

- Jicarilla Apache Tribe

- Minerals Development
Agreement
No. 701-98-0013

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Exhibit D

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JICARILLA APACHE MINERALS DEVELOPMENT
AGREEMENT

No. 701-98-0013

MALLON OIL COMPANY

Township 28 North, Range 2 West
Sections 1-18, 21-24

Township 29 North, Range 2 West
Sections 4-9, 15-23, 26-36

Township 29 North, Range 3 West
Sections 1-2, 11-14, 24

Township 30 North, Range 3 West
Sections 25, 27, E/2 28, 33-36

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THIS AGREEMENT, made and entered into this 27 day of May, 1998, on the Jicarilla Apache Reservation at Dulce, New Mexico, by and between the Jicarilla Apache Tribe acting by and through its Tribal Council (hereinafter referred to as "Tribe") and Mallon Oil Company, a Colorado corporation, whose address is 999 18th Street, Suite 1700, Denver, CO, 80202, (hereinafter referred to as "Operator").

W I T N E S S E T H

WHEREAS, the United States of America is Trustee for the Tribe and as such holds legal title to all lands and mineral rights of the Tribe within the lands described in this Agreement; and

WHEREAS, the Tribe holds equitable title to all lands and mineral rights described in this Agreement; and

WHEREAS, the Tribe warrants that the lands covered by this Agreement are not presently subject to any oil and gas leases, coalbed gas leases, coal leases or other agreements for the exploration and development of oil, gas, coalbed gas, or coal; and

WHEREAS, the Tribe desires to explore, develop, produce, and sell oil, gas, coalbed gas and related hydrocarbons which may be found in the lands covered by this Agreement; and,

WHEREAS, Operator possesses the requisite knowledge, expertise, equipment and finances to carry out the exploration, development and production of Hydrocarbons on behalf of the Tribe; and

NOW, THEREFORE, in consideration of the terms, conditions, promises and Agreement as contained herein and to be kept and performed the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Contract Area means all of the following sections of land located in Rio Arriba County, New Mexico:

Township 28 North, Range 2 West
Sections 1-18, 21-24

Township 29 North, Range 2 West
Sections 4-9, 15-23, 26-36

Township 30 North, Range 3 West
Sections 25, 27, E/2 28, 33-36

Tract 1:	<u>Township 30 North, Range 3 West:</u>	Sections 27, E/2 28, 33-35
	<u>Township 29 North, Range 3 West:</u>	Sections 2, 11-14, 24
	<u>Township 29 North, Range 2 West:</u>	Sections 17-20, 30
Tract 2:	<u>Township 29 North, Range 2 West:</u>	Sections 27-29, 31-34
	<u>Township 28 North, Range 2 West:</u>	Sections 3-9, 17, 18
Tract 3:	<u>Township 29 North, Range 2 West:</u>	Sections 35, 36
	<u>Township 28 North, Range 2 West:</u>	Sections 1, 2, 10-16, 21-24
Tract 4:	<u>Township 30 North, Range 3 West:</u>	Sections 25, 36
	<u>Township 29 North, Range 2 West:</u>	Sections 4-9, 15, 16, 21-23, 26
	<u>Township 29 North, Range 3 West:</u>	Section 1

1.5 Secretary means the Secretary of the Interior of the United States of America or his duly authorized representative.

1.6 Oil and Gas Administrator means the individual designated by the Jicarilla Apache Tribe as chief administrator of the Oil and Gas Administration, or its successor agency.

1.7 Commence means the spudding of a well with a rig capable of drilling to the depth required by this Agreement.

1.8 Production in Paying Quantities means production of Hydrocarbons sufficient, over any six (6) month period, to yield a profit, after direct operating costs and lease rentals or minimum royalties are paid, but excluding drilling, completion and recompletion, reworking or equipment costs; Provided that, a well shall be deemed to be producing in paying quantities during any period in which the well is shut-in in conformity with paragraph 7.8, or in which Operator is prudently engaged in dewatering activity designed to produce Hydrocarbons.

