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

APPLICATION OF SPUR ENERGY PARTNERS LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 21733

APPLICATION OF LONGFELLOW ENERGY, LP FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 21651

SPUR'S REPLY IN SUPPORT OF ITS CLOSING STATEMENT

Spur Energy Partners LLC ("Spur") (OGRID No. 328947) submits this reply in support of its closing statement in these consolidated matters.

INTRODUCTION

Longfellow's arguments ignore the express language of the New Mexico Oil and Gas Act, which limits compulsory pooling to owners of oil and gas mineral interests within the proposed spacing unit. Compulsory pooling authority does not extend to contractual interests. Longfellow also substantially misunderstands New Mexico law addressing the legal nature of oil and gas leasehold interests and related assignments, such as farmouts. Such rights represent ownership interests in real property, not merely contractual interests. Finally, Longfellow misapprehends the facts and holdings in each of the Division cases they cite. As outlined below, with citations to transcripts and exhibits, the facts and findings in those cases support Spur's position.

Spur controls the greatest share of working interest in the mineral estate in the tracts that comprise the proposed spacing unit. The Division should grant Spur's application and designate Spur as operator of the unit.

ARGUMENT

I. The New Mexico Oil and Gas Act Limits Compulsory Pooling to Owners of an Interest in the Mineral Estate—It Does Not Extend to "Contractual Interests."

Longfellow contends the New Mexico Oil and Gas Act does not exclude contractual interests from its scope[1] but ignores the express language of the statute to support its faulty conclusion.

The express language of the Oil and Gas Act applies only to owners of tracts of land and undivided mineral interests that are separately owned in the proposed spacing unit. *See* NMSA, 1978 § 70-2-17(C). It is black letter law that an "owner" is "[o]ne who has the right to possess, use, and convey something; a person in whom one or more interests are vested." *See* BLACK'S LAW DICTIONARY (8th Ed. 2004) (defining "Owner"). Contractual interests do not own a real property interest in the underlying mineral estate. Longfellow does not dispute that the contested contractual interests at issue under the Puma and Aid JOAs do not own a mineral interest within the proposed 480-acre spacing unit. The plain language of the Act excludes these "contractual interests" because they are not owners of an interest in the mineral estate in the proposed spacing unit. *Marbob Energy Corp. v. N.M. Oil Conservation Comm'n*, 2009-NMSC-013, ¶ 9, 146 N.M. 24 (stating that courts "look to the plain language of the statute, giving the words their ordinary meaning, unless the Legislature indicates a different one was intended"). Compulsory pooling does not apply to contractual cost-bearing interests—it applies only to cost-bearing working interest owners under a leasehold interest in the minerals within the spacing unit.

[1] Resp. at 4.

The same ownership limitation applies to Longfellow's argument that contractual interests under a JOA have correlative rights. In fact, correlative rights are limited by statute and regulation to "the owner of each property in a pool[.]" *See* NMSA 1978, § 70-2-33(H); *see also* 19.15.2.7.C(15). JOA contractual interests do not own a real property interest in a pool within a spacing unit. They do not, therefore, have correlative rights subject to protection under the Oil and Gas Act in a compulsory pooling proceeding.

In support of its faulty argument, Longfellow incorrectly contends "that a leasehold interest is a contractual interest[,]" and that a lessee merely has a "contractual interest by virtue of [its] lease." *See* Resp. at 5.[2] Longfellow substantially misunderstands the legal nature of an oil and gas leasehold interest under New Mexico law and the ownership interests derived from a leasehold mineral estate, such as farmouts. Contrary to Longfellow's contention, "since 1922," New Mexico "has consistently held that oil and gas mineral leases are [conveyances of] real property." *Barela v. Locer*, 1985-NMSC-080, ¶ 12; *see also Duvall v. Stone*, 1949-NMSC-074, ¶ 16. A leasehold interest is not merely a "contractual" interest; it is an ownership interest in real property. Similarly, a "farmout" is form of a "leasehold" interest in the mineral estate through which an ownership interest is earned by the assignee after one or more wells are drilled, depending on the agreement. *See* WILLIAMS & MEYERS, MANUAL OF OIL AND GAS TERMS (14th Ed. 2009) (defining "farmout" as the "name given to the leasehold held by the owner thereof[.]" (emphasis added)); *see also Moncrief v. La. Land & Expl. Co.*, 861 P.2d 500, 507 (Wyo. 1993) (analogizing a "farmout" agreement to a contract to purchase land).

[2] In support of the proposition that a leasehold interest is a contractual right, Longfellow cites to *Maralex Res., Inc. v. Gilbreath*, 2003-NMSC-023, ¶ 33. The holding of that case does not address the issue.

