

CASE 6811: LAGUNA PETROLEUM COMPANY FOR, any
COMPULSORY POOLING, CHAVES COUNTY, NEW
MEXICO

Case NO.

6811

Application

Transcripts

Small Exhibits

ETC.

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSRVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
27 February 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Laguna Petroleum Company) CASE
for compulsory pooling, Chaves County,) 6311
New Mexico.)

BEFORE: Richard L. Stamets

TRANSCRIPT OF HEARING

A P P E A R A N C E S

| | |
|------------------------------------|---|
| For the Oil Conservation Division: | Ernest L. Padilla, Esq. Legal Counsel to the Division State Land Office Bldg. Santa Fe, New Mexico 87501 |
| For the Applicant: | Sim B. Christy, IV JENNINGS & CHRISTY P. O. Box 1180 Roswell, New Mexico 88201 |
| For the Protestants: | Stephen Charnas SUTIN, THAYER & BROWNE P. O. Box 1945 Albuquerque, New Mexico 87103 |

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1 MR. STAMETS: Call next Case 6811.

2 MR. PADILLA: Application of Laguna Petro-
3 leum Company for compulsory pooling, Chaves County, New
4 Mexico.

5 MR. STAMETS: Call for appearances in this
6 case.

7 MR. CHRISTY: Sim Christy, Jennings and
8 Christy, Roswell, New Mexico, for the Applicant, Laguna Pet-
9 roleum.

10 MR. STAMETS: Any other appearances?

11 MR. CHARNAS: Yes. Stephen Charnas,
12 Sutin, Thayer, and Browne, Albuquerque, New Mexico, for
13 Estate of Crosby and O'Melveny.

14 Mr. Examiner --

15 MR. STAMETS: --

16 MR. CHARNAS: -- if I may at this time,
17 I would like to request a continuance in this matter until
18 the next hearing date.

19 My reasons for requesting a continuance
20 are these: That as of Monday night my clients, who are in
21 California, had received no actual notice of this hearing;
22 that their sole information about this hearing came from a
23 letter sent -- a request letter to the Commission requesting
24 this hearing, sent by Mr. -- sent by Laguna, the Applicant;
25 that we were brought into this matter, my law firm was

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1 brought into this matter, last week, that we found out about
2 that this hearing was actually on the docket for today, last
3 Wednesday, one week ago, when I called the Division. That --
4 it was too late then for my client to make arrangements to
5 come in from Los Angeles and participate in this hearing.
6 It was too late to have subpoenas issued by the board for
7 information to be produced.

8 And one of my clients, the client with
9 the larger interest, is an estate, that being an executor of
10 an estate and having special responsibility as an executor,
11 he's not dealing with his own money, and therefore must -- he
12 must act prudently and cautiously, and would -- has expressed
13 to me his desire to attend personally a hearing on this
14 matter, but simply could not arrange his schedule to come in
15 today.

16 I may say that he views that his respon-
17 sibilities as an executor of the estate require his attendance
18 at this hearing.

19 For all these reasons, I am requesting a
20 continuance of this hearing to the next date.

21 MR. STAMETS: Mr. Christy, do you have
22 some response to that request?

23 MR. CHRISTY: Yes, I do, Your Honor.

24 You're speaking of Mr. Bergen as the exe-
25 cutor, isn't he?

1 MR. CHARNAS: Yes, sir.

2 MR. CHRISTY: I have here a letter from
3 Laguna to Mr. Bergen of February 12th, with a return receipt
4 of February 14th, advising -- enclosing a copy of the appli-
5 cation for the -- this hearing.

6 We have been in contact with the people
7 since at least December 26th of '79, trying to work this thing
8 out, and we've been unable to do so.

9 We have a rig coming in March 15th, and
10 as the Division knows, those rigs to stand-by are rather
11 expensive, and we would ask to continue the matter. The
12 publication is the notice and the fact that the man didn't
13 know about it until inconvenient for him is just too bad. He
14 has an attorney here. He can represent them.

15 We'd like to go forward and get our
16 hearing.

17 MR. CHARNAS: If I may, Mr. Examiner, as
18 I said, we were brought into the matter last week. I am
19 under a handicap in representing the client at this hearing
20 because I have had a very short time to familiarize myself
21 with this matter.

22 I have no knowledge of a letter sent to--
23 to the client on February 12th. The only communication that
24 I know sent to the client is a -- let me see, is a letter
25 dated -- it's a letter dated February 7th to -- to the Com-

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1 mission requesting the hearing. A copy of it was sent to the
2 client, and that was only a request.

3 I may say that I spoke to the client as --
4 the last time I spoke to the client was Monday evening and
5 asked specifically what information or what notice he'd had
6 and what communications he had received, and he told me that
7 he had received only the copy -- that his most recent com-
8 munication was the copy of the request for a hearing of Feb-
9 ruary 7th.

10 May I say, Mr. Examiner, I do not see
11 what harm and inconvenience -- I won't say inconvenience --
12 what harm there would be by continuing this hearing until
13 the next date, which I understand to be February 12th -- or
14 March 12th. March 12th is before the date, as I understand,
15 when the rig is supposed to come in, and it would enable my
16 client to discharge his responsibilities as an executor of
17 this estate in a proper manner and properly protect the in-
18 terests of the estate.

19 MR. STAMETS: What action is anticipated
20 on your side in this? Do you expect to hire an engineering
21 witness and to put on testimony?

22 MR. CHARNAS: My understanding is that my
23 client would come in himself and would bring someone with
24 him, yes, sir, bring an expert witness.

25 MR. STAMETS: And to what purpose?

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1 MR. CHARNAS: To -- and we would subpoena
2 records and that would be for the purpose of determining the
3 whether the application for the forced pooling order met the
4 requirements of the statute.

5 As I say, I'm under somewhat of a handicap,
6 Mr. Examiner, by not being totally familiar with this matter,
7 having only been in it for about six days myself.

8 MR. CHRISTY: May I speak about --

9 MR. STAMETS: Yes, you may, Mr. Christy.

10 MR. CHRISTY: Thank you, sir.

11 We offer in evidence Applicant's Exhibit
12 One, which is the letter of February 12th I referred to,
13 with an attached letter to the OCC about this case.

14 There's a P.S. on it which I think is in-
15 teresting. What Mr. Bergen wants is the geological and pro-
16 duction information from Laguna. That's what he's after,
17 and we've offered to give it to him for \$5000, because we
18 consider it proprietary. It's in this letter. That's the
19 delay.

20 MR. CHARNAS: Mr. Examiner, I think we
21 have no quarrel on communication. I think that there's a
22 letter of the -- the request for a hearing that I referred
23 to is probably the attachment to that letter you have in
24 front of you.

25 MR. CHRISTY: Mr. Examiner, I've just

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1 been advised by my client that one of the leases runs out
2 March 15th. It's from Exxon. And if we hold a hearing
3 March 13th, there's no way the Division can get the order
4 out, and we can get out an AFE to the non-consenting people
5 and allow them the time to come back and make up their mind
6 what they want to do. In ten or twelve days a well's down.

7 MR. CHARNAS: Mr. Examiner, if I --

8 MR. STAMETS: I think we've heard enough
9 argument on this point.

10 How do you spell your name, sir?

11 MR. CHARNAS: The last name is Charnas,
12 sir, C-H-A-R-N-A-S. First name is Stephen.

13 MR. STAMETS: Mr. Charnas, we will not
14 entertain your motion or sustain your motion for continuance
15 at this point.

16 We will allow the Applicant in this case
17 to put on his case. You may renew your motion at the end of
18 the testimony and we will give it consideration at that time,
19 although it does appear at this point that your client has
20 received notice as required by law. He certainly has been
21 aware of this case for some time.

22 We'll see what transpires.

23 MR. CHARNAS: Thank you.

24 MR. STAMETS: You may proceed.

25 MR. CHRISTY: Thank you, sir. We have

1 one witness. Will you stand and be sworn, please?

2
3 (Witness sworn.)
4

5 WILLIAM C. C. BARNES

6 being called as a witness and having been duly sworn upon
7 his oath, testified as follows, to-wit:

8
9 DIRECT EXAMINATION

10 BY MR. CHRISTY:

11 Q Would you please state your name and ad-
12 dress?

13 A My name is William C. C. Barnes, B-A-R-N-E-S.
14 And I reside in Midland, Texas.

15 Q You're here on behalf of Laguna Petroleum
16 Company. As I understand it, it is a limited partnership.

17 A That is correct.

18 Q And are you one of the general partners?

19 A That is correct.

20 Q All right, sir. Now, are you familiar
21 with what is being sought in Case 6811?

22 A That is correct.

23 Q Would you tell just very briefly what is
24 what do you seek?

25 A We would like to pool all the interests

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1 in Section -- in the southeast quarter of the northeast quarter
2 of Section 13, Township 8 South, Range 32 East, so that we
3 may drill a San Andres test.

4 Q Will the well be located on a standard
5 location in the southeast northeast?

6 A That is correct.

7 Q And Laguna will be the operator?

8 A That is correct.

9 Q When do you expect the well to be com-
10 menced?

11 A March 15th.

12 Q Is there any -- do you have a rig waiting?

13 A That is correct.

14 Q All right, and do you have a lease which --
15 or lease or farmout, which is going to expire that date if
16 you don't start?

17 A That is correct.

18 Q Who is that from?

19 A Exxon.

20 Q And they own about 1/16th of the minerals?

21 A They own a 1/16th of the minerals. Ac-
22 tually, the lease expires March 1st, but in light of the
23 fact here, they verbally gave me an extension till March 15th.

24 Q For the drilling of this well have you
25 and other mineral owners entered into an operating agreement?

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1 A Yes, we have.

2 Q And approximately how much percentage of

3 the people have executed that operating agreement?

4 A 87 percent.

5 Q That's not --

6 A 84 percent is --

7 Q 84 percent, so there's 16 percent out?

8 MR. STAMETS: Working interests?

9 A Working interest owners, that is correct.

10 Q Would you tell the Commission who has

11 approved the unit operating agreement?

12 A That would be Union of California, Estate

13 of Sarah A. Link, J. A. Matthews, and Laguna Petroleum Com-

14 pany.

15 I might also add that Union Oil of Cali-

16 fornia is a mineral interest owner. The Estate of Sarah A.

17 Link is also a mineral interest owner, and J. A. Matthews

18 is also a mineral interest owner.

19 MR. STAMETS: Excuse me, do you have any

20 kind of a plat of the acreage?

21 A Yes, I do.

22 MR. STAMETS: To give an indication of

23 who owns what?

24 A It's not on that plat but I can tell you

25 exactly who owns what.

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1 MR. STAMETS: You don't have anything that
2 I can look at that shows you who owns what?
3 MR. CHRISTY: It might help you a little,
4 Mr. Examiner, here's a copy of our title opinion, which will
5 break out the ownership.
6 MR. STAMETS: Are these undivided interests?
7 A. That is correct.
8 MR. CHRISTY: Yes, sir.
9 Q. All right, now, my question, I don't be-
10 lieve I got an answer, is who and in what percentages have
11 not consented?
12 A. Okay. This would be the Estate of Harry
13 L. Crosby, Junior, which owns, to my records, 13.3669 per-
14 cent, and John O'Melveny, which owns 3.3493 percent.
15 Q. About 16-2/3rds have not consented?
16 A. Yes, sir.
17 Q. All right. Now, does that operating
18 agreement contain a penalty provision, a non-consent penalty
19 provision?
20 A. That is correct.
21 Q. And what is that penalty provision?
22 A. 200 percent.
23 Q. Do you think that's a fair penalty?
24 A. I believe it is.
25 Q. Does it contain an accounting procedure

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1 with respect to drilling and producing rates, a fixed rate
2 basis?

3 A Yes, it does.

4 Q And what are those percentages?

5 A For drilling, while -- they used 2259 --
6 \$2,259 for a drilling well; \$274 for a producing well.

7 Q Do you feel those rates are fair and
8 reasonable?

9 A We do.

10 Q Those are fixed rates combined?

11 A That is correct.

12 MR. STAMETS: Do you have a copy of that
13 for the Examiner?

14 A Yes, I can make a copy.

15 MR. STAMETS: I'd like a copy.

16 A Okay.

17 MR. CHRISTY: He needs the full unit
18 agreement?

19 MR. STAMETS: Right.

20 MR. CHRISTY: Operating agreement?

21 MR. STAMETS: Right.

22 MR. CHRISTY: My witness lost his -- the
23 papers he was going to bring with him.

24 (There followed discussion off
25 the record.)

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- 1 Q Approximately how long will it take to
2 drill the well?
- 3 A Ten days.
- 4 Q All right. Do you have an AFE out?
- 5 A That is correct.
- 6 Q And what is the dry hole AFE?
- 7 A \$150,000.
- 8 Q And the wet hole?
- 9 A A producer would be \$292,000.
- 10 Q All right. Has that AFE been approved by
11 the consenting parties to the operating agreement?
- 12 A Yes, it has.
- 13 MR. STAMETS: Do you have a copy of the
14 AFE?
- 15 A I've got a copy of the AFE,
- 16 MR. STAMETS: Two is the operating agree-
17 ment; Three is a title opinion; and Four will be the AFE.
- 18 Q Do you have an opinion as to whether or
19 not the granting of the application would prevent waste and
20 including economic waste?
- 21 MR. CHARNAS: Excuse me, if I may, there
22 has been no foundation to qualify the witness to give an
23 opinion.
- 24 MR. STAMETS: What was your question
25 again, Mr. Christy?

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1 MR. CHRISTY: My question was does he have
2 an opinion as to whether or not the granting of the applica-
3 tion will prevent waste, including economic waste.

4 A. Yes, that is correct.

5 MR. CHRISTY: You'll have to hold the an-
6 swer.

7 MR. STAMETS: And your objection is to
8 both parts of the question or a part of the question?

9 MR. CHARNAS: Well, I move to strike the
10 answer because there has been no foundation to qualify him
11 to give that kind of an opinion.

12 All we know, if my hearing is correct, is
13 we know Mr. Barnes is connected with Laguna Petroleum Com-
14 pany.

15 MR. STAMETS: I agree, and the objection
16 is sustained.

17 Q. Do you have anything else you feel would
18 be of interest to the Examiner in connection with the Case
19 6811?

20 A. Yes. If this application is not granted,
21 one is we're in jeopardy with the outstanding interest with
22 Exxon; secondarily, that the additional cost would be incurred
23 from postponing the drilling of the well by approximately
24 \$40,000.

25 Q. Anything else?

1 A No.

2 MR. CHRISTY: I'll offer Applicant's Ex-
3 hibits One to Four, inclusive.

4 MR. STAMETS: These exhibits will be ad-
5 mitted.

6 MR. CHRISTY: We have nothing further
7 from this witness.

8 MR. STAMETS: Mr. Barnes, a couple of
9 questions.

10

11

CROSS EXAMINATION

12

BY MR. STAMETS:

13

14

15

Q If this application is not approved, what
will the effect be on Laguna and this particular acreage
that you seek to have pooled?

16

17

18

19

20

21

22

23

24

25

A Well, the effect would be, one, that as
we are a limited partnership, we've represented to a number
of our limited partners that we will expend "X" number of
dollars exploring for oil and gas; that they will get their
IDC write-offs for their tax planning this year. If this
thing is protracted it could be that one, that it would go
on that we couldn't get the well drilled this year.

Two, a number of other people have tried
to put this deal together in the past and because of the --
I'm going to use the word intransigence -- on the part of

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1 the Estate of Harry L. Crosby and John O'Melveny, that other
2 people have become frustrated and given up on the prospect.
3 We've gotten it together to the extent of these people -- or
4 to the extent that these people are not included. Everybody
5 else is willing to participate in the drilling of the well.

6 Additionally, that if we have to postpone,
7 the rigs in this area are very difficult to come by and that
8 our drilling contract would be increased by an additional
9 \$40,000.

10 Time is of the essence to us. I have
11 tried since December to communicate with these people. I
12 have given them the opportunity to either grant me a lease,
13 I've tried -- I said, fine, well if you want to participate,
14 that's fine, you know, do something. Tell me what you want
15 to do. And I've even offered to provide them the geologic
16 data which they have requested, but I feel like it's pro-
17 prietary information and that it should -- we offered it
18 at a price and that price was approximately \$5000.

19 Mr. Bergen, who represents the Estate of
20 Harry L. Crosby, is an attorney and I cannot imagine him
21 giving out, oh, free advice without charging his clients
22 anything, either.

23 So, I've presented my --

24 Q. Will -- are there any leases that you are
25 subject to lose if this well is not started?

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1 A Yes. That would be the Exxon interest.
2 We have, oh, let's see, we originally made a deal with Exxon
3 on this -- on their particular interest in May of '79. We've
4 had to get a number of extensions because we have waited --
5 the time necessary to hear from other parties involved in the
6 drilling of the well. Finally, Exxon, or their representative,
7 Joe -- I believe his name is Joe Thomas -- told me that, you
8 know, they would not give me, after this last final extension,
9 which he verbally said they would give me because I'm
10 seeking -- I had to go to the forced pooling hearing, that
11 we would -- we would -- there's a chance that we would not
12 get any more extensions, that either perform or they would
13 pull the deal down.

14 Q What was your first contact with the
15 appropriate people concerning the interests of Harry L.
16 Crosby, Junior, and John O'Melveny?

17 A Oh, I've got a, let's see, what is the
18 date of that letter -- I'm sorry, the first letter that I
19 have that I've advised of the --

20 Q This February 7th letter?

21 A February 7th. I would say it was in the
22 first or second day of February when I talked to him verbally
23 on the phone.

24 In December I talked to John O'Sullivan
25 when I forwarded them copies, which it was December 26th.

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1 I first had contact with a Mr. Thomas
2 O'Sullivan, who as I understand it, is supposed to be the
3 tax man for the Estate of Harry L. Crosby, and this was a
4 party that we had a broker, Mr. Fred Goodman, who was doing
5 most of the work for us, he told me that I was supposed to
6 talk with a Thomas O'Sullivan. So I contacted Mr. O'Sullivan
7 numerous times prior to December 26th, and then finally --
8 talked to him verbally on the phone, and then on December 26
9 I forward a letter, and in that letter I presented a copy of
10 the AFE. I sent him a copy of the operating agreement, and
11 I also said that in the event that you do not wish to parti-
12 cipate, please grant me a 6-month oil and gas lease bearing
13 a quarter royalty on the estate in the north half of -- on
14 their interest in the north half of that section, Section 13.

15 Then I guess it was, I'm going to say,
16 the first part of February, I'm going to use February 1st,
17 sometime between the 1st and the 7th, we got a call from a
18 Richard C. Bergen, who at that time demanded that they know --
19 that we advise them of what type of deal I made with Exxon;
20 what type of deal I made with Union; demanding geologic in-
21 formation; they demanded offset production map; and wanted
22 us to do economic calculation for them.

23 Basically what he wanted us to do was do
24 all of his work for him.

25 At that point in time I wrote him -- then

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1 I think I talked to Mr. Richard Stamets and asked him on --
2 telephonically what remedy I might have and what was the
3 necessary procedure to go through a forced pooling application.
4 I was told to write a letter and I could send a copy of a
5 letter to Mr. Bergen.

6 I subsequently meant to send the first
7 letter by certified mail, receipt requested; whatever it was,
8 it didn't go. So the next day I sent out a subsequent letter
9 with a copy of the original letter to Mr. Stamets with re-
10 ceipt requested, which you're holding in your hand right
11 now.

12 So we have tried numerous times to talk
13 to these people and have got no satisfaction.

14 Q Are the same principals involved in the
15 Melveny property and the Crosby?

16 A Right, right. Well, I have never talked
17 to John O'Melveny. I have talked to Tom O'Sullivan, who is,
18 again, it was represented to me that he is the spokesman
19 for both of these parties. Apparently O'Melveny has an
20 office with John O'Sullivan. I have not been out to Cali-
21 fornia and talked to these people. I have just followed up
22 with the information that I was provided with by Mr. Fred
23 Goodman. And then up until the time Richard C. Bergen
24 called me, I was under the impression that I was supposed
25 to talk to Thomas O'Sullivan.

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1 When Mr. Bergen called, then I returned
2 his call that afternoon, and that's when I got frustrated and
3 requested a forced pooling application.
4 MR. STAMETS: Are there other questions
5 of this witness?
6 MR. CHARNAS: Yes, sir.
7 MR. STAMETS: You may proceed, Mr. Charnas.
8 Would you like copies of any of these exhibits?
9 MR. CHARNAS: Yes, I would. I'd like to
10 have copies of all of them, and I would like to see Exhibit
11 Number One.
12 MR. STAMETS: Why don't you take a look
13 at what we have here and then we'll get the Applicant to
14 make you some copies at the conclusion of the hearing.
15 MR. CHARNAS: Thank you very much.
16
17 CROSS EXAMINATION
18 BY MR. CHARNAS:
19 Q Mr. Barnes, you referred to a letter of
20 December 26th.
21 A. 28th. I'm sorry, I'm getting the -- bear
22 with me. 26th, December 26th. Would you like a copy of
23 that, also?
24 Q Yes, I would and I would like to -- yes,
25 I would like a copy of that.

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1 MR. STAMETS: Might as well stamp one as
2 an exhibit.

3 A. All right.

4 MR. STAMETS: In this case.

5 Q. Let's see, Mr. Barnes, if I recall your
6 description of it correctly, this enclosed a proposed lease
7 on the north half of Section 13.

8 A. That is correct.

9 Q. All right, it did not enclose a lease on
10 the southeast quarter of the northeast quarter of Section 13?

11 A. The southeast quarter of the northeast
12 quarter is part of the --

13 Q. Yes, but not specifically on the southeast
14 quarter of the northeast quarter?

15 A. That's correct.

16 Q. It was a proposed lease on the entire
17 north half?

18 A. That's correct.

19 Q. Did the letter include an operating agree-
20 ment, or a copy of an operating agreement?

21 A. Yes, it did.

22 Now, that's not with -- the operating
23 agreement is the same one that you've already got a copy of,
24 and I don't keep duplicates copies of --

25 Q. Will you show me in this letter where it

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1 says that a copy of the operating agreement is enclosed?

2 A Let's see. Okay, quote, "enclosed are
3 three copies of Laguna's AFE, Authorization for Expenditure,
4 approximating the drilling and completing costs of the pro-
5 posed well. Should either or both interests elect to parti-
6 cipate in the proposed drilling, please so indicate by having
7 each party sign and return two of the AFE's along with seven
8 additional signature pages of the operating agreement en-
9 closed."

10 MR. STAMETS: Mr. Charnas, would you mark
11 that as Protestant's Exhibit One?

12 MR. CHARNAS: Yes.

13 MR. STAMETS: This is the letter of, what,
14 December?

15 MR. CHARNAS: 26.

16 MR. STAMETS: 26, thank you.

17 Q Now, Mr. Barnes, your testimony is that
18 you enclosed the entire operating agreement?

19 A That is correct, and seven additional
20 signature pages.

21 MR. CHARNAS: Well, Mr. Examiner, just for
22 the record, one of the reasons I'm under a handicap is not
23 having a client here, is that to my knowledge, and based upon
24 information from my client -- I realize that's not evidence,
25 that's hearsay -- but my client did not receive a copy of the

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1 operating agreement. If my client were here, I believe he
2 would so testify.

3 Q Now, Mr. Barnes, you wrote on December
4 26th, right?

5 A That is correct.

6 Q The next communication you had was from
7 Mr. Bergen, is that correct?

8 A No, I talked numerous times with Tom
9 O'Sullivan, again who was represented to me, and I asked him
10 specifically, "Who do I talk to?"

11 And he said, "You continue to talk to me."

12 And I asked him, "Well, what are you all
13 going to do?"

14 And he said, "Well, we'll get an answer.
15 We'll get an answer."

16 Now, let me elaborate just --

17 MR. CHRISTY: No, just answer his question.

18 A Okay. "We'll get you an answer. We'll
19 get you an answer."

20 And I never got an answer, until -- then
21 Mr. Bergen called. I still don't have an answer. And then
22 all of a sudden he makes all these demands on me. Exxon
23 doesn't provide other industry partners with copies of a
24 map. Union doesn't. Why should Laguna have to provide all
25 of this to Mr. Bergen so he can make up his mind? He's a

1 big man.

2 Q Mr. Barnes, at some point you became, I
3 gather, and it became vital to you to make arrangements with
4 the owners of the other interests so that this well could
5 be drilled by March 15th.

6 A That is correct.

7 Q At what point did it become important to
8 you to do that?

9 A When we found out that that was when we
10 could get a rig in there.

11 Q When did you find that out?

12 A The first week in February.

13 Q So that's --

14 A Well, let me -- first week in February.

15 Q So that you became in a hurry about this
16 matter. Time became crucial to you in the first week in
17 February.

18 A That is correct.

19 Q All right. And until then in your con-
20 versations, until then time had not been crucial to you.

21 A It was crucial to me but I shouldn't have
22 to sit there and call somebody every day to ask them what
23 they're going to do. Time is -- if somebody sends me a
24 letter, I give it due attention. I don't let it set for
25 thirty or forty days before I decide I want to look at it.

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1 I might -- it might sit a day or two, but it does get some
2 attention and I do call somebody after I've received various
3 correspondence acknowledging I've received the correspondence
4 and what I'm doing to handle the matter.

5 Q Well --

6 A Which I was not given by Tom O'Sullivan.
7 He never called me once. I've had to call him every time.

8 Q But leaving aside office practice, you
9 became -- in time you became in a hurry about this matter
10 the first week in February.

11 A Right.

12 Q All right, and you received a telephone
13 call from Mr. Bergen in the first week in February.

14 A That is correct.

15 Q All right. And didn't Mr. Bergen tell
16 you that he was an executor of the estate?

17 A I don't care what his problem -- he told
18 me that.

19 Q Well, did he tell you?

20 A He told me that.

21 Q All right. And didn't he tell you that
22 he needed information and time to make an intelligent deci-
23 sion on this matter?

24 A He's had since December 26th when the
25 letter was first --

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1 MR. CHRISTY: Just answer his questions.
2 A. Okay.
3 MR. CHRISTY: Did he tell you that or
4 not?
5 A. Yes, he told me that, yes.
6 Q. And in the course of that conversation
7 didn't you indicate that you would send to Mr. Bergen some
8 material?
9 A. I said I might.
10 Q. You said you might?
11 A. I might send it to him.
12 Q. All right. Now, the next thing that
13 happened between you and Mr. Bergen, if I recall your testi-
14 mony correctly, was that you -- you got frustrated, I think
15 that was your term, and requested this hearing, is that
16 right?
17 A. That's correct.
18 Q. All right, and you requested this hearing
19 how? You sent a letter of request, I believe.
20 A. That is correct.
21 Q. And that letter of request was sent on
22 February 7.
23 A. That's correct.
24 Q. All right.
25 MR. CHARNAS: And, Mr. Examiner, that's

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1 the letter that I referred to earlier.

2 Q Now, I'm a little confused by this.
3 I'm looking at Exhibit Number One. I see that Exhibit Num-
4 ber One is the letter of February 7th to the Examiner with
5 a cover -- with a cover letter dated February 12th to the
6 Estate of Harry L. Crosby.

7 A The reason why he got the cover letter
8 on there is I wasn't sure, because of our postal system,
9 whether they would get a carbon copy of the letter. So
10 then I subsequently requested that another copy be sent to
11 them by receipt requested.

12 Q All right.

13 A And so to confirm that they have gotten
14 a copy of the letter requesting notice of this hearing.

15 Q And that letter you sent on February 12th.

16 A If that's the date of that letter, then
17 that is correct.

18 Q All right, and do you agree, don't you,
19 that the date of receipt on the return receipt requested
20 slip is February 14th?

21 A That's correct.

22 Q All right. So that according to your
23 records Mr. Bergen has had knowledge of this hearing since
24 February 14th, since he received this letter, or he's had
25 knowledge of your request for the hearing since he received

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1 the letter on February 14th.

2 A I'll go -- well, unless he got the other
3 letter sooner. The only documentation we have is February
4 14th.

5 Q Okay. That's two weeks ago.

6 A I thought it worked out -- well, it works
7 out two weeks ago.

8 Q I think that's the way it works out, two
9 weeks ago.

10 Now, you said that you -- you tell me that
11 you said on the phone to Mr. Bergen that you might send him
12 the material.

13 A Right.

14 Q All right, but you didn't send him any
15 material, am I correct?

16 A That's correct.

17 Q All right, and when did you decide not
18 to send Mr. Bergen any material?

19 A After I talked to one of our other general
20 partners.

21 Q When was that?

22 A That afternoon.

23 Q The same day?

24 A The same day I talked to him on the phone.
25

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1 Q Now did you call up Mr. Bergen and tell
2 him you weren't going to send him any material?

3 A No, because -- no.

4 Q Well, go ahead.

5 MR. CHRISTY: Because he's answered your
6 question.

7 Q Okay, you didn't call him up. When did
8 you tell him you weren't going to send him any material?

9 A The date of the letter when I told him
10 I'd be more than happy to provide it to him for the sum of
11 \$5000.

12 Q Now, that's a letter that Mr. Bergen re-
13 ceived, according to the return receipt on Exhibit One, on
14 February 14th, two weeks ago.

15 A Yeah.

16 Q So that's when Mr. Bergen found out you
17 weren't going to send him any material, two weeks ago.

18 MR. CHRISTY: Object to the question. It
19 calls for a conclusion of the witness as to whether -- he
20 can ask him whether that's what he knows when he received it,
21 but he doesn't know what else Mr. Bergen may know. That's
22 my objection.

23 MR. CHARNAS: I will rephrase the question,
24 if I can, to meet your objection, Mr. Christy.

25 MR. CHRISTY: Please.

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1 Q So far as you know, to your knowledge,
2 Mr. Bergen found out that you were not going to send him any
3 material when he received this letter, Exhibit One, your
4 Exhibit One, on February 14th.

5 A Let's define material as geologic data.
6 Then that was -- he had received information prior to that
7 but they had not -- they were not -- they were not going to
8 receive any geologic data as of February -- the date of
9 that letter, without paying, without paying a fee for it.

10 Q You say that you sent them geologic data
11 previously?

12 A No. I've sent them copies of the AFE,
13 copies of the operating agreement, and an oil and gas lease
14 in the event they did not want to participate.

15 Q But you had not sent them geologic in-
16 formation?

17 A Right, as of February 14th they were not
18 going to get the geologic information without paying.

19 Q Well, then to your knowledge, they
20 learned as of February 14th that they were not going to get
21 the geologic information without paying.

22 A That's correct.

23 Q All right, and when we say "to your know-
24 ledge" do you know whether anybody else connected with
25 Laguna Petroleum had called up Mr. Bergen or Mr. O'Sullivan

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1 or any people connected with Mr. O'Melveny or the Estate of
2 Crosby between February 7th and February 14th and told them
3 that they weren't going to get this information?

4 A. No, nobody called.

5 Q. All right. Do you have a copy of the
6 Exxon lease?

7 A. Yes.

8 Q. May I see it, please?

9 A. I object to that. I don't think it's re-
10 levant, the lease.

11 MR. CHRISTY: It's done.

12 A. Okay.

13 MR. CHARNAS: I'd like to mark the Exxon
14 lease and accompanying documents that were just handed to me
15 as Exhibit Two.