1.9 Payout Amount means One Hundred Twenty-Five Percent (125%) of the actual and reasonable cost paid by Operator to drill, test, complete and equip for production a well drilled under this Agreement. The Payout Amount shall be calculated separately for each Earning Well and shall not include any dry hole costs or any otherwise allowable cost that is incurred more than thirty days after the completion date of the well as reported on BLM Form 3160-4. Payout Amount shall not include seismic costs or any costs of the amine plant operated by Mallon Oil Company in Section 17, Township 30 North, Range 3 West for extracting H₂S from natural gas. Payout Amount shall include the cost of constructing an oil pipeline from the wellhead to the tank battery and a gas line not to exceed 2,500 feet in length from the wellhead to the meter or the main tie-in whichever is the lesser distance, but no other pipelines. The following expenses shall be deducted from eight-eighths of gross proceeds from the sale of production from the well in order to determine when Operator has recovered the Payout Amount: royalty paid to the Tribe, taxes paid to the Tribe on production from the well, and taxes paid to the Tribe on the value of production equipment at the well. The following expenses shall not be deducted from revenue for purposes of Payout: any taxes paid to the state of New Mexico, operating expenses, expenses incurred in placing production in marketable condition and expenses incurred in marketing production. Operator shall furnish the Tribe a statement of the status of the payout account for each well within sixty days from the date of the completion of the well and thereafter on a quarterly basis.

1.10 Exploratory Well means a well drilled at least one mile away from any other well drilled by the Operator within that tract.

ARTICLE 2
EXPLORATION AND PRODUCTION RIGHTS

2.1 The Tribe hereby grants to the Operator the exclusive right and privilege to explore for, drill for, develop, produce and sell Hydrocarbons from any geologic formation from the surface down to the base of the Pictured Cliffs formation (the stratigraphic equivalent of the depth of 3,892 feet as found in the Sunray DX #1 Jicarilla Well in the NWNW Sec. 34-T30N-R3W) within the Contract Area during the term of this Agreement, except as otherwise limited in this Agreement. Notwithstanding the foregoing sentence, the Tribe shall retain the right to conduct or authorize any third party to conduct seismic surveys on or through the Contract Area without compensation to the Operator, upon reasonable notice to the Operator.

2.2 The Tribe further grants the Operator the right to construct, maintain and use within the Contract Area all works, buildings, plants, waterways, roads, telegraph and telephone lines, utility lines, pipelines, reservoirs, tanks, pumping stations, or other structures necessary or desirable to effectuate the purposes of this Agreement, along with the right of ingress and egress to and from the Contract Area and rights of way for passage over the Contract Area, subject to Operator's obtaining all permits and approvals required by the laws of the Jicarilla Apache Tribe, which permits and approvals will not be unreasonably withheld. The Tribe reserves the right to occupy and lease the Contract Area for any lawful purpose not inconsistent with Operator's rights under this Agreement.

ARTICLE 3
COMPLIANCE WITH FEDERAL AND TRIBAL REQUIREMENTS

3.1 Archaeological and Environmental Rules. The Operator shall be responsible for complying with all tribal and federal rules, regulations, permits, and laws including but not limited to those pertaining to archaeological and environmental matters.

3.2 Governing Law. The rights and the obligations of the parties shall be governed exclusively by the laws of the Jicarilla Apache Tribe and the laws of the United States of America, specifically including the Indian Mineral Development Act of 1982, 25 U.S.C. 2101 *et seq.*, and applicable regulations pertaining thereto. Operator agrees that the performance of this Agreement within the Jicarilla Apache Reservation is subject to the supervision, monitoring and regulations of the Bureau of Land Management (BLM), the Bureau of Indian Affairs (BIA), the Minerals Management Service (MMS) and any other existing or successor agency of the United States government with jurisdiction over Operator's performance of this Agreement. Any matter not subject to exclusive regulation by the United States government shall be subject to regulation by the Tribe. Operator agrees to strictly observe all tribal laws and regulations, unless specifically waived by the Tribal Council or its delegated agency. Operator shall comply with the Oil and Gas Environmental Ordinance of the Tribe prior to commencement of operations and, with

respect to any well plugged and abandoned by it hereunder restore the surface pursuant to BLM or BIA operating regulations.

