm that, through a number of different transactions, MRC has acquired 76.7% of the lessee interest under the Lease.

5. I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct. I understand that this self-affirmed statement will be used as written testimony in this case. This statement is made on the date next to my signature below.



NAME



Date