16 Q. This lease is dated May 17th, 1979, is
17 that correct?

18 A. Correct.

19 Q. Now, you tell me that -- you say that
20 this lease expires May 1 but you've received an extension?

21 A. March 1.

22 Q. March 1, I'm sorry. You've received an
23 extension?

24 A. I haven't received it yet, no, but I've
25 gotten verbal -- it was advised to me verbally by Exxon's

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1 representative that we would get some sort of an extension.
2 Q All right. Now, you've had the lease
3 since May. Did you communicate with the Estate of Crosby
4 about this matter between the time you obtained the lease
5 on May 17, '79, and the letter of December 26th, which you
6 testified to?
7 A I personally did not, but our representa-
8 tive, Fred Goodman, did.
9 Q Is he here to testify?
10 A No, he's not. It's not necessary.
11 Q Who told you it wasn't necessary?
12 A That's my own opinion.
13 Q Thank you.
14 MR. CHARNAS: I offer Exhibit Two.
15 MR. STAMETS: Hold those all till one
16 time and submit them all at once, at the end of your examin-
17 ation.
18 MR. CHARNAS: Perhaps Mr. Christy will
19 help me -- prevent me from losing Exhibit One. Thank you
20 very much.
21 Q When did -- I think it was your testimony
22 that the other -- the owners of other mineral interests
23 in this quarter have signed the operating agreement?
24 A Yes.
25 Q All right, when did they do that?

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1 A. Well, I was advised of that in, I'll say,
2 January.
3 Q. When?
4 A. Sometime in January. I don't know speci-
5 fically on that.
6 Q. When was the first -- when was the first
7 operating agreement signed with another owner of mineral
8 interests? Do you have that in your file?
9 A. The only one I have is the one with Union,
10 and that was on January 17th.
11 Q. Now, when did you first communicate with
12 Exxon about an extension of the lease?
13 A. Let's see, whenever that other documenta-
14 tion we have there -- let's see, I think we requested a --
15 I'm going to say January 4th.
16 Let's say January -- January 4th.
17 January 4th.
18 Q. So it was already in your mind at least
19 on January 4th that you were going to run out of time on the
20 Exxon lease?
21 A. Yes, yes. Let me interject --
22 MR. CHRISTY: No, just -- just answer
23 his questions.
24 A. All right, okay.
25 Q. When did you first communicate with the

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1 Estate of Crosby or representatives of Mr. O'Melveny about
2 the Exxon lease?

3 A. I guess in February.

4 Q. You mean during the February 6 phone call
5 with Mr. Bergen?

6 A. I don't -- it may have been.

7 Q. Have you ever been an executor of an estate?

8 A. No.

9 Q. Have you brought with you any geological
10 information on this -- with regard to the northeast quarter
11 of the -- I'm sorry, southeast quarter of the northeast
12 quarter?

13 A. No.

14 Q. Are you a geologist?

15 A. No.

16 Q. Did you bring a geologist today?

17 A. No.

18 Q. Have you ever been to a forced pooling
19 hearing before?

20 A. Yes.

21 Q. Did you bring a geologist then?

22 A. No.

23 Q. Was there any opposition at that hearing?

24 A. Yes.

25 Q. Has Laguna prepared a study of the area

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1 which is the subject of this application?

2 A. We have.

3 Q. Do you have that with you?

4 A. Yes.

5 Q. May I see it, please?

6 A. No.

7 MR. CHRISTY: He's trying to get in pro-
8 prietary information, Mr. Examiner. It doesn't make any
9 difference on a forced pooling application. We object to it.

10 MR. CHARNAS: I believe that it relates
11 to the -- to the standards that are set forth in the statute,
12 which relate to protection of rights, prevention of waste,
13 drilling of unnecessary wells. I believe on those matters
14 the burden is on the Applicant, and I believe in other --
15 other forced pooling hearings, transcripts of which I've
16 read, the Applicants have produced such information.

17 MR. STAMETS: Well, Mr. Charnas, I'm cer-
18 tain that in these other cases the Applicants have presented
19 that information with the fore-knowledge that the opposition
20 would be presenting their own set of cross sections, exhibits,
21 along these same lines in an attempt to dis-prove the vali-
22 dity of the Applicant's case.

23 Apparently in this case that is not the
24 situation and it would not appear that the geologic inform-
25 ation is necessary to prove the requirements for compulsory

1 pooling.

2 MR. CHARNAS: Mr. Examiner, I would only
3 say that the information I gathered was gleaned in part from
4 reading uncontested forced pooling hearings where information
5 has been produced by Applicants, where there are no -- there
6 is no protestant on the other side.

7 It is difficult, well nigh impossible, to
8 meet the request for a forced pooling order without some
9 knowledge of the basis, statutory basis, on which the Appli-
10 cant is seeking the order.

11 The Applicant is not a geologist, did not
12 bring a geologist. All that Applicant says is that we
13 better force pool because I've got a rig set up to come on
14 March 15th. That's the basis of Applicant's case.

15 MR. STAMETS: Mr. Charnas, it would ap-
16 pear that you're representing an executor who is an attorney,
17 and as an attorney I'm certain that he recognizes, or she
18 recognizes, the seriousness of not appearing at a hearing
19 prepared to go ahead with such a hearing. And it would
20 appear that aside from yourself there is no one to appear
21 and that the Protestant is relatively unprepared, and in
22 that case I'm afraid that we can't help you any more.

23 I see no need for the Applicant in this
24 case to put that evidence on, and your request is denied.
25

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1 MR. CHARNAS: Well, I'm going to go ahead
2 and ask my questions and Mr. Christy will no doubt address
3 them.

4 Q Has Laguna made efforts to define the
5 pool, Mr. Barnes?

6 A Yes.

7 Q What efforts has it made?

8 A Drilling a well in the accepted proration
9 unit -- all right, according to New Mexico statutes, or
10 whatever is common practice in New Mexico, that the San
11 Andres can economically be produced on 40-acre drilling
12 units, and so we propose that the drilling unit be on 40
13 acres.

14 Q Would -- I don't think that's an answer
15 to my question.

16 A I'm not sure -- Mr. Charnas, you're going
17 to have to then restate your question, because I'm not sure
18 we've done a geologic study on the area. We feel that it's
19 prudent to drill the well in the area.

20 Union apparently feels the same way.
21 All the other mineral interest owners apparently feel the
22 same way, excepting the Estate of Harry L. Crosby and John
23 O'Melveny, which -- I don't know what they think.

24 Q So based on your geologic study, based
25

1 on Laguna's geologic study, you determined it's prudent to
2 drill the well here?

3 A. We have.

4 Q. Do you have the geologic study here?

5 A. Some of it, yeah, in my brochure, which
6 is what we have on what we call a prospect brochure, and
7 which is what I offered to send to Mr. Bergen for the price
8 of \$5000.

9 MR. CHARNAS: Mr. Examiner, the witness
10 has testified that they based their decision that this is a
11 prudent move to make on the basis of this geologic study,
12 and again I ask that the geologic study be produced.

13 MR. CHRISTY: We again object. They are
14 trying to get proprietary information. It doesn't make any
15 difference. The witness testified that they're willing to
16 spend \$150,000 to drill a San Andres test, and have offered
17 these people to get in on it or not get in, or lease, or
18 something. That's the requirement of the statute. One
19 wants to drill, they cannot make an agreement. That's what
20 you come for a forced pooling. It has nothing to do with
21 geology.

22 He is just trying to get proprietary
23 information.

24 MR. STAMETS: The objection is sustained.

25 Q. What is the relation that Laguna has

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1 determined between the location of the well and the pool?

2 A. It's an offset location.

3 Q. Can you explain that, please?

4 A. Well, there's a producing well in the
5 northeast of the southeast quarter, and I'm not qualified as
6 a geologist to tell you how all that works out, but it's an
7 offset location.

8 MR. STAMETS: Do you have a plat that
9 shows the location of wells in the vicinity?

10 MR. CHRISTY: This one?

11 A. Yeah.

12 MR. CHRISTY: This is rather a poor copy,
13 Mr. Examiner. That's Applicant's Exhibit Five.

14 MR. STAMETS: I would take it from looking
15 at this, that this is on the south end of the Chaveroo Pool,
16 the San Andres Pool?

17 A. I have no idea on that, Mr. Examiner.
18 I'm not a geologist. I don't, in this particular prospect
19 geologically, I haven't gotten that involved with it. It
20 may or may not be.

21 MR. STAMETS: The map does show the two
22 pool names, Chaveroo to the north and Tobac to the south.

23 While we're on that subject, has Laguna
24 drilled any other wells in this immediate area?

25 A. No, we have not.

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1 MR. STAMETS: Are there any producing
2 wells in proximity to the proposed forced pooling unit?

3 A. Yes, there are. There's one in, I believe
4 it's in the northeast quarter of the southeast quarter.

5 MR. STAMETS: Okay, that well is not re-
6 flected on this map. Who is the operator of that well?

7 A. I -- oh --

8 MR. STAMETS: Oh, yeah, yeah.

9 A. Offhand, Mr. Examiner, I don't remember
10 who. I'm going to have to plead -- I don't -- I don't know
11 on that at this point in time.

12 MR. STAMETS: Is it a producing well?

13 A. It is a producing well. Don't ask me
14 what production or how much production is made from that.

15 MR. STAMETS: To your knowledge is it
16 a San Andres well?

17 A. It's a San Andres well.

18 MR. STAMETS: Okay, thank you. I'm
19 sorry to interrupt you, Mr. Charnas.

20 MR. CHARNAS: No, thank you, Mr. Examiner.

21 Q. Are you saying there is only one well in
22 the vicinity?

23 A. Yes, that I know of. There may be others.
24 I only know of one.

25 MR. STAMETS: Mr. Charnas, you may want

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1 to look at this map.

2 Q Well, Mr. Barnes, I ask you to look at
3 Exhibit Number Five, which seems to show some wells to the
4 south as well as some other wells to the east.

5 A Okay.

6 Q All right, aren't those in the vicinity?

7 A Well, again, let's define vicinity. I
8 got as close as I could get, and it's an offset location
9 in the northeast of the southeast. And how close is "vicinity"?
10 We can go five miles away, one mile away.

11 I'm just trying to confine it to where
12 we're trying to drill, and we're trying to drill in the
13 southeast of the northeast quarter, and to the best of my
14 knowledge, there's a well in the northeast of the southeast
15 quarter.

16 Q Where will your proposed well drain?
17 What will be the drainage area?

18 A The southeast quarter of the northeast
19 quarter.

20 Q It will not drain beyond that?

21 A It may.

22 MR. CHRISTY: Objection; calls for a
23 conclusion.

24 MR. STAMETS: Sustained.

25 Q Have your geologists advised you as to --

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1 have your geologists advised Laguna as to where the proposed
2 well will drain?

3 A. They may have. I don't know. They may
4 have. I don't know.

5 Q. Do you have that information in your file?

6 MR. CHRISTY: Objection, he just finished
7 saying he didn't know.

8 MR. STAMETS: Sustained.

9 MR. CHARNAS: But I thought, Mr. Examiner,
10 that he might have something in his file that might tell
11 him whether he knew or not.

12 MR. CHRISTY: He's again trying to get
13 proprietary information.

14 MR. STAMETS: And it's beginning to get
15 into a collateral attack on the Division's statewide spacing
16 rule.

17 MR. CHARNAS: I certainly did not intend
18 that, Mr. Examiner.

19 Q. Are there two wells to the south which
20 were drilled in May and November of 1979?

21 A. There may have been. I don't know.
22 Again, I'm not a geologist.

23 Q. Is Mr. Peters a geologist?

24 A. John Peters?

25 Q. Yes.

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1 A No, he is not a geologist.
2 Q I see. Would he have information about
3 producing wells to the south and producing wells to the east?
4 A He may have; he may not have.
5 Q But he may have, yes. Do you know if Mr.
6 Peters talked to Mr. Bergen?
7 A He may have. Oh, yes, he did. Mr. Peters
8 did talk to Mr. Bergen.
9 Q All right, do you know what he told Mr.
10 Bergen?
11 A That we were planning on drilling a well.
12 I don't -- no, I don't know specifically what he told Mr.
13 Bergen. No, I do not know, because he told Mr. Bergen to
14 talk to me.
15 Q Are there -- what are you -- your letter
16 of December 26th enclosed a proposed lease on the entire
17 north half of Section 13.
18 A That's correct.
19 Q Who are the owners of the mineral interests
20 in the north half of Section 13?
21 A Let's see, you've got my AFE over there,
22 and --
23 MR. CHRISTY: Let me have a copy of that.
24 Mr. Examiner, the question can be answered by reference to
25 Plaintiff's Exhibit -- Applicant's Exhibit Three, the title

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1 opinion, but we'll let the witness testify if you want to
2 prolong this case.

3 MR. STAMETS: Well, let's hope we don't
4 have to do that.

5 Q. Is it set forth in the title opinion?

6 MR. STAMETS: Yes.

7 Q. That's fine.

8 MR. CHRISTY: That is it right there.

9 MR. STAMETS: Could you give that to Mr.
10 Charnas?

11 MR. CHARNAS: Well, I haven't seen that
12 before and I haven't had a chance to study it.

13 MR. CHRISTY: It was sitting right under
14 your arm.

15 MR. CHARNAS: I still haven't had a chance
16 to study it.

17 Q. Have you executed agreements, operating
18 agreements, or do you have leases with the owners of other
19 mineral interests on the balance of the north half of Sec-
20 tion 13?

21 A. That is correct.

22 Q. With all of them?

23 A. That is correct.

24 Q. Do you have any plans to drill the north
25

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Santa Fe, New Mexico 87501
Phone (505) 455-7409

1 half, present plans to drill in the north half of Section 13,
2 other than in the southeast quarter of the northeast quarter?

3 A. If we get a producing well, we probably
4 will drill another well, or two, or three, or four.

5 Q Are you personally familiar with the
6 southeast quarter of the northeast quarter? With the geology
7 in that area?

8 A. No, I'm not a geologist.

9 Q Have you personally examined information,
10 geological information, on the southeast quarter of the
11 northeast quarter?

12 A. I've looked at it, well, sure, but I'm
13 not qualified to make any representations about it.

14 MR. CHARNAS: Mr. Examiner, I have no
15 further questions, but I would like to make a statement at
16 the appropriate time.

17 MR. STAMETS: You may. Are there any
18 other questions of this witness?

19 I've got just a couple here.

20
21 RECROSS EXAMINATION

22 BY MR. STAMETS:

23 Q Mr. Barnes, does the unit operating agree-
24 ment provide that everybody will share in the production
25 from this well in accordance with their percentage ownership?

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 433-7409

1 A. Yes, sir, that is correct.

2 Q. And so everybody will get their share of

3 production from the well and from the acreage that's dedi-

4 cated to the well?

5 A. That is correct.

6 Q. Is Laguna, or have you been in the oil and

7 gas business for a considerable period of time?

8 A. Five years.

9 Q. Five years? How many wells have you or

10 does Laguna operate?

11 A. Probably twenty.

12 Q. In what areas?

13 A. Oklahoma, Wyoming, Texas.

14 Q. Would you classify yourselves as an ex-

15 perienced oil operator?

16 A. Relatively speaking.

17 MR. STAMETS: Any other questions of the

18 witness? He may be excused.

19 MR. CHRISTY: That's all we have for the

20 applicant, Your -- Mr. Examiner, except I would like to make

21 the statement that I believe the underlying criteria of

22 forced pooling is that one of the mineral owners wishes to

23 drill and has been unable to reach agreement with the other

24 mineral owner or owners.

25 I think it's very self-evident that that

1 has occurred in this situation.

2 We therefore ask early consideration, in
3 fact immediate consideration, to issuing a forced pooling
4 order. We will, of course, give them another opportunity in
5 accordance with the order to come pay their way or take a
6 penalty position.

7 That's all.

8 MR. STAMETS: Mr. Charnas, you had a
9 closing statement?

10 MR. CHARNAS: Yes, Mr. Examiner, thank
11 you.

12 MR. CHARNAS: Mr. Examiner, I want to
13 emphasize again, if I may, the dilemma in which Mr. Bergen
14 is placed.

15 To the Applicant's knowledge, Mr. Bergen
16 first received notice of the request for this forced pooling
17 hearing two weeks ago, February 14th. He is an executor.
18 He has responsibilities to the beneficiaries of the estate
19 and in a matter such as the decision as to whether to pay
20 the estate's way, invest the estate's money, or give a lease,
21 or go the forced pooling route, he must tread very, very
22 carefully, because he is not his own master.

23 He has had -- he's known about this for
24 only two weeks. I venture to say that if Mr. Barnes had
25 actually sent the information to Mr. Bergen, and he had re-

SALLY W. BOYD, C.S.R.

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1 ceived it on February 14th, two weeks would have been an
2 insufficient time for him to analyze it and make up his mind
3 as to what the prudent course of action is for him as an
4 executor.

5 But, of course, he didn't get the inform-
6 ation; that he got -- although he was told by the witness
7 that the witness might send it, he found out, to the Appli-
8 cant's knowledge on February 14th, that not only was the --
9 that not only was the Applicant not going to send it and --
10 unless Mr. Bergen paid \$5000.

11 I find here a delay on the part of the
12 Applicant, and I think we are dealing here in some respects
13 with equities, and with respect to equities, I would like to
14 remind you of the testimony of the witness that he's under
15 pressure because the Exxon lease is going to run out and
16 he's got an extension to the 15th, and he's under pressure
17 because of the drilling rig situation.

18 Well, the witness knew early in January,
19 at least early in January, that the Exxon lease was going
20 to run out, because he first had conversations with Exxon,
21 according to his testimony, early in January.

22 But we weren't told, our clients were
23 not told, that there was any rush or hurry on this until
24 the phone conversation of February 6th. Mr. Barnes didn't
25 know that he was going to get a drill rig in there until very

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Santa Fe, New Mexico 87501
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1 early in February, and Mr. -- Laguna, in other words, Laguna,
2 this did not become a hurry up situation for Laguna until
3 early in February.

4 There has been no long course of nego-
5 tiations with our client. There's been a letter December
6 26th from Laguna, a number of phone calls, and then all of
7 a sudden Laguna gets in a big hurry at the beginning of
8 February.

9 Now, Laguna, of course, has its respon-
10 sibilities, limited partnership and so on, but so does our
11 client, and I think that our client should be allowed -- our
12 client must, in order to protect himself, -- I mean our
13 client cannot accede to the rush that Laguna is in. He
14 cannot be governed by the rush that Laguna is in without
15 failing to perform his responsibilities as an executor.

16 Yes, our client would like the geological
17 information because he needs that information in order to
18 make up his mind on the -- on the exercise of his responsi-
19 bilities.

20 Mr. Christy points that out to you as
21 though it was something terrible, as though there was some-
22 thing inherently terrible in asking for proprietary informa-
23 tion. I don't find anything terrible in asking for proprie-
24 tary information when our client is in a fiduciary respon-
25 sibility, and cannot act on his instincts, cannot act on

1 information, you know, solely on conversations with Mr.
2 Barnes over the phone.

3 I find nothing wrong with that, and we do
4 ask for that information in order for us to analyze it and
5 make up our minds as to whether our client, whether we wish
6 for the estate and Mr. O'Melveny, wish to participate. I
7 would point out that the estate's interest is about 13 per-
8 cent and Mr. O'Melveny's interest is 3 in this matter.

9 If the Commission -- if the Division en-
10 ters a forced pooling order, we ask for the usual amount of
11 time that I have seen in forced pooling orders, to determine
12 whether to pay our way or not. We also ask at this time,
13 and for the record, that the Division order the production
14 of the geological information that Laguna has on this pro-
15 ration unit.

16 We also at this time renew our request
17 for a continuance of this hearing until the next hearing
18 date so that our client can fulfill his responsibility, can
19 come in before you and testify, can bring whatever appro-
20 priate experts he wishes to bring in at that time, and again
21 I repeat, call to your attention, the extremely short notice
22 we have had of this, a notice that entirely lies within the
23 control of Laguna. Laguna could have asked for a forced
24 pooling hearing back at the beginning of January. They
25

SALLY W. BOYD, C.S.R.

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Santa Fe, New Mexico 87501
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1 waited until February 7th and to their knowledge, we didn't
2 find out about it until February 14th.

3 Now, Mr. Barnes is an experienced oilman.
4 It's been pointed out by you, sir, that our clients are law-
5 yers, and it would seem to me that it would have been prudent
6 for Laguna to have given us as much notice as possible, as
7 much advance notice, to have indicated to us exactly the
8 kind of problems it was in with Exxon, so that we could in
9 turn have the time to evaluate -- to evaluate our position,
10 because being an experienced oilman and knowing that my
11 clients were lawyers, Laguna must have known that they would
12 want to evaluate their position; that they would want to
13 seek advice; that our client, the executor, would want to
14 consult with the beneficiaries.

15 It comes as no surprise to Mr. Barnes that
16 our clients are trying to make an analysis of this situation
17 to determine the right way to go.

18 And I don't think that, as far as the
19 equities are concerned, that Laguna has acted appropriately
20 with us and given us the opportunity that we need to make --
21 to make that decision.

22 Again I renew my request for a continuance.

23 MR. STAMETS: Your request for a contin-
24 uance is denied.

25 I would ask of you that each of you re-

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Santa Fe, New Mexico 87501
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Santa Fe, New Mexico 87501
Phone (505) 455-7409

1 quest admission of the exhibits which have not been admitted.
2 I believe none of yours have, Mr. Charnas.
3 MR. CHARNAS: Thank you, sir, I ask for
4 admission of these exhibits.
5 MR. STAMETS: What are they, One and Two?
6 MR. CHRISTY: One and Two is correct.
7 MR. STAMETS: Okay, these exhibits will
8 be admitted, and Sim, your last one.
9 MR. CHRISTY: I offer Applicant's Exhibit
10 Five.
11 MR. STAMETS: Exhibit Five will be ad-
12 mitted.
13 This case will be taken under advisement.
14
15 (Hearing concluded.)
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was prepared by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

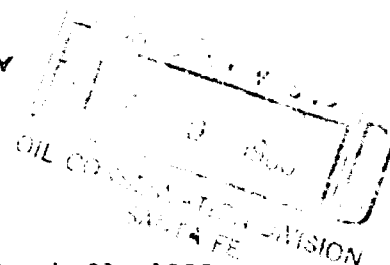
Sally W. Boyd C.S.R.

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

I do hereby certify that the foregoing is a correct and true transcript of the proceedings in the trial hearing of Case No. 6811, heard by me on 2/7/77 19.80.
Richard L. Ham, Examiner
Oil Conservation Division



LAGUNA PETROLEUM COMPANY



March 31, 1980

*Case 6811
BFL*

John O'Melveny
611 West 6th St.
Suite 3700
Los Angeles, CA 90017

Tobac Prospect 79-21
#1-13 Cushing
SE/4 NE/4 Section 13,
T-8-S, R-32-E
Chaves County, New Mexico

Dear Mr. O'Melveny:

We are remailing this information pursuant to Order # R-6284 (Case No. 6811) pooling the forty (40) acres as referenced for the drilling of the #1-13 Cushing, enclosed is one copy of the AFE previously submitted by letter dated December 26, 1979.

Sincerely,

LAGUNA PETROLEUM COMPANY

William C.C. Barnes

WCCB:lal

Enclosure

cc: Sim B. Christy
1012 Security National Bank Bldg.
P.O. Box 1180
Roswell, New Mexico 88201

✓ New Mexico Oil Conservation Division
Box 2088
Santa Fe, New Mexico 87501
Attn: Dick Stamets

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (915) 683-5505

OPERATOR LAGUNA PETROLEUM COMPANY

WELL NAME & NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13

COUNTY Cheaves STATE New Mexico

T-8-S, R-32-E

PROJECTED DEPTH 4500'

OBJECTIVE San Andres

CLASSIFICATION Development

| Code | Description | Tobac | Estimated Amount |
|------|-------------|-------|------------------|
|------|-------------|-------|------------------|

A

INTANGIBLE DRILLING COST

Drilling:

Footage 4500' @ \$ 12.00 /Foot \$ 54,000

Day Work W/DP 4 Days @ \$ 3000 /Day \$ 12,000

Day Work W/O/DP : Days @ \$ /Day \$

Roads, Locations, Pits, Damages & Surveys

Cement and Cementing Services:

Surface \$ 3,000

Intermediate \$

Mud and Other Drilling Fluids

Formation Testing, Coring & DST

Logging

Hauling - Auto & Truck

Fuel, Power, Repairs & Supplies

Overhead

Salaries - Engineering, Geological, Foremen

Consultants - Contract

Miscellaneous

Insurance \$ 3,400

Contingencies 10,000

TOTAL INTANGIBLE DRILLING COST.

TANGIBLE DRILLING COST

Downhole Equipment:

Surface Casing 1700' of 8 5/8" \$ 15,000

Intermediate Casing ' of

Well Head 2,000

Miscellaneous (Acreage)

TOTAL TANGIBLE DRILLING COST

BEFORE CASING POINT COST

B

INTANGIBLE ABANDONMENT COST

Cement and Cementing Services

Locations Clean Up & Restoration

Miscellaneous

TOTAL INTANGIBLE ABANDONMENT COST

TOTAL DRY HOLE COSTS

OPERATOR Laguna Petroleum Company WELL NAME & NO. #1-13 Cushing
 LOCATION SE/4 NE/4 Section 13 COUNTY Chaves STATE New Mexico
 T-8-S R-32-E
 PROJECTED DEPTH 4500' OBJECTIVE San Andres CLASSIFICATION Development

| Code | Description | Tobac | Estimated Amount |
|------|---|---|------------------|
| C | INTANGIBLE COMPLETION COST | | |
| | Completion Unit | 8 Days @ \$ 1200 /Day | \$ 9,600 |
| | Cement and Cementing Services | | 4,000 |
| | Logging and Perforating | | 5,000 |
| | Formation Treatment: | | |
| | Acid | | |
| | Frac | \$ 8,000 | |
| | Testing | | 8,000 |
| | Hauling - Auto & Truck | | 2,000 |
| | Overhead | | 3,000 |
| | Salaries - Engineering, Geological, Foremen | | 500 |
| | Consultants - Contract | | 1,000 |
| | Miscellaneous | | 3,500 |
| | Rental Equipment | \$ 2,400 | |
| | Contingencies | 5,000 | 7,400 |
| | TOTAL INTANGIBLE COMPLETION COST | | \$ 44,000 |
| D | TANGIBLE COMPLETION COST: | | |
| | Downhole Equipment | | |
| | Casing 4500' of 5 1/2 15.5# | \$ 26,000 | |
| | Tubing 4500' of 2 3/8 4.7# EUE | 11,000 | |
| | Sucker Rods | 6,000 | |
| | Well Head | 1,000 | \$ 44,000 |
| | Pumping Equipment (Surface) | | |
| | Unit | \$ 30,000 | |
| | Engine/Motor & Controls | 4,000 | 34,000 |
| | Tank Battery & Related Equipment | | |
| | Flowline | \$ 1,000 | |
| | Separator | | |
| | Heater Treater | | |
| | Tanks | 9,000 | |
| | Piping & Connections | 10,000 | |
| | Labor & Supervision | 3,000 | |
| | Miscellaneous | 3,000 | |
| | | 5,000 | 31,000 |
| | TOTAL TANGIBLE COMPLETION COST. | | \$ 109,000 |
| | TOTAL COMPLETION AND EQUIPMENT COSTS (after casing point costs) | | \$ 153,000 |
| | TOTAL COMPLETED WELL COST (Total A, C & D) | (a) \$ 139,000 (c) 44,000 (d) 109,000 | \$ 292,000 |

OPERATOR LAGUNA PETROLEUM COMPANY WELL NAME NO. #1-13 Cushing
LOCATION SE/4 NE/4 Section 13 COUNTY Chaves STATE New Mexico
T-8-S, R-32-E
PROJECTED DEPTH 4500' OBJECTIVE San Andres CLASSIFICATION Development

Code Description Tobac Estimated Amount

| | Working Interest | Dry Hole | Producer |
|-------------------------------------|------------------|--------------|---------------|
| LAGUNA PETROLEUM COMPANY (Operator) | .375000 | \$ 56,250.00 | \$ 109,500.00 |

By _____

| | | | |
|-----------------------------|---------|-----------|-----------|
| UNION OIL CO. OF CALIFORNIA | .332838 | 49,925.70 | 97,188.70 |
|-----------------------------|---------|-----------|-----------|

By _____

| | | | |
|-----------------|---------|----------|----------|
| JOHN O. MELVENY | .033493 | 5,023.95 | 9,779.95 |
|-----------------|---------|----------|----------|

By _____

| | | | |
|--------------------------------|---------|-----------|-----------|
| ESTATE OF HARRY L. CROSBY, Jr. | .133669 | 20,050.35 | 39,031.35 |
|--------------------------------|---------|-----------|-----------|

By _____

| | | | |
|-------------------------|---------|----------|-----------|
| ESTATE OF SARAH A. LINK | .062500 | 9,375.00 | 18,250.00 |
|-------------------------|---------|----------|-----------|

By _____

By _____

| | | | |
|---------------|----------|---------------|---------------|
| J. A. MATHEWS | .062500 | 9,375.00 | 18,250.00 |
| | 1.000000 | \$ 150,000.00 | \$ 292,000.00 |

By _____



LAGUNA PETROLEUM COMPANY

March 17, 1980

The Estate of Harry L. Crosby, Jr.
Richard C. Bergen, Executor
3400 Crocker Plaza
611 West 6th Street
Los Angeles, CA 90017


Tobac Prospect 79-21
#1-13 Cushing
SE/4 NE/4 Section 13,
T-8-S, R-32-E
Chaves County, New Mexico

Dear Mr. Bergen:

Pursuant to Order # R-6284 (Case No. 6811) pooling the forty (40) acres as referenced for the drilling of the #1-13 Cushing, enclosed is one copy of the AFE previously submitted by letter dated December 26, 1979.

Sincerely,

LAGUNA PETROLEUM COMPANY

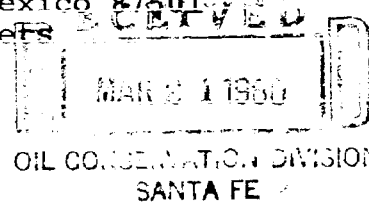

William C.C. Barnes

WCCB:rm

Enclosure

cc: Sim B. Christy
1012 Security National Bank Bldg.
P.O. Box 1180
Roswell, New Mexico 88201

✓ New Mexico Oil Conservation Division
Box 2088
Santa Fe, New Mexico 87501
Attn: Dick Stamets



ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (915) 683-5505



LAGUNA PETROLEUM COMPANY

March 17, 1980

John O'Melveny
Suite 400, 800 Wilshire Blvd.
Los Angeles, CA 90017

Tobac Prospect 79-21
#1-13 Cushing
SE/4 NE/4 Section 13,
T-8-S, R-32-E
Chaves County, New Mexico

Dear Mr. O'Melveny:

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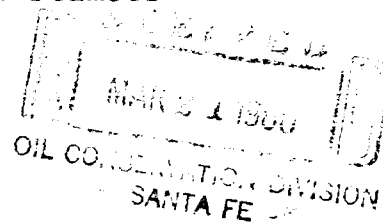
William C.C. Barnes

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Box 2088
Santa Fe, New Mexico 87501
Attn: Dick Stamets



ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (915) 683-5505

OPERATOR LAGUNA PETROLEUM COMPANY

WELL NAME & NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13

COUNTY Chaves

STATE New Mexico

T-8-S, R-32-E

PROJECTED DEPTH 4500'

OBJECTIVE San Andres

CLASSIFICATION Development

Code

Description

Tobac

Estimated Amount

A

INTANGIBLE DRILLING COST

Drilling:

Footage 4500' @ \$ 12.00 /Foot \$ 54,000
Day Work W/DP 4 Days @ \$ 3000 /Day \$ 12,000
Day Work WO/DP : Days @ \$ /Day \$

Roads, Locations, Pits, Damages & Surveys

Cement and Cementing Services:

Surface

Intermediate

Mud and Other Drilling Fluids

Formation Testing, Coring & DST

Logging

Hauling - Auto & Truck

Fuel, Power, Repairs & Supplies

Overhead

Salaries - Engineering, Geological, Foremen

Consultants - Contract

Miscellaneous

Insurance

Contingencies

TOTAL INTANGIBLE DRILLING COST.