3.3 Permits and Licenses. The Operator shall obtain such permits and licenses as may be required by applicable tribal and federal jurisdictions for the exploration, development, production and sale of all Hydrocarbons and any related activity including the production or disposal of produced water.

3.4 Successors. The covenants and agreements contained in this Agreement shall extend to and be binding upon the successors and assignees of the parties to this Agreement. While the lands of the Tribe are in trust or restricted status, all of the obligations of the Operator under this Agreement are to the United States as well as to the Tribe.

3.5 Termination of Federal Trust Responsibilities. Nothing contained in this Agreement shall operate to delay or prevent a termination of federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the Agreement; however, such termination shall not serve to abrogate this Agreement. The Operator shall be notified of any such change in the status of the land.

3.6 Illegal Conduct. The Operator agrees that it will not use or cause to be used any part of the Contract Area for any unlawful conduct or purpose and will take all reasonable measures to prevent any unlawful conduct by any of its employees or subcontractors.

3.7 Corporate Charter. The Operator shall supply the Tribe and the BIA with a copy of its corporate charter and a statement evidencing the authority of its officers or principals to execute this Agreement.

3.8 Members of Congress. No member of or delegate to Congress or Resident Commissioner shall participate in any share or part of this Agreement or in any benefit that may arise herefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.

3.9 Violations. Violations of this Agreement shall be acted upon by the Secretary in accordance with the Indian Mineral Development Act of 1982, and any regulations or guidelines promulgated thereunder, and any other applicable federal statutes and regulations. Enforcement of any federal statute or regulation shall not bar the Tribe from enforcing any applicable Tribal ordinance or regulation.

3.10 Liens. Operator will not allow any mechanic's or materialman's lien or judgment to be placed against tribal property which becomes subject to this Agreement; provided, however, Operator shall not be deemed in violation of this paragraph so long as it is diligently contesting such lien or judgment or has made adequate provision to pay

same in the event such lien or judgment is determined to be valid. Provided further, however, the foregoing provisions of this paragraph shall not apply to the interests granted to Operator hereunder which do not involve title to any tribal property hereunder, and nothing in paragraph 3.10 shall be deemed to prohibit Operator or any other working interest owner in the Contract Area from using its interests under this Agreement as security for loans to finance operations under this Agreement.

ARTICLE 4 WORK OBLIGATIONS OF OPERATOR

4.1 Development Plan. Within ninety (90) days after the Effective Date, the Operator shall file with the Tribe an initial development plan as to specific well sites and pipelines, along with an environmental plan and shall provide a copy of the plans to the BLM and the BIA. On each anniversary of the Effective Date the Operator shall submit a current development plan and environmental plan for the proposed operations during the succeeding contract year.

4.2 Drilling and Completion of Initial and Succeeding Wells.

4.2.1 Initial Test Wells. Within twelve months after the Effective Date Operator shall commence drilling of six initial test wells within the Contract Area at locations approved by the Oil and Gas Administrator. All six initial test wells shall be Exploratory Wells. One initial test well shall be located on each Tract within the Contract Area. The remaining two initial test wells shall be located within the Tract or Tracts selected by Operator. Operator shall submit to the Tribe and the BLM its applications for permission to drill the initial test wells within one hundred twenty days after the Effective Date of this Agreement. Operator shall continue its drilling operations with reasonable diligence to a depth sufficient to test the Pictured Cliffs formation in each of the six initial test wells for hydrocarbons capable of production in paying quantities. If Operator does not drill all six of the initial test wells as provided in this paragraph, and within the time required by this paragraph, Operator shall forfeit all rights in the Contract Area, including any lands within the spacing unit assigned to any wells actually drilled.