A stark legal distinction exists in the Oil and Gas Act between ownership interests in the mineral estate, such as leaseholds and farmouts, which are subject to compulsory pooling, and contractual interests, such as parties to a JOA, which are not. The consequence is that the contractual interests Longfellow seeks to pool and to attribute to its working interest control must be excluded from consideration. When considering only the working interest ownership in the mineral estate underlying the proposed spacing unit, as the Division must, Spur has the greater share of the working interest control.[3] Spur's application should be approved and it should be designated operator of the unit.

II. Longfellow Misapprehends the Underlying Facts and Holdings in the Cited Division Cases.

While none of the cases cited by counsel directly address the narrow issue of whether compulsory pooling is limited to owners of mineral interests within the proposed spacing unit (Spur counsel is unaware of any Division or Commission precedent directly on point), none of the cases cited contradict Spur. In fact, all of the cases and citations support Spur's position.

A. Case Nos. 11666 and 11677

Longfellow argues that the Division "adjusted" the working interest ownership percentages in Case Nos. 11666 and 11677 to include contractual interests in its calculation. But Longfellow is wrong about the facts and holding for at least four reasons.

First, the proposed competing wells at issue were vertical wells to be dedicated to a 320-acre gas spacing unit in the E/2 of Section 20. The record makes clear that the proposed competing

[3] At the hearing, Spur testified that it had reached verbal agreement with ConocoPhillips Company to acquire its ownership interest in the spacing unit. That agreement has been finalized. *See* Term Assignment between ConocoPhillips Company and SEP Permian LLC, Effective August 1, 2021, attached as **Exhibit H**. Accordingly, ConocoPhillips' 3.75% working interest increases Spur's working interest in the unit to 50%. In addition, MEC submitted a letter declaring its support for Spur, *see* Spur Exhibit C-4A, putting Spur's total adjusted working interest control in the proposed spacing unit at 50.41667%.

vertical wells were both located entirely within the NE/4 of the section, which was subject to a JOA that only partially overlapped the proposed E/2 spacing unit in the section. This factual circumstance is the same situation in Case No. 10658 addressed in Order No. R-9841 that was discussed in Spur's closing.

In Case No. 10658, the Division held that a JOA effectively committed the JOA parties' interests to a proposed vertical well even though the contract area does not include the entire spacing unit, because the proposed vertical well was located entirely within the contract area where the JOA parties reached agreement and committed their interests. While the record in Case Nos. 11666 and 11677 is not clear about why the Division attributed the interests under the JOA to Yates, the Division may have done so because the proposed vertical wells were entirely within the NE/4 of Section 20, which was within the JOA contract area and therefore, consistent with the Division's approach, effectively committed the JOA interests to the spacing unit.[4] As explained in Spur's closing the Division distinguishes between vertical wells and horizontal wells and holds that JOA parties have not committed their interests to a proposed horizontal well spacing unit that only partially overlaps a JOA contract area. *See* Spur Closing at 10-11. For the same reasons, the Puma and Aid JOA interests cannot be attributed to Longfellow here.

Second, the JOA parties in Case Nos. 11666 and 11677 submitted letters of support as exhibits into the record declaring their support for Yates as operator. *See* Case No. 11677 Yates Exhibit 2.[5] None of the Puma or Aid JOA parties submitted letters of support for Longfellow in these contested cases. The Division thus has no basis to ascribe the contractual interests underlying

[4] *See* Tr. 21:10-14 (stating that the Stonewall operating agreement includes the NE/4 of Section 20) https://ocdimage.emnrd.state.nm.us/Imaging/FileStore/santafeadmin/cf/ada-03-00398%20case%20files/ada-03-00398%2000001-10000/11666_07997.pdf.

[5] https://ocdimage.emnrd.state.nm.us/Imaging/FileStore/santafeadmin/cf/ada-03-00398%20case%20files/ada-03-00398%2000001-10000/11666_08008.pdf.

the Puma and Aid JOAs to Longfellow's control, notwithstanding the fact that Longfellow is the operator for both partially overlapping JOAs.

Third, unlike Case No. 15433 where it is possible to determine from the record the mineral ownership on a tract basis, the record in Case Nos. 11666 and 11677 is unclear whether the JOA parties also owned a leasehold interest in the E/2 spacing unit. The order does state, however, that the 14.765% JOA interest attributed to Yates is "Interest ownership within the spacing unit[.]" *See* Order No. R-10731-B at ¶ 18 (emphasis added). Here, there is no dispute that the JOA contractual interests at issue do not own a leasehold interest, or any other form of a mineral interest ownership, within the proposed spacing unit.

Finally, Longfellow contends that the Division's attribution of a 24.101% ownership interest from a farmout agreement is evidence the Division recognizes contractual interests in compulsory pooling cases and for purposes of determining working interest control. As discussed above, a farmout is an assignment of a working interest property right (i.e., leasehold interest). It thus represents an ownership interest in the mineral estate and is not merely a contractual interest. Farmouts, or Farm-ins, are therefore properly included within the scope of a compulsory pooling order and for purposes of calculating working interest control. In Case Nos. 11666 and 11677, the farmout at issue was an assignment of a portion of the working interest owned in the NE/4 of Section 20 and was entirely within the proposed spacing unit.[6] Longfellow is mistaken in its assertion that attribution of a farmout interest in the calculation of working interest control supports its position.