TANGIBLE DRILLING COST.

Downhole Equipment:

Surface Casing 1700' of 8 5/8" \$ 15,000

Intermediate Casing of

Well Head

Miscellaneous (Acreage)

TOTAL TANGIBLE DRILLING COST

BEFORE CASING POINT COST

B

INTANGIBLE ABANDONMENT COST

Cement and Cementing Services

Locations Clean Up & Restoration

Miscellaneous

TOTAL INTANGIBLE ABANDONMENT COST

TOTAL DRY HOLE COSTS

COST ESTIMATE - AFE NO. 79-21

OPERATOR Laguna Petroleum Company WELL NAME & NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13 COUNTY Chaves STATE New Mexico

T-8-S R-32-E

PROJECTED DEPTH 4500' OBJECTIVE San Andres CLASSIFICATION Development

| Code | Description | Tobac | Estimated Amount |
|------|---|-----------------------|------------------|
| C | INTANGIBLE COMPLETION COST | | |
| | Completion Unit | 8 Days @ \$ 1200 /Day | \$ 9,600 |
| | Cement and Cementing Services | | 4,000 |
| | Logging and Perforating | | 5,000 |
| | Formation Treatment: | | |
| | Acid | \$ 8,000 | |
| | Frac | | 8,000 |
| | Testing | | 2,000 |
| | Hauling - Auto & Truck | | 3,000 |
| | Overhead | | 500 |
| | Salaries - Engineering, Geological, Foremen | | 1,000 |
| | Consultants - Contract | | 3,500 |
| | Miscellaneous | | - |
| | Rental Equipment | \$ 2,400 | |
| | Contingencies | 5,000 | 7,400 |
| | TOTAL INTANGIBLE COMPLETION COST | | \$ 44,000 |
| D | TANGIBLE COMPLETION COST: | | |
| | Downhole Equipment | | |
| | Casing 4500' of 5 1/2 15.5# | \$ 26,000 | |
| | Tubing 4500' of 2 3/8 4.7# FUE | 11,000 | |
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| | Well Head | 1,000 | \$ 44,000 |
| | Pumping Equipment (Surface) | | |
| | Unit | \$ 30,000 | |
| | Engine/Motor & Controls | 4,000 | 34,000 |
| | Tank Battery & Related Equipment | | |
| | Flowline | \$ 1,000 | |
| | Separator | | |
| | Heater Treater | 9,000 | |
| | Tanks | 10,000 | |
| | Piping & Connections | 3,000 | |
| | Labor & Supervision | 3,000 | |
| | Miscellaneous | 5,000 | 31,000 |
| | TOTAL TANGIBLE COMPLETION COST. | | \$ 109,000 |
| | TOTAL COMPLETION AND EQUIPMENT COSTS (after casing point costs) | | \$ 153,000 |
| | TOTAL COMPLETED WELL COST (Total A, C & D) | (a) \$ 139,000 | \$ 292,000 |
| | | (c) 44,000 | |
| | | (d) 109,000 | |

OPERATOR LAGUNA PETROLEUM COMPANY WELL NAME NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13 COUNTY Chaves STATE New Mexico
T-8-S, R-32-E

PROJECTED DEPTH 4500' OBJECTIVE San Andres CLASSIFICATION Development

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| | Working Interest | Dry Hole | Producer |
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By _____

| | | | |
|-----------------------------|---------|-----------|-----------|
| UNION OIL CO. OF CALIFORNIA | .332838 | 49,925.70 | 97,188.70 |
|-----------------------------|---------|-----------|-----------|

By _____

| | | | |
|-----------------|---------|----------|----------|
| JOHN O. MELVENY | .033493 | 5,023.95 | 9,779.95 |
|-----------------|---------|----------|----------|

By _____

| | | | |
|--------------------------------|---------|-----------|-----------|
| ESTATE OF HARRY L. CROSBY, Jr. | .133669 | 20,050.35 | 39,031.35 |
|--------------------------------|---------|-----------|-----------|

By _____

| | | | |
|-------------------------|---------|----------|-----------|
| ESTATE OF SARAH A. LINK | .062500 | 9,375.00 | 18,250.00 |
|-------------------------|---------|----------|-----------|

By _____

By _____

| | | | |
|---------------|----------|---------------|---------------|
| J. A. MATHEWS | .062500 | 9,375.00 | 18,250.00 |
| | 1.000000 | \$ 150,000.00 | \$ 292,000.00 |

By _____



BRUCE KING
GOVERNOR
LARRY KEHOE
SECRETARY

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

March 12, 1980

POST OFFICE BOX 2086
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-2434

Mr. S. B. Christy IV
Jennings & Christy
Attorneys at Law
P. O. Box 1180
Roswell, New Mexico 88201

Re: CASE NO. 6811
ORDER NO. R-6284

Applicant:

Laguna Petroleum Company

Dear Sir:

Enclosed herewith are two copies of the above-referenced
Division order recently entered in the subject case.

Yours very truly,


JOE D. RAMEY
Director

JDR/fd

Copy of order also sent to:

Hobbs OCD X
Artesia OCD X
Aztec OCD

Other Stephen Charnas

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6811
Order No. R-6284

APPLICATION OF LAGUNA PETROLEUM
COMPANY FOR COMPULSORY POOLING,
CHAVES COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on February 27, 1980, at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this 11th day of March, 1980, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

- (1) That due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) That the applicant, Laguna Petroleum Company, seeks an order pooling all mineral interests in the San Andres formation underlying the SE/4 NE/4 of Section 13, Township 8 South, Range 32 East, NMPM, Chaves County, New Mexico.
- (3) That the applicant has the right to drill and proposes to drill a well at a standard location on said 40-acre tract.
- (4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.
- (5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) That \$2259.00 per month while drilling and \$274.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) That upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before June 30, 1980, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the San Andres formation underlying the SE/4 NE/4 of Section 13, Township 8 South, Range 32 East, NMPM, Chaves County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard location thereon.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the 30th day of June, 1980, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the San Andres formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the 30th day of June, 1980, Order (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Order (1) of this order should not be rescinded.

(2) That Laguna Petroleum Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt

of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) That the operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) That the operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$2259.00 per month while drilling and \$274.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); that the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

-5-

Case No. 6811

Order No. R-6284

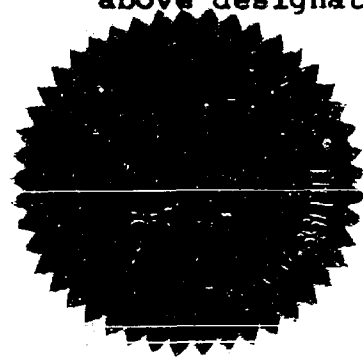
(10) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Chaves County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) That jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



S E A L

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


JOE D. RAMEY
Director

fd/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
27 February 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Laguna Petroleum Company) CASE
for compulsory pooling, Chaves County,) 8811
New Mexico.)

BEFORE: Richard L. Stamets

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For the Applicant:

Sim B. Christy, IV
JENNINGS & CHRISTY
P. O. Box 1180
Roswell, New Mexico 88201

For the Protestants:

Stephen Charnas
SUTIN, THAYER & BROWNE
P. O. Box 1945
Albuquerque, New Mexico 87103

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I N D E X

STATEMENTS BY MR. CHARNAS AND
MR. CHRISTY

3

WILLIAM C. C. BARNES

Direct Examination by Mr. Christy

9

Cross Examination by Mr. Stamets

16

Cross Examination by Mr. Charnas

21

Recross Examination by Mr. Stamets

46

E X H I B I T S

Applicant Exhibit One, Letter

7

Applicant Exhibit Two, Operating Agreement

14

Applicant Exhibit Three, Title Opinion

14

Applicant Exhibit Four, AFE

14

Applicant Exhibit Five, Plat

40

Protestant's Exhibit One, Letter

23

Protestant's Exhibit Two, Exxon Lease, etc.

32

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1 MR. STAMETS: Call next case 6811.

2 MR. PADILLA: Application of Laguna Petro-
3 leum Company for compulsory pooling, Chavez County, New
4 Mexico.

5 MR. STAMETS: Call for appearances in this
6 case.

7 MR. CHRISTY: Sim Christy, Jennings and
8 Christy, Roswell, New Mexico, for the Applicant, Laguna Pet-
9 roleum.

10 MR. STAMETS: Any other appearances?

11 MR. CHARNAS: Yes. Stephen Charnas,
12 Sutin, Thayer, and Browne, Albuquerque, New Mexico, for
13 Estate of Crosby and O'Melveny.

14 Mr. Examiner --

15 MR. STAMETS: Yes.

16 MR. CHARNAS: -- if I may at this time,
17 I would like to request a continuance in this matter until
18 the next hearing date.

19 My reasons for requesting a continuance
20 are these: That as of Monday night my clients, who are in
21 California, had received no actual notice of this hearing;
22 that their sole information about this hearing came from a
23 letter sent -- a request letter to the Commission requesting
24 this hearing, sent by Mr. -- sent by Laguna, the Applicant;
25 that we were brought into this matter, my law firm was

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1 brought into this matter, last week, that we found out about
2 that this hearing was actually on the docket for today, last
3 Wednesday, one week ago, when I called the Division. That --
4 it was too late then for my client to make arrangements to
5 come in from Los Angeles and participate in this hearing.
6 It was too late to have subpoenas issued by the board for
7 information to be produced.

8 And one of my clients, the client with
9 the larger interest, is an estate, that being an executor of
10 an estate and having special responsibility as an executor,
11 he's not dealing with his own money, and therefore must -- he
12 must act prudently and cautiously, and would -- has expressed
13 to me his desire to attend personally a hearing on this
14 matter, but simply could not arrange his schedule to come in
15 today.

16 I may say that he views that his respon-
17 sibilities as an executor of the estate require his attendance
18 at this hearing.

19 For all these reasons, I am requesting a
20 continuance of this hearing to the next date.

21 MR. STAMETS: Mr. Christy, do you have
22 some response to that request?

23 MR. CHRISTY: Yes, I do, Your Honor.

24 You're speaking of Mr. Bergen as the exe-
25 cutor, isn't he?

1 MR. CHARNAS: Yes, sir.

2 MR. CHRISTY: I have here a letter from
3 Laguna to Mr. Bergen of February 12th, with a return receipt
4 of February 14th, advising -- enclosing a copy of the appli-
5 cation for the -- this hearing.

6 We have been in contact with the people
7 since at least December 25th of '79, trying to work this thing
8 out, and we've been unable to do so.

9 We have a rig coming in March 15th, and
10 as the Division knows, those rigs to stand-by are rather
11 expensive, and we would ask to continue the matter. The
12 publication is the notice and the fact that the man didn't
13 know about it until inconvenient for him is just too bad. He
14 has an attorney here. He can represent them.

15 We'd like to go forward and get our
16 hearing.

17 MR. CHARNAS: If I may, Mr. Examiner, as
18 I said, -- were brought into the matter last week. I am
19 under a handicap in representing the client at this hearing
20 because I have had a very short time to familiarize myself
21 with this matter.

22 I have no knowledge of a letter sent to--
23 to the client on February 12th. The only communication that
24 I know sent to the client is a -- let me see, is a letter
25 dated -- it's a letter dated February 7th to -- to the Com--

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1 mission requesting the hearing. A copy of it was sent to the
2 client, and that was only a request.

3 I may say that I spoke to the client as --
4 the last time I spoke to the client was Monday evening and
5 asked specifically what information or what notice he'd had
6 and what communications he had received, and he told me that
7 he had received only the copy -- that his most recent com-
8 munication was the copy of the request for a hearing of Feb-
9 ruary 7th.

10 May I say, Mr. Examiner, I do not see
11 what harm and inconvenience -- I won't say inconvenience --
12 what harm there would be by continuing this hearing until
13 the next date, which I understand to be February 12th -- or
14 March 12th. March 12th is before the date, as I understand,
15 when the rig is supposed to come in, and it would enable my
16 client to discharge his responsibilities as an executor of
17 this estate in a proper manner and properly protect the in-
18 terests of the estate.

19 MR. STAMETS: What action is anticipated
20 on your side in this? Do you expect to hire an engineering
21 witness and to put on testimony?

22 MR. CHARNAS: My understanding is that my
23 client would come in himself and would bring someone with
24 him, yes, sir, bring an expert witness.

25 MR. STAMETS: And to what purpose?

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1 MR. CHARNAS: To -- and we would subpoena
2 records and that would be for the purpose of determining the
3 whether the application for the forced pooling order met the
4 requirements of the statute.

5 As I say, I'm under somewhat of a handicap,
6 Mr. Examiner, by not being totally familiar with this matter,
7 having only been in it for about six days myself.

8 MR. CHRISTY: May I speak about --

9 MR. STAMETS: Yes, you may, Mr. Christy.

10 MR. CHRISTY: Thank you, sir.

11 We offer in evidence Applicant's Exhibit
12 One, which is the letter of February 12th I referred to,
13 with an attached letter to the OCC about this case.

14 There's a P.S. on it which I think is in-
15 teresting. What Mr. Bergen wants is the geological and pro-
16 duction information from Laguna. That's what he's after,
17 and we've offered to give it to him for \$5000, because we
18 consider it proprietary. It's in this letter. That's the
19 delay.

20 MR. CHARNAS: Mr. Examiner, I think we
21 have no quarrel on communication. I think that there's a
22 letter of the -- the request for a hearing that I referred
23 to is probably the attachment to that letter you have in
24 front of you.

25 MR. CHRISTY: Mr. Examiner, I've just

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1 been advised by my client that one of the leases runs out
2 March 15th. It's from Exxon. And if we hold a hearing
3 March 13th, there's no way the Division can get the order
4 out, and we can get out an AFF to the non-consenting people
5 and allow them the time to come back and make up their mind
6 what they want to do. In ten or twelve days a well's down.

7 MR. CHARNAS: Mr. Examiner, if I --

8 MR. STAMETS: I think we've heard enough
9 argument on this point.

10 How do you spell your name, sir?

11 MR. CHARNAS: The last name is Charnas,
12 sir, C-H-A-R-N-A-S. First name is Stephen.

13 MR. STAMETS: Mr. Charnas, we will not
14 entertain your motion or sustain your motion for continuance
15 at this point.

16 We will allow the Applicant in this case
17 to put on his case. You may renew your motion at the end of
18 the testimony and we will give it consideration at that time,
19 although it does appear at this point that your client has
20 received notice as required by law. He certainly has been
21 aware of this case for some time.

22 We'll see what transpires.

23 MR. CHARNAS: Thank you.

24 MR. STAMETS: You may proceed.

25 MR. CHRISTY: Thank you, sir. We have

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1 one witness. Will you stand and be sworn, please?

2

3 (Witness sworn.)

4

5 WILLIAM C. C. BARNES

6 being called as a witness and having been duly sworn upon
7 his oath, testified as follows, to-wit:

8

9 DIRECT EXAMINATION

10 BY MR. CHRISTY:

11 Q Would you please state your name and ad-
12 dress?

13 A My name is William C. C. Barnes, B-A-R-N-E-S.
14 And I reside in Midland, Texas.

15 Q You're here on behalf of Laguna Petroleum
16 Company. As I understand it, it is a limited partnership.

17 A That is correct.

18 Q And are you one of the general partners?

19 A That is correct.

20 Q All right, sir. Now, are you familiar
21 with what is being sought in Case 6811?

22 A That is correct.

23 Q Would you tell just very briefly what is
24 what do you seek?

25 A We would like to pool all the interests

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1 in Section -- in the southeast quarter of the northeast quarter
2 of Section 13, Township 3 South, Range 32 East, so that we
3 may drill a San Andres test.

4 Q Will the well be located on a standard
5 location in the southeast northeast?

6 A That is correct.

7 Q And Laguna will be the operator?

8 A That is correct.

9 Q When do you expect the well to be com-
10 menced?

11 A March 15th.

12 Q Is there any -- do you have a rig waiting?

13 A That is correct.

14 Q All right, and do you have a lease which --
15 or lease or farmout, which is going to expire that date if
16 you don't start?

17 A That is correct.

18 Q Who is that from?

19 A Exxon.

20 Q And they own about 1/16th of the minerals?

21 A They own a 1/16th of the minerals. Ac-
22 tually, the lease expires March 1st, but in light of the
23 fact here, they verbally gave me an extension till March 15th.

24 Q For the drilling of this well have you
25 and other mineral owners entered into an operating agreement?

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1 A Yes, we have.

2 Q And approximately how much percentage of

3 the people have executed that operating agreement?

4 A 87 percent.

5 Q That's not --

6 A 84 percent is --

7 Q 84 percent, so there's 16 percent out?

8 MR. STAMETS: Working interests?

9 A Working interest owners, that is correct.

10 Q Would you tell the Commission who has

11 approved the unit operating agreement?

12 A That would be Union of California, Estate

13 of Sarah A. Link, J. A. Matthews, and Laguna Petroleum Com-

14 pany.

15 I might also add that Union Oil of Cali-

16 fornia is a mineral interest owner. The Estate of Sarah A.

17 Link is also a mineral interest owners and J. A. Matthews

18 is also a mineral interest owner.

19 MR. STAMETS: Excuse me, do you have any

20 kind of a plat of the acreage?

21 A Yes, I do.

22 MR. STAMETS: To give an indication of

23 who owns what?

24 A It's not on that plat but I can tell you

25 exactly who owns what.

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1 MR. STAMETS: You don't have anything that
2 I can look at that shows you who owns what?
3 MR. CHRISTY: It might help you a little,
4 Mr. Examiner, here's a copy of our title opinion, which will
5 break out the ownership.
6 MR. STAMETS: Are these undivided interests?
7 A That is correct.
8 MR. CHRISTY: Yes, sir.
9 Q All right, now, my question, I don't be-
10 lieve I got an answer, is who and in what percentages have
11 not consented?
12 A Okay. This would be the Estate of Harry
13 L. Crosby, Junior, which owns, to my records, 13.3669 per-
14 cent, and John O'Melveny, which owns 3.3493 percent.
15 Q About 16-2/3rds have not consented?
16 A Yes, sir.
17 Q All right. Now, does that operating
18 agreement contain a penalty provision, a non-consent penalty
19 provision?
20 A That is correct.
21 Q And what is that penalty provision?
22 A 200 percent.
23 Q Do you think that's a fair penalty?
24 A I believe it is.
25 Q Does it contain an accounting procedure

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1 with respect to drilling and producing rates, a fixed rate
2 basis?

3 A Yes, it does.

4 Q And what are those percentages?

5 A For drilling, while -- they used 2259 --
6 \$2,259 for a drilling well; \$274 for a producing well.

7 Q Do you feel those rates are fair and
8 reasonable?

9 A We do.

10 Q Those are fixed rates combined?

11 A That is correct.

12 MR. STAMETS: Do you have a copy of that
13 for the Examiner?

14 A Yes, I can make a copy.

15 MR. STAMETS: I'd like a copy.

16 A Okay.

17 MR. CHRISTY: He needs the full unit
18 agreement?

19 MR. STAMETS: Right.

20 MR. CHRISTY: Operating agreement?

21 MR. STAMETS: Right.

22 MR. CHRISTY: My witness lost his -- the
23 papers he was going to bring with him.

24 (There followed discussion off
25 the record.)

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1 Q Approximately how long will it take to
2 drill the well?
3 A Ten days.
4 Q All right. Do you have an AFE out?
5 A That is correct.
6 Q And what is the dry hole AFE?
7 A \$150,000.
8 Q And the wet hole?
9 A A producer would be \$292,000.
10 Q All right. Has that AFE been approved by
11 the consenting parties to the operating agreement?
12 A Yes, it has.
13 MR. STAMETS: Do you have a copy of the
14 AFE?
15 A I've got a copy of the AFE.
16 MR. STAMETS: Two is the operating agree-
17 ment; Three is a title opinion; and Four will be the AFE.
18 Q Do you have an opinion as to whether or
19 not the granting of the application would prevent waste and
20 including economic waste?
21 MR. CHARNAS: Excuse me, if I may, there
22 has been no foundation to qualify the witness to give an
23 opinion.
24 MR. STAMETS: What was your question
25 again, Mr. Christy?

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1 MR. CHRISTY: My question was does he have
2 an opinion as to whether or not the granting of the applica-
3 tion will prevent waste, including economic waste.

4 A Yes, that is correct.

5 MR. CHRISTY: You'll have to hold the an-
6 swer.

7 MR. STAMETS: And your objection is to
8 both parts of the question or a part of the question?

9 MR. CHARNAS: Well, I move to strike the
10 answer because there has been no foundation to qualify him
11 to give that kind of an opinion.

12 All we know, if my hearing is correct, is
13 we know Mr. Barnes is connected with Laguna Petroleum Com-
14 pany.

15 MR. STAMETS: I agree, and the objection
16 is sustained.

17 Q Do you have anything else you feel would
18 be of interest to the Examiner in connection with the Case
19 6811?

20 A Yes. If this application is not granted,
21 one is we're in jeopardy with the outstanding interest with
22 Exxon; secondarily, that the additional cost would be incurred
23 from postponing the drilling of the well by approximately
24 \$40,000.

25 Q Anything else?

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A No.

MR. CHRISTY: I'll offer Applicant's Exhibits One to Four, inclusive.

MR. STAMETS: These exhibits will be admitted.

MR. CHRISTY: We have nothing further from this witness.

MR. STAMETS: Mr. Barnes, a couple of questions.

CROSS EXAMINATION

BY MR. STAMETS:

Q If this application is not approved, what will the effect be on Laguna and this particular acreage that you seek to have pooled?

A Well, the effect would be, one, that as we are a limited partnership, we've represented to a number of our limited partners that we will expend "X" number of dollars exploring for oil and gas; that they will get their IDC write-offs for their tax planning this year. If this thing is protracted it could be that one, that it would go on that we couldn't get the well drilled this year.

Two, a number of other people have tried to put this deal together in the past and because of the -- I'm going to use the word intransigence -- on the part of

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1 the Estate of Harry L. Crosby and John O'Melveny, that other
2 people have become frustrated and given up on the prospect.
3 We've gotten it together to the extent of these people -- or
4 to the extent that these people are not included. Everybody
5 else is willing to participate in the drilling of the well.

6 Additionally, that if we have to postpone,
7 the rigs in this area are very difficult to come by and that
8 our drilling contract would be increased by an additional
9 \$40,000.

10 Time is of the essence to us. I have
11 tried since December to communicate with these people. I
12 have given them the opportunity to either grant me a lease,
13 I've tried -- I said, fine, well if you want to participate,
14 that's fine, you know, do something. Tell me what you want
15 to do. And I've even offered to provide them the geologic
16 data which they have requested, but I feel like it's pro-
17 prietary information and that it should -- we offered it
18 at a price and that price was approximately \$5000.

19 Mr. Bergen, who represents the Estate of
20 Harry L. Crosby, is an attorney and I cannot imagine him
21 giving out, oh, free advice without charging his clients
22 anything, either.

23 So, I've presented my --

24 Q Will -- are there any leases that you are
25 subject to lose if this well is not started?

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1 A Yes. That would be the Exxon interest.
2 We have, oh, let's see, we originally made a deal with Exxon
3 on this -- on their particular interest in May of '79. We've
4 had to get a number of extensions because we have waited --
5 the time necessary to hear from other parties involved in the
6 drilling of the well. Finally, Exxon, or their representative,
7 Joe -- I believe his name is Joe Thomas -- told me that, you
8 know, they would not give me, after this last final extension,
9 which he verbally said they would give me because I'm
10 seeking -- I had to go to the forced pooling hearing, that
11 we would -- we would -- there's a chance that we would not
12 get any more extensions, that either perform or they would
13 pull the deal down.

14 Q What was your first contact with the
15 appropriate people concerning the interests of Harry L.
16 Crosby, Junior, and John O'Melveny?

17 A Oh, I've got a, let's see, what is the
18 date of that letter -- I'm sorry, the first letter that I
19 have that I've advised of the --

20 Q This February 7th letter?

21 A February 7th. I would say it was in the
22 first or second day of February when I talked to him verbally
23 on the phone.

24 In December I talked to John O'Sullivan
25 when I forwarded them copies, which it was December 26th.

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1 I first had contact with a Mr. Thomas
2 O'Sullivan, who as I understand it, is supposed to be the
3 tax man for the estate of Harry L. Crosby, and this was a
4 party that we had a broker, Mr. Fred Goodman, who was doing
5 most of the work for us, he told me that I was supposed to
6 talk with a Thomas O'Sullivan. So I contacted Mr. O'Sullivan
7 numerous times prior to December 26th, and then finally --
8 talked to him verbally on the phone, and then on December 26
9 I forward a letter, and in that letter I presented a copy of
10 the AFE. I sent him a copy of the operating agreement, and
11 I also said that in the event that you do not wish to parti-
12 cipate, please grant me a 6-month oil and gas lease bearing
13 a quarter royalty on the estate in the north half of -- on
14 their interest in the north half of that section, Section 13.

15 Then I guess it was, I'm going to say,
16 the first part of February, I'm going to use February 1st,
17 sometime between the 1st and the 7th, we got a call from a
18 Richard C. Bergen, who at that time demanded that they know --
19 that we advise them of what type of deal I made with Exxon;
20 what type of deal I made with Union; demanding geologic in-
21 formation; they demanded offset production map; and wanted
22 us to do economic calculation for them.

23 Basically what he wanted us to do was do
24 all of his work for him.

25 At that point in time I wrote him -- then

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1 I think I talked to Mr. Richard Stamets and asked him on --
2 telephonically what remedy I might have and what was the
3 necessary procedure to go through a forced pooling application.
4 I was told to write a letter and I could send a copy of a
5 letter to Mr. Bergen.

6 I subsequently meant to send the first
7 letter by certified mail, receipt requested; whatever it was,
8 it didn't go. So the next day I sent out a subsequent letter
9 with a copy of the original letter to Mr. Stamets with re-
10 ceipt requested, which you're holding in your hand right
11 now.

12 So we have tried numerous times to talk
13 to these people and have got no satisfaction.

14 Q Are the same principals involved in the
15 Melveny property and the Crosby?

16 A Right, right. Well, I have never talked
17 to John O'Melveny. I have talked to Tom O'Sullivan, who is,
18 again, it was represented to me that he is the spokesman
19 for both of these parties. Apparently O'Melveny has an
20 office with John O'Sullivan. I have not been out to Cali-
21 fornia and talked to these people. I have just followed up
22 with the information that I was provided with by Mr. Fred
23 Goodman. And then up until the time Richard C. Bergen
24 called me, I was under the impression that I was supposed
25 to talk to Thomas O'Sullivan.

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1 When Mr. Bergen called, then I returned
2 his call that afternoon, and that's when I got frustrated and
3 requested a forced pooling application.

4 MR. STAMETS: Are there other questions
5 of this witness?

6 MR. CHARNAS: Yes, sir.

7 MR. STAMETS: You may proceed, Mr. Charnas.
8 Would you like copies of any of these exhibits?

9 MR. CHARNAS: Yes, I would. I'd like to
10 have copies of all of them, and I would like to see Exhibit
11 Number One.

12 MR. STAMETS: Why don't you take a look
13 at what we have here and then we'll get the Applicant to
14 make you some copies at the conclusion of the hearing.

15 MR. CHARNAS: Thank you very much.

16
17 CROSS EXAMINATION

18 BY MR. CHARNAS:

19 Q Mr. Barnes, you referred to a letter of
20 December 26th.

21 A 28th. I'm sorry, I'm getting the -- bear
22 with me. 26th, December 26th. Would you like a copy of
23 that, also?

24 Q Yes, I would and I would like to -- yes,
25 I would like a copy of that.

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1 MR. STAMETS: Might as well stamp one as
2 an exhibit.
3 A All right.
4 MR. STAMETS: In this case.
5 Q Let's see, Mr. Barnes, if I recall your
6 description of it correctly, this enclosed a proposed lease
7 on the north half of Section 13.
8 A That is correct.
9 Q All right, it did not enclose a lease on
10 the southeast quarter of the northeast quarter of Section 13?
11 A The southeast quarter of the northeast
12 quarter is part of the --
13 Q Yes, but not specifically on the southeast
14 quarter of the northeast quarter?
15 A That's correct.
16 Q It was a proposed lease on the entire
17 north half?
18 A That's correct.
19 Q Did the letter include an operating agree-
20 ment, or a copy of an operating agreement?
21 A Yes, it did.
22 Now, that's not with -- the operating
23 agreement is the same one that you've already got a copy of,
24 and I don't keep duplicates copies of --
25 Q Will you show me in this letter where it

1 says that a copy of the operating agreement is enclosed?

2 A. Let's see. Okay, says, "enclosed are
3 three copies of the AFE, Authorization for Expenditure,
4 approximating the drilling and completion costs of the pro-
5 posed well. Should either or both interests elect to parti-
6 cipate in the proposed drilling, please so indicate by having
7 each party sign and return two of the AFE's along with seven
8 additional signature pages of the operating agreement en-
9 closed."

10 MR. STAMETS: Mr. Charnas, would you mark
11 that as Protestant's Exhibit One?

12 MR. CHARNAS: Yes.

13 MR. STAMETS: This is the letter of, what,
14 December?

15 MR. CHARNAS: 26.

16 MR. STAMETS: 26, thank you.

17 Q Now, Mr. Barnes, your testimony is that
18 you enclosed the entire operating agreement?

19 A That is correct, and seven additional
20 signature pages.

21 MR. CHARNAS: Well, Mr. Examiner, just for
22 the record, one of the reasons I'm under a handicap is not
23 having a client here, is that to my knowledge, and based upon
24 information from my client -- I realize that's not evidence,
25 that's hearsay -- but my client did not receive a copy of the

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1 operating agreement. If my client were here, I believe he
2 would so testify.

3 Q Now, Mr. Barnes, you wrote on December
4 26th, right?

5 A That is correct.

6 Q The next communication you had was from
7 Mr. Bergen, is that correct?

8 A No, I talked numerous times with Tom
9 O'Sullivan, again who was represented to me, and I asked him
10 specifically, "Who do I talk to?"

11 And he said, "You continue to talk to me."

12 And I asked him, "Well, what are you all
13 going to do?"

14 And he said, "Well, we'll get an answer.
15 We'll get an answer."

16 Now, let me elaborate just --

17 MR. CHRISTY: No, just answer his question.

18 A Okay. "We'll get you an answer. We'll
19 get you an answer."

20 And I never got an answer, until -- then
21 Mr. Bergen called. I still don't have an answer. And then
22 all of a sudden he makes all these demands on me. Exxon
23 doesn't provide other industry partners with copies of a
24 map. Union doesn't. Why should Laguna have to provide all
25 of this to Mr. Bergen so he can make up his mind? He's a

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1 big man.

2 Q Yes, when, or before you became, I
3 got here, and I had a conversation with a representative with
4 the owners of the other company, and his well could
5 be drilled by March 15th.

6 A That is correct.

7 Q At what point did it become important to
8 you to do that?

9 A When we found out that that was when we
10 could get a rig in there.

11 Q When did you find that out?

12 A The first week in February.

13 Q So that's --

14 A Well, let me -- first week in February.

15 Q So that you became in a hurry about this
16 matter. Time became crucial to you in the first week in
17 February.

18 A That is correct.

19 Q All right. And until then in your con-
20 versations, until then time had not been crucial to you.

21 A It was crucial to me but I shouldn't have
22 to sit there and call somebody every day to ask them what
23 they're going to do. Time is -- if somebody sends me a
24 letter, I give it due attention. I don't let it set for
25 thirty or forty days before I decide I want to look at it.

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1 I might -- it might be a day or two. But it does get some
2 attention and I do call somebody after I've received various
3 correspondence. When I do call I've received the correspondence
4 and what I'm doing to handle the matter.

5 Q Well --

6 A Which I was not given by Tom O'Sullivan.
7 He never called me once. I've had to call him every time.

8 Q Not leaving aside office practice, you
9 became -- in time you became in a hurry about this matter
10 the first week in February.