4.2.2 Continuous Development Program.

4.2.2.1 Phase One: Upon completion of the drilling requirements of paragraph 4.2.1 Operator shall have the option to commence the first phase of a continuous development program on each Tract within the Contract Area. During each of the second, third and fourth years following the Effective Date Operator shall commence drilling of two additional wells in each Tract. At least one of the two wells in each Tract each year shall be an Exploratory Well. Operator shall continue its drilling operations with reasonable diligence to a depth sufficient to test the Pictured Cliffs formation in each of the Exploratory Wells for hydrocarbons capable of production in

paying quantities. If Operator does not initiate or discontinues Phase One of the development program for a Tract, Operator shall forfeit all rights in the Tract other than the lands within the spacing unit assigned to any earning wells actually drilled. Any forfeited lands shall be removed from the Contract Area.

4.2.2.2 Phase Two: Beginning with the fifth year following the Effective Date, Operator shall have the option to commence the second phase of a continuous development program within each Tract that then contains undrilled lands that have not been removed from the Contract Area pursuant to paragraph 4.2.2.1. During the fifth year following the Effective Date and during each year thereafter Operator shall drill two wells each year in each Tract containing undrilled spacing units that are part of the Contract Area. None of the wells are required to be Exploratory Wells. The development program under this paragraph shall be complete when Operator shall have drilled one new well on each spacing unit within each Tract in the Contract Area. Operator shall continue its drilling operations with reasonable diligence to a depth sufficient to test a formation in each of the wells for hydrocarbons capable of production in paying quantities. If Operator discontinues Phase Two of the drilling program within a Tract before reaching the density of one well on each spacing unit within that Tract, Operator shall forfeit all rights in that Tract other than the lands within the spacing unit assigned to any earning wells actually drilled. Any forfeited lands shall be removed from the Contract Area.

4.2.2.3 Excess Wells: Operator may drill wells within a Tract in addition to the minimum number required each year, and may accumulate new wells in excess of the minimum annual number and credit them against minimum drilling obligations for that Tract in succeeding years. The crediting of excess wells from year to year shall not alter Operator's obligation to drill the minimum number of Exploratory Wells otherwise required by paragraphs 4.2.1 and 4.2.2 during the first four years after the Effective Date.

4.2.2.4 Formations to be Drilled: Each well drilled under the continuous development program shall test a valid geologic formation.

4.2.3 Earning Wells.

4.2.3.1 Upon the drilling and completion of a well required by paragraph 4.2.1 capable of producing Hydrocarbons in paying quantities, the Tract of land within which each such earning well is located, for all depths from the surface down to 50 feet below the total depth drilled, shall be considered earned by Operator and shall be committed to this Agreement for the term specified in Article 5 of this Agreement, but subject to the forfeiture of all lands within the Contract Area as provided in paragraph 4.2.1, and subject to the removal of spacing units within that Tract as provided in paragraph 4.2.2, and further subject to removal of non-producing deeper formations as provided in paragraph 4.2.3.2.

4.2.3.2 If production from an earning well ceases and Operator does not restore production from the previously producing formation or from a shallower formation within the time allowed by Article 6 of this Agreement, Operator shall, within one hundred eighty (180) days from the cessation of production, establish production from any deeper formation previously earned by drilling as provided in paragraph 1.2. If Operator does not establish production from a deeper earned formation in the well bore within said one hundred eighty (180) day period, all of the formations, including any deeper but non-producing formations previously earned in that well bore, shall be removed from the Contract Area for purposes of this Agreement.

4.2.3.3 Removal of land as provided in paragraphs 4.2.1 and 4.2.2, and/or removal of non-producing deep formations as provided in paragraph 4.2.3.2 shall constitute the Tribe's sole recourse against Operator for failure to carry out the continuous development programs required by this Article.

4.3 Prudent Operator Standard. Operator shall exercise reasonable diligence in drilling, completing and operating all wells drilled under this Agreement and shall carry on all operations in a workmanlike and prudent manner, having due regard for preventing waste of hydrocarbons developed on the Contract Area, contamination of ground or surface waters, contamination of soils, injury to workmen and the public, or the destruction of or injury to hydrocarbon deposits. Each well shall either be completed as a producer of hydrocarbons or plugged and abandoned or converted to an injection or disposal well or water well subject to obtaining approval of the Tribe, the Secretary and any regulatory agency having jurisdiction.