[6] *See* Tr. 21:10-14 (stating that the "KCS Medallion has obtained a farm-in" from Kerr-McGee's leasehold interest in the NE/4 of Section 20): https://ocdimage.emnrd.state.nm.us/Imaging/FileStore/santafeadmin/cf/ada-03-00398%20case%20files/ada-03-00398%2000001-10000/11666_07997.pdf.

B. Case Nos. 12922 and 12943

Longfellow contends that the Division similarly adjusted the working interest control in Case Nos. 12922 and 12943 to account for contractual interests, but a review of the record reveals that the interests used to calculate working interest control were all "Leasehold Owners." *See* Great Western Exhibit 3;[7] *see also* David H. Arrington Exhibit No. 2.[8] Critically, these cases do not deal with the circumstance where there is a partially overlapping JOA at all. Therefore, inclusion of contractual interests in compulsory pooling and for purposes of calculating working interest control was not even an issue addressed in the proceedings or the resulting order. Longfellow appears to have relied on the use of the phrase "adjusted working interest control" in Order No. R-11869 without first undertaking a review of the facts to determine how that expression was being applied. The record clearly reflects that contractual interests were not at issue in the case, and only leasehold owners were subject to pooling and considered for purposes of calculating working interest control.

C. Case No. 15433: The Matador Case

Longfellow misapprehends the significance of the Division's ruling in Order No. R-14140 that a partially overlapping JOA does not constitute an agreement of the parties to pool their production within a proposed horizontal well spacing unit. *See* Resp. at 7-8. In the simplest terms, it means that a partially overlapping JOA does not constitute a commitment of the parties to a proposed horizontal well spacing unit. That means the contractual interests derived from the partially overlapping Puma and Aid JOAs that Longfellow seeks to include in its working

[7] https://ocdimage.emnrd.state.nm.us/Imaging/FileStore/santafeadmin/cf/ada-03-00448%20case%20files%20two/ada-03-00448%200001-9715/12922_8452.pdf.

[8] https://ocdimage.emnrd.state.nm.us/Imaging/FileStore/santafeadmin/cf/ada-03-00448%20case%20files%20two/ada-03-00448%200001-9715/12922_8469.pdf.

interest control calculation cannot be attributed to Longfellow because they have not committed their interests.

As discussed above when addressing Case Nos. 11666 and 11677, the Puma and Aid JOA contractual interests have not committed to the 480-acre spacing unit via the partially overlapping JOAs, but also have not separately committed their interests by executing a new JOA for the 480-acre spacing unit with Longfellow as operator nor have they submitted a letter declaring support for Longfellow. Setting aside the fact that the contractual interests are not subject to compulsory pooling and, therefore, should not be included in determining working interest control, the Division has no basis to attribute the Puma and Aid contractual interests to Longfellow in this case.

Skipping over this dispositive problem, Longfellow contends that the fact that the Puma and Aid JOA contractual interests remain uncommitted supports their position that such interests must be force pooled. Resp. at 8. This contention contradicts the express language of the Oil and Gas Act, which limits compulsory pooling to owners of a mineral interest. *See*, *supra*. Longfellow cites to the standardized language of pooling orders—that they "pool[] all uncommitted interests, whatever they may be"—but ignores the fact that the orders limit pooling to interests in the underlying oil and gas within the unit. *See* Order No. R-14140 at ¶ 22. Contractual interests do not own an interest in the underlying oil and gas minerals. Longfellow also ignores the long history through which the Division's ordering language has evolved but is nevertheless tied to and limited by the controlling language of the Oil and Gas Act. *See* Spur Closing at 9 (citing orders from oldest to most recent). Only owners of a mineral interest are subject to compulsory pooling.

CONCLUSION

For the reasons stated, the Division should approve Spur's application, designate Spur operator of the proposed horizontal spacing unit, and deny Longfellow's competing application.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2021, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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EXHIBIT H

TERM ASSIGNMENT

STATE OF NEW MEXICO

COUNTY OF EDDY

THIS TERM ASSIGNMENT ("***Assignment***"), effective as of August 1st, 2021, at 7:00 a.m. local time at the location of the Property ("***Effective Time***"), is between ConocoPhillips Company, a Delaware corporation ("***Assignor***"), with a mailing address of 16930 Park Row Drive, Houston, Texas 77084, and SEP Permian LLC, a Delaware limited liability company ("***Assignee***"), with offices and mailing address of 9655 Katy Freeway, Suite 500, Houston, Texas 77024.