11 A Right.

12 Q All right, and you received a telephone
13 call from Mr. Bergen in the first week in February.

14 A That is correct.

15 Q All right. And didn't Mr. Bergen tell
16 you that he was an executor of the estate?

17 A I don't care what his problem -- he told
18 me that.

19 Q Well, did he tell you?

20 A He told me that.

21 Q All right. And didn't he tell you that
22 he needed information and time to make an intelligent deci-
23 sion on this matter?

24 A He's had since December 26th when the
25 letter was first --

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1 the letter that I received earlier.

2 Q Now, I'm a little confused by this.
3 I'm looking at Exhibit Number One. I see that Exhibit Num-
4 ber One is the letter of February 7th to the Examiner with
5 a cover -- with a cover letter dated February 12th to the
6 Estate of Harry L. Crosby.

7 A The reason why he got the cover letter
8 on there is I wasn't sure, because of our postal system,
9 whether they would get a carbon copy of the letter. So
10 then I subsequently requested that another copy be sent to
11 them by receipt requested.

12 Q All right.

13 A And so to confirm that they have gotten
14 a copy of the letter requesting notice of this hearing.

15 Q And that letter you sent on February 12th.

16 A If that's the date of that letter, then
17 that is correct.

18 Q All right, and do you agree, don't you,
19 that the date of receipt on the return receipt requested
20 slip is February 14th?

21 A That's correct.

22 Q All right. So that according to your
23 records Mr. Bergen has had knowledge of this hearing since
24 February 14th, since he received this letter, or he's had
25 knowledge of your request for the hearing since he received

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1 the letter on February 14th.

2 Q Will go -- well, unless he got the other
3 letter sooner. The last documentation we have is February
4 14th.

5 Q Oh yes. That's two weeks ago.

6 A I thought it worked out -- well, it works
7 out two weeks ago.

8 Q I think that's the way it works out, two
9 weeks ago.

10 You, you said that you -- you tell me that
11 you said on the phone to Mr. Bergen that you might send him
12 the material.

13 A Right.

14 Q All right, but you didn't send him any
15 material, am I correct?

16 A That's correct.

17 Q All right, and when did you decide not
18 to send Mr. Bergen any material?

19 A After I talked to one of our other general
20 partners.

21 Q When was that?

22 A That afternoon.

23 Q The same day?

24 A The same day I talked to him on the phone.
25

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1 Q Did you call on Mr. Bergen and tell
2 him you weren't going to send him any material?

3 A Yes, because -- no.

4 Q Well, go ahead.

5 MR. CHRISTY: Because he's answered your
6 question.

7 Q Okay, you didn't call him up. When did
8 you tell him you weren't going to send him any material?

9 A The date of the letter when I told him
10 I'd be more than happy to provide it to him for the sum of
11 \$5000.

12 Q Now, that's a letter that Mr. Bergen re-
13 ceived, according to the return receipt on Exhibit One, on
14 February 14th, two weeks ago.

15 A Yeah.

16 Q So that's when Mr. Bergen found out you
17 weren't going to send him any material, two weeks ago.

18 MR. CHRISTY: Object to the question. It
19 calls for a conclusion of the witness as to whether -- he
20 can ask him whether that's what he knows when he received it,
21 but he doesn't know what else Mr. Bergen may know. That's
22 my objection.

23 MR. CHARNAS: I will rephrase the question,
24 if I can, to meet your objection, Mr. Christy.

25 MR. CHRISTY: Please.

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1 Q So far as you know, to your knowledge,
2 Mr. Bergen found out that you were not going to send him any
3 material when he received this letter, Exhibit One, your
4 Exhibit One, on February 14th.

5 A Let's define material as geologic data.
6 Then that was -- he had received information prior to that
7 but they had not -- they were not -- they were not going to
8 receive any geologic data as of February -- the date of
9 that letter, without paying, without paying a fee for it.

10 Q You say that you sent them geologic data
11 previously?

12 A No. I've sent them copies of the AFE,
13 copies of the operating agreement, and an oil and gas lease
14 in the event they did not want to participate.

15 Q But you had not sent them geologic in-
16 formation?

17 A Right, as of February 14th they were not
18 going to get the geologic information without paying.

19 Q Well, then to your knowledge, they
20 learned as of February 14th that they were not going to get
21 the geologic information without paying.

22 A That's correct.

23 Q All right, and when we say "to your know-
24 ledge" do you know whether anybody else connected with
25 Laguna Petroleum had called up Mr. Bergen or Mr. O'Sullivan

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1 or any people connected with Mr. O'Melveny or the Estate of
2 Crosby between February 7th and February 14th and told them
3 that they were going to get this information?

4 A He, nobody called.

5 Q All right. Do you have a copy of the
6 Exxon lease?

7 A Yes.

8 Q May I see it, please?

9 A I object to that. I don't think it's re-
10 levant, the lease.

11 MR. CHRISTY: It's done.

12 A Okay.

13 MR. CHARNAS: I'd like to mark the Exxon
14 lease and accompanying documents that were just handed to me
15 as Exhibit Two.

16 Q This lease is dated May 17th, 1979, is
17 that correct?

18 A Correct.

19 Q Now, you tell me that -- you say that
20 this lease expires May 1 but you've received an extension?

21 A March 1.

22 Q March 1, I'm sorry. You've received an
23 extension?

24 A I haven't received it yet, no, but I've
25 gotten verbal -- it was advised to me verbally by Exxon's

1 representative that he had not heard of an extension.
 2
 3
 4 about this matter between the time he signed the lease
 5 on May 17, '77, and the letter of December 26th, which you
 6 testified to?

7 A. I personally did not, but our representa-
 8 tive, Fred Goodman, did.

9 Q. Is he here to testify?

10 A. No, he's not. It's not necessary.

11 Q. Who told you it wasn't necessary?

12 A. That's my own opinion.

13 Q. Thank you.

14 MR. CHARNAS: I offer Exhibit Two.

15 MR. SEATZES: Hold those all till one
 16 time and submit them all at once, at the end of your examin-
 17 ation.

18 MR. CHARNAS: Perhaps Mr. Christy will
 19 help me -- prevent me from losing Exhibit One. Thank you
 20 very much.

21 Q. When did -- I think it was your testimony
 22 that the other -- the owners of other mineral interests
 23 in this quarter have signed the operating agreement?

24 A. Yes.

25 Q. All right, when did they do that?

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1 Q Now, I would like to ask you, did you
2 know at that time that the lease was
3 not a lease, but a mineral interest?
4 A Yes, I did. I did not know specifically
5 exactly on that.

6 Q Now, when was the first operating agreement between you and the first
7 operating agreement between you and another owner of mineral
8 interests? Do you have that in your file?

9 A The only one I have is the one with Union,
10 and that was on January 4th.

11 Q Now, when did you first communicate with
12 Exxon about an extension of the lease?

13 A Let's see, whenever that other documenta-
14 tion we have there -- let's see, I think we requested a --
15 I'm going to say January 4th.

16 Q Let's say January -- January 4th.
17 January 4th.

18 Q So it was already in your mind at least
19 on January 4th that you were going to run out of time on the
20 Exxon lease?

21 A Yes, yes. Let me interject --

22 MR. CHRISTY: No, just -- just answer
23 his questions.

24 A All right, okay.

25 Q When did you first communicate with the

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1 Estate of Crosby or representative of the estate, about
2 the area here?
3 A. Yes, I believe so.
4 Q. Did you make any preliminary phone call
5 with Mr. Larga?
6 A. I believe it has been.
7 Q. Are you ever been an executor of an estate?
8 A. No.
9 Q. Have you brought with you any geological
10 information or this -- with regard to the northeast quarter
11 of the -- I'm sorry, southeast quarter of the northeast
12 quarter?
13 A. No.
14 Q. Are you a geologist?
15 A. No.
16 Q. Did you bring a geologist today?
17 A. No.
18 Q. Have you ever been to a forced pooling
19 hearing before?
20 A. Yes.
21 Q. Did you bring a geologist then?
22 A. No.
23 Q. Was there any opposition at that hearing?
24 A. Yes.
25 Q. Has Laguna prepared a study of the area

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1 which is the subject of the motion.

2 A. Yes, that's correct.

3 Q. Now, what is the purpose of this motion?

4 A. To have the court set aside the

5 order of the court, please?

6 A. Yes.

7 Q. Now, you're saying that you're trying to get in pro-
8 prietary information, Mr. Charnas. It doesn't make any
9 difference on a forced pooling application. We object to it.

10 A. CHARNAS: I believe that it relates
11 to the -- to the standards that are set forth in the statute,
12 which relate to protection of rights, prevention of waste,
13 drilling of unnecessary wells. I believe on those matters
14 the burden is on the Applicant, and I believe in other --
15 other forced pooling hearings, transcripts of which I've
16 read, the Applicants have produced such information.

17 Q. STAMFORD: Well, Mr. Charnas, I'm cer-
18 tain that in those other cases the Applicants have presented
19 that information with the fore-knowledge that the opposition
20 would be presenting their own set of cross sections, exhibits
21 along these same lines in an attempt to dis-prove the vali-
22 dity of the Applicant's case.

23 A. Apparently in this case that is not the
24 situation and it would not appear that the geologic inform-
25 ation is necessary to prove the requirements for compulsory

1 pool line.

2
3 say that the pool line is not a pool line, but is part from
4 reading incorrect information. The information
5 has been provided by Applicant, who says there are no -- there
6 is no protestant on the other side.

7
8 it is difficult, and high impossible, to
9 meet the request for a forced pool line order without some
10 knowledge of the basis, statutory basis, on which the Appli-
11 cant is seeking the order.

12 The Applicant is not a geologist, did not
13 bring a geologist. All that Applicant says is that we
14 better force pool because I've got a rig set up to come on
15 March 15th. That's the basis of Applicant's case.

16 MR. STAMETS: Mr. Charnas, it would ap-
17 pear that you're representing an executor who is an attorney,
18 and as an attorney I'm certain that he recognizes, or she
19 recognizes, the seriousness of not appearing at a hearing
20 prepared to go ahead with such a hearing. And it would
21 appear that aside from yourself there is no one to appear
22 and that the Protestant is relatively unprepared, and in
23 that case I'm afraid that we can't help you any more.

24 I see no need for the Applicant in this
25 case to put that evidence on, and your request is denied.

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Mr. Christy: I don't want to go ahead
and ask my questions and Mr. Christy will no doubt address
me.

Q And might I want to ask you to define the pool, Mr. Barnes?

1. *Chlorophyll a* (Chl *a*)

Q. What efforts has it made?

A Drilling a well in the accepted proration unit -- all right, according to New Mexico statutes, or whatever is common practice in New Mexico, that the San Andres can economically be produced on 40-acre drilling units, and so we propose that the drilling unit be on 40 acres.

Q Would -- I don't think that's an answer
to my question.

A I'm not sure -- Mr. Charnas, you're going to have to then restate your question, because I'm not sure we've done a geologic study on the area. We feel that it's prudent to drill the well in the area.

Union apparently feels the same way.

All the other mineral interest owners apparently feel the same way, excepting the Estate of Harry L. Crosby and John O'Melveny, which -- I don't know what they think.

Q So based on your geologic study, based

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1 on Laguna's geologic study and the other is a prospect brochure, to
2 drill the well.
3
4 Is that correct, through this study here?
5
6 Yes, yes, yes, yes, in my brochure, which
7 is what we have on what we call a prospect brochure, and
8 which is what I offered to send to Mr. Denson for the price
9 of \$5000.

10 MR. CHRISTY: Mr. Bremner, the witness
11 has testified that they based their decision that this is a
12 prudent move to make on the basis of this geologic study,
13 and again I ask that the geologic study be produced.

14 MR. CHRISTY: We again object. They are
15 trying to get proprietary information. It doesn't make any
16 difference. The witness testified that they're willing to
17 spend \$150,000 to drill a San Andres test, and have offered
18 these people to get in on it or not get in, or lease, or
19 something. That's the requirement of the statute. One
20 wants to drill, they cannot make an agreement. That's what
21 you come for a forced pooling. It has nothing to do with
22 geology.

23 He is just trying to get proprietary
24 information.

25 MR. STAMETS: The objection is sustained.

Q. What is the relation that Laguna has

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1 determined between the location of the well and the pool?

2 A Yes, an offset location.

3 Q I don't understand that, please?

4 A Well, there's a producing well in the
5 northeast of the northeast quarter, and I'm not qualified as
6 a geologist to tell you how all that works out, but it's an
7 offset location.

8 MR. STAMETS: Do you have a plat that
9 shows the location of wells in the vicinity?

10 MR. CHRISTY: This one?

11 A Yeah.

12 MR. CHRISTY: This is rather a poor copy,
13 Mr. Examiner. That's Applicant's Exhibit Five.

14 MR. STAMETS: I would take it from looking
15 at this, that this is on the south end of the Chaveroo Pool,
16 the San Andres Pool?

17 A I have no idea on that, Mr. Examiner.
18 I'm not a geologist. I don't, in this particular prospect
19 geologically, I haven't gotten that involved with it. It
20 may or may not be.

21 MR. STAMETS: The map does show the two
22 pool names, Chaveroo to the north and Tobac to the south.

23 While we're on that subject, has Laguna
24 drilled any other wells in this immediate area?

25 A No, we have not.

MR. STAMETS: Mr. Charnas, you may want

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1 to look at this map.
2 Q Well, Mr. Barnes, I ask you to look at
3 Exhibit number 1, which is a map of the wells to the
4 south as well as north of the well in the east.
5 A Okay.
6 Q All right, aren't those in the vicinity?
7 A Well, again, let's define vicinity. I
8 got as close as I could get, and it's an offset location
9 in the northeast of the southeast. And how close is "vicinity"?
10 we can go five miles away, one mile away.
11 A I'm just trying to confine it to where
12 we're trying to drill, and we're trying to drill in the
13 southeast of the northeast quarter, and to the best of my
14 knowledge, there's a well in the northeast of the southeast
15 quarter.
16 Q Where will your proposed well drain?
17 What will be the drainage area?
18 A The southeast quarter of the northeast
19 quarter.
20 Q It will not drain beyond that?
21 A It may.
22 MR. CHRISTY: Objection; calls for a
23 conclusion.
24 MR. STAMETS: Sustained.
25 Q Have your geologists advised you as to --

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1 have your geologist, and I'm sure he's where the proposed
2 well will be.
3 Q. I'm not sure. I don't know. They may
4 have. I don't know.
5 Q. Do you have that information in your file?
6 A. I'm not sure. I think he just finished
7 saying he didn't know.
8 MR. STAMPS: Sustained.
9 MR. CHARTER: But I thought, Mr. Examiner,
10 that he might have something in his file that might tell
11 him whether he knew or not.
12 MR. CHRISTY: He's again trying to get
13 proprietary information.
14 MR. STAMPS: And it's beginning to get
15 into a collateral attack on the Division's statewide spacing
16 rule.
17 MR. CHARTER: I certainly did not intend
18 that, Mr. Examiner.
19 Q. Are there two wells to the south which
20 were drilled in May and November of 1979?
21 A. There may have been. I don't know.
22 Again, I'm not a geologist.
23 Q. Is Mr. Peters a geologist?
24 A. John Peters?
25 Q. Yes.

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1 Q Now, did you have any conversation about
2 planning to drill a well in the north half of Section 13?
3

4 A Yes, I did. Do you know if Mr.
5 Peters talked to Mr. Bergen?
6

7 A Yes, he did. Mr. Peters
8 did talk to Mr. Bergen.

9 Q Now, Mr. Bergen, do you know what he told Mr.
10 Bergen?

11 A That we were planning on drilling a well.
12 I don't -- no, I don't know specifically what he told Mr.
13 Bergen. No, I do not know, because he told Mr. Bergen to
14 talk to me.

15 Q Are there -- what are you -- your letter
16 of December 25th enclosed a proposed lease on the entire
17 north half of Section 13.

18 A That's correct.

19 Q Who are the owners of the mineral interests
20 in the north half of Section 13?

21 A Let's see, you've got my AFE over there,
22 and --

23 MR. CHRISTY: Let me have a copy of that.
24 Mr. Examiner, the question can be answered by reference to
25 Plaintiff's Exhibit -- Applicant's Exhibit Three, the title

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1 opinion, but we'll have to wait for the court to
2 make this case.
3
4 have to do that.
5
6 I'm not sure about the title opinion?
7
8
9
10 Charnas?
11
12 before and I haven't had a chance to study it.
13
14 your arm.
15
16 to study it.
17
18 Have you executed agreements, operating
19 agreements, or do you have leases with the owners of other
20 mineral interests on the balance of the north half of Sec-
21 tion 13?
22
23 That is correct.
24
25 With all of them?
26
27 That is correct.
28
29 Do you have any plans to drill the north

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1 half, present flows are in the south of section 13,
2 and that it is in the southeast quarter of the northeast quarter?
3
4 I think you would probably, as probably
5 will drill another well, or two, or four.

6 Q Are you personally familiar with the
7 southeast quarter of the northeast quarter? With the geology
8 in that area?

9 A Yes, I have a good deal
10 of personal, reasonably obtained information,
11 geological information, on the south of quarter of the
12 northeast quarter?

13 Q I've looked at it, well, sure, but I'm
14 not qualified to make any representations about it.

15 MR. CHAMBER: Mr. Examiner, I have no
16 further questions, but I would like to make a statement at
17 the appropriate time.

18 MR. STAMETS: You may. Are there any
19 other questions of this witness?

20 I've got just a couple here.

21 CROSS EXAMINATION

22 BY MR. STAMETS:

23 Q Mr. Barnes, does the unit operating agree-
24 ment provide that everybody will share in the production
25 from this well in accordance with their percentage ownership?

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1 Q. Now, what is your share of
2 the production of the oil and gas share of
3 production from the well that's dedi-
4 cated to the well?
5 A. I don't know.
6 Q. Now, have you been in the oil and
7 gas business for a considerable period of time?
8 A. Two years.
9 Q. How many wells have you or
10 does Laguna operate?
11 A. Probably twenty.
12 Q. In what areas?
13 A. Oklahoma, Wyoming, Texas.
14 Q. Could you classify yourselves as an ex-
15 perience oil operator?
16 A. Relatively speaking.
17 MR. STANLEY: Any other questions of the
18 witness? He may be excused.
19 MR. CHRISTY: That's all we have for the
20 applicant, Your -- Mr. Shaniner, except I would like to make
21 the statement that I believe the underlying criteria of
22 forced pooling is that one of the mineral owners wishes to
23 drill and has been unable to reach agreement with the other
24 mineral owner or owners.
25 I think it's very self-evident that that

1 has occurred in this situation.

2 We therefore ask early consideration, in
3 fact immediate consideration, to issuing a forced pooling
4 order. We will, of course, give them another opportunity in
5 accordance with the order to come pay their way or take a
6 penalty position.

7 That's all.

8 MR. STAMETS: Mr. Charnas, you had a
9 closing statement?

10 MR. CHARNAS: Yes, Mr. Examiner, thank
11 you.

12 MR. CHARNAS: Mr. Examiner, I want to
13 emphasize again, if I may, the dilemma in which Mr. Bergen
14 is placed.

15 To the Applicant's knowledge, Mr. Bergen
16 first received notice of the request for this forced pooling
17 hearing two weeks ago, February 14th. He is an executor.
18 He has responsibilities to the beneficiaries of the estate
19 and in a matter such as the decision as to whether to pay
20 the estate's way, invest the estate's money, or give a lease,
21 or go the forced pooling route, he must tread very, very
22 carefully, because he is not his own master.

23 He has had -- he's known about this for
24 only two weeks. I venture to say that if Mr. Barnes had
25 actually sent the information to Mr. Bergen, and he had re-

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1 ceived it on February 14th, two weeks would have been an
2 insufficient time for him to analyze it and make up his mind
3 as to what the prudent course of action is for him as an
4 executor.

5 But, of course, he didn't get the inform-
6 ation; that he got -- although he was told by the witness
7 that the witness might send it, he found out, to the Appli-
8 cant's knowledge on February 14th, that not only was the --
9 that not only was the Applicant not going to send it and --
10 unless Mr. Bergen paid \$5000.

11 I find here a delay on the part of the
12 Applicant, and I think we are dealing here in some respects
13 with equities, and with respect to equities, I would like to
14 remind you of the testimony of the witness that he's under
15 pressure because the Exxon lease is going to run out and
16 he's got an extension to the 15th, and he's under pressure
17 because of the drilling rig situation.

18 Well, the witness knew early in January,
19 at least early in January, that the Exxon lease was going
20 to run out, because he first had conversations with Exxon,
21 according to his testimony, early in January.

22 But we weren't told, our clients were
23 not told, that there was any rush or hurry on this until
24 the phone conversation of February 6th. Mr. Barnes didn't
25 know that he was going to get a drill rig in there until very

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1 early in February, and Mr -- Laguna, in other words, Laguna,
2 this did not become a hurry up situation for Laguna until
3 early in February

4 There has been no long course of nego-
5 tiations with our client. There's been a letter December
6 26th from Laguna, a number of phone calls, and then all of
7 a sudden Laguna gets in a big hurry at the beginning of
8 February.

9 Now, Laguna, of course, has its respon-
10 sibilities, limited partnership and so on, but so does our
11 client, and I think that our client should be allowed -- our
12 client must, in order to protect himself, -- I mean our
13 client cannot accede to the rush that Laguna is in. He
14 cannot be governed by the rush that Laguna is in without
15 failing to perform his responsibilities as an executor.

16 Yes, our client would like the geological
17 information because he needs that information in order to
18 make up his mind on the -- on the exercise of his responsi-
19 bilities.

20 Mr. Christy points that out to you as
21 though it was something terrible, as though there was some-
22 thing inherently terrible in asking for proprietary informa-
23 tion. I don't find anything terrible in asking for proprie-
24 tary information when our client is in a fiduciary respon-
25 sibility, and cannot act on his instincts, cannot act on

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1 information, you know, solely on conversations with Mr.
2 Barnes over the phone.

3 I find nothing wrong with that, and we do
4 ask for that information in order for us to analyze it and
5 make up our minds as to whether our client, whether we wish
6 for the estate and Mr. O'Melveny, wish to participate. I
7 would point out that the estate's interest is about 13 per-
8 cent and Mr. O'Melveny's interest is 3 in this matter.

9 If the Commission -- if the Division en-
10 ters a forced pooling order, we ask for the usual amount of
11 time that I have seen in forced pooling orders, to determine
12 whether to pay our way or not. We also ask at this time,
13 and for the record, that the Division order the production
14 of the geological information that Laguna has on this pro-
15 ration unit.

16 We also at this time renew our request
17 for a continuance of this hearing until the next hearing ,
18 date so that our client can fulfill his responsibility, can
19 come in before you and testify, can bring whatever appro-
20 priate experts he wishes to bring in at that time, and again
21 I repeat, call to your attention, the extremely short notice
22 we have had of this, a notice that entirely lies within the
23 control of Laguna. Laguna could have asked for a forced
24 pooling hearing back at the beginning of January. They
25

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1 waited until February 7th and to their knowledge, we didn't
2 find out about it until February 14th.

3 Now, Mr. Barnes is an experienced oilman.
4 It's been pointed out by you, sir, that our clients are law-
5 yers, and it would seem to me that it would have been prudent
6 for Laguna to have given us as much notice as possible, as
7 much advance notice, to have indicated to us exactly the
8 kind of problems it was in with Exxon, so that we could in
9 turn have the time to evaluate -- to evaluate our position,
10 because being an experienced oilman and knowing that my
11 clients were lawyers, Laguna must have known that they would
12 want to evaluate their position; that they would want to
13 seek advice; that our client, the executor, would want to
14 consult with the beneficiaries.

15 It comes as no surprise to Mr. Barnes that
16 our clients are trying to make an analysis of this situation
17 to determine the right way to go.

18 And I don't think that, as far as the
19 equities are concerned, that Laguna has acted appropriately
20 with us and given us the opportunity that we need to make --
21 to make that decision.

22 Again I renew my request for a continuance.

23 MR. STAMETS: Your request for a contin-
24 uance is denied.

25 I would ask of you that each of you re-

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1 quest admission of the exhibits which have not been admitted.
2 I believe none of yours have, Mr Charnas.
3 MR. CHARNAS: Thank you, sir, I ask for
4 admission of these exhibits.
5 MR. STAMETS: What are they, One and Two?
6 MR. CHRISTY: One and Two is correct.
7 MR. STAMETS: Okay, these exhibits will
8 be admitted, and Sim, your last one.
9 MR. CHRISTY: I offer Applicant's Exhibit
10 Five.
11 MR. STAMETS: Exhibit Five will be ad-
12 mitted.
13 This case will be taken under advisement.
14
15 (Hearing concluded.)
16
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I, SALLY W. BOYD, C.S.F., do hereby certify that the foregoing Transcript of Hearing before the Oil Conservation Division was prepared by me that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

I do hereby certify that the foregoing is a correct and true copy of the proceedings in the hearing on the hearing of Case No. 19
_____, Examiner
Oil Conservation Division



U.S. POSTAL SERVICE

February 12, 1980

The Estate of Harry L. Crosby, Jr.
Richard C. Bergen Executor
3400 Crocker Plaza
611 West 6th Street
Los Angeles, Ca. 90017

Re: Tobac Area
N/2 Sec. 13, T-8-S, R32E
Chaves County, New Mexico

Gentlemen:

Enclosed is a copy of the letter which was mailed to the New Mexico Oil Conservation Division on February 7, 1980.

This letter is intended to confirm the carbon copy mailed to you earlier.

ions regarding the enclosed please do

Sincerely,

William R. Fair

PS Form 3800, Apr. 1976

ENDER Complete items 1, 2, and 3
Add your address in the RETURN TO space
reverse

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2. ARTICLE ADDRESSED TO:
The Estate of Harry L. Crosby,
Jr., Richard C. Bergen Executor
3400 Crocker Plz., 611 W. 6th
Los Angeles, Ca. 90017

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
281662

(Always obtain signature of addressee or agent)

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PS Form 3800, Apr. 1976

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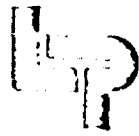
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BEFORE EXAMINER STAMETS
OIL CONSERVATION DIVISION
EXHIBIT NO. 1
CASE NO. 6811
Submitted by
Hearing Date 2/27

☆GPO 1977-0-249-535

☆GPO 1977-0-249-535



LAGUNA PETROLEUM COMPANY

February 7, 1980

New Mexico Oil Conservation Division
Box 2088
Santa Fe, New Mexico 87501

Attention: Dick Stamets

Tobac Area
N/2 Section 13, T-8-S, R-32-E
Chaves County, New Mexico

Gentlemen:

As a follow up to our telephone conversation of February 7, 1980, Laguna Petroleum Company as an interest owner has programmed the drilling of a 4500' San Andres test at a legal location in the SE/4 NE/4 Section 13, T8S, R32E and has been unable to reach an agreement with all the interests embraced within this 40 acre proration unit. Subsequently, time being of the essence, Laguna Petroleum Company respectfully requests a hearing be scheduled for February 27, 1980 to adjudicate a forced pooling order pursuant to the appropriate New Mexico statutes as to the following Mineral Interest Owners:

| | | |
|---------------|----|---|
| 32/955.42 | MI | John O. Melveny 3400 Crocker Plaza 611 West 6th Street Los Angeles, California 90017 |
| 127.71/955.42 | MI | The Estate of Harry L. Crosby, Jr. Richard C. Bergen Executor 3400 Crocker Plaza 611 West 6th Street Los Angeles, California 90017. |

Sincerely,

LAGUNA PETROLEUM COMPANY

William C.C. Barnes

WCCB:rm

cc: Richard C. Bergen
3400 Crocker Plaza
611 West 6th Street
Los Angeles, California 90017
Jennings & Christy, Attorneys at Law
Box 1180
Rowell, New Mexico
Attn: Sim Jennings

ONE MARLENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (817) 683-5505

To: New Mexico Oil Conservation Division
Re: Tobac Area
Chaves County, New Mexico
February 7, 1980

Blind Note: Richard C. Bergen

For the approximate sum of five (5) thousand dollars, Laguna Petroleum Company will provide you with the geologic and production information requested. As an alternative, Laguna is still interested in securing the six (6) month oil and gas lease which was submitted by letter dated December 28, 1979. Should you have any additional questions, please do not hesitate to call.

A.A.P.L. FORM 610

MODEL FORM OPERATING AGREEMENT—1956

Non-Federal Lands

| | |
|---------------------------|------|
| BEFORE EXAMINER STAMETS | |
| CIL CONSERVATION DIVISION | |
| II | 2 |
| CASE NO. | 6811 |
| Submitted by | |
| Hearing Date | 2/27 |

OPERATING AGREEMENT

DATED

November 19, 1979,

FOR UNIT AREA IN TOWNSHIP 8 South, RANGE 32 East,

Chaves COUNTY, STATE OF New Mexico

Section 13: N/2

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OPERATING AGREEMENT

THIS AGREEMENT, entered into this 19th day of November, 1979, between
LAGUNA PETROLEUM CO.,
hereafter designated as "Operator", and the signatory parties other than Operator.

WITNESSETH, THAT:

WHEREAS, 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;

NOW, THEREFORE, it is agreed as follows:

1. DEFINITIONS

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

- (1) The words "party" and "parties" shall always mean a party, or parties, to this agreement.
- (2) The parties to this agreement shall always be referred to as "it" or "they", whether the parties be corporate bodies, partnerships, associations, or persons real.
- (3) The term "oil and gas" shall include oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons, unless an intent to limit the inclusiveness of this term is specifically stated.
- (4) The term "oil and gas interests" shall mean unleased fee and mineral interests in tracts of land lying within the Unit Area which are owned by parties to this agreement.
- (5) The term "Unit Area" shall refer to and include 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".
- (6) 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 Unit Area or as fixed by express agreement of the parties.
- (7) All exhibits attached to this agreement are made a part of the contract as fully as though copied in full in the contract.
- (8) The words "equipment" and "materials" as used here are synonymous and shall mean and include all oil field supplies and personal property acquired for use in the Unit Area.

2. TITLE EXAMINATION, LOSS OF LEASES AND OIL AND GAS INTERESTS

A. Title Examination:

By execution hereof, the parties hereto accept the title to the drillsite lease on which the well provided for in Section 7 is to be drilled.

No well other than the first test shall be drilled in the Unit Area until after:

- (1) The title to the drillsite lease has been examined by Operator's attorney, and
- (2) The title has been approved by the examining attorney or the title has been accepted by all the parties who are to participate in the drilling of the well.

~~Until the title is approved, or until the parties fail to select another drillsite. As in the case of the drillsite first selected, so also with successive choices if the time comes that the parties have not approved title and are unable to agree upon an alternate drillsite, the contract shall, in that case and at that time, come to an end and all parties shall forfeit their rights and be relieved of obligations under this contract.~~

No well other than the first test shall be drilled in the Unit Area until after (1) the title to the lease covering the lands upon which such well is to be located has been examined by Operator's attorney, and (2) the title has been approved by the examining attorney and the title has been accepted by all of the parties ~~and to participate in the drilling of the well.~~

B. Failure of Title:

Should any oil and gas lease, or interest therein, be lost through failure of title, this agreement shall, nevertheless, continue in force as to all remaining leases and interests, and

- (1) The party whose 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 or operating costs which it may have theretofore paid, but there shall be no monetary liability on its part to the other parties hereto by reason of such title failure; and
- (2) There shall be no retroactive adjustment of expenses incurred or revenues received from the operation of the interest which has been lost, but the interests of the parties shall be revised on an acreage basis, as of the time it is determined finally that title failure has occurred, so that the interest of the party whose lease or interest is affected by the title failure will thereafter be reduced in the Unit Area by the amount of the interest lost; and
- (3) If the proportionate interests of the other parties hereto in any producing well theretofore drilled on the Unit Area is increased by reason of the title failure, the party whose title has failed shall receive the proceeds attributable to the increase in such interests (less operating costs attributable thereto) until it has been reimbursed for unrecovered costs paid by it in connection with such well; and
- (4) Should any person not a party to this agreement, who is determined to be the owner of any interest in the title which has failed, pay in any manner any part of the cost of operation, development, or equipment, or equipment previously paid under this agreement, such amount shall be proportionately paid to the party or parties hereto who in the first instance paid the costs which are so refunded; and
- (5) Any liability to account to a third party for prior production of oil and gas which arises by reason of title failure shall be borne by the party or parties whose title failed in the same proportions in which they shared in such prior production.