4.4 Spudding and Total Depth Dates. For purposes of this Agreement the date of reaching total depth of one well (whether initial test well, Exploratory Well or development well) and the date of spudding the next succeeding well shall be the date on which total depth is reached or on which the well is spudded as reported on the forms filed with the BLM or successor federal agency, copies of which shall be filed with the Oil and Gas Administrator of the Tribe.

4.5 Substitute Wells. If the Operator encounters granite or other practically impenetrable substances or other conditions making further drilling unwarranted or impracticable, the Operator shall discontinue drilling that well. The Operator shall have the option to drill a substitute well at a location of its choice approved by the Oil and Gas Administrator within the same Quarter-Section in which the well it is to replace is located, provided the actual drilling of the substitute well is commenced within ninety (90) days after the abandonment of said well. The substitute well shall be drilled in the manner and to the depth specified for the well it is replacing. If a substitute well is commenced, drilled and completed as provided in this subsection, the Operator shall have complied with this Agreement to the same extent as if the well it replaces had been commenced, drilled and completed in accordance with this Agreement.

4.6 Relationship of Operator to Tribe. This Agreement shall not be construed to create a mining or other partnership or joint venture.

4.7 Costs of Operator's Performance. Operator shall provide all funds necessary to carry out its obligations under this Agreement.

4.8 Protection against Drainage. Operator shall drill and produce all wells necessary to offset or protect the Contract Area from drainage by wells on adjoining lands which are (1) not the property of the Tribe or (2) are subject to a mining lease or minerals development agreement which provides the Tribe a smaller share of production than is provided by this Agreement; or to compensate the Tribe each month for the estimated loss of the Tribe's share of production through drainage; Provided that during the period of supervision by the Secretary the necessity for offset wells and the necessity and amount of any payment in lieu of drilling and production shall be determined by the Secretary.

4.9 Other Wells. The Operator shall have the right, in its discretion, to drill and produce other wells within the Contract Area, subject to applicable well spacing and production allocation rules in effect within the Jicarilla Apache Reservation. If the Operator elects not to drill and produce a well after written notice from the Secretary that the well is necessary to ensure reasonable diligence in the development and operation of the Contract Area, this Agreement will terminate as to the lands and/or formations identified in the Secretary's diligent development order.

4.10 Restoration of Surface. After termination of this Agreement as to an area within the Contract Area or when operations have otherwise terminated as to a portion of the Contract Area, Operator shall fill all excavations made under this Agreement on the area and restore the land as nearly as reasonably practicable to its original condition, according to standards established by the BIA or other regulatory agency with jurisdiction.

4.11 Pooling and Unitization. No part of the Contract Area may be pooled with any other lands or included in any operating unit without the express, written consent of the Tribe.

4.12 Damages from Operations. Operator shall pay the Tribe for all damages to the range, livestock, growing crops, trees, water or improvements caused by Operator's operations within the Contract Area.

4.13 Well Locations. All drill site locations shall be approved by the Oil and Gas Administrator and will to the extent practicable take into account the possibility of downspacing of the well in the future.

4.14 Diligent Marketing. Operator shall exercise due diligence to market all Hydrocarbons produced and to sell all Hydrocarbons produced at the highest price available to Operator.

ARTICLE 5 TERM OF AGREEMENT

5.1 Primary Term. The primary term of this Agreement shall be equal to the time during which Operator is performing its development obligations under Article 4, as provided in this paragraph. This Agreement shall be in full force and effect as to the entire Contract Area while the Operator is timely conducting the initial test drilling described in paragraph 4.2.1. Thereafter the primary term shall be determined separately for each Tract. This Agreement shall be in full force and effect as to all lands within a Tract while Operator is timely conducting the continuous development program described in paragraph 4.2.2.