FOR SUFFICIENT CONSIDERATION, the receipt of which is hereby acknowledged, subject to the exclusions, reservations and other limitations and matters herein, Assignor hereby GRANTS, CONVEYS, and ASSIGNS to Assignee, WITHOUT COVENANT, REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS, STATUTORY, OR IMPLIED, AS TO DESCRIPTION, TITLE, CONDITION, QUALITY, OR OTHERWISE, for the term set out herein, all of Assignor's present undivided oil, gas and other mineral leasehold interests in and to the following:

(a) the Oil, Gas and Mineral Leases described in Exhibit "A" attached hereto and made a part hereof by reference *only insofar as* the leases cover the Yeso Formation in the lands described in Exhibit "A," and any amendments, extensions, acreage designations, ratifications, and/or partial releases affecting such leases, whether or not such instruments are described on Exhibit "A", together with all rights and interests attributable or allocable to those interests, (collectively,"***Leases***"). The term "Yeso Formation" means the stratigraphic equivalent of the following interval: from 3,380' MD (top) through 5,533' MD (base) as observed on the Schlumberger WELCH RL STATE #10 [API 30-015-20586] Dual Induction-Laterolog, located in Township 17 South, Range 28 East, Section 28, Eddy County, New Mexico;

(b) All rights, privileges, benefits and powers with respect thereto and use and occupancy of the surface, including rights of ingress and egress, and subsurface depths under the surface covered thereby which are necessary or incidental to possession and enjoyment thereof or any interest therein under the terms of the Leases applicable thereto; and

(c) all contracts, agreements, or instruments by which any of the Leases are bound or subject, or that directly relate to or are otherwise directly applicable to any of the Leases, including but not limited to those described on Exhibit "C", in each case limited as described on Exhibit "C", and only to the extent applicable to the Leases (together with the Leases, the "***Assigned Interests***").

SAVE AND EXCEPT the following (collectively, the "***Excluded Assets***"):

(a) all overriding royalty interest, net profits interests, or other non-cost bearing interests owned by Assignor in the Assigned Leases;

(b) all wellbores on the Leases, including the wellbores described in Exhibit "B" ("***Excluded Wells***") and all associated equipment, flowlines, and facilities located on the lands covered by the Leases deemed necessary or convenient for continued operations, development of, or production from the Excluded Wells;

(c) all oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons and other marketable substances ("***Hydrocarbons***") produced from or attributable to the Excluded Wells;

(d) sufficient rights under the Leases to produce the Excluded Wells under the applicable state and federal rules and regulations and to operate, maintain, and plug and abandon any Excluded Well, and all lands and depths covered by the Leases that are not described on Exhibit "A";

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(e) all contracts, agreements, or instruments by which the Excluded Wells are bound or subject, or that directly relate to or are otherwise applicable to any Excluded Well, to the extent applicable to the Excluded Wells;

(f) equal and concurrent access to the surface of the lands covered by the Leases, in accordance with the terms of the Leases and applicable law, for ingress and egress to operate, maintain, rework, or plug and abandon any Excluded Well, to explore for and develop other horizons not assigned herein, and to perform other functions reasonably necessary in connection therewith;

(g) all audit rights, claims, rights and causes of action of Assignor arising under or with respect to any of the Assigned Interests that are attributable to the period of time prior to the Effective Time (including any claims for refunds, credits or rebates);

(h) all geophysical and other seismic and related technical data and information relating to the Assigned Interests to the extent that such geophysical and other seismic and related technical data and information is not transferable without payment of a fee or other penalty, and

(i) all other interests not expressly assigned hereby, including the rights of ingress and egress, and such other rights and easements under and by virtue of the Assigned Interests, including the concurrent use of water, as may be necessary or desirable to explore, develop, rework or operate the Excluded Assets;

(the Assigned Interests, save and except the Excluded Assets, the "***Property***").

Assignor additionally reserves an overriding royalty interest on all Hydrocarbons produced from or attributable to the Property equal to the positive difference, if any, between 20% of 8/8ths and Lease Burdens on each of the Leases ("***Reserved ORRI***") subject to the following:

(a) **Lease Burdens.** As used in this Assignment, "***Lease Burdens***" means those burdens on Assignor's leasehold interest in the Leases that are payable out of production from the Leases, including royalties, overriding royalties, and production payments. The Lease Burdens used to calculate the Reserved ORRI are only those burdens that are in effect and filed in the records of Eddy County, New Mexico as of the Effective Time and not covered in (d) below. If any Lease Burdens are terminated or expire after the Effective Time, the burdens used to calculate the Reserved ORRI will be decreased accordingly.

(b) **Calculation of Reserved ORRI Value**. The value of the Reserved ORRI will be calculated based on Gross Proceeds, but will bear its proportionate share of any gross production or severance taxes. "***Gross Proceeds***" means the total monies and other consideration accrued from the first disposition of Hydrocarbon production from the Leases to a purchaser that is unaffiliated with Assignee, but not less than the market value at the point of that first disposition.