C. Loss of Leases for Causes Other Than Title Failure:

If any lease or interest subject to this agreement be lost through failure to develop or because express or implied covenants have not been performed, or if any lease be permitted to expire at the end of its primary term and not be renewed or extended, or if any lease or interest therein is lost due to the fact that the production therefrom is shut in by reason of lack of market, the loss shall not be considered a failure of title and all such losses shall be joint losses and shall be borne by all parties in proportion to their interests and there shall be no readjustment of interests in the Unit Area.

3. UNLEASED OIL AND GAS INTERESTS

If any party owns an unleased oil and gas interest in the Unit Area, that interest shall be treated for the purpose of this agreement as if it were a leased interest under the form of oil and gas lease attached as "Exhibit "B" and for the primary term therein stated. As to such interests, the owner shall receive royalty on production as prescribed in the form of oil and gas lease attached hereto as Exhibit "B". Such party shall, however, be subject to all of the provisions of this agreement relating to lessees, to the extent that it owns the lessee interest.

4. INTERESTS OF PARTIES

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 contract shall be borne and paid, and all equipment and material acquired in operations on the Unit Area shall be owned, by the parties as their interests are given in Exhibit "A". All production of oil and gas from the Unit Area, subject to the payment of lessor's royalties, shall also be owned by the parties in the same manner.

If the interest of any party in any oil and gas lease covered by this agreement is subject to an overriding royalty, production payment, or other charge over and above the usual ^{one-eighth} ~~xxxxxxx~~ (1%) royalty, such party shall assume and alone bear all such excess obligations and shall account for them to the owners thereof out of its share of the working interest production of the Unit Area.

5. OPERATOR OF UNIT

LAGUNA PETROLEUM CO. shall be the Operator of the Unit Area, and shall conduct and direct and have full control of all operations on the Unit Area as permitted and required by, and within the limits of, this agreement. It shall conduct 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 from breach of the provisions of this agreement.

6. EMPLOYEES

The number of employees and their selection, and the hours of labor and the compensation for services performed, shall be determined by Operator. All employees shall be the employees of Operator.

7. TEST WELL

On or before the 20th day of January, 1980, Operator shall commence the drilling of a well for oil and gas in the following location:

SE/4 NE/4 Section 13, Township 8 South, Range 32 East,
Chaves County, New Mexico,

and shall thereafter continue the drilling of the well with due diligence to a depth of 4,800 feet, or to a depth sufficient to test the San Andres formation,

unless granite or other practically impenetrable substance is encountered at a lesser depth or unless all parties agree to complete the well at a lesser depth.

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

If in Operator's judgment the well will not produce oil or gas in paying quantities, and it wishes to plug and abandon the test as a dry hole, it shall first secure the consent of all parties to the plugging, and the well shall then be plugged and abandoned as promptly as possible.

8. COSTS AND EXPENSES

Except as herein otherwise specifically provided, Operator shall promptly pay and discharge all costs and expenses incurred in the development and operation of the Unit Area pursuant to this agreement and shall charge each of the parties hereto with their respective proportionate shares upon the cost and expense basis provided in the Accounting Procedure attached hereto and marked Exhibit "C". If any provision of Exhibit "C" should be inconsistent with any provision contained in the body of this agreement, the provisions in the body of this agreement shall prevail.

Operator, at its election, shall have the right from time to time to demand and receive from the other parties payment in advance of their respective shares of the estimated amount of the costs to be incurred in operations hereunder during the next succeeding month, which right may be exercised only by submission to each such party of an itemized statement of such estimated costs, together with an invoice for its share thereof. Each such statement and invoice for the payment in advance of estimated costs shall be submitted on or before the 20th day of the next preceding month. Each party shall pay to Operator its proportionate share of such estimate within fifteen (15) days after such estimate and invoice is received. If any party fails to pay its share of said estimate within said time, the amount due shall bear interest at the rate of ^{twelve percent (12%)} ~~xxxxxxx~~ per annum until paid. Proper adjustment shall be made monthly between advances and actual cost, to the end that each party shall bear and pay its proportionate share of actual costs incurred, and no more.

9. OPERATOR'S LIEN

Operator is given a first and preferred lien on the interest of each party covered by this contract, and in each party's interest in oil and gas produced and the proceeds thereof, and upon each party's interest in material and equipment, to secure the payment of all sums due from each such party to Operator.

In the event any party fails to pay any amount owing by it to Operator as its share of such costs and expense or such advance estimate within the time limited for payment thereof, Operator, without prejudice to other existing remedies, is authorized, at its election, to collect from the purchaser or purchasers of oil or gas, the proceeds accruing to the working interest or interests in the Unit Area of the delinquent party up to the amount owing by such party, and each purchaser of oil or gas is authorized to rely upon Operator's statement as to the amount owing by such party.

In the event of the neglect or failure of any non-operating party to promptly pay its proportionate part of the cost and expense of development and operation when due, the other non-operating parties and Operator, within thirty (30) days after the rendition of statements therefor by Operator, shall proportionately contribute to the payment of such delinquent indebtedness and the non-operating parties so contributing shall be entitled to the same lien rights as are granted to Operator in this section. Upon the payment by such delinquent or defaulting party to Operator of any amount or amounts on such delinquent indebtedness, or upon any recovery on behalf of the non-operating parties under the lien conferred above, the amount or amounts so paid or recovered shall be distributed and paid by Operator to the other non-operating parties and Operator proportionately in accordance with the contributions theretofore made by them.

10. TERM OF AGREEMENT

This agreement shall remain in full force and effect for as long as any of the oil and gas leases subjected to this agreement remain or are continued in force as to any part of the Unit Area, ^{but production on lands} ~~outside the Unit Area shall not extend the term of this agreement.~~ ~~xxxxxx~~ provided, however, that in the event the first well drilled hereunder results in a dry hole and no other well is producing oil or gas in paying quantities from the Unit Area, then at the end of ninety (90) days after abandonment of the first test well, this agreement shall terminate unless one or more of the parties are then engaged in drilling a well or wells pursuant to Section 12 hereof, or all parties have agreed to drill an additional well or wells under this agreement, in which event this agreement shall continue in force until such well or wells shall have been drilled and completed. If production results therefrom this agreement shall continue in force thereafter as if said first test well had been productive in paying quantities, but if production in paying quantities does not result therefrom this agreement shall terminate at the end of ninety (90) days after abandonment of such well or wells. It is agreed, however, that the termination of this agreement shall not relieve any party hereto from any liability which has accrued or attached prior to the date of such termination.

11. LIMITATION ON EXPENDITURES

Without the consent of all parties: (a) No well shall be drilled on the Unit Area except any well expressly provided for in this agreement and except any well drilled pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the drilling of a well shall include consent to all necessary expenditures in the drilling, testing, completing, and equipping of the well, including necessary tankage; (b) No well shall be reworked, plugged back or deepened except a well reworked, plugged back or deepened pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the reworking, plugging back or deepening of a well shall include consent to all necessary expenditures in conducting such operations and completing and equipping of said well to produce, including necessary tankage; (c) Operator shall not undertake any single project reasonably estimated to require an expenditure in excess of Twenty Thousand & No/100----- Dollars (\$ 20,000.00--) except in connection with a well the drilling, reworking, deepening, or plugging back of which has been previously authorized by or pursuant to this agreement; provided, however, that in case of explosion, fire, flood, or other sudden emergency, whether of the same or different nature, Operator may take such steps and incur such expenses as in its opinion are required to deal with the emergency and to safeguard life and property, but Operator shall, as promptly as possible, report the emergency to the other parties. Operator shall, upon request, furnish copies of its "Authority for Expenditures" for any single project costing in excess of \$ 10,000.00--.

12. OPERATIONS BY LESS THAN ALL PARTIES

If all the parties cannot mutually agree upon the drilling of any well on the Unit Area other than the test well provided for in Section 7, or upon the reworking, deepening or plugging back of a dry hole drilled at the joint expense of all parties or a well jointly owned by all the parties and not then producing in paying quantities on the Unit Area, any party or parties wishing to drill, rework, deepen or plug back such a well may give the other parties written notice of the proposed operation, specifying the work to be performed, the location, proposed depth, objective formation and the estimated cost of the operation. The parties receiving such a notice shall have thirty (30) days (except as to reworking, plugging back or drilling deeper, where a drilling rig is on location, the period shall be limited to forty-eight (48) hours exclusive of Saturday or Sunday ^{and legal holidays} after receipt of the notice within which to notify the parties wishing to do the work whether they elect to participate in the cost of the proposed operation. Failure of a party receiving such a notice to so reply to it within the period above fixed shall constitute an election by that party not to participate in the cost of the proposed operation.

If any party receiving such a notice elects not to participate in the proposed operation (such party or parties being hereafter referred to as "Non-Consenting Party"), then in order to be entitled to the benefits of this section, the party or parties giving the notice and such other parties as shall elect to participate in the operation (all such parties being hereafter referred to as the "Consenting Parties") shall, within thirty (30) days after the expiration of the notice period of thirty (30) days (or as promptly as possible after the expiration of the 48-hour period where the drilling rig is on location, as the case may be) actually commence work on the proposed operation and complete it with due diligence.

The entire cost and risk of conducting such operations shall be borne by the Consenting Parties in the proportions that their respective interests as shown in Exhibit "A" bear to the total interests of all Consenting Parties. Consenting Parties shall keep the leasehold estates involved in such operations free and clear of all liens and encumbrances of every kind created by or arising from the operations of the Consenting Parties. If such an operation results in a dry hole, the Consenting Parties shall plug and abandon the well at their sole cost, risk and expense. If any well drilled, reworked, deepened or plugged back under the provisions of this section results in a producer of oil and/or gas in paying quantities, the Consenting Parties shall complete and equip the well to produce at their sole cost and risk, and the well shall then be turned over to Operator and shall be operated by it at the expense and for the account of the Consenting Parties. Upon commencement of operations for the drilling, reworking, deepening or plugging back of any such well by Consenting Parties in accordance with the provisions of this section, each Non-Consenting Party shall be deemed to have relinquished to Consenting Parties, and the Consenting Parties shall own and be entitled to receive, in proportion to their respective interests, all of such Non-Consenting Party's interest in the well, its leasehold operating rights, and share of production therefrom until the proceeds or market value thereof (after deducting production taxes, royalty, overriding royalty and other interests payable out of or measured by the production from such well ^{existing on the date hereof and} accruing with respect to such interest until it reverts) shall equal the total of the following:

- (A) 100% of each such Non-Consenting Party's share of the cost of any newly acquired surface equipment beyond the wellhead connections (including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping), plus 100% of each such Non-Consenting Party's share of the cost of operation of the well commencing with first production and continuing until each such Non-Consenting Party's relinquished interest shall revert to it under other provisions of this section, it being agreed that each Non-Consenting Party's share of such costs and equipment will be that interest which would have been chargeable to each Non-Consenting Party had it participated in the well from the beginning of the operation; and
- (B) 200% of that portion of the costs and expenses of drilling, reworking, deepening or plugging back, testing and completing, after deducting any cash contributions received under Section 25, and 200% of that portion of the cost of newly acquired equipment in the well (to and including the wellhead connections), which would have been chargeable to such Non-Consenting Party if it had participated therein.

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

Within sixty (60) days after the completion of any operation under this section, the party conducting the operations for the Consenting Parties shall furnish each Non-Consenting Party with an inventory of the equipment in and connected to the well, and an itemized statement of the cost of drilling, deepening, plugging back, testing, completing, and equipping the well for production; or, at its option, the operating party, in lieu of an itemized statement of such costs of operation, may submit a detailed statement of monthly billings. Each month thereafter, during the time the Consenting Parties are being reimbursed as provided above, the Consenting Parties shall furnish the Non-Consenting Parties with an itemized statement of all costs and liabilities incurred in the operation of the well, together with a statement of the quantity of oil and gas produced from it and the amount of proceeds realized from the sale of the well's working interest production during the preceding month. Any amount realized from the sale or other disposition of equipment newly acquired in connection with any such operation which would have been owned by a Non-Consenting Party had it participated therein shall be credited against the total unreturned costs of the work done and of the equipment purchased, in determining when the interest of such Non-Consenting Party shall revert to it as above provided; if there is a credit balance it shall be paid to such Non-Consenting Party.

If and when the Consenting Parties recover from a Non-Consenting Party's relinquished interest the amounts provided for above, the relinquished interests of such Non-Consenting Party shall automatically revert to it and from and after such reversion such Non-Consenting Party shall own the same interest in such well, the operating rights and working interest therein, the material and equipment in or pertaining thereto, and the production therefrom as such Non-Consenting Party would have owned had it participated in the drilling, reworking, deepening or plugging back of said well. Thereafter, such Non-Consenting Party shall be charged with and shall pay its proportionate part of the further costs of the operation of said well in accordance with the terms of this agreement and the accounting procedure schedule, Exhibit "C", attached hereto.

Notwithstanding the provisions of this Section 12, it is agreed that without the mutual consent of all parties, no wells shall be completed in or produced from a source of supply from which a well located elsewhere on the Unit Area is producing, unless such well conforms to the then-existing well spacing pattern for such source of supply.

The provisions of this section shall have no application whatsoever to the drilling of the initial test well on the Unit Area, but shall apply to the reworking, deepening, or plugging back of the initial test well after it has been drilled to the depth specified in Section 7, if it is, or thereafter shall prove to be, a dry hole or non-commercial well, and to all other wells drilled, reworked, deepened, or plugged back, or proposed to be drilled, reworked, deepened, or plugged back, upon the Unit Area subsequent to the drilling of the initial test well.

13. RIGHT TO TAKE PRODUCTION IN KIND

Each party shall ^{have the right to} take in kind or separately dispose of its proportionate share of all oil and gas produced from the Unit Area, exclusive of production which may be used in development and producing operations and in preparing and treating oil for marketing purposes and production unavoidably lost. Each party shall pay or deliver, or cause to be paid or delivered, all royalties, overriding royalties, or other payments due on its share of such production, and shall hold the other parties free from any liability therefor. Any extra expenditure incurred in the taking in kind or separate disposition by any party of its proportionate share of the production shall be borne by such party.

Each party shall execute all division orders and contracts of sale pertaining to its interest in production from the Unit Area, and shall be entitled to receive payment direct from the purchaser or purchasers thereof for its share of all production.

In the event any party shall fail to make the arrangements necessary to take in kind or separately dispose of its proportionate share of the oil and gas produced from the Unit Area, Operator shall have the right, subject to revocation at will by the party owning it, but not the obligation, to purchase such oil and gas or sell it to others for the time being, at not less than the market price prevailing in the area, which shall in no event be less than the price which Operator receives for its portion of the oil and gas produced from the Unit Area. Any such purchase or sale by Operator shall be subject always to the right of the owner of the production to exercise at any time its right to take in kind, or separately dispose of, its share of all oil and gas not previously delivered to a purchaser. Notwithstanding the foregoing, Operator shall not make a sale ~~to any other party~~ of any other party's share of gas production without first giving such other party sixty (60) days notice of such intended sale. Any purchase or sale by Operator, or any other party, of any other party's share of gas shall be for such reasonable periods of time only as are consistent with the minimum needs of the industry and shall in no event exceed one (1) year. See Exhibit "F" as to Gas Balancing Agreement regarding taking of gas.

14. ACCESS TO UNIT AREA

Each party shall have access to the Unit Area at all reasonable times, at its sole risk, to inspect or observe operations, and shall have access at reasonable times to information pertaining to the development or operation thereof, including Operator's books and records relating thereto. Operator shall, upon request, furnish each of the other parties with copies of all drilling reports, well logs, tank tables, daily gauge and run tickets and reports of stock on hand at the first of each month, and shall make available samples of any cores or cuttings taken from any well drilled on the Unit Area.

15. DRILLING CONTRACTS

All wells drilled on the Unit Area shall be drilled on a competitive contract basis at the usual rates prevailing in the area. Operator, if it so desires, may employ its own tools and equipment in the drilling of wells, but its charges therefor shall not exceed the prevailing rates in the field, and the rate of such charges shall be agreed upon by the parties in writing before drilling operations are commenced, and such work shall be performed by Operator under the same terms and conditions as shall be customary and usual in the field in contracts of independent contractors who are doing work of a similar nature.

16. ABANDONMENT OF WELLS

No well, other than any well which has been drilled or reworked pursuant to Section 12 hereof for which the Consenting Parties have not been fully reimbursed as therein provided, which has been completed as a producer shall be plugged and abandoned without the consent of all parties; provided, however, if all parties do not agree to the abandonment of any well, those wishing to continue its operation shall tender to each of the other parties its proportionate share of the value of the well's salvable material and equipment, determined in accordance with the provisions of Exhibit "C", less the estimated cost of salvaging and the estimated cost of plugging and abandoning. Each abandoning party shall then assign to the non-abandoning parties, without warranty, express or implied, as to title or as to quantity, quality, or fitness for use of the equipment and material, all of its interest in the well and its equipment, together with its interest in the leasehold estate as to, but only as to, the interval or intervals of the formation or formations then open to production. The assignments so limited shall encompass the "drilling unit" upon which the well is located. The payments by, and the assignments to, the assignees shall be in a ratio based upon the relationship of their respective percentages of participation in the Unit Area to the aggregate of the percentages of participation in the Unit Area of all assignees. There shall be no readjustment of interest in the remaining portion of the Unit Area.

After the assignment, the assignors shall have no further responsibility, liability, or interest in the operation of or production from the well in the interval or intervals then open. Upon request of the assignees, Operator shall continue to operate the assigned well for the account of the non-abandoning parties at the rates and charges contemplated by this agreement, plus any additional cost and charges which may arise as the result of the separate ownership of the assigned well.

17. DELAY RENTALS AND SHUT-IN WELL PAYMENTS

Delay rentals and shut-in well payments which may be required under the terms of any lease shall be paid by the party who has subjected such lease to this agreement, at its own expense. Proof of each payment shall be given to Operator at least twenty/ ⁽²⁰⁾ days prior to the rental or shut-in well payment date. Operator shall furnish similar proof to all other parties concerning payments it makes in connection with its leases. Any party may request, and shall be entitled to receive, proper evidence of all such payments. If, through mistake or oversight, any delay rental or shut-in well payment is not paid or is erroneously paid, and as a result a lease or interest therein terminates, there shall be no monetary liability against the party who failed to make such payment. Unless the party who failed to pay a rental or shut-in well payment secures a new lease covering the same interest within ninety (90) days from the discovery of the failure to make proper payment, the interests of the parties shall be revised on an acreage basis effective as of the date of termination of the lease involved, and the party who failed to make proper payment will no longer be credited with an interest in the Unit Area on account of the ownership of the lease which has terminated. In the event the party who failed to pay the rental or the shut-in well payment shall not have been fully reimbursed, at the time of the loss, from the proceeds of the sale of oil and gas attributable to the lost interest, calculated on an acreage basis, for the development and operating costs theretofore paid on account of such interest, it shall be reimbursed for unrecovered actual costs theretofore paid by it (but not for its share of the cost of any dry hole previously drilled or wells previously abandoned) from so much of the following as is necessary to effect reimbursement:

- (1) Proceeds of oil and gas, less operating expenses, theretofore accrued to the credit of the lost interest, on an acreage basis, up to the amount of unrecovered costs;
- (2) proceeds, less operating expenses thereafter incurred attributable to the lost interest on an acreage basis, of that portion of oil and gas thereafter produced and marketed (excluding production from any wells thereafter drilled) which would, in the absence of such lease termination, be attributable to the lost interest on an acreage basis, up to the amount of unrecovered costs, the proceeds of said portion of the oil and gas to be contributed by the other parties in proportion to their respective interests; and
- (3) any moneys, up to the amount of unrecovered costs, that may be paid by any party who is, or becomes, the owner of the interest lost, for the privilege of participating in the Unit Area or becoming a party to this contract.

Operator shall attempt to notify all parties when a gas well is shut-in or returned to production, but assumes no liability whatsoever for failure to do so.

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.~~

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 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.

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 interests 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.

21. RESIGNATION OF OPERATOR

Operator may resign from its duties and obligations as Operator at any time upon written notice of not less than ninety (90) days given to all other parties. In this case, all parties to this contract shall select by majority vote in interest, not in numbers, a new Operator who shall assume the responsibilities and duties, and have the rights, prescribed for Operator by this agreement. The retiring Operator shall deliver to its successor all records and information necessary to the discharge by the new Operator of its duties and obligations.

22. LIABILITY OF PARTIES

The liability of the parties shall be several, not joint or collective. Each party shall be responsible only for its obligations, and shall be liable only for its proportionate share of the costs of developing and operating the Unit Area. Accordingly, the lien granted by each party to Operator in Section 9 is given to secure only the debts of each severally. It is not the intention of the parties to create, nor shall this agreement be construed as creating, a mining or other partnership or association, or to render them liable as partners.

23. RENEWAL OR EXTENSION OF LEASES

If any party secures a renewal of any oil and gas lease/subject to this contract, each and all of the other parties shall be notified promptly, and shall have the right to participate in the ownership of the renewal lease, insofar as it covers acreage subject to this contract, by paying to the party who acquired it their several proper proportionate shares of the acquisition cost, which shall be in proportion to the interests held at that time by the parties in the Unit Area.

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

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

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

The provisions in this section shall apply also and in like manner to extensions of oil and gas leases.

24. SURRENDER OF LEASES

The leases covered by this agreement, in so far as they embrace acreage in the Unit Area, shall not be surrendered in whole or in part unless all parties consent.

However, should any party desire to surrender its interest in any lease or in any portion thereof, and other parties not agree or consent, the party desiring to surrender shall assign, without express or implied warranty of title, all of its interest in such lease, or portion thereof, and any well, material and equipment which may be located thereon and any rights in production thereafter secured, to the parties not desiring to surrender it. Upon such assignment, the assigning party shall be relieved from all obligations thereafter accruing, but not theretofore accrued, with respect to the acreage assigned and the operation of any well thereon, and the assigning party shall have no further interest in the lease assigned and its equipment and production. The parties assignee shall pay to the party assignor the reasonable salvage value of the latter's interest in any wells and equipment on the assigned acreage, determined in accordance with the provisions of Exhibit "C", less the estimated cost of salvaging and the estimated cost of plugging and abandoning. If the assignment is in favor of more than one party, the assigned interest shall be shared by the parties assignee in the proportions that the interest of each bears to the interest of all parties assignee.

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

25. ~~ACREAGE OR CASH CONTRIBUTIONS~~

~~If any party receives while this agreement is in force a contribution of cash toward the drilling of a well or any other operation on the Unit Area, such contribution shall be paid to the party who conducted the drilling or other operation and shall be applied by it against the cost of such drilling or other operation. If the contribution be in the form of acreage, the party to whom the contribution is made shall promptly execute an assignment of the acreage, without warranty of title, to all parties to this agreement in proportion to their interests in the Unit Area at that time, and such acreage shall become a part of the Unit Area and be governed by all the provisions of this contract. Each party shall promptly notify all other parties of all acreage or money contributions it may obtain in support of any well or any other operation on the Unit Area.~~

26. PROVISION CONCERNING TAXATION

Each of the parties hereto elects, under the authority of Section 761(a) of the Internal Revenue Code of 1954, to be excluded from the application of all of the provisions of Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954. If the income tax laws of the state or states in which the property covered hereby is located contain, or may hereafter contain, provisions similar to those contained in the Subchapter of the Internal Revenue Code of 1954 above referred to under which a similar election is permitted, each of the parties agrees that such election shall be exercised. Each party authorizes and directs the Operator to execute such an election or elections on its behalf and to file the election with the proper governmental office or agency. If requested by the Operator so to do, each party agrees to execute and join in such an election.

Operator shall render for ad valorem taxation all property subject to this agreement which by law should be rendered for such taxes, and it shall pay all such taxes assessed thereon before they become delinquent. Operator shall bill all other parties for their proportionate share of all tax payments in the manner provided in Exhibit "C".

If any tax assessment is considered unreasonable by Operator, it may at its discretion protest such valuation within the time and manner prescribed by law, and prosecute the protest to a final determination, unless all parties agree to abandon the protest prior to final determination. When any such protested valuation shall have been finally determined, Operator shall pay the assessment for the joint account, together with interest and penalty accrued, and the total cost shall then be assessed against the parties, and be paid by them, as provided in Exhibit "C".

27. INSURANCE

At all times while operations are conducted hereunder, Operator shall comply with the Workmen's Compensation Law of the State where the operations are being conducted. Operator shall also carry or provide insurance for the benefit of the joint account of the parties as may be outlined in Exhibit "D" attached to and made a part hereof. Operator shall require all contractors engaged in work on or for the Unit Area to comply with the Workmen's Compensation Law of the State where the operations are being conducted and to maintain such other insurance as Operator may require.

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

28. CLAIMS AND LAWSUITS

If any party to this contract is sued on an alleged cause of action arising out of operations on the Unit Area, or on an alleged cause of action involving title to any lease or oil and gas interest subjected to this contract, it shall give prompt written notice of the suit to the Operator and all other parties.

The defense of lawsuits shall be under the general direction of a committee of lawyers representing the parties, with Operator's attorney as Chairman. Suits may be settled during litigation only with the joint consent of all parties. No charge shall be made for services performed by the staff attorneys for any of the parties, but otherwise all expenses incurred in the defense of suits, together with the amount paid to discharge any final judgment, shall be considered costs of operation and shall be charged to and paid by all parties in proportion to their then interests in the Unit Area. Attorneys, other than staff attorneys for the parties, shall be employed in lawsuits involving Unit Area operations only with the consent of all parties; if outside counsel is employed, their fees and expenses shall be considered Unit Area expense and shall be paid by Operator and charged to all of the parties in proportion to their then interests in the Unit Area. The provisions of this paragraph shall not be applied in any instance where the loss which may result from the suit is treated as an individual loss rather than a joint loss under prior provisions of this agreement, and all such suits shall be handled by and be the sole responsibility of the party or parties concerned.

Damage claims caused by and arising out of operations on the Unit Area, conducted for the joint account of all parties, shall be handled by Operator and its attorneys, the settlement of claims of this kind shall be within the discretion of Operator so long as the amount paid in settlement of any one claim does not exceed one thousand (\$1000.00) dollars and, if settled, the sums paid in settlement shall be charged as expense to and be paid by all parties in proportion to their then interests in the Unit Area.

29. FORCE MAJEURE

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

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

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

30. NOTICES

All notices authorized or required between the parties, and required by any of the provisions of this agreement, shall, unless otherwise specifically provided, be given in writing by United States mail or Western Union Telegram, postage or charges prepaid, and addressed to the party to whom the notice is given at the

addresses listed on Exhibit "A". The originating notice to be given under any provision hereof shall be deemed given only when received by the party to whom such notice is directed and the time for such party to give any notice in response thereto shall run from the date the originating notice is received. The second or any responsive notice shall be deemed given when deposited in the United States mail or with the Western Union Telegraph Company, with postage or charges prepaid. Each party shall have the right to change its address at any time, and from time to time, by giving written notice thereof to all other parties.

31. OTHER CONDITIONS, IF ANY, ARE:

A. SUBSEQUENTLY CREATED INTEREST

Notwithstanding anything herein to the contrary, if any working interest owner shall, subsequent to the execution of this agreement, create an overriding royalty, production payment, net proceeds interest, carried interest or any other interest out of its working interest (hereinafter called "subsequently created interest"), such subsequently created interest shall be specifically made subject to all the terms and provisions of this agreement. If the working interest owner from which such subsequently created interest is created (a) fails to pay when due its share of costs and expenses chargeable hereunder, and its share of production accruing hereunder is insufficient to cover such costs and expenses, or (b) elects to go non-consent under Section 12, or (c) elects to abandon a well under Section 16 hereof, elects to surrender a lease under Section 24 hereof, or otherwise withdraws from this agreement, the subsequently created interest shall be chargeable to recoupment of costs and penalty as provided in Section 12 in the same manner as if such subsequently created interest were a working interest. Operator shall have the right to enforce against such subsequently created interest the lien and all other rights granted in Section 9 hereof for the purpose of collecting costs and expenses chargeable to the subsequently created interest.

B. CASING POINT ELECTION

Provisions hereof to the contrary notwithstanding, consent to the drilling of any well drilled under and pursuant to the terms hereof shall not be deemed consent to participate in an attempt to complete the well as a producer of oil or gas, but shall be considered only to drill to the production string casing point. After each well drilled pursuant to the terms hereof has reached the production string casing point and Operator (or any party participating in the cost of drilling such well) considers that an attempt should be made to complete same as a producer of oil or gas, Operator (or such other party participating in the cost of drilling such well) shall give immediate notice thereof to all other parties participating in the cost of drilling such well. The parties receiving such notice shall have twenty-four (24) hours (exclusive of Saturday, Sunday and legal holidays) in which to elect whether or not they desire to participate in the setting of casing and attempting to complete such well as a producer of oil or gas. Failure of any party receiving such notice to so reply within the period above fixed shall constitute an election by that party not to participate in the completion attempt. If one or more but less than all of the parties elect to attempt a completion of the well as a producer of oil or gas, the provisions of Section 12 hereof shall apply to the operations thereafter conducted by less than all parties hereto the same as for other nonconsent operations as provided in Section 12.

If no completion attempt is made in any well, the same shall be plugged and abandoned at the expense of the parties participating in the drilling of the same. As used herein "production string casing point" shall be that point in time when the total depth to be drilled has been reached, all logs to be run have been run, and the next step toward completion is the running of the production string of casing or plugging back to perforate existing casing.

C. FEDERAL PROVISIONS

Operator shall comply, where applicable, to the provisions of Exhibit "E" attached hereto.

D. Each party hereto owning an undivided interest in the Unit Area waives any and all rights it may have to partition and have set aside to it in severalty its undivided interest therein.

E. A party may become a party to this agreement by signing the original of this instrument, a counterpart thereof, or other instrument agreeing to be bound by the provisions above. The signing of any such instrument shall have the same effect as if all the parties had signed the same instrument and shall be binding upon the parties and upon their heirs, successors, representatives and assigns.

This agreement may be signed in counterpart, and shall be binding upon the parties and upon their heirs, successors, representatives and assigns.

OPERATOR

LAGUNA PETROLEUM CO.

ATTEST:

By _____

NON - O P E R A T O R

UNION OIL COMPANY OF CALIFORNIA

By: _____

JOHN O. MELVENY

By: _____

THE ESTATE OF HARRY L. CROSBY, JR.

By: _____

THE ESTATE OF SARAH A. LINK

By: _____

By: _____

J. A. MATHEWS

By: _____

(Corporation Acknowledgment)

STATE OF _____, X
COUNTY OF _____, X

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

My Commission Expires: _____

Notary Public

(Corporation Acknowledgment)

STATE OF _____, X
COUNTY OF _____, X

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

My Commission Expires: _____

Notary Public

(Individual Acknowledgment)

STATE OF _____, X
COUNTY OF _____, X

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

My Commission Expires: _____

Notary Public

EXHIBIT "A"

Attached to and made a part of that certain Operating Agreement dated November 19, 1979, between LAGUNA PETROLEUM CO., Operator, and the signatory parties other than Operator.