5.2 Secondary Term. Upon completion or discontinuation of the development program described in paragraph 4.2.2 for a Tract, the Agreement shall terminate as to any spacing units within the Tract not then containing an Earning Well, and shall continue in full force and effect separately as to each spacing unit containing an Earning Well for so long as such well produces Hydrocarbons in paying quantities or is deemed to be producing Hydrocarbons in paying quantities pursuant to paragraph 1.8, or for a period of thirty-five (35) years from the date production casing is set, whichever period expires sooner.

5.3 Obligations After Termination. The termination of this Agreement as to all or part of the Contract Area shall not release Operator from any obligation to the Tribe arising prior to termination, including but not limited to the obligation to plug and abandon any well not capable of producing Hydrocarbons in paying quantities as of the date of termination.

ARTICLE 6 CESSATION OF PRODUCTION

6.1 Termination of Agreement. Subject to the provisions of Article 15 of this Agreement (Force Majeure), if any well drilled by the Operator shall cease production for any cause during the Secondary Term for that well and the well is not deemed to be producing in paying quantities under paragraph 1.8, this Agreement shall terminate as to the spacing unit held by that well unless the Operator, within forty-five (45) days after production ceased, either (1) restores production in paying quantities from the well, or (2) applies for and obtains the permission of the BLM, upon a showing of good cause therefore, to suspend production from the well for a specified period, not to exceed six months.

6.2 Offer to Tribe. In the event the Operator determines that reworking a well would not result in production in paying quantities, it shall offer to transfer such well to

the Tribe. If the Tribe accepts the offer within thirty (30) days, the Operator shall transfer to the Tribe the well and all mineral rights appurtenant to the spacing unit on which the well is located. If the Tribe fails to accept the offer within thirty (30) days, the Operator shall proceed to plug and abandon the well.

ARTICLE 7 DIVISION OF PROCEEDS

7.1 Royalty. Royalty shall be determined separately for each well. Before recovery by Operator of the Payout Amount as defined in paragraph 1.9 of this Agreement, the Tribe shall receive as royalty Twenty Percent (20%) of the gross value of all hydrocarbons produced, saved, and sold from or transported from that well. On all production from the well thereafter the Tribe shall receive as royalty Twenty-Two and One Half Percent (22.5%) of the gross value.

7.2 Royalty In Kind. The Tribe may elect to take its share of production in kind, upon sixty (60) days written notice to Operator. Operator shall, at the option of the Tribe, market the Tribe's in kind share of production. At the request of either party, the other party will negotiate a gas balancing agreement if necessary to protect the interests of the parties.

7.3 Method of Payment. All payments to the Tribe under this Agreement shall be due and payable as required by federal law.

7.4 Tribal Taxes. The Parties agree that the royalty payments and other payments to the Tribe required by this Agreement are in addition to any obligation of the Operator to pay Tribal taxes generally applicable to oil and gas operators on the Jicarilla Apache Reservation.

7.5 Annual Rental. Operator shall pay the Tribe rental for the Contract Area in the amount of ONE DOLLAR TWENTY FIVE CENTS (\$1.25) per acre per year, payable in advance, with the first year's rental due on the effective date of this Agreement, and succeeding year's rental due on each anniversary date thereafter. Annual Rental payments shall be recoupable by Operator against royalties due under this Agreement on production during the year for which the rental is paid.

7.6 Audit. In addition to the monthly reports of operations and sales required in this Agreement, Operator shall keep and furnish to the Tribe an annual operating statement containing an accounting of operations, costs, and expenses as reviewed or audited by an independent accounting firm which shall be subject to further audit by the Tribe or the Secretary at their sole cost and expense. The Tribe or the Secretary may at their sole cost and expense audit the quantity and quality of production and sales at any time upon reasonable notice to Operator. Any and all records kept by or for Operator

related to performance of this Agreement, including but not limited to records of production and sale and contracts of sale, shall be available for inspection by the Tribe or the Secretary and copies shall be furnished upon request.