(c) **Proportionate Reduction**. The Reserved ORRI will be proportionately reduced to the extent (i) the Leases cover less than the full fee mineral estate in the lands covered thereby, or (ii) the interest in the Leases assigned by this Assignment is less than the full leasehold estate in the Leases.

(d) **Extensions, Renewals, and New Leases**. The Reserved ORRI will burden any extension, renewal, or new lease covering any of the lands and depths described herein (a "***Replacement Lease***") obtained by Assignee or any of its affiliates, their successors or assigns ("***Successor Assignee***") within 12 months after the release, expiration, surrender, or termination of any Lease ("***Expiration Date***"), provided that the Expiration Date occurs within the time period permitted by the rule against perpetuities as applied under Texas law as of the Effective Time. If Assignee or Successor Assignee obtains a Replacement Lease within such time period, Assignee or Successor Assignee shall deliver to Assignor, or its successor in interest to the Reserved ORRI, a recordable assignment of overriding royalty interest on all Hydrocarbons produced from or attributable to the Replacement Lease equal to the positive difference, if any, between 20% of 8/8ths and Lease Burdens on such Replacement Lease.

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(e) **Pooling and Unitization**. If any of the Leases and the lands covered thereby are pooled or unitized with other lands or leases in accordance with the authority granted by those Leases or otherwise, Assignor shall be entitled to receive the portion of the Reserved ORRI that accrues to the Leases pursuant to the applicable pooling or unit agreement. If such pooling or unitization occurs, the applicable Reserved ORRI shall be proportionately reduced based upon the proportion that the number of acres of land covered by each Lease within such unit bears to the total number of acres in such unit.

(f) **Payment Terms**. Assignee shall pay any proceeds attributable to the Reserved ORRI directly to Assignor within 90 days after the first sales of the Hydrocarbons from the Leases, and thereafter, no more than 60 days after the end of each production month. All late payments will bear interest at the highest rate allowed by law. Assignee shall deliver, or cause to be delivered, all payments to 22295 Network Place, Chicago, IL 60673-1222, or to such other location as may be designated by Assignor. Assignor shall have the right, at its sole expense and during normal business hours, to audit all records of Assignee relating to Reserved ORRI at any time from the Effective Time until one year following termination of this Assignment in whole or part.

TO HAVE AND TO HOLD the Properties, subject to the foregoing exclusions, limitations, reservations, and the following terms and conditions:

1. Term of Assignment. This Assignment is effective for a term of three (3) years from the Effective Time ("***Primary Term***") and for so long thereafter as oil or gas is produced in paying quantities from the lands covered by the Leases (or lands validly pooled therewith) unless otherwise maintained in effect pursuant to the provisions hereof. Upon termination of this Assignment, in whole or in part, the Property, or terminated portion thereof, will automatically revert to Assignor.

2. Continuous Development.

(a) If at the expiration of the Primary Term, Assignee is not conducting actual drilling operations on the Properties (or lands validly pooled therewith), but has completed a well on the Properties (or lands validly pooled therewith) prior to the expiration of the Primary Term, this Assignment shall remain in full force and effect for so long as actual drilling operations on an additional well are commenced on the Properties (or lands validly pooled therewith) within one hundred and eighty (180) days following the expiration of the Primary Term and this Assignment shall continue in force for so long thereafter as Continuous Development is conducted.

(b) At expiration of the Primary Term, if no producing well has been completed on the Leases (or lands validly pooled therewith), but Assignee is engaged in actual drilling, completion, or equipping operations on the Leases (or lands validly pooled therewith), this Assignment will remain in full force and effect as to all lands described on Exhibit 'A" as to each Lease for so long as such operations continue to completion or abandonment with no cessation of more than sixty (60) consecutive days and for so long thereafter as Assignee conducts Continuous Development.

(c) If at anytime after the expiration of the Primary Term, or the time periods provided in (a) or (b) above, whichever is the latter, Assignee fails to conduct or ceases conducting Continuous Development, this Assignment will automatically terminate as to any portion of any Lease not then included within a Retained Tract on which there is at least one well producingHydrocarbons in paying quantities. Thereafter, each Retained Tract must be maintained separately by production of Hydrocarbons in paying quantities, provided however, if production of Hydrocarbons in paying quantities from a Retained Tract ceases, Assignee may extend this Assignment as to such Retained Tract by (i) re-establishing production in paying quantities, or (ii) commencing actual drilling or reworking operations on a well within that Retained Tract, in either case before the end of ninety (90) days after such cessation of production in paying quantities.