UNIT AREA: Township 8 South, Range 32 East, Chaves County, New Mexico

Section 13: N/2

from the surface to the base of the San Andres formation.

INTEREST & ADDRESSES OF PARTIES TO THIS AGREEMENT:

| | |
|--|-------------|
| Laguna Petroleum Company One Marienfeld Place, Suite 370 Midland, Texas 79701 | 37.50000 % |
| Union Oil Company of California 500 North Marienfeld P.O. Box 671 Midland, Texas 79702 | 33.28379 % |
| John O. Melveny Suite 400, 800 Wilshire Blvd. Los Angeles, California 90017 | 3.34931 % |
| The Estate of Harry L. Crosby, Jr. Suite 400, 800 Wilshire Blvd. Los Angeles, California 90017 | 13.3669 % |
| Estate of Sarah A. Link P.O. Box 752 Midland, Texas 79701 | 6.25000 % |
| J. A. Mathews P.O. Box 752 Midland, Texas 79702 | 6.25000 % |
| | <hr/> |
| | 100.00000 % |

EXHIBIT "B"
PAID UP LEASE
OIL AND GAS LEASE

THIS AGREEMENT is made

By of

19 Between

Attached to and made a part of that certain Operating Agreement dated November 19, 1979, between MAGNA PETROLEUM CO., Operator, and the signatory parties other than Operator.

Lessor (whether one or more), whose address is:

and

Lessee, WENUSSETH:

1. Lessor in consideration of

To Have

(\$) A in full paid, of the royalties herein provided and of the agreements of Lessee herein contained, hereby grants, leases and lets exclusively unto Lessee for the purpose of investigating, exploring, prospecting, drilling and mining for and producing oil and gas, buying pipe lines, building roads, trails, power stations, telephone lines and other structures thereon and on, over and across lands owned or claimed by Lessor adjacent and contiguous thereto, to produce, save, take care of, treat, transport, and own said products, and leasing its employees, the following described land in

County,

to-wit:

The term of this lease shall coincide with the term of the Operating Agreement to which it is attached.

2. Without reference to the commencement, prosecution or cessation at any time of drilling or other development operations, and/or to the discovery, development or cessation at any time of production of oil or gas and without further payments than the royalties herein provided, and notwithstanding anything else herein contained to the contrary, this lease shall be for a term of ~~ten~~ years from this date (called "primary term") and as long thereafter as oil or gas is produced from said land or land with which said land is pooled hereunder.

3. The royalties to be paid by Lessee, here (a) on oil, one-eighth of that produced and saved from said land, the same to be delivered at the wells or to the credit of Lessor into the pipe line to which the wells may be connected; Lessee may from time to time purchase any royalty oil in its possession, paying the market price therefor prevailing for the field where produced on the date of purchase; (b) on gas, including casinghead gas or other gaseous substance, produced from said land, and sold or used off the premises or for the extraction of gasoline or other product therefrom, the market value at the well of one-eighth of the gas so sold or used, provided that on gas sold at the wells the royalty shall be one-eighth of the amount realized from such sale; while there is a gas well on this lease or on acreage pooled therewith but gas is not being sold or used, Lessee may pay as royalty, on or before ninety (90) days after the date on which said well is shut in and thereafter at annual intervals the sum of \$1.00 per acre, and if such payment is made or tendered, this lease shall not terminate and it will be considered that gas is being produced from this lease in paying quantities. Lessee shall have free use of oil, gas, coal and water from said land, except water from Lessor's wells, for all operations hereunder, and the royalty on oil and gas shall be computed after deducting any so used.

4. Lessee, at its option, is hereby given the right and power to pool or combine the acreage covered by this lease, or any portion thereof as to oil and gas, or either of them, with other land, lease or leases in the immediate vicinity thereof to the extent, hereinafter stipulated, when in Lessee's judgment it is necessary or advisable to do so in order properly to explore, or to develop and operate said leased premises in compliance with the spacing rules of The New Mexico Oil Conservation Commission, or other lawful authority, or when to do so would, in the judgment of Lessee, promote the conservation of oil and gas in and under and that may be produced from said premises. Units pooled for oil hereunder shall not substantially exceed 40 acres each in area, and units pooled for gas hereunder shall not substantially exceed in area 640 acres each plus a tolerance of 10% thereof, provided that should governmental authority having jurisdiction prescribe or permit the creation of units larger than those specified, units thereafter created may conform substantially in size with those prescribed by governmental regulations. Lessee under the provisions hereof may pool or combine acreage covered by this lease, or any portion thereof as above provided as to oil in any one or more strata and as to gas in any one or more strata. The units formed by pooling as to any stratum or strata need not conform in size or area with the unit or units into which the lease is pooled or combined as to any other stratum or strata, and oil units need not conform as to area with gas units. The pooling in one or more instances shall not exhaust the rights of the Lessee hereunder to pool this lease or portions thereof into other units. Lessee shall file for record in the appropriate records of the county in which the leased premises are situated an instrument describing and designating the pooled acreage as a pooled unit. Lessee may at its election exercise its pooling option after commencing operations for or completing an oil or gas well on the leased premises, and the pooled unit may include, but it is not required to include, land or leases upon which a well capable of producing oil or gas in paying quantities has theretofore been completed or upon which operations for the drilling of a well for oil or gas have theretofore been commenced. Operations for drilling on or production of oil or gas from any part of the pooled unit which includes all or a portion of the land covered by this lease regardless of whether such operations for drilling were commenced or such production was secured before or after the execution of this instrument or the instrument designating the pooled unit, shall be considered as operations for drilling on or production of oil or gas from land covered by this lease whether or not the well or wells be located on the premises covered by this lease, and the entire acreage constituting such unit or units, as to oil and gas, or either of them, as herein provided, shall be treated for all purposes, except the payment of royalties on production from the pooled unit, as if the same were included in this lease. For the purpose of computing the royalties to which owners of royalties and payments out of production and each of them, shall be entitled on production of oil and gas, or either of them, from the pooled unit, there shall be allocated to the land covered by this lease and included in said unit a pro rata portion of the oil and gas, or either of them, produced from the pooled unit after deducting that used for operations on the pooled units. Such allocation shall be on an acreage basis, that is to say, there shall be allocated to the acreage covered by this lease and included in the pooled unit that pro rata portion of the oil and gas, or either of them, produced from the pooled unit which the number of surface acres covered by this lease and included in the pooled unit bears to the total number of surface acres included in the pooled unit. Royalties hereunder shall be computed on the portion of such production, whether it be oil and gas, or either of them, so allocated to the land covered by this lease and included in the unit just as though such production were from such land. The production from an oil well will be considered production from the lease or oil pooled unit from which it is producing and not as production from a gas pooled unit; and production from a gas well will be considered as production from the lease or gas pooled unit from which it is producing and not from an oil pooled unit.

5. If at the expiration of the primary term oil or gas is not being produced on said land, or from land pooled therewith, but Lessee is then engaged in drilling or reworking operations thereon, or shall have completed a dry hole thereon within 60 days prior to the end of the primary term, the lease shall remain in force so long as operations on said well or for drilling or reworking of any additional well are prosecuted with no cessation of more than 60 consecutive days, and if they result in the production of oil or gas so long thereafter as oil or gas is produced from said land, or from land pooled therewith. If, after the expiration of the primary term of this lease and after oil or gas is produced from said land, or from land pooled therewith, the production thereof should cease from any cause, this lease shall terminate. If Lessee commences operations for drilling or reworking within 60 days after the cessation of such production, but shall remain in force and effect so long as such operations are prosecuted with no cessation of more than 60 consecutive days, and if they result in the production of oil or gas, so long thereafter as oil or gas is produced from said land, or from land pooled therewith. Any pooled unit designated by Lessee in accordance with the terms hereof, may be dissolved by Lessee by instrument filed for record in the appropriate records of the county in which the leased premises are situated at any time after the completion of a dry hole or the cessation of production on said unit. In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land and within 660 feet of the leased premises, or land pooled therewith, Lessee agrees to drill such offset well or wells as a reasonably prudent operator would drill under the same or similar circumstances. Lessee may at any time execute and deliver to Lessor or place of record a release or releases covering any portion or portions of the above described premises and thereby surrender this lease as to such portion or portions and be relieved of all obligations as to the acreage surrendered.

6. 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 Lessor, Lessee will bury all pipe lines below ordinary plow depth, and no well shall be drilled within two hundred feet of any residence or barn now on said land without Lessor's consent.

7. The rights of either party hereunder may be assigned in whole or in part, and the provisions hereof shall extend to their heirs, successors and assigns but no change or division in ownership of the land or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee; and no change or division in such ownership shall be binding on Lessee until thirty (30) days after Lessee shall have been furnished by registered U. S. mail at Lessee's principal place of business with a certified copy of recorded instrument or instruments evidencing same. In the event of assignment hereof in whole or in part liability for breach of any obligation hereunder shall rest exclusively upon the owner of this lease or of a portion thereof who commits such breach. If six or more parties become entitled to royalty hereunder, Lessee may withhold payment thereof unless and until furnished with a recordable instrument executed by all such parties designating an agent to receive payment for all.

8. The breach by Lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease nor cause a termination or reversion of the estate created hereby nor be grounds for cancellation hereof in whole or in part. In the event Lessor considers that operations are not at any time being conducted in compliance with this lease, Lessor shall notify Lessee in writing of the facts relied upon as constituting a breach hereof, and Lessee, if in default, shall have sixty days after receipt of such notice in which to commence the compliance with the obligations imposed by virtue of this instrument. After the discovery of oil or gas in paying quantities on said premises, Lessee shall develop the acreage retained hereunder as a reasonably prudent operator but in discharging this obligation it shall in no event be required to drill more than one well per forty (40) acres of the area retained hereunder and capable of producing oil in paying quantities and one well per 640 acres plus an acreage tolerance not to exceed 10% of 640 acres of the area retained hereunder and capable of producing gas in paying quantities.

9. Lessor 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 either in whole or in part, and in event Lessee does so, it shall be subrogated to such lien with the right to enforce same and apply royalties accruing hereunder toward satisfying same. Without impairment of Lessee's right under the warranty in event of failure of title, it is agreed that if Lessor owns an interest in the oil or gas on, in or under said land less than the entire fee simple estate, then the royalties to be paid Lessor shall be reduced proportionately. Should any one or more of the parties named as Lessors fail to execute this lease, it shall nevertheless be binding upon the party or parties executing the same.

10. Should Lessee be prevented from complying with any express or implied covenant of this lease, from conducting drilling or reworking operations thereon or from producing oil or gas therefrom by reason of scarcity of or inability to obtain or to use equipment or material, or by operation of force majeure, any Federal or state law or any order, rule or regulation of governmental authority, then while so prevented, Lessee's obligation to comply with such covenant shall be suspended, and Lessee shall not be liable in damages 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 from the leased premises; and the time while Lessee is so prevented shall not be counted against Lessee anything in this lease to the contrary notwithstanding.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

Lessor

Lessee

EXHIBIT "c"

Attached to and made a part of Operating Agreement dated the 19th day of November, 1979, between LAGUNA PETROLEUM CO., Operator, and the signatory parties other than Operator.

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.

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 First Level Supervisors in the field.
- (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%), or percent most recently recommended by the Council of Petroleum Accountants Societies of North America.

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.

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 market 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

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

- (X) 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.

ii. 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 (X) 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 \$ 2259.00 _____
Producing Well Rate \$ 274.00 _____

(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.

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 \$ 25,000.00---

A. 5 % of total costs if such costs are more than \$ 25,000.00-- but less than \$100,000.00--; plus

B. 3 % of total costs in excess of \$100,000.00-- but less than \$1,000,000; plus

C. 2 % of total costs in excess of \$1,000,000.

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

- (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"

Attached to and made a part of Operating Agreement dated November 19, 1979,
between LAGUNA PETROLEUM CO., Operator, and the signatory parties other than
Operator.

INSURANCE

Operator shall carry or provide the following insurance with respect to
operations on all lands subject to this Agreement:

- (a) Workmen's Compensation Insurance, including Employer's Liability,
as required by law.
- (b) Automobile Public Liability and Property Damage Insurance with
minimum limits of \$100,000 bodily injury or death per person,
with \$300,000 bodily injury or death each accident, and \$100,000
property damage each accident.
- (c) Such additional insurance as may hereafter be required by law.

All insurance coverage required hereby shall be carried at the Joint
Expense and for the benefit of the parties hereto, except for premiums for
Automobile Public Liability and Property Damage Insurance on Operator's
fully owned equipment, which shall not be charged directly to the Joint
Account, but will, instead, be covered by the flat rate charges assessed
the Unit for use of such equipment. Operator shall not be required to
carry any other insurance for the Joint Account of the parties hereto.
Any party may, at its own expense, acquire such insurance as it deems proper
to protect itself against any claims, losses, damages, or destruction result-
ing from Unit operations.

Operator shall require all contractors engaged in work in or on the Unit
Area to carry insurance for the benefit and protection of the Working Interest
Owners consistent with Operator's minimum requirements.

EXHIBIT "E"

Attached to and made a part of that certain Operating Agreement dated November 19, 1979, between LAGUNA PETROLEUM CO., Operator, and the signatory parties other than Operator.

Operator shall comply where applicable with the following clauses contained in 41 CFR:

| | |
|-------------|--|
| 60-1.4(a) | (Equal Employment Opportunity); |
| 1-12.803-10 | (certification of non-segregated facilities); |
| 60-250 | (employment opportunity for veterans); |
| 60-741 | (employment opportunities for handicapped individuals); |
| 1-1.710 | (subcontracting with small business concerns); |
| 1-1.805 | (subcontracting with labor surplus area concerns); |
| 1-1.1310 | (subcontracting with minority business enterprises); and |
| 1-1.2302-2 | (environmental protection). |

These clauses are incorporated herein by reference if and to the extent applicable to this contract by law, executive order, or regulation.

Operator represents that it is in compliance with the reporting requirements of 41 CFR 60-1.7 and the Affirmative Action Program requirements of 41 CFR 60-1.40 and 60-2.

EXHIBIT "F"
GAS BALANCING AGREEMENT
FOR GAS WELL PRODUCTION

1. Each party shall have the right to take in kind and separately dispose of its proportionate share of the gas produced from the Unit Area and shall be entitled to an opportunity to produce its fair share of the allowable production from a gas well (including lawful tolerances) established by appropriate regulatory authority.

2. It is the intent that each party be entitled to gas produced in the proportion that its ownership interest bears to the sum of the ownership interests. It is the intent that the Unit Operator have the duty of controlling gas well production and the responsibility of administering the provisions of this agreement. Unit Operator shall cause deliveries to be made to the gas purchasers at such rates as may be required to give effect to the intent that the gas production accounts of all parties are to be brought into balance under the provisions contained herein.

3. To give effect to the intent of this agreement, the Unit Operator shall be governed by the following rights of each party:

(a) When the well's current production is less than the well allowable due to either the capacity of the well to produce or the Unit Operator causing the well to produce below allowable in order to properly balance well allowable overproduction:

(1) Each underproduced party (a party who has taken a lesser volume of gas than the quantity such party is herein entitled) shall have the right to take a greater amount of gas than its proportionate share of the well's current production, provided that the right to take such greater amount shall be in proportion that its interest bears to the total interest of all underproduced parties desiring to take more than their proportionate share of the well's current production.

(2) Each overproduced party (a party who has taken a greater volume of gas than the quantity such party is herein entitled) shall reduce its respective take in the proportion that such party's interest bears to the total interest of all overproduced parties, but in no event shall any overproduced party be required to reduce its take to less than FIFTY PERCENT (50%) of such overproduced party's proportionate share of the well's current production.

(b) When the well's current production is less than the well allowable due to combined pipeline takes or for reasons other than in subparagraph (a) above:

(1) Each underproduced party shall have the right as in subparagraph (a)(1) above.

(2) Each overproduced party shall reduce its respective take in the proportion that such party's interest bears to the total interest of all overproduced parties, but in no event shall any overproduced party be required to reduce its take to less than FIFTY PERCENT (50%) of such overproduced party's proportionate share of the well allowable.

(c) When the well's current production is equal to or greater than the well allowable:

(1) Each underproduced party shall have the right to take a greater amount of gas than its proportionate share of the well allowable, provided that the right to take such greater amount shall be in proportion that its interest bears to the total interests of all underproduced parties desiring to take more than their proportionate share of the well allowable.

(2) Each overproduced party shall have the right as in subparagraph (a)(2) above.

(d) The Unit Operator, at the request of any party, may produce the entire well stream, if necessary, for a deliverability test not to exceed seventy-two (72) hours duration required under such requesting party's gas sales contract and may overproduce in any other situation provided that such overproducing would be consistent with prudent operations.

4. Each party taking gas shall furnish the Unit Operator a monthly statement of gas taken. After commencement of production, Unit Operator shall furnish a current account monthly of the gas balance between parties hereto including the total quantity of gas produced, the portion thereof used in Unit operations, vented or lost, and the total quantity of gas delivered to a market.

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

6. The provisions of this agreement shall be separately applicable to each well and each reservoir to the end that production from one reservoir in a gas well may not be utilized for the purpose of balancing underproduction from other reservoirs.

7. When gas sales from a gas well permanently cease, Unit Operator shall make a final determination of the volumes of over and/or underproduction, if any, which have accrued since the last volumetric balance, as of the date of such cessation of sales and the identity of the party or parties who are over or underproduced. A cash balancing adjustment shall be made by the overproduced party, or parties, to the underproduced party, or parties, for the overproduced volumes which have been taken and sold; the price to be paid for such adjustment shall be the actual price received for such overproduction by the overproduced party, or parties, less appropriate deductions for taxes and/or royalties paid on such production by the overproduced party.

8. This agreement may be executed in counterparts but will not be binding on any party unless and until all working interest parties in a gas well have accepted this Gas Balancing Agreement without exception.

9. This shall constitute a separate agreement as to each well and as to each reservoir.

JAMES J. JENNINGS
SIM B. CHRISTY JR.
DEAN G. CONSTANTINE

LAW OFFICES OF
JENNINGS & CHRISTY
1012 SECURITY NATIONAL BANK BUILDING
P.O. BOX 1180
ROSWELL, NEW MEXICO 88201

TELEPHONE 627-6432
AREA CODE 505

February 12, 1980

IN RE: OPINION OF TITLE TO:
N $\frac{1}{2}$ of Section 13, Township 8 South,
Range 32 East, N.M.P.M., Chaves County,
New Mexico, containing 320 acres, more
or less.

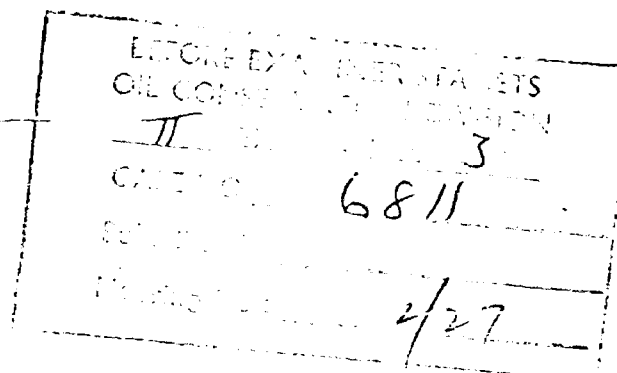
No. 3963

Cushing-Seed Lease

Laguna Petroleum Company
One Marienfeld Place
Suite 370
Midland, Texas 79701

Attention: Ms. Jan Foust

Gentlemen:



For drilling purposes in connection with the title to the minerals under the captioned land, we have examined photocopies of Phillips Petroleum Company's Title Opinions dated December 11, 1962 and January 31, 1963, reflecting the status of the title to the minerals as of November 29, 1962 at 8:00 a.m., and abstract No. 50418 compiled by Lawyers Title Insurance Corporation, Gessert-Sanders Division, tracing title to the minerals under the captioned land from November 29, 1962 at 8:00 a.m. to January 23, 1980 at 3:00 a.m., insofar as reflected by the records in the Office of the County Clerk and Clerk of the District Court of Chaves County.

From our examination of the foregoing and supplementing the Phillips Petroleum Company Title Opinions, we report the status of the title to the minerals under the captioned land as of January 23, 1980 at 8:00 a.m. as follows:

TITLE TO MINERALS

(Including oil, gas, lease rights, bonus, royalty and delay rentals)

Subject to Oil and Gas Leases hereinafter analyzed in favor of Fred G. Goodman.

| | | Lease |
|---|---------------------|----------|
| Alice Huston Cushing, as her separate property | ----- 5/32 | 181/134 |
| Sally Elaine Huston Seed, as her separate property | - 5/32 | " " |
| Sarah A. Link, Administratrix of the Estate of L. C. Link | ----- 1/16 | Unleased |
| J. A. Mathews and wife, Frances Link Mathews | ----- 1/16 | Unleased |
| Exxon Corporation | ----- 1/16 | Unleased |
| John O. Melveny | ----- 32/955.41 | Unleased |
| Union Oil Company of California | ----- 318/955.41 | Unleased |
| Harry L. Crosby, Jr. | ----- 127.71/955.42 | Unleased |

TITLE TO OIL AND GAS LEASEHOLD ESTATE

Fred G. Goodman----- 5/16 of 13/16
Unleased----- 11/16

OIL AND GAS LEASE BEING ACQUIRED

1. Cushing-Seed Lease: Page 21 of the abstract discloses an

No. 3963, Page Two

Oil and Gas Lease dated May 25, 1979 executed by Alice Huston Cushing, a married woman, and Sally Huston Seed, a married woman, both dealing in their sole and separate estates, joined by their husbands, H. L. Cushing and Charles E. Seed, as Lessors, in favor of Fred G. Goodman, recorded on June 21, 1979 in Book 181 at page 134 of the Miscellaneous Records of Lea County, covering the Lessors' interest (5/16) under the captioned land being for a term of two years from date and providing for a 3/16 royalty on oil and gas and for shut-in gas royalty in an amount equal to the delay rentals. The delay rentals are \$320.00, which is at the rate of \$1.00 per acre, and the New Mexico Bank & Trust Company, P. O. Box 400, Hobbs, New Mexico 88240, is the depository bank. The lease is on a Producer's 88-(Producer's Revised 1967) (New Mexico) Form 342-U.

We have been furnished for examination a photocopy of an Assignment of Oil and Gas Lease dated May 25, 1979, executed by Fred G. Goodman and Vera Goodman, his wife, assigning the above lease in its entirety to Laguna Petroleum Company.

Requirement A: The Assignment executed by Fred G. Goodman and wife should be recorded in the Office of the County Clerk of Chaves County.

2. Exxon Interest: We have been furnished for examination a photocopy of a Letter Agreement dated May 17, 1979, executed by Exxon Corporation in favor of Fred G. Goodman, granting the right to earn leases on Exxon's interest to which there is attached a copy of a letter dated December 17, 1979, authorizing Goodman to assign his interest to Laguna and a letter dated January 4, 1980, from Laguna Petroleum Company addressed to and accepted by Exxon Corporation, agreeing to an extension of the time within which to commence drilling operations to 45 days from January 15, 1980. The basic Letter Agreement from Exxon provides for a well to be drilled to a depth sufficient to thoroughly test the San Andres formation or a depth of 4700 feet and provides for a royalty of 1/4 of 7/8. The Letter Agreement further provides that Exxon shall have a call on the oil and a preferential right to enter into a contract to purchase gas for a period of 21 years from date of the Letter Agreement. We call your attention to all of the other provisions of the Agreement between Exxon and Goodman. We further call attention to the fact that while we have been furnished with the consent of Exxon for Goodman's assignment to Laguna, we have not been furnished with a copy of such Assignment and we would recommend that you obtain such an Assignment of Goodman's rights and that Vera Goodman, his wife, join in the execution thereof.

3. Union Interest: It is our understanding that Union Oil Company of California is joining in the proposed test.

Requirement B: An Operating Agreement should be entered into by and between Laguna Petroleum Company and Union Oil Company of California covering operations.

4. Other Interest: The remaining interests are unleased and it is our understanding that the hearing to force pool these interests has been scheduled before the Oil Conservation Division of the State of New Mexico on February 27, 1980.

CURATIVE ACTION IN CONNECTION WITH TITLE REQUIREMENTS

The Phillips Petroleum Company Title Opinion dated December 11, 1962, reflects only the first three pages thereof; and does not

No. 3963, Page Three

reflect pages 4 and others or the signature of the writer. From the Opinion, it does appear that there were at least three requirements. The Supplemental Opinion dated January 31, 1963, contains one requirement which is "Your attention is called to Comment 3 of the abovementioned opinion (dated December 11, 1962) which must now be satisfied."

Requirement C: A complete copy of the Phillips Petroleum Company Opinion dated December 11, 1962 should be obtained and submitted for examination or in lieu thereof, we should be furnished with an abstract tracing title from the inception of records to November 29, 1962 at 8:00 a.m. and we reserve further requirements until such time as we have had an opportunity to examine either a base abstract or a photocopy of the original Title Opinion.

EXCEPTIONS TO TITLE

1. Expired Oil, Gas and Mineral Lease: Page 17 of abstract No. 50418 discloses an Oil, Gas and Mineral Lease dated March 18, 1976 executed by Alice Huston Cushing and Sally Elaine Huston Seed as Lessors in favor of Griffin & Burnett, Inc., recorded in Book 159 at page 57 of the Miscellaneous Records of Lea County. The lease covers the Lessors' interest under the captioned land and is for a term of one year from date and provides for a 20% royalty. This lease was subsequently assigned to Clajon Production Corporation.

Requirement D: A Release of this Lease should be obtained from Clajon Production Corporation and recorded in the Office of the County Clerk of Lea County and you should be satisfied that the lease was not validated by production.

2. Taxes: The taxes are paid to and including the year 1979. This is satisfactory.

CONCLUSION

We cannot approve the title for drilling purposes until Requirement C has been satisfied and in addition thereto, we call your attention to the fact that it will be necessary to enter into an Operating Agreement with Union Oil Company of California and to get an Order of the Oil Conservation Division of the State of New Mexico force pooling the unleased interests.

Respectfully submitted,

JENNINGS & CHRISTY

By _____
James T. Jennings

JTJ:ks

Abstracts and material retained
pending receipt of curative
material.

OPERATOR LAGUNA PETROLEUM COMPANY

WELL NAME & NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13

COUNTY Chaves

STATE New Mexico

T-8-S, R-32-E

PROJECTED DEPTH 4500'

OBJECTIVE San Andres

CLASSIFICATION Development

Code

Description

Tobac

Estimated Amount

A

INTANGIBLE DRILLING COST

Drilling:

Footage 4500' @ \$ 12.00 /Foot \$ 54,000

Day Work W/DP 4 Days @ \$ 3000 /Day \$ 12,000

Day Work W/O/DP : Days @ \$ /Day \$

Roads, locations, Pits, Damages & Surveys

Cement and Cementing Services:

Surface \$ 3,000

Intermediate \$

Mud and Other Drilling Fluids

Formation Testing, Coring & DST

Logging

Hauling - Auto & Truck

Fuel, Power, Repairs & Supplies

Overhead

Salaries - Engineering, Geological, Foremen

Consultants - Contract

Miscellaneous

Insurance \$ 3,400

Contingencies 10,000

TOTAL INTANGIBLE DRILLING COST

TANGIBLE DRILLING COST

Downhole Equipment:

Surface Casing 1700' of 8 5/8" \$ 15,000

Intermediate Casing of

Well Head 2,000

Miscellaneous (Acreage)

TOTAL TANGIBLE DRILLING COST

BEFORE CASING POINT COST

B

INTANGIBLE ABANDONMENT COST

Cement and Cementing Services

Locations Clean Up & Restoration

Miscellaneous

TOTAL INTANGIBLE ABANDONMENT COST

TOTAL DRY HOLE COSTS

BEFORE EXAMINER STATEMENTS
OIL CONSERVATION DIVISION

EXHIBIT NO. 4

CASE NO. 6811

Submitted by

Hearing Date 2/27

\$ 66,000

12,000

3,000

5,000

2,000

8,000

3,000

4,000

2,000

1,600

2,000

3,400

\$ 122,000

\$ 17,000

\$ 139,000

\$ 2,000

4,000

5,000

\$ 11,000

\$ 150,000

UNION PACIFIC COMPANY
COST ESTIMATE - AFE NO. 79-21

OPERATOR Laguna Petroleum Company WELL NAME & NO. #1-13 Cushing
LOCATION SE/4 NE/4 Section 13 COUNTY Chaves STATE New Mexico
T-8-S R-32-E
PROJECTED DEPTH 4500' OBJECTIVE San Andres CLASSIFICATION Development

| Code | Description | Tobac | Estimated Amount |
|------|---|----------------|------------------|
| C | INTANGIBLE COMPLETION COST | | |
| | Completion Unit 8 Days @ \$ 1200 /Day | | \$ 9,600 |
| | Cement and Cementing Services | | 4,000 |
| | Logging and Perforating | | 5,000 |
| | Formation Treatment: | | |
| | Acid | \$ 8,000 | |
| | Frac | | 8,000 |
| | Testing | | 2,000 |
| | Hauling - Auto & Truck | | 3,000 |
| | Overhead | | 500 |
| | Salaries - Engineering, Geological, Foremen | | 1,000 |
| | Consultants - Contract | | 3,500 |
| | Miscellaneous | | - |
| | Rental Equipment | \$ 2,400 | |
| | Contingencies | 5,000 | 7,400 |
| | TOTAL INTANGIBLE COMPLETION COST | | \$ 44,000 |
| D | TANGIBLE COMPLETION COST: | | |
| | Downhole Equipment | | |
| | Casing 4500' of 5 1/2 15.5# | \$ 26,000 | |
| | Tubing 4500' of 2 3/8 4.7# EUE | 11,000 | |
| | Sucker Rods | 6,000 | |
| | Well Head | 1,000 | \$ 44,000 |
| | Pumping Equipment (Surface) | | |
| | Unit | \$ 30,000 | |
| | Engine/Motor & Controls | 4,000 | 34,000 |
| | Tank Battery & Related Equipment | | |
| | Flowline | \$ 1,000 | |
| | Separator | | |
| | Heater Treater | 9,000 | |
| | Tanks | 10,000 | |
| | Piping & Connections | 3,000 | |
| | Labor & Supervision | 3,000 | |
| | Miscellaneous | 5,000 | 31,000 |
| | TOTAL TANGIBLE COMPLETION COST. | | \$ 109,000 |
| | TOTAL COMPLETION AND EQUIPMENT COSTS (after casing point costs) | | \$ 153,000 |
| | TOTAL COMPLETED WELL COST (Total A, C & D) | (a) \$ 139,000 | \$ 292,000 |
| | | (c) 44,000 | |
| | | (d) 109,000 | |

OPERATOR LAGUNA PETROLEUM COMPANY

WELL NAME : NO. #1-13 Cushing

LOCATION SE/4 NE/4 Section 13

COUNTY Chaves

STATE New Mexico

T-8-S, R-32-E

PROJECTED DEPTH 4500'

OBJECTIVE San Andres

CLASSIFICATION Development

Code

Description

Tobac

Estimated Amount

Working
Interest

Dry Hole

Producer

LAGUNA PETROLEUM COMPANY
(Operator)

.375000

\$ 56,250.00

\$ 109,500.00

By _____

UNION OIL CO. OF CALIFORNIA .332838

49,925.70

97,188.70

By _____

JOHN O. MELVENY

.033493

5,023.95

9,779.95

By _____

ESTATE OF HARRY L. CROSBY, Jr. .133669

20,050.35

39,031.35

By _____

ESTATE OF SARAH A. LINK .062500

9,375.00

18,250.00

By _____

By _____

J. A. MATHEWS

.0625009,375.0018,250.00

1.000000

\$ 150,000.00

\$ 292,000.00

By _____

6811

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LAGUNA PETROLEUM COMPANY

December 26, 1979

| | |
|---------------------------|---------------|
| BEFORE EXAMINER STAMETS | |
| OIL CONSERVATION DIVISION | |
| FILE NO. | EXHIBIT NO. 1 |
| CASE NO. | |
| Submitted by | |
| Hearing Date 2/27 | |

Mr. Thomas E. O'Sullivan
Suite 400, 800 Wilshire Blvd.
Los Angeles, California 90017

1-13 Cushing
SE/4 NE/4 Section 13
T-8-S, R-32-E
Chaves County, New Mexico

Dear Mr. O'Sullivan:

Recently, a Mr. Fred G. Goodman contacted you in behalf of Laguna Petroleum Company regarding the mineral interests owned by Mr. John O. Melveny (32/955.42) and the Estate of Harry L. Crosby (127.71/955.42) under the N/2 of section 13, T-8-S, R-32-E. I believe that Mr. Goodman advised you that Laguna has acquired oil and gas leases on 5/16 of the mineral estate and subsequently desires pursuant to the terms of Laguna's Letter Agreement with Exxon (1/16 interest) to commence actual drilling operations for the referenced well on or before January 15, 1980.