7.7 Signing Bonus. In addition to any other payments to the Tribe required by this agreement, Operator shall pay the Tribe the sum of Fifteen Dollars (\$15.00) per acre as a signing bonus, due on or before the effective date of this agreement.

7.8 Shut-in Royalty. Any well which is capable of production in paying quantities and is shut-in during the Secondary Term of this Agreement as to that well because either (1) under existing market conditions the best obtainable price does not generate a reasonable profit to Operator, as substantiated by sufficient data provided to the Tribe, (2) production has temporarily ceased and the necessary drilling or reworking operations have commenced but have not yet been completed, or (3) necessary marketing facilities have not been completed, the well shall be deemed to be producing in paying quantities for the period the well is shut-in; Provided, that Operator shall pay a shut-in royalty, not recoupable from production royalties, in the amount of Two Dollars Fifty Cents (\$2.50) per month per acre within the spacing unit held by the shut-in well for each month the well is shut-in, payable within 30 days following the end of each month the well is shut-in; Provided further, if the well is shut in under scenario (1) or (2) above, the shut-in period allowed by this paragraph shall not continue for more than six consecutive months, and the well may not again be shut-in as allowed by this paragraph until at least twelve months have elapsed following the resumption of production; and if the well is shut in under scenario (3) above, the shut-in period allowed by this paragraph shall not continue for more than twelve months from the date the well was completed. If requested by the Operator, the Tribe may, by resolution of the Tribal Council and in the sole discretion of the Tribal Council, authorize any well to be shut-in because of market conditions for periods exceeding those allowed by this paragraph, and any well so authorized to be shut-in shall be deemed to be producing in paying quantities.

7.9 Valuation of Production. Value of gas shall be determined in accordance with Tribal Council Ordinance No. 94-O-285-1 as supplemented by the provisions of 30 CFR Parts 202 and 206 in effect at the time of production which are not inconsistent with the Ordinance; provided that the substitute for dual accounting described in Section 4 of the Ordinance shall be mandatory, not discretionary. It is the intent of this paragraph that royalty on gas shall be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, entrained liquids, etc.), whichever is the greater (dual accounting). Value of oil shall be determined in accordance with the provisions of 30 CFR Parts 202 and 206 in effect at the time of production. In the discretion of the Secretary, value may be calculated on the basis of the highest price paid or offered at the time of production for the major portion of the oil of the same gravity and gas or other hydrocarbons produced and sold from the same field where the Contract Area is located. The actual amount realized by the Operator may, in the discretion of the Secretary, be deemed mere evidence of value.

ARTICLE 8
WATER AND OTHER MINERAL RESOURCES

8.1 Development of Water Resources and Protection of Surface Rights. All water used by Operator in connection with operations under this Agreement shall be governed by the Jicarilla Apache Tribal Code, as the same is amended from time to time. Operator shall, if so directed by the Oil and Gas Administrator and approved by any federal or Tribal regulatory agency with jurisdiction, condition and convert to water wells any nonproductive wells having no use for Hydrocarbons operations capable of being converted to water wells, within a reasonable time after notice from the Oil and Gas Administrator, and all casing and materials not then owned by the Tribe shall be transferred to the Tribe at Operator's expense. Operator shall comply with federal and tribal laws and regulations concerning use of the surface of the Contract Area, location of wells, production facilities, access and production rights of way on the Contract Area and across other tribal lands.

8.2 Dewatering. Dewatering of any well shall be permitted only when conducted in conformity with the requirements of the Tribe, the BLM, the BIA, and the United States Environmental Protection Agency.

8.3 Protection of Coal Deposits. All operations conducted under this Agreement shall minimize the damage to coal deposits which are minable or which may be potentially minable in the future. Operator shall comply with the requirements of the Tribe, the BLM, and the BIA concerning protection of coal deposits, but it is agreed that any coal development operations shall not unreasonably interfere with or hinder Operator's development of Hydrocarbons under this Agreement.

ARTICLE 9
GENERAL REPORTING AND APPROVAL PROCEDURES

9.1 Periodic Drilling Reports. The Oil and Gas Administrator shall be furnished with notice prior to the commencement of