(d) As used in this Assignment, the following terms have the meanings indicated:

i. "***Continuous Development***" means that no more than one hundred and eighty (180) days elapse between (i) the completion or abandonment of one well anywhere on the

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lands described in Exhibit "A" or pooled therewith; and, (ii) the commencement of actual drilling operations on another well situated on lands described in Exhibit "A" or pooled therewith.

ii. "***Completion or abandonment of a well***" means the date the drilling rig is released.

iii. "***Retained Tract***" means the number of acres that Assignee may allocate to a well to produce full allowable under a drilling, spacing or proration unit as approved by the applicable governmental regulations adopted by a body having jurisdiction for the production of oil or gas under the Leases.

3. Indemnities and Assumption of Obligations and Condition of the Properties.

(a) ASSIGNEE SHALL FULLY **PROTECT, INDEMNIFY AND DEFEND** ASSIGNOR, ITS OFFICERS, AGENTS AND/OR EMPLOYEES AND HOLD THEM HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, DEMANDS, SUITS, CAUSES OF ACTION, AND LIABILITIES (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) RELATING TO INJURY OR DEATH OF ANY PERSON OR PERSONS WHOMSOEVER, AND DAMAGE TO OR LOSS OF PROPERTY OR RESOURCE TO THE EXTENT CAUSED BY ASSIGNEE'S OWNERSHIP OR OPERATION OF THE PROPERTIES, OR ANY PART THEREOF, ACCRUING DURING THE TERM OF THIS ASSIGNMENT.

(b) ASSIGNOR SHALL FULLY **PROTECT, INDEMNIFY AND DEFEND** ASSIGNEE, ITS OFFICERS, AGENTS, AND/OR EMPLOYEES AND HOLD THEM HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, DEMANDS, SUITS, CAUSES OF ACTION, AND LIABILITIES (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) RELATING TO INJURY OR DEATH OF ANY PERSON OR PERSONS WHOMSOEVER, AND/OR DAMAGE TO OR LOSS OF PROPERTY OR RESOURCE, EXCEPT AS SPECIFICALLY SET OUT IN PARAGRAPH 3(C) BELOW, TO THE EXTENT CAUSED BY ASSIGNOR'S OWNERSHIP OR OPERATION OF THE EXCLUDED ASSETS. ASSIGNOR'S INDEMNITY OBLIGATIONS PROVIDED IN THIS ASSIGNMENT SHALL NOT APPLY TO ANY EXCLUDED ASSET THAT IS SUBJECT TO AN OPERATING AGREEMENT EXECUTED BY THE PARTIES OR THEIR PREDECESSORS.

(c) ASSIGNEE SHALL TIMELY PERFORM AND DISCHARGE ALL DUTIES AND OBLIGATIONS AS THE OWNER OF THE PROPERTIES, INCLUDING BUT NOT LIMITED TO: RESTORATION OF THE SURFACE, ENVIRONMENTAL AND POLLUTION CLEAN UP, PLUGGING AND ABANDONMENT OF ANY AND ALL WELLS OPERATED AND/OR DRILLED BY ASSIGNEE ON THE PROPERTIES, AND ASSIGNOR SHALL INCUR NO LIABILITY FOR ASSIGNEE'S FAILURE TO PROPERLY PERFORM AND DISCHARGE SUCH DUTIES AND OBLIGATIONS. IN ADDITION TO ASSIGNEE'S INDEMNITY UNDER PARAGRAPH 3(A), ASSIGNEE SHALL FULLY **PROTECT, INDEMNIFY, DEFEND AND HOLD ASSIGNOR,** ITS OFFICERS, AGENTS AND/OR EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS FOR POLLUTION AND/OR ENVIRONMENTAL DAMAGE OF ANY KIND (INCLUDING WITHOUT LIMITATION ANY LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, 42 U.S.C. §9601 ET SEQ. AS THE SAME MAY BE AMENDED), AND ANY FINES OR PENALTIES ASSESSED ON ACCOUNT OF SUCH DAMAGE CAUSED BY OR ARISING OUT OF ASSIGNEE'S OWNERSHIP OR OPERATIONS CONDUCTED ON THE PROPERTIES DURING THE TERM OF THIS ASSIGNMENT, REGARDLESS OF WHEN SUCH CLAIMS ARE ASSERTED AND REGARDLESS OF ASSIGNOR'S NEGLIGENCE OR FAULT IMPOSED BY STATUTE, RULE OR REGULATION OR STRICT LIABILITY OF ASSIGNOR, ITS OFFICERS, AGENTS AND/OR EMPLOYEES. **ASSIGNEE ACKNOWLEDGES AND AGREES THAT THIS PROVISION COMPLIES WITH THE EXPRESS NEGLIGENCE RULE.**

4. Leases and Contracts. This Assignment is subject to all terms, covenants and conditions and Lease Burdens and encumbrances on the Leases and all other agreements covering the Properties as of the Effective Time. Assignee acknowledges it has received a copy of each agreement covering the Properties, including but not limited to those described on Exhibit "C" hereto.