Enclosed are three (3) copies of Laguna's AFE (Authorization For Expenditure) approximating the drilling and completion costs of the proposed well. Should either or both interests elect to participate in the proposed drilling, please so indicate by having each party sign and return two (2) of the AFEs along with the seven (7) additional signature pages to the Operating Agreement enclosed. You will subsequently be provided with a complete set of originally executed signature pages for your files.

In the event either or both interests elect not to participate, it is respectfully requested that a six (6) month oil and gas lease be granted to Laguna, six (6) copies of which have been enclosed, three (3) for each interest. It would also be appreciated if a depository bank would be designated for payment of any shut-in royalties applicable. Additionally, should either or both

ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (915) 683-5505

Page 2
1-13 Cushing
December 26, 1979

of the aforesaid interests prefer granting the requested oil and gas leases in lieu of participation, I would like to express Laguna's interest in securing a like arrangement on either or both interests as to the E/2 Section 12, T-8-S, R-32-E and N/2 Section 7, T-8-S, R-33-E.

Your earliest consideration of this matter is requested, and should you have any questions, please do not hesitate to call.

Sincerely,

LAGUNA PETROLEUM COMPANY


William C. C. Barnes

WCCB:rm

Enclosures

THIS AGREEMENT made and entered into this 1st day of January, 1980, by and between Richard C. Bergen, Executor of the Estate of Harry L. Crosby, Jr., Suite 400, 800 Wilshire Blvd., Los Angeles, California 90017

Laguna Petroleum Company

hereinafter called "Lessor", of the one part, and Laguna Petroleum Company, hereinafter called "Lessee", of the other part.

WITNESSETH, That, for and in consideration of the sum of Ten and More

Dollars (\$ 10.00), receipt of which is hereby acknowledged and of the covenants herein provided and the agreements of Lessee herein contained, Lessor has hereby granted, leased and let, upon the terms and conditions herein set forth, all lands now or hereafter owned or claimed by Lessor, adjacent, contiguous, or a part of the tract or tracts described above, whether such additional lands be owned or claimed by deed, limitation, or otherwise, or are fenced or unfenced, and whether such lands are inside or outside of the mesa and lands description set forth above, or are in the named survey, or other survey or surveys. The bonus money paid for this lease is in gross and not by the acre, and shall be effective to cover all such land irrespective of the number of acres contained therein, but the land included within this lease is estimated to comprise 320 acres, whether actually more or less, and such land is hereinafter referred to as the "leased premises".

TO HAVE AND TO HOLD the leased premises for a term of six (6) months from the date hereof, hereinafter called "primary term", and as long thereafter as oil, gas or other hydrocarbons, or other minerals or leased substances, or either or any of them, are produced from the leased premises or from lands with which the leased premises are pooled or unitized.

In consideration of the premises, it is hereby agreed as follows:

1. **Royalty On Oil.** Lessee shall deliver to Lessor, at the well or to the credit of Lessor in the pipeline to which the well may be connected, 1/4 of all oil and other liquid hydrocarbons produced and saved from the leased premises, or Lessee, at its option, may buy or sell such 1/4 royalty and pay Lessor the market price for oil or liquid hydrocarbons of like grade and gravity prevailing in the field on the day such oil is run into pipelines or into storage tanks. Lessor's royalty interest in either case shall bear its proportion of any expenses for transporting and treating oil to make it marketable as crude.
2. **Royalty On Gas.** Lessee shall pay to Lessor as royalty on gas, including casinghead gas or other gaseous substances produced from said land and sold on or off the premises, 1/4th of the net proceeds at the well received from the sale thereof, provided that on gas used off the premises or by Lessee in the manufacture of gasoline or other products therefrom, the royalty shall be the market value at the well of 1/4th of the gas so used; as to all gas sold by Lessee under a written contract, the price received by Lessee for such gas shall be conclusively presumed to be the net proceeds at the well or the market value at the well for the gas so sold.
3. **Royalty On Other Substances.** Lessee shall pay to Lessor, as royalty on any substances covered by this lease other than oil and gas and the products thereof which Lessee may elect to produce, save and market from the leased premises, 1/4th of the proceeds received by Lessee from the sale thereof after deducting the processing costs.
4. **Shut-In Gas Royalty.** If at any time, or from time to time, either before or after the expiration of the primary term of this lease, there is any gas well on the leased premises or on lands with which the leased premises are pooled or unitized, and which is capable of producing in paying quantities, but which is shut in before or after production therefrom, such well shall be considered under all provisions of this lease as a well producing gas in paying quantities and this lease shall remain in force in like manner as though gas therefrom was actually being sold or used. In such event, Lessee covenants and agrees to pay Lessor, as royalty, the sum of Three Hundred Twenty and no/100 ***** Dollars (\$ 320.00) per annum for the period commencing on the date such well is actually shut in, unless this lease is being maintained in force and effect by some other provision hereof, in which event, such period shall commence on the date this lease ceases to be maintained in full force and effect by some other provision hereof. Payment or tender shall be made to Lessor, or deposited to the credit of Lessor in the depository bank named in this lease. The first payment shall be due and payable on or before ninety (90) days after the date such well is shut in, or ninety (90) days from the date this lease ceases to be maintained in force by some other provision hereof. Unless gas from such well is produced and sold or used prior thereto, except temporary sales, or use for lease operations, subsequent payments shall be due annually thereafter on the anniversary date of the period for which such prior payment was made. No additional payments shall be required if there is more than one shut-in gas well on the leased premises or on lands with which the leased premises are pooled or unitized. The term "gas well" shall include wells capable of producing natural gas, condensate, or any gaseous substance, and wells classified as gas wells by any governmental authority having jurisdiction.
5. **Delay Rental.** If operations for drilling or mining on the leased premises, or on lands with which the leased premises are pooled or unitized, are not commenced on or before one (1) year from the date of this lease, as set forth above, this lease shall terminate as to both parties unless on or before one (1) year from the date of this lease, Lessee shall pay or tender to the Lessor a rental of Dollars (\$ 320.00), which shall cover the privilege of deferring commencement of such drilling or mining operation for a period of twelve (12) months from the expiration of said one (1) year period. In like manner and upon like payments or tenders annually, the commencement of such operations may be deferred for successive periods of the same number of months, during the primary term. Payments or tenders may be made to the Lessor or to the Lessor's credit in the bank at _____, which bank or any successor thereof shall continue to be the agent for the Lessor and the Lessor's successors and assigns. If such bank or any successor thereof shall fail, liquidate, or be succeeded by another bank, or for any reason fail or refuse to accept rental, the rental paying date for any year shall be extended until the expiration of thirty (30) days after Lessor shall have delivered to Lessee a recordable instrument making provision for another method of payment or tender and any depository charge shall be the liability of the Lessor. The payment or tender of rental may be made by check or draft of Lessee, mailed or delivered to said bank or Lessor, or to any Lessor if more than one, on or before the rental paying date. Mailing of rental on or before the rental paying date shall be deemed a timely tender thereof and shall preclude the termination of this lease.
6. **Drilling Operations.** If Lessee should drill and abandon as a dry hole a well on the leased premises, or if after the discovery of oil, gas or other minerals, the production thereof should cease from any cause, and, in either event, there are no other producing wells on the leased premises or on lands with which they are pooled or unitized, or drilling or reworking operations are not being conducted thereon, this lease shall not terminate if Lessee commences reworking or additional drilling operations on the leased premises within sixty (60) days thereafter or, if it be within the primary term, Lessee 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 ninety (90) days from the date of such abandonment or cessation of production. If such abandonment or cessation of production occurs at any time during the last fifteen (15) months of the primary term, no rental payment or drilling operations are necessary to keep the lease in force during the remainder of the primary term. If, at the expiration of the primary term, oil, gas or other minerals are not being produced from the leased premises or from lands with which the leased premises are pooled or unitized, but Lessee is then engaged in operations for drilling or reworking of any well, this lease shall remain in force so long as such drilling or reworking operations are prosecuted, or reworking operations on any well or additional drilling operations are conducted on the leased premises, or on lands pooled or unitized therewith, with no cessation of more than sixty (60) consecutive days, and if any such operations result in production then as long thereafter as such production continues.
7. **Pooling.** Lessee is hereby granted the right, at any time and from time to time, whether before or after production, to pool this lease for the production of oil, gas or condensate, or any or either of them, as to the land covered hereby, or any zone or portion thereof, or as to any mineral or royalty interest therein, with any other lease covering the above described land, or lands adjacent, contiguous, adjoining, or in the immediate vicinity thereof, or as to any zone or portion of said lease or any mineral or royalty interest therein. Such pooling shall be into a unit or units not exceeding forty (40) acres plus an acreage tolerance of ten percent (10%) thereof for oil, and units not exceeding sixty (60) acres plus an acreage tolerance of ten percent (10%) thereof for gas, provided that, should governmental authority having jurisdiction prescribe or permit the creation of any drilling, spacing or production unit larger than those specified above, such units may be created or enlarged to conform in size to the drilling or spacing units so prescribed or permitted or to the production units as may be authorized for obtaining the maximum allowable production from one well. Lessee may pool the acreage or interests above described, or any portion thereof, as above provided, as to oil, or gas in any one or more zones, and units so formed need not conform in size or area with the unit or units into which the lease is pooled, or combined as to any other zone, and oil units need not conform as to area with gas units. Such pooling shall be effected by the filing by Lessee of a written designation, in the county, or counties, in which the premises are located, identifying and describing the pooled unit. The production of oil, gas or condensate from any zone or portion of the land so pooled and the development and operation on such land, including the commencement, drilling, completion and operation of a well thereon, or the existence thereof of a shut-in gas well, shall be considered and construed and shall have the same effect, except for the payment of royalty, as production, development and operation, or the existence of a shut-in gas well on the leased premises, regardless of the location of the well on the unit. Production from any unit well producing oil, gas or condensate shall be allocated to the leased premises in the proportion that the acreage of the leased premises included within the unit bears to the total acreage in the unit, and the royalty provided for herein shall be calculated on the portion of the production so allocated. The royalty so payable on allocated production shall be in lieu of any other royalty that would accrue to Lessor from the production of oil, gas or condensate from any zone or portion of the leased premises included within the unit. Shut-in gas royalty, with respect to unit shut-in gas wells, shall be payable in accordance with the provisions and in the amount set forth in this lease. In the event any unit well shall fail to produce oil, gas or condensate in paying quantities, or in the event the production from any such well shall cease, Lessee may terminate the unit by filing for record, in the county, or counties where the land is situated, a written declaration of such termination.
8. **Use Of Oil, Gas And Water For Operations.** Lessee shall have the free use of oil, gas and water from the leased premises, except water from Lessor's wells and tanks, for all operations hereunder, and the royalty on oil and gas shall be computed after deducting the amount so used.
9. **Removal Of Equipment.** Lessee shall have the right, at any time during or after the expiration of this lease, to remove all property and fixtures placed on the leased premises by Lessee, including the right to withdraw and remove all casing.
10. **Assignment Or Change Of Ownership.** 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 ownership of the land, rentals or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee. No change or division in the ownership of the land, rentals or royalties, however accomplished, shall be binding upon Lessee for any purpose and shall not impair the effectiveness of any payment therefor made by Lessee (irrespective of whether Lessee has either actual or constructive knowledge thereof) until sixty (60) days after such person acquiring any interest has furnished Lessee with the instrument or instruments, or certified copies thereof, constituting his chain of title from the original Lessor. In the event of an assignment of this lease as to a segregated portion of the land covered by this lease, the rentals payable hereunder shall be apportioned as between the several leasehold owners, ratably, according to the surface area of each, and a default in rental payment by one Lessee shall not affect the rights of other leasehold owners hereunder who make due payments of rentals. An assignment of this lease, in whole or in part, shall, to the extent of such assignment, release and discharge Lessee of all obligations hereunder.
11. **Force Majeure.** Lessee shall not be liable for any delay in its performance of any covenant or condition hereunder, express or implied, or for total or partial nonperformance thereof, due to force majeure. The term "force majeure", as used herein, shall mean any circumstance or any condition beyond the control of Lessee, including but not limited to acts of God and actions of the elements; acts of the public enemy; strikes; lockouts; accidents; laws, acts, rules, regulations and orders of federal, state or municipal governments, or officers or agents thereof; failure of transportation, or the extension, unavailability, or delays in delivery, of any product, labor, service or material. If Lessee is required to cease drilling or reworking or producing operations on the leased premises by force majeure, then until such time as such force majeure is terminated and for a period of ninety (90) days after such termination, each and every provision of this lease that might operate to terminate it shall be suspended and this lease shall continue in full force and effect during such suspension period. If any period of suspension occurs during the primary term, the time thereof shall be added to such term.

Township 8 South, Range 32 East

Section 13: N/2

12. Lease Interest Clause. If Lessor does not own, or have the right to lease, the entire mineral interest in the land described above, then the royalty, rentals, and any other sums payable hereunder, shall be returned and payable only in the proportion that the interest covered by this lease bears to the entire mineral interest in the above described land. If the mineral interest covered hereby is subject to an outstanding oil participating royalty, such royalty shall be deducted from the royalty payable to Lessor hereunder.

13. Warranty. Lessor hereby warrants and agrees to defend the title to the lands herein described and agrees that the Lessee shall have the right, at any time, to return for Lessor, by payment, any mortgage, taxes or other liens on the land premises in the event of default of payment by Lessor, and be subrogated to the rights of the holder thereof, and such payments may be deducted from any rental or royalty that may be payable to Lessor hereunder.

14. Surrender. Lessee, its successors and assigns, shall have the right at any time, to surrender this lease, in whole or in part, by delivering or mailing a release to the Lessor or by placing a release of record in the county, or counties, in which the leased premises are situated, and thereupon, Lessee shall be released from all obligations, expressed or implied, of this lease as to the acreage so surrendered.

15. Force and Effect. This lease and all of the rights, obligations and conditions hereof shall be binding upon each party executing this instrument and his heirs, devisees, successors and assigns. Should any party named above as Lessor fail to execute this lease, or should any party execute this lease who is not named above as a Lessor, it shall nevertheless be binding upon the party or parties executing the same.

16. Headings For Convenience. The paragraph headings herein are for convenience only and shall not be considered or construed to limit the subject matter of any paragraph.

IN WITNESS WHEREOF, this instrument is executed the day and year first above written.

Richard C. Bergen, Executor
of the Estate of Harry L. Crosby, Jr.

THE STATE OF _____ } TEXAS ACKNOWLEDGMENT
COUNTY OF _____ }

Before me, the undersigned authority, on this day personally appeared _____

known to me to be the identical person whose name are/is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the _____ day of _____, A. D. 19____

Notary Public in and for _____

THE STATE OF _____ }
COUNTY OF _____ }

County, _____

Before me, the undersigned authority, on this day personally appeared _____

known to me to be the identical person whose name are/is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the _____ day of _____, A. D. 19____

Notary Public in and for _____

County, _____

THE STATE OF _____ } NEW MEXICO ACKNOWLEDGMENT
COUNTY OF _____ }

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

Notary Public in and for _____

County, _____

My Commission Expires: _____

| | |
|----------------------------------|--|
| No. _____ | |
| OIL, GAS AND MINERAL LEASE | |
| TO | |
| Record for Record this the _____ | |
| day of _____ A. D. 19____ | |
| _____ o'clock _____ M. | |
| County Clerk | |
| Deputy | |
| Recorded _____ A. D. 19____ | |
| County | |
| Record of _____ | |
| Book _____ Page _____ | |
| County Clerk | |
| Deputy | |

1st January 1980

John O. Melvony,

Suite 400, 800 Wilshire Blvd., Los Angeles, California 90017

Lease after called "Lessor", which is a lease, and

Laguna Petroleum Company

Lease after called "Lessee".

WITNESSETH: That for and in consideration of the sum of

Ten and More

Dollars (\$10.00)

Receipt of which is hereby acknowledged and of the royalty herein provided and the agreement of Lessee herein contained, Lessor does hereby grant, lease and let exclusively unto Lessee, its successors and assigns, all of the land hereafter described, together with any inventory rights therein, for the purpose of exploring by well, pool, geophysical and all other methods, and of drilling, producing and operating wells as herein provided for the recovery of oil, gas and other hydrocarbons, and all other minerals or substances, whether solid or liquid, that may be produced from any well or wells on the leased premises, including primary, secondary, tertiary, cycling, or other methods, whether known or unknown, and all other interests, whether now known or unknown, with all mineral rights therein, and to establish and utilize facilities for surface and subsurface disposal of salt water, and to construct, maintain and operate pipelines, ditches, canals, power lines, power stations, machinery and structures thereon, to produce, store, transport, treat and remove all substances described above, and the products therefrom, together with the right of ingress and egress to and from said land. The land hereby leased is situated in the County of Chaves, State of New Mexico, and is described as follows:

Township 8 South, Range 32 East

Section 13: N/2

This lease covers all of the land described above, including any interests therein that any signatory hereto has the right or power to lease, and in addition it covers, and there is hereby granted, leased and let, upon the same terms and conditions as herein set forth, all lands now or hereafter owned or claimed by Lessor, adjacent, contiguous, or a part of the tract or tracts described above, whether such additional lands be owned or claimed by deed, limitation, or otherwise, or are leased or unleased, and whether such lands are inside or outside of the metes and bounds description set forth above, or are in the named survey, or other survey or surveys. The bonus money paid for this lease is in gross, and not by the acre, and shall be effective to cover all such land irrespective of the number of acres contained therein, but the land included within this lease is estimated to comprise 320 acres, whether actually more or less, and such land is hereinafter referred to as the "leased premises".

TO HAVE AND TO HOLD the leased premises for a term of six (6) months from the date hereof, hereinafter called "primary term", and as long thereafter as oil, gas or other hydrocarbons, or other minerals or leased substances, or either or any of them, are produced from the leased premises or from lands with which the leased premises are pooled or unitized.

In consideration of the premises, it is hereby agreed as follows:

1. **Royalty On Oil.** Lessee shall deliver to Lessor, at the well or to the credit of Lessor in the pipeline to which the well may be connected, 1/4th of all oil and other liquid hydrocarbons produced and saved from the leased premises, or Lessee, at its option, may buy or sell such 1/4th royalty and pay Lessor the market price for oil or liquid hydrocarbons of like grade and gravity prevailing in the field on the day such oil is run into pipelines or into storage tanks. Lessor's royalty interest in either case shall bear its proportion of any expenses for transporting and treating oil to make it marketable as crude.

2. **Royalty On Gas.** Lessee shall pay to Lessor as royalty on gas, including casinghead gas or other gaseous substances produced from said land and sold on or off the premises, 1/4th of the net proceeds at the well received from the sale thereof, provided that on gas used off the premises or by Lessee in the manufacture of gasoline or other products therefrom, the royalty shall be the market value at the well of 1/8th of the gas so used; as to all gas sold by Lessee under a written contract, the price received by Lessee for such gas shall be conclusively presumed to be the net proceeds at the well or the market value at the well for the gas so sold.

3. **Royalty On Other Substances.** Lessee shall pay to Lessor, as royalty on such substances, the net proceeds at the well or the market value at the well for the substances so sold, less the cost of production, and the cost of marketing from the leased premises, of the products received by Lessee from the sale thereof after deducting the marketing costs.

4. **Shut-In Gas Royalty.** If at any time, or from time to time, either before or after the expiration of the primary term of this lease, there is any gas well on the leased premises or on lands with which the leased premises are pooled or unitized and which is capable of producing in paying quantities, but which is shut in before or after production therefrom, such well shall be considered under all provisions of this lease as a well producing gas in paying quantities and this lease shall remain in force in like manner as though gas therefrom was actually being sold or used. In such event, Lessee covenants and agrees to pay Lessor, as royalty, the sum of Three Hundred Twenty and no/100 \$320.00 ***** Dollars (\$320.00) per annum for the period commencing on the date such well is actually shut in, unless this lease is being maintained in force and effect by some other provision hereof, in which event, such period shall commence on the date this lease ceases to be maintained in full force and effect by some other provision hereof. Payment or tender shall be made to Lessor, or deposited to the credit of Lessor in the depository bank named in this lease. The first payment shall be due and payable on or before ninety (90) days after the date such well is shut in, or ninety (90) days from the date this lease ceases to be maintained in force by some other provision hereof. Unless gas from such well is produced and sold or used prior thereto, except temporary sales, or use for lease operations, subsequent payments shall be due annually thereafter on the anniversary date of the period for which such prior payment was made. No additional payments shall be required if there is more than one shut-in gas well on the leased premises or on lands with which the leased premises are pooled or unitized. The term "gas well" shall include wells capable of producing natural gas, condensate, or any gaseous substance, and wells classified as gas wells by any governmental authority having jurisdiction.

5. **Delay Rental.** If operations for drilling or mining on the leased premises, or on lands with which the leased premises are pooled or unitized, are not commenced on or before one (1) year from the date of this lease, as set forth above, this lease shall terminate as to both parties unless on or before one (1) year from the date of this lease, Lessee shall pay or tender to the Lessor a rental of Dollars (\$), which shall cover the privilege of deferring commencement of such drilling or mining operation for a period of twelve (12) months from the expiration of said one (1) year period. In like manner and upon like payments or tenders annually, the commencement of such operations may be deferred for successive periods of the same number of months, during the primary term. Payments or tenders may be made to the Lessor or to the Lessor's credit in the Bank at _____, which bank or any successor thereof shall continue to be the agent for the Lessor and the Lessor's successors and assigns. If such bank or any successor thereof shall fail, liquidate, or be succeeded by another bank, or for any reason fail or refuse to accept rental, the rental paying date for any year shall be extended until the expiration of thirty (30) days after Lessor shall have delivered to Lessee a recordable instrument making provision for another method of payment or tender and any depository charge shall be the liability of the Lessor. The payment or tender of rental may be made by check or draft of Lessee, mailed or delivered to said bank or Lessor, or to any Lessor if more than one, on or before the rental paying date. Mailing of rental on or before the rental paying date shall be deemed a timely tender thereof and shall preclude the termination of this lease.

6. **Drilling Operations.** If Lessee should drill and abandon as a dry hole a well on the leased premises, or if after the discovery of oil, gas or other minerals, the production thereof should cease from any cause, and, in either event, there are no other producing wells on the leased premises or on lands with which they are pooled or unitized, or drilling or reworking operations are not being conducted thereon, this lease shall not terminate if Lessee commences reworking or additional drilling operations on the leased premises within sixty (60) days thereafter or, if it is within the primary term, Lessee 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 ninety (90) days from the date of such abandonment or cessation of production. If such abandonment or cessation of production occurs at any time during the last fifteen (15) months of the primary term, no rental payment or drilling operations are necessary to keep the lease in force during the remainder of the primary term. If, at the expiration of the primary term, oil, gas or other minerals are not being produced from the leased premises or from lands with which the leased premises are pooled or unitized, but Lessee is then engaged in operations for drilling or reworking of any well, this lease shall remain in force so long as such drilling or reworking operations are prosecuted, or reworking operations on any well or additional drilling operations are conducted on the leased premises, or on lands pooled or unitized therewith, with no cessation of more than sixty (60) consecutive days, and if any such operations result in production then as long thereafter as such production continues.

7. **Pooling.** Lessee is hereby granted the right, at any time and from time to time, whether before or after production, to pool this lease for the production of oil, gas or condensate, or any or either of them, as to the land covered hereby, or any zone or portion thereof, or as to any mineral or royalty interest therein, with any other lease covering the above described land, or lands adjacent, contiguous, adjoining, or in the immediate vicinity thereof, or as to any zone or portion of said lease or any mineral or royalty interest therein. Such pooling shall be into a unit or units not exceeding forty (40) acres plus an acreage tolerance of ten percent (10%) thereof for oil, and units not exceeding six hundred forty (640) acres plus an acreage tolerance of ten percent (10%) thereof for gas, provided that, should governmental authority having jurisdiction prescribe or permit the creation of any drilling, spacing or production unit larger than those specified above, such units may be created or enlarged to conform in size to the drilling or spacing units so prescribed or permitted or to the production units as may be authorized for obtaining the maximum allowable production from one well. Lessee may pool the acreage or interests above described, or any portion thereof, as above provided, as to oil, or gas in any one or more zones, and units so formed need not conform in size or area with the unit or units into which the lease is pooled, or combined as to any other zone, and oil units need not conform as to area with gas units. Such pooling shall be effected by the filing by Lessee of a written designation, in the county, or counties, in which the premises are located, identifying and describing the pooled unit. The production of oil, gas or condensate from any zone or portion of the land so pooled and the development and operation on such land, including the commencement, drilling, completion and operation of a well thereon, or the existence thereof of a shut-in gas well, shall be considered and construed and shall have the same effect, except for the payment of royalty, as production, development and operation, or the existence of a shut-in gas well on the leased premises, regardless of the location of the well on the unit. Production from any unit well producing oil, gas or condensate shall be allocated to the leased premises in the proportion that the acreage of the leased premises included within the unit bears to the total acreage in the unit, and the royalty provided for herein shall be calculated on the portion of the production so allocated. The royalty so payable on allocated production shall be in lieu of any other royalty that would accrue to Lessor from the production of oil, gas or condensate from any zone or portion of the leased premises included within the unit. Shut-in gas royalty, with respect to unit shut-in gas wells, shall be payable in accordance with the provisions and in the amount set forth in this lease. In the event any unit well shall fail to produce oil, gas or condensate in paying quantities, or in the event the production from any such well shall cease, Lessee may terminate the unit by filing for record, in the county, or counties where the land is situated, a written declaration of such termination.

8. **Use Of Oil, Gas And Water For Operations.** Lessee shall have the free use of oil, gas and water from the leased premises, except water from Lessor's wells and tanks, for all operations hereunder, and the royalty on oil and gas shall be computed after deducting the amount so used.

9. **Removal Of Equipment.** Lessee shall have the right, at any time during or after the expiration of this lease, to remove all property and fixtures placed on the leased premises by Lessee, including the right to withdraw and remove all casing.

10. **Assignment Or Change Of Ownership.** 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 ownership of the land, rentals or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee. No change or division in the ownership of the land, rentals or royalties, however accomplished, shall be binding upon Lessee for any purpose and shall not impair the effectiveness of any payment theretofore made by Lessee (irrespective of whether Lessee has either actual or constructive knowledge thereof) until sixty (60) days after such person acquiring any interest has furnished Lessee with the instrument or instruments, or certified copies thereof, constituting his claim of title from the original Lessor. In the event of an assignment of this lease as to a segregated portion of the land covered by this lease, the rentals payable hereunder shall be apportioned as between the several leasehold owners, ratably, according to the surface area of each, and a default in rental payment by one Lessee shall not affect the rights of other leasehold owners hereunder who make due payments of rentals. An assignment of this lease, in whole or in part, shall, to the extent of such assignment, release and discharge Lessee of all obligations hereunder.

11. **Force Majeure.** Lessee shall not be liable for any delays in its performance of any covenant or condition hereunder, express or implied, or for total or partial nonperformance thereof, due to some majeure. The term "some majeure", as used herein, shall mean any circumstance or any condition beyond the control of Lessee, including but not limited to acts of God and actions of the elements; acts of the public enemy; strikes; lockouts; accidents; laws, acts, rules, regulations and orders of federal, state or municipal governments, or officers or agents thereof; failure of transportation; or the exhaustion, unavailability, or delays in delivery, of any product, labor, service or material. If Lessee is required to cease drilling or reworking or producing operations on the leased premises by force majeure, then until such time as such force majeure is terminated and for a period of ninety (90) days after such termination, each and every provision of this lease that might operate to terminate it shall be suspended and this lease shall continue in full force and effect during such suspension period. If any period of suspension occurs during the primary term, the time thereof shall be added to such term.

12. Lease Interest Clause. If Lessor does not own, or have the right to lease, the entire mineral interest in the land described above, then the royalty, rentals, and any other sums payable hereunder, shall be returned and payable only in the proportion that the interest covered by this lease bears to the entire mineral interest in the above described land. If the mineral interest covered hereby is subject to an outstanding nonparticipating royalty, such royalty shall be deducted from the royalty payable to Lessor hereunder.

13. Warranty. Lessor hereby warrants and agrees to defend the title to the lands herein described and agrees that the Lessee shall have the right, at any time, to return for Lessor, by payment, any mortgage, tax or other liens on the leased premises in the event of default of payment by Lessor, and be subrogated to the status of the holder thereof, and such payments may be deducted from any rental or royalty that may be payable to Lessor hereunder.

14. Surrender. Lessor, its successors and assigns, shall have the right at any time, to surrender this lease, in whole or in part, by delivering or mailing a release to the Lessee or by placing a release of record in the county, or counties, in which the leased premises are situated, and thereupon, Lessor shall be relieved from all obligations, expressed or implied, of this lease as to the acreage so surrendered.

15. Parties Bound. This lease and all of the rights, obligations and conditions hereof shall be binding upon each party executing this instrument and his heirs, devisees, successors and assigns. Should any party named above as Lessor fail to execute this lease, or should any party execute this lease who is not named above as a Lessor, it shall nevertheless be binding upon the party or parties executing the same.

16. Headings For Convenience. The paragraph headings herein are for convenience only and shall not be considered or construed to limit the subject matter of any paragraph.

IN WITNESS WHEREOF, this instrument is executed the day and year first above written.

John O. Melveny

THE STATE OF _____

TEXAS ACKNOWLEDGMENT

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____

known to me to be the identical person whose name are/is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the _____ day of _____, A. D. 19____

Notary Public in and for _____

THE STATE OF _____

County, _____

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____

known to me to be the identical person whose name are/is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the _____ day of _____, A. D. 19____

Notary Public in and for _____

County, _____

THE STATE OF _____

NEW MEXICO ACKNOWLEDGMENT

COUNTY OF _____

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

Notary Public in and for _____

County, _____

My Commission Expires _____

No. _____

OIL, GAS AND MINERAL LEASE

TO

Filed for Record this the _____

day of _____ A. D. 19____

at _____ o'clock _____ M.

County Clerk

Deputy

Recorded _____ A. D. 19____

County

Record of _____

Book _____ Page _____

County Clerk

Deputy

POST OFFICE BOX 200 • MIDLAND, TEXAS 79701

EXHIBIT NO. 2

CASE NO. _____

Submitted By _____

Hearing Date _____

Trade AC 80-79 (E)
Chaveroo Area
Exxon Mineral Fee No. 606973
Chaves County, New Mexico

Dear Sir:

in and under the following described lands:

which is included in the surface area of the proration unit(s) established in accordance with the rules and regulations of the New Mexico Conservation Commission for the reservoir(s) in which the well provided for in Condition 1 hereof is completed as capable of producing oil and/or gas in commercial quantities,

(it being understood that each proration unit is to be earned separately by the location thereon of a well capable of producing oil and/or gas in commercial quantities.)

subject to the following numbered paragraphs which are sometimes herein referred to as Conditions, and which it is agreed shall govern and determine the rights and obligations of the parties and the conduct of your operations hereunder, both as to the well required to be drilled herein and as to any substitute or subsequent well or wells which may be drilled under the terms of this agreement or which may be drilled on the above described land after a lease has been earned.