EXHIBIT H

Assignee shall perform all covenants and obligations of Assignor under the Leases and agreements, including, but not limited to the payment of delay rentals, minimum royalties and shut-in royalties. ASSIGNOR SHALL NEVER HAVE OR BE UNDER ANY DUTY OR OBLIGATION OR LIABILITY WHATEVER, EXPRESSED OR IMPLIED, EITHER TO PROTECT OR PRESERVE THE LEASES IN WHOLE OR IN PART OR PARTS BY PAYMENT OF DELAY RENTALS, MINIMUM ROYALTIES OR SHUT-IN ROYALTIES OR OTHERWISE TO MAINTAIN OR MARKET ANY PRODUCTION THEREFROM OR TO CONDUCT, OR CAUSE TO BE CONDUCTED, ANY OPERATION OR OPERATIONS ON ANY TRACT OR TRACTS OF LAND COVERED OR AFFECTED IN WHOLE OR IN PART BY THE LEASES OR INCLUDED IN ANY UNIT OR POOLED AREA IN WHICH THE SAME OR ANY PART THEREOF MAY BE INCLUDED. Assignee shall promptly record this Assignment in Eddy County, New Mexico, and shall promptly furnish Assignor with all pertinent recording data.

5. Observance of Laws. This Assignment is subject to all applicable laws, ordinances, rules and regulations affecting the Properties, and Assignee shall comply with the same and shall promptly obtain and maintain all permits required by governmental authorities in connection therewith.

6. Investment Representation. Assignee represents and certifies that it is acquiring the Properties for its own account, for use in its trade or business or for investment, and with no present intention of making a distribution thereof within the meaning of the Securities Act of 1933, as amended. Assignee shall notify Assignor promptly of any federal and/or state securities law(s) or Federal Trade Commission filing requirements and/or any other disclosure requirements to which it believes it may be subject.

7. Assignment. Assignee shall not assign, sell, transfer, mortgage, hypothecate or otherwise alienate the Properties without the express prior written consent of Assignor.

8. Reassignment.

(a) Except as may be required under applicable law, Assignee shall: (i) not surrender, let expire, abandon or release the Leases or any portion thereof; (ii) perform all that may be reasonably necessary to maintain the interests of both Assignor and Assignee in the Properties and all or any part thereof. Notwithstanding the foregoing, Assignor may refuse and reject any proposed reassignment of wells drilled by Assignee during the term of this Assignment for any reason whatsoever. In such event, Assignee shall retain all liability to plug and abandon such rejected well under applicable law at its sole cost, risk, and expense. If Assignor accepts a reassignment hereunder, Assignor shall pay to Assignee the reasonable salvage value of any materials and equipment it desires to acquire from Assignee, but otherwise the transaction shall be without cost to Assignor.

(b) Within thirty (30) days after a partial or complete termination of this Assignment under the provisions of Paragraphs 1 or 2 hereof, Assignee shall execute, record and deliver to Assignor a reassignment, in a form mutually acceptable to Assignee and Assignor, of all applicable Properties within thirty (30) days after termination of this Assignment in whole or part. If Assignee fails to execute, record and deliver to Assignor any reassignment required hereunder within the thirty (30) day period, Assignor may unilaterally prepare and execute an instrument describing such automatic termination of Assignee's interests in all or the portions of the Properties affected, as applicable. Assignee agrees to reimburse Assignor for all costs incurred by Assignor associated with preparing and filing such instrument of record.

9. No Partnership Created. This Assignment is not intended to create, nor shall it be construed as creating, a joint venture, partnership, or any type of association; and parties hereto are not authorized to act as agent or principal for each other with respect to any matter related hereto.

10. Pooling and Unitization. Assignee shall obtain Assignor's written consent prior to forming any unit covering any portion of the lands covered by the Leases, which consent shall not be unreasonably withheld, delayed, or conditioned. Assignee shall obtain any consent that may be required from mineral and/or royalty owners for the formation of any unit including the Leases. To the extent that Assignee fails to obtain such consent, Assignee alone shall bear any additional burdens on production, and any other obligations or liabilities, resulting from such failure

EXHIBIT H

("***Assignee Burden***"). Assignee shall not reduce the Reserved ORRI as a reslt of any Assignee Burden.

11. Notices. All notices and other communications required, permitted, or desired to be given hereunder must be in writing and sent by either: (i) registered or certified U. S. Postal Service (return receipt requested), or (ii) overnight courier, each properly addressed and with all postage or charges fully prepaid. Any notice shall be deemed given when actually received (except Saturdays, Sundays, or holidays) by the party to whom addressed. Except as specifically provided herein, all notices relating to this Assignment shall be delivered to the following addresses:

Assignor:

ConocoPhillips Company
Attn: Land Supervisor
Delaware Basin West North
600 W. Illinois Ave.
Midland, Texas 79701

Assignee:

SEP Permian LLC
9655 Katy Freeway, Suite 500
Houston, Texas 77024
ATTN: Land Department
(832) 930-8502

12. Governing Law. THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEW MEXICO, EXCLUDING ANY CHOICE OF LAW RULES THAT WOULD REFER THE INTERPRETATION OF THIS ASSIGNMENT TO THE LAWS OF ANOTHER JURISDICTION.

13. Successors and Assigns. The terms, covenants and conditions hereof bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns and are covenants running with the Properties, and with each transfer or assignment thereof or any portion thereof. All future conveyances of any portion of the Properties shall recognize and perpetuate the rights and obligations set out herein.

14. Entirety and Amendments. This Assignment constitutes the entire agreement between the parties with respect to the matters herein and the Properties, notwithstanding any prior oral or written promise or understanding to the contrary. This Assignment cannot be amended without the agreement thereto in writing by Assignor and Assignee.

[SIGNATURE PAGE FOLLOWS.]

EXHIBIT H

EXECUTED on the respective dates of the parties' acknowledgement, but effective as of the Effective Time.

ASSIGNOR

CONOCOPHILLIPS COMPANY

By: _____
Name: Steven R. Ellington
Its: Attorney-in-fact

ASSIGNEE

SEP PERMIAN LLC

By: _____
Name: Paul R. Eschete
Title: Executive Vice President, Land

EXHIBIT H

ACKNOWLEDGEMENTS

STATE OF TEXAS

COUNTY OF MIDLAND

This foregoing instrument was acknowledged before me this 17 day of Aug 2021, by Steven L. Ellington Attorney-in-Fact of ConocoPhillips Company, a Delaware corporation, on behalf of said corporation.

My Commission Expires: 3/27/2023

Kayla L Hale
Notary Public, State of Texas
Notary ID 12605371-3
My Commission Exp. 03-27-2023

Kayla L. Hale
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me this 17 day of Aug, 2021, by Paul R. Eschete, as Executive Vice President, Land of SEP Permian LLC, a Delaware limited liability company, on behalf of said limited liability company.

My Commission Expires: 05/15/2023

VICTORIA MADISON HERTENBERGER
Notary Public, State of Texas
Comm. Expires 05-15-2023
Notary ID 132014452

NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT "A"
CONOCOPHILLIPS OIL, GAS AND MINERAL LEASES
Attached to that Term Assignment, effective August 1, 2021, by and among ConocoPhillips Company and SEP Permian, LLC.

Lease:

Lease Number	Lessor	Lessee	Legal Description	County	State	Lease Date	Exp. Date	Book Number	Page Number
160908000	STATE OF NEW MEXICO XO 647-387	MARTIN YATES JR.	SEC 29: NWNW, T17S, R28E	EDDY	NM	9/25/1922	11/14/1932	N/A	N/A
160897000	STATE OF NEW MEXICO B-4456-15	MANUEL A. SANCHES	SEC 14: S2NE, T17S, R28E	EDDY	NM	6/10/1935	6/10/1945	N/A	N/A
N/A	STATE OF NEW MEXICO B-7966-024	H.F. MCKENNEY	SEC 31: SESW, T17S, R28E	EDDY	NM	1/10/1939	1/10/1944	N/A	N/A
N/A	STATE OF NEW MEXICO B-2071-032	FOREST E. LEVERS	SEC 31: W2SE, T17S, R28E	EDDY	NM	8/10/1933	8/10/1938	N/A	N/A

EXHIBIT H

EXHIBIT "B"

CONOCOPHILLIPS EXCLUDED WELLS

Attached to that Term Assignment, effective August 1, 2021, by and among ConocoPhillips Company and SEP Permian, LLC.

FULLY EXCLUDED:

Wells:				
Well Name	**API**	**Operator**	**County**	**State**
PUMA #001	3001534461	LONGFELLOW ENERGY, LP	EDDY	NM

EXHIBIT H

EXHIBIT "C"
CONOCOPHILLIPS CONTRACTS
Attached to that Term Assignment, effective July 1, 2021, by and among ConocoPhillips Company and SEP Permian, LLC.

Contracts:				
INSOFAR AND ONLY INSOFAR as the agreements cover the lands described in the Legal Description column on Exhibit A:				
COP Contract Number	**Contract Description**	**County**	**State**	**Agreement Date**
200909	EXPLORATION AGREEMENT DATED EFFECTIVE NOVEMBER 1, 2004, BY AND BETWEEN CONOCOPHILLIPS COMPANY AND MAGNUM HUNTER PRODUCTION, INC.	EDDY	NM	11/1/2004
101598	OPERATING AGREEMENT DATED MARCH 31, 1953, BY AND BETWEEN V.S. WELCH AND BUFFALO OIL COMPANY	EDDY	NM	3/31/1953
202544	OPERATING AGREEMENT DATED DECEMBER 14, 2005, BY AND BETWEEN MURCHISON OIL & GAS, INC., AND MEC PETROLEUM, ET AL	EDDY	NM	12/14/2005

EXHIBIT H