A DIVISION OF EXXON CORPORATION

1. It is understood and agreed that you shall commence operations for the drilling of a well, on or before 90 days from the date hereof, time being of the essence, at a regular location in the N $\frac{1}{2}$ Section 13, T-8-S, R 32-E, Chaves County, New Mexico,

and that you shall drill with due diligence to a depth sufficient to thoroughly test the San Andres formation or a depth of 4,700 feet, whichever is lesser.

This well is to be drilled and completed by you free of any cost or liability to us, whether completed as a well capable of producing oil and/or gas in commercial or paying quantities, or found to be dry and plugged and abandoned, as the case may be.

2. During the progress of drilling the well, our authorized representatives are to have access at all times to it, and to all cores, cuttings, depths, logs and other information of whatever nature obtained in the drilling of the well, including but not limited to such as hereinafter specifically set forth. We shall have the right to receive such samples, cores and cuttings, to be delivered to the Exxon Sample Warehouse, 503 South Marjinfeld, Midland, Texas 79701.

at least twice weekly, unless you may be requested otherwise. Samples, properly labelled, and drilling time, are to be taken at intervals of not more than ten (10) feet and should start from base of surface casing and be taken continuously to total depth. We reserve the right to slab any cores. If we do not choose to slab the cores, then you will furnish us with core chips taken at one-foot intervals from all cores cut. You agree to drill the well in a good faith effort to discover oil and/or gas and to test adequately all oil and/or gas shows encountered. If a velocity survey is run, it is understood that it is not intended that same be furnished free to us. We, however, shall have the right to receive any velocity survey or log that might be made of the hole at a reasonable and fair price, or by trade, as is usual and customary in the industry. If you elect not to run a velocity survey, we shall have the right to run such survey at our sole risk and expense. You agree to notify us of the spudding of your well within twenty-four (24) hours after spudding, and to give us like notification upon reaching total depth. Should you plan to plug and abandon the well as a dry hole, you shall give us advance notice thereof, allowing us, after receipt by us of copies of all final logs and surveys from said well, plus proper drilling time and samples to total depth, at least twenty-four (24) hours thereafter, exclusive of Saturdays, Sundays and holidays, to ascertain whether you have complied with the obligations under the terms of this letter. All logs, oil and/or gas show information, formation testing information and related data as provided for in this agreement shall be delivered promptly and expeditiously to us, but in no event shall more than twenty-four (24) hours expire before such delivery.

You agree to furnish: Mr. J. N. Thomas Office Phone: (915) 683-0237
Exxon Company, U.S.A. Home Phone: (915) 683-7433
Midland Exploration District
P. O. Box 1600

the following:

- Midland, Texas 79702
- Drilling time taken at not more than 10-foot intervals, from surface to total depth.
 - One (1) Mud Logger report, daily, and two (2) final Mud Logger reports if Mud Logger is used.
 - Two (2) copies of any fluid (hydrocarbon or water) analysis.
 - Two (2) copies of any core analysis.
 - Two (2) copies of any and all Drill Stem Test Charts and any Service Company analyses.

Also, you agree to furnish: Mr. R. A. Halbert Office Phone: (915) 683-0426
Exxon Company, U.S.A. Home Phone: (915) 694-5770
Midland Exploration District
P. O. Box 1600

the following:

- Midland, Texas 79702
- Daily drilling reports which should include such information as drilling depth, lithologies, hydrocarbon shows, lost circulation zones and formation tops.

- b. Notification of Drill Stem Tests, coring, significant shows, running Electric logs and plugging shall be given in sufficient time to allow Mr. R. A. Halbert or his authorized representative to be present as a witness. (In the event Mr. Halbert cannot be located to receive these notifications, contact Mr. J. N. Thomas.)
- c. Two (2) field prints and two (2) final prints of all Electric logs run which will include:
- 1) Induction Electric Survey or Laterolog from base of surface casing to total depth.
 - 2) Gamma Ray Sonic log with Caliper from base of surface casing to total depth, with Gamma Ray portion of the log from surface to total depth.
 - 3) Two (2) copies of the final prints and one (1) copy of the monitor print of any Dipmeter Surveys you may elect to run, together with one (1) copy of the computer printout of the interpreted data obtained from any such Dipmeter Surveys.
 - 4)

and you also agree to furnish: Mr. D. I. Miller
Exxon Company, U.S.A.
1700 W. Broadway
Andrews, Texas 79714

Office Phone: (915) 523-3650
Home Phone: (915) 523-5549

the following:

One (1) field print and one (1) final print of all down hole logs, listed under c. 1, 2, 3, and 4, immediately above.

In the event the well is indicated to be a producer, our representative shall have the right to witness and shall be notified twenty-four (24) hours in advance of any well capability test (i.e., 4-point capability gas test, completion test or initial potential test). Our representative to be contacted prior to these tests is Mr. B. J. Ingram, Exxon Company, U.S.A., 1700 W. Broadway, Andrews, Texas 79714, Office Phone: (915) 523-3650, Home Phone: (915) 523-4058.

District Landman, Midland Exploration District,

You shall forward to the ~~Division Landman~~ copies of all forms required by any governmental regulatory agency, which shall include but shall not be limited to those pertaining to the permit for drilling, deepening or plugging back, completion or re-completion, potentials or plugging, on all wells drilled hereunder.

3. In the event any well or wells drilled hereunder should be plugged and abandoned, you shall clean up the premises, leave the surface free and clear of debris and assume all liability for any claims asserted on account of or occasioned by your operations hereunder.

4. If you shall ~~drill and~~ complete a well capable of producing oil and/or gas in commercial quantities in accordance with all the terms and provisions herein set forth and furnish to us satisfactory evidence thereof, and only in such event, we shall make and execute to you a lease covering the oil and gas in and under the land earned by such well, subject to the depth limitations herein set forth. Our lease to you shall be subject to the reservations, covenants, Conditions and agreements herein set forth, which reservations, covenants, Conditions and agreements shall, unless otherwise clearly indicated by the context, be fully binding and effective while this agreement is in effect, whether or not you earn a lease as herein provided. In the lease:

- a. We shall reserve royalties of 1/4 of 8/8,*

of all oil, gas, casinghead gas and liquid constituents, free of all costs of development and operation and free of all taxes except applicable gross production and severance taxes. The royalties shall be subject to proportionate reduction if the lease covers less than a full interest in the land described.

- b. The term shall be for six (6) months from the date of completion of the drilling of the well referred to above and for so long thereafter as oil and/or gas is produced in commercial quantities.

- c. We shall have and reserve the right of ingress and egress to the land committed to this agreement for the enjoyment of any rights reserved, retained or not covered by said lease.

- d. We shall have and reserve the optional right for twenty-one (21) years from the date hereof, to purchase all oil produced and saved from the leased premises at the prevailing market price; said price is meant to be that price being paid in the immediate field for oil of like kind, quality and gravity, in like quantities and under contract providing for similar conditions and durations, such price to be determined from month to month.

*Subject to Condition No. 12.

- e. We shall have and reserve for a period of twenty-one (21) years from the date hereof, the preferential right to enter into a contract to purchase the gas (casinghead and/or gas well gas) produced from or allocated to the lands to be leased hereunder, except gas used for operating purposes thereon, subject to the following:

If you elect to sell said gas production and shall receive a bona fide offer acceptable to you to purchase such production, you shall promptly furnish us written notice thereof, and we shall have thirty (30) days after receipt of such notice to elect to enter into a contract to purchase such gas on the same terms and conditions of such offer.

If we shall fail to notify you within said thirty (30) days that we elect to exercise our preferential right to purchase said gas production, then we shall have no right to purchase the gas during the contract term. If we elect not to exercise our said preferential right and for any reason you shall not thereafter accept said offer, or if you shall accept said offer and the resulting contract expires or is terminated within the period of this reservation, then in either event the foregoing reservation of a preferential right to enter into a contract to purchase the gas shall continue in full force and effect and said right shall apply with respect to any new offer for such gas within the aforementioned twenty-one (21) year period, all as more particularly described above.

- f. You shall comply with all valid laws, rules and regulations in your operations upon the lands committed.
g. If you earn a lease pursuant to the terms hereof, you shall pay all ad valorem taxes assessed against the leased premises and such taxes shall be prorated for the year in which the lease is effective.
h. There shall be no warranty of title, express or implied.

5. This agreement is intended to commit to you only the rights as are herein specifically described and it is understood that we do not by reason hereof agree to commit or lease to you any properties, rights, installations, plants or appurtenances of any nature except as expressly herein set forth.

6. In the event of your failure or default in the commencement and drilling of the well provided for in Condition 1 or any additional well or wells in the time and manner herein provided, or in the event of your failure or default in the making of reports and/or in the furnishing of information, logs, surveys or other data herein required, or in the event of your failure or default in any of the other requirements, Conditions or obligations as herein set forth, then we shall be relieved of the obligation to make any lease and then we may, at our option, terminate this agreement by written notice to you and upon the giving of such notice, all of your rights, titles and interests under this agreement shall thereupon cease, except as to that acreage previously leased or earned hereunder. No such written notice of termination shall be necessary in the event you fail to earn the lease above described. Our right of termination as herein set forth shall be in addition and without prejudice to any other rights or causes of action which we may have either at law or in equity arising out of your failure or default hereunder.

7. After having tested the objective, you shall, by written notice, advise us at casing point if you desire to abandon the well provided for in Condition 1 or any other well or wells you drill hereunder as a dry hole, and we shall have two (2) full office working days, commencing on the morning following the date of receipt of such notice and receipt of copies of all electrical logs and other technical data, in which to elect to take over such well, free of any costs to us, solely or in conjunction with other contributors and/or participants, for the purpose of attempting completion or for drilling to any greater depth. If we elect to so take over the well, it is agreed as follows:

- a. You shall not be entitled to a lease of the acreage such well may have earned.
~~b. You shall assign to us all oil and gas leasehold rights in the drilling unit for the well which you have earned or are entitled to earn by the drilling of said well, and which you are not obligated to assign or reassign to other parties having an interest in the well as participants in drilling, contributors thereto, or the like. For the purposes of this paragraph, said drilling unit shall be~~

- ~~c. You shall also assign to us all acreage held by you in your own right which is located within said drilling unit, retaining an overriding royalty on production of~~

~~to be reduced proportionately according to your interest and all leasehold rights below a depth of 100 feet below the total depth drilled by you or us.~~

DOE TO ME

d. We shall reimburse you for that part of the reasonable salvage value of material in and on the hole which is proportionate to your interest in the well (taking into account any interest acquired by us under Subsections b and c ~~above~~) and shall become responsible for promptly responsible well-plugging in taking over the well for the proper plugging and abandonment of the well.

e. Any notice to us given pursuant to the provisions of this paragraph shall be addressed to us at Exxon Company, U.S.A., Midland Exploration District, P. O. Box 1600, Midland, Texas 79702, to the attention of Mr. J. N. Thomas.

The requirement for such written notice may not be waived unless we give you notice of such waiver in writing.

8. The terms and conditions hereof shall extend to and be binding upon the parties hereto, their respective heirs, successors, legal representatives and assigns, provided, however, that neither this agreement nor any rights hereunder shall be assigned by you to a third party without our written consent.

In the event you contemplate an assignment of rights to another party or parties, you shall give prompt notice to us of such proposed assignment. If we consent to such assignment, it shall not be effective until we have received, in writing, an instrument or letter executed by you and your assignee evidencing that such assignment has occurred and that your assignee has assumed all the obligations of this agreement.

9. If, in any of your operations hereunder, you shall use any of our lease roads, you shall bear your proportionate part on a per well basis of the expense of maintaining such roads. If you shall cause substantial damage to any such jointly-used lease road because of excessive or unusual use thereof, you shall be solely responsible for restoring such road to its prior condition.

10. All of your operations hereunder shall be conducted as would a reasonably prudent operator, and you shall make a proper restoration of the surface of any land damaged by your operations. You shall have the responsibility for settling or otherwise disposing of any claim or cause of action by third parties arising out of your operations, and you shall indemnify and hold us harmless from and against any such claim or cause of action.

11. In the event you are successful in earning a lease under the terms of this agreement, and assuming said lease covers less than all the lands or depths covered by Exxon's mineral fee hereinabove described, then you agree to notify Exxon within 30 days after the date of the first oil production on the leased land. In like manner, Exxon agrees to notify you either at the time of the execution of this agreement if there is current oil production from the retained lands or depths covered by Exxon's mineral fee hereinabove described, or to notify you within 30 days after the date of the first oil production therefrom.

Once each party is advised under the foregoing paragraph that oil production has been established from both the lands leased to you and the retained lands, and assuming that such lands cannot be treated as separate properties under the applicable DOE regulations, then each party agrees that it will furnish to the other party, on a timely basis, copies of such monthly production records as are required by the appropriate State regulatory bodies, together with copies of all crude oil sale certifications required under DOE regulations.

The notices, production records and crude oil sale certifications furnished in accordance with the preceding paragraphs are to be utilized in determining the need for joint accounting and effectuating such joint accounting of properties as are required under DOE ruling 1975-15. In this regard it is understood that all references to leases, lands or depths are to be interpreted in light of DOE regulations concerning property (212.72).

12. The royalty reserved by us shall automatically increase to 30% at such time as the net proceeds, as hereinafter defined, from the sale of all production of the oil and/or gas produced from the well, or credited to the well, either by reason of transferred allowable, unit allocation or any other means, attributable to the interest assigned to you hereunder, equals one hundred percent (100%) of the cost and expense, both tangible and intangible, of drilling, equipping (an oil well through the oil storage tanks and a gas well through the Christmas tree), testing and completing said well for production, and of operating the said well to the point of said one hundred percent (100%) of such costs attributable to the interest to be assigned

to you hereunder. The net proceeds are defined as the total proceeds received from or credited or allocated to production, less severance, production and other taxes payable on production therefrom, together with all royalties, shut-in gas royalties, overriding royalties and payments out of production presently in effect, if any.

The period during which the net proceeds referred to above are to be applied against the costs as above provided shall be known as the "payout period". Charges and expenditures to be made by operator shall be made in accordance with and accounted for as set forth in the Accounting Procedure attached hereto and marked Exhibit "A", which is incorporated herein and made a part hereof for the purposes of accounting during the payout period. During this payout period, nothing contained herein shall be construed as constituting joint operations, the said Accounting Procedure being intended only to govern the accounting for costs and expenditures incurred during the payout period. It is further agreed that upon completion of said well as a commercial producer of oil and/or gas, and as soon thereafter as the information may be obtained, you as operator, agree to furnish us at P. O. Box 1600, Midland, Texas 79702, Attention: Midcontinent Division Accounting, Budget and Report Section, the cumulative costs of drilling, completing and equipping said well as a producer. Each calendar month thereafter and until payout as aforementioned, you will furnish to the above address a report, in duplicate, showing the cumulative current month's costs to operate the well. This report shall also include the total volume of all substances produced, the value received for your share of such production, and the values credited to that portion of the lease or leases assigned hereunder and included in the proration unit around the well. Further, you shall notify us, in writing, promptly of payout as above set forth. Our increased royalty shall become effective as of 7:00 a.m., local time where the well is situated, on the first day next following the day during which the above mentioned recoupment shall have occurred. After payout, at our request, you shall make and execute a recordable instrument evidencing that payout has occurred and that our royalties have increased as herein provided.

As used in this paragraph, the term "operator" shall refer to the actual party charged with the responsibility of operating the well or wells, whether that party is you or any of your assignees, and if more than one party owns a portion of any interest assigned to you by us under the terms of this letter, the notice to us required at payout shall be made by the actual operator.

13. You shall have the option to drill an additional well or wells, at regular locations of your choice hereto, on the unearned acreage covered by this farmout, under the same terms and conditions as the above described well, allowing not more than 90 days between the completion of drilling on one well and commencement of drilling operations on the next well, until there has been drilled one well for each proration unit. As used in this paragraph, completion of drilling means the actual completion and termination of drilling, and does not contemplate testing and completion processes thereafter undertaken, nor the ultimate and final completion of the well. As previously provided in this agreement, all of the provisions for depth, for drilling, testing, logging, reporting, completion and all related provisions as required of you in the drilling of the first above described well, together with all other pertinent provisions and Conditions of this agreement, shall apply and be furnished and complied with in like manner upon your drilling an additional well or wells on the acreage as herein provided. Each proration unit will be earned separately upon completion of a commercial oil and/or gas well located thereon, and our lease to you shall include the same reservations and provisions as were included in the first lease to be made under this letter agreement.

If the foregoing paragraphs correctly set forth your understanding of our agreement, please evidence your acceptance by returning to the District Landman, Exxon Company, U.S.A., Midland Exploration District, P. O. Box 1600, Midland, Texas 79702, within ten (10) days from the date hereof two (2) copies of this agreement properly executed by you or on your behalf by your duly authorized officer in the space provided. If we fail to receive such accepted copies within ten (10) days, we may, at our option, terminate the offer or grant you additional time in which to accept.

Very truly yours,

EXXON CORPORATION

H. Jack Naumann
By: H. Jack Naumann,
Division Landman

JBT:bbk
Attachment

ACCEPTED This 25 Day
Of May, 1979.

FRED G. GOODMAN

By: *Fred G. Goodman*

EXHIBIT "A", ACCOUNTING PROCEDURE

Accounting Procedure, CPAS 1974, with the following changes and options:

Section II-Direct Charges

Paragraph 3 - Employee Benefits: Delete the period "." at the end of the paragraph and add the following phrase:

"or the limit most recently recommended by the Council of Petroleum Accountants Societies of North America."

Paragraph 6 - Services: Change this paragraph as follows:

"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 or not directly engaged on the Joint Property shall not be charged to the Joint Account, unless previously agreed to by the Parties."

Section III - Overhead

The following changes shall be made and options selected:

A. Sub-section 1.i - Select "(X) Fixed Rate Basis, Paragraph 1A."

B. Sub-section 1.ii - Change this subsection as follows:

ii. The salaries, wages and Personal Expenses of Technical Employees directly employed on the Joint Property shall not be covered by the Overhead rates.

C. Sub-section 1.A. - Shall contain the following rates:

1. Overhead - Fixed Rate Basis

a. Operator shall charge the Joint Account at the following rates per well per month:

Drilling Well Rate \$ 3,011.00*
Producing Well Rate \$ 314.00*

D. Paragraph 2. - Overhead - Major Construction - Shall be completed as follows:

1. Line 5 - "of \$25,000.00."

2. a. 5% of total costs if such costs are more than \$25,000.00 but less than \$100,000.00; plus

b. 3% of total costs in excess of \$100,000.00 but less than \$1,000,000.00; plus

c. 2% of total costs in excess of \$1,000,000.00.

*Subject rates will be adjusted as of April 1, 1979.

EXXON COMPANY, U.S.A.
POST OFFICE BOX 1410 • MIDLAND, TEXAS 79702

EXPLORATION DEPARTMENT
SOUTHWESTERN DIVISION
MIDLAND DISTRICT

August 22, 1979

RE: Trade AC-80-79 (E)
Chaveroo Area
Exxon Mineral Fee No. 606973
Chaves County, New Mexico

Mr. Fred G. Goodman
P. O. Box 4932
Midland, Texas 79701

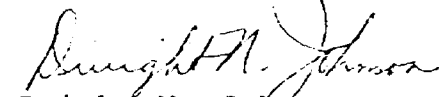
Dear Sir:

By way of amending the captioned letter agreement, dated May 17, 1979, Exxon Corporation approves and it is now mutually agreed as follows:

The time for commencement of drilling operations on the well provided for under the captioned letter agreement shall be extended so that now you may commence such operations on or before November 13, 1979.

The above letter agreement, as amended, shall in all other respects remain unchanged.

Very truly yours,


Dwight N. Johnson

JBT:bbk

EXXON COMPANY, U.S.A.
POST OFFICE BOX 1000 • MIDLAND, TEXAS 79702

EXPLORATION DEPARTMENT
SOUTHWESTERN DIVISION
MIDLAND DISTRICT

November 8, 1979

RE: Trade AC 80-79 (E)
Chaveroo Area
Exxon Mineral Fee No. 606973
Chaves County, New Mexico

Mr. Fred G. Goodman
P. O. Box 4932
Midland, Texas 79701

Dear Mr. Goodman:

By way of amending the captioned letter agreement, dated May 17, 1979, Exxon Corporation approves and it is now mutually agreed as follows:

The time for commencement of drilling operations on the well provided for under the captioned letter agreement shall be extended so that now you may commence such operations on or before 60 days subsequent to November 13, 1979.

The above letter agreement, as amended, shall in all other respects remain unchanged.

Very truly yours,



Dwight N. Johnson

JBT:gma

EXXON COMPANY, U.S.A.

POST OFFICE BOX 1000 • MIDLAND, TEXAS 79702

EXPLORATION DEPARTMENT
SOUTHWESTERN DIVISION
MIDLAND DISTRICT

December 17, 1979

RE: Trade AC-80-79 (E)
Chaveroo Area
Exxon Mineral Fee No. 606973
Chaves County, New Mexico

Mr. Fred G. Goodman
P. O. Box 4932
Midland, Texas 79701

Dear Mr. Goodman:

By way of amending the captioned letter agreement, dated May 17, 1979, Exxon Corporation approves and it is now mutually agreed as follows:

This will evidence our consent for you to assign any or all of your interest in the captioned letter agreement to Laguna Petroleum Company. We request that Laguna acknowledge their participation with you in this agreement and further, that they, together with you, assume and are subject in all of the burdens and obligations provided in said agreement.

The above letter agreement, as amended, shall in all other respects remain unchanged.

Very truly yours,

Joe B. Thomas
Joe B. Thomas

JBT:as

AGREED TO and ACCEPTED this 18

day of December, 1979.

Fred G. Goodman
Fred G. Goodman

AGREED TO and ACCEPTED this 18th

day of December, 1979.

LAGUNA PETROLEUM COMPANY

By: *William L. Lee*

A DIVISION OF EXXON CORPORATION



LAGUNA PETROLEUM COMPANY

January 4, 1980

Exxon Company, U.S.A.
P.O. Box 1600
Midland, Texas 79702

Attention: Joe B. Thomas

Re: Tobac 79-21
Trade AC-80-79 (E)
Chaveroo Area
Exxon Mineral Fee No. 606973
Chaves County, New Mexico

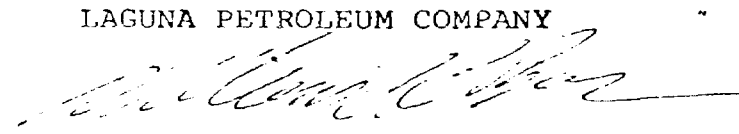
Dear Mr. Thomas:

Pursuant to our conversation of January 4, 1980, Laguna hereby respectfully requests an extension of 45 days from January 15, 1980, as set forth in the captioned letter agreement, dated May 17, 1979, in which to commence drilling operations. Except as herein amended all other terms and provisions are to remain the same.

Please signify Exxon's concurrence by signing and returning two (2) copies of this letter at your earliest convenience. Should you have any questions, please do not hesitate to call.

Sincerely,

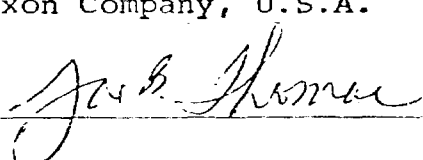
LAGUNA PETROLEUM COMPANY


William C.C. Barnes

WCCB:rm

AGREED AND ACCEPTED this 11th day of January, 1980.

Exxon Company, U.S.A.

By 

MARCH 1, 1980 is new
commitment date

ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (815) 683-5505

JAMES T. JENNINGS
SIM B. CHRISTY IV
DEAN G. CONSTANTINE

LAW OFFICES OF
JENNINGS & CHRISTY
1012 SECURITY NATIONAL BANK BUILDING
P. O. BOX 1180
ROSWELL, NEW MEXICO 88201

TELEPHONE 622-8432
AREA CODE 505

February 6, 1980

RECEIVED
OIL CONSERVATION DIVISION
SANTA FE

Case 6811

Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

Attention: Mr. Richard L. Stamets

Gentlemen:

We will represent Laguna Petroleum Company in connection with an application for force pooling order in the N $\frac{1}{2}$ Section 13, Township 8 South, Range 32 East, Chaves County, New Mexico, scheduled for hearing February 27, 1980.

Due to prior commitments, I need to be in New Orleans in the evening of February 27 and would therefore appreciate the Commission's consideration to early setting on the docket of the case.

The Commission's consideration to the request is sincerely appreciated.

Respectfully,

JENNINGS & CHRISTY

By


S. B. Christy IV

SBC:pv

cc: Laguna Petroleum Company

Dockets Nos. 6-80 and 7-80 are tentatively set for March 12 and 26, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: EXAMINER HEARING - WEDNESDAY - FEBRUARY 27, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Richard L. Stamets, Examiner, or Daniel S. Nutter, Alternate Examiner:

CASE 6787: (Continued from February 13, 1980, Examiner Hearing)

In the matter of the hearing called by the Oil Conservation Division on its own motion to consider the approval of 12 non-standard proration units ranging in size from 261.51 acres to 334.24 acres for 320-acre spaced pools, and 19 non-standard proration units ranging in size from 162.65 acres to 207.57 acres for 160-acre spaced pools, all of the aforesaid units being in and resulting from the irregular size and shape of Sections 1 thru 7 and 18, 19, 30, and 31, along the North and West sides of Township 28 North, Range 3 West, Rio Arriba County.

CASE 6811: Application of Laguna Petroleum Company for compulsory pooling, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the San Andres formation underlying the SE/4 NE/4 of Section 13, Township 8 South, Range 32 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6812: Application of Maralo Inc. to amend Order No. R-5816, Lea County, New Mexico. Applicant, in the above-styled cause, seeks to amend Order No. R-5816 to permit the seven waterflood injection wells authorized to be drilled at unorthodox locations by said order to be produced until May 1, 1980, or until depleted, prior to being placed on water injection.

CASE 6813: Application of Petroleum Development Corporation to amend Order No. R-6196, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks to amend Order No. R-6196 which authorized re-entry of a well at an unorthodox location in the Lusk-Morrow Gas Pool to be dedicated to the N/2 of Section 13, Township 19 South, Range 31 East. Applicant now seeks approval for a new revised location 750 feet from the North line and 660 feet from the West line of said Section 13.

CASE 6814: Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Betenbough Unit Area, comprising 1921 acres, more or less, of State and fee lands in Township 13 South, Range 36 East.

CASE 6797: (Continued from January 30, 1980, Examiner Hearing)

Application of Yates Petroleum Corporation for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp-Penn formations underlying the N/2 of Section 28, Township 18 South, Range 29 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6815: Application of Florida Exploration Company for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its Ross Draw Unit Well No. 8, a Wolfcamp gas well 1650 feet from the North and East lines of Section 27, Township 26 South, Range 30 East, the N/2 of said Section 27 being dedicated to the well.

CASE 6816: Application of Hanson Oil Corporation for salt water disposal, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water in the Penrose Grayburg formation in the perforated interval from 3404 feet to 3633 feet in its Creek Well No. 1 located in Unit G of Section 35, Township 18 South, Range 30 East, Shugart Pool.

CASE 6817: Application of Mewbourne Oil Company to amend Order No. R-6100, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks to amend Order No. R-6100 whereby the unorthodox Morrow location approved by said order would instead be applicable to the Wolfcamp and Bone Springs formations.

CASE 6818: Application of Tenneco Oil Company for an NGPA determination, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks a new onshore reservoir determination for its State HL 11 Well No. 1 located in Unit N of Section 11, Township 19 South, Range 29 East.



LAGUNA PETROLEUM COMPANY

February 7, 1980

SANTA FE, NEW MEXICO

Case 6811

New Mexico Oil Conservation Division
Box 2088
Santa Fe, New Mexico 87501

Attention: Dick Stamets

Tobac Area
N/2 Section 13, T-8-S, R-32-E
Chaves County, New Mexico

Gentlemen:

As a follow up to our telephone conversation of February 7, 1980, Laguna Petroleum Company as an interest owner has programmed the drilling of a 4500' San Andres test at a legal location in the SE/4 NE/4 Section 13, T8S, R32E and has been unable to reach an agreement with all the interests embraced within this 40 acre proration unit. Subsequently, time being of the essence, Laguna Petroleum Company respectfully requests a hearing be scheduled for February 27, 1980 to adjudicate a forced pooling order pursuant to the appropriate New Mexico statutes as to the following Mineral Interest Owners:

| | | |
|---------------|----|---|
| 32/955.42 | MI | John O. Melveny 3400 Crocker Plaza 611 West 6th Street Los Angeles, California 90017 |
| 127.71/955.42 | MI | The Estate of Harry L. Crosby, Jr. Richard C. Bergen Executor 3400 Crocker Plaza 611 West 6th Street Los Angeles, California 90017. |

Sincerely,

LAGUNA PETROLEUM COMPANY

William C.C. Barnes

WCCB:rm

cc: Richard C. Bergen
3400 Crocker Plaza
611 West 6th Street
Los Angeles, California 90017
Jennings & Christy, Attorneys at Law
Box 1180
Rowell, New Mexico
Attn: Sim Jennings

ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
PHONE (915) 683-5505



LAGUNA PETROLEUM CO.

WILLIAM C. C. BARNES
(COURTNEY)
LANDMAN

ONE MARIENFELD PLACE
SUITE 370
MIDLAND, TEXAS 79701
BUS (915) 683-5505
FAX (915) 682-2639

1050 17TH STREET
SUITE 1725
DENVER, COLORADO 80202
BUS (303) 573-7919

Application of Laguna Petroleum Company
for compulsory pooling. Chaves County

Applicant in the above described cause
seeks the pooling of the SE/NE of Section 13
, T 8S, R 32E, for San Andres oil production
& regular provisions

Courtney Barnes
915 683-5505

2-6-80

Please put first
on docket

DRAFT

dr/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6811

Order No. R- 6284

APPLICATION OF LAGUNA PETROLEUM
COMPANY FOR COMPULSORY POOLING,
CHAVES COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on February 27,
19 80, at Santa Fe, New Mexico, before Examiner Richard L. Stamets

NOW, on this _____ day of _____, 19 80, the Division
Director, having considered the testimony, the record, and the
recommendations of the Examiner, and being fully advised in the
premises,

FINDS:

(1) That due public notice having been given as required by
law, the Division has jurisdiction of this cause and the subject
matter thereof.

(2) That the applicant, Laguna Petroleum Company,
seeks an order pooling all mineral interests in the San Andres
formation underlying the SE/4 NE/4
of Section 13, Township 8 South, Range 32 East
NMPM, _____, Chaves County, New
Mexico.

(3) That the applicant has the right to drill and proposes to drill a well at a standard location ^{on said 40-acre tract} ~~thereon~~.

(4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the ~~gas~~ ^{oil} in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

#2259.00 per month while drilling and
#274.00 per month while producing

(11) That per month should be fixed as a reasonable charge for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) That upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before June 30, 1980, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the San Andres formation underlying the SE/4 NE/4 of Section 13, Township 8 South, Range 32 East, NMPM, Chaves County, New Mexico, are hereby pooled to form a standard 40 - acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard location thereon

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the 30th day of June, 1980, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the San Andres formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the 30th day of June, 1980, Order (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Order (1) of this order should not be rescinded.

(2) That Laguna Petroleum Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided

-5-
Case No.
Order No. R-

above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) That the operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) That the operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$2254.00 per month while drilling and \$274.00 per month while producing are hereby fixed as a reasonable charge for supervision (combined fixed rates); that the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

-6-
Case
Order No.

(10) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Chaves County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) That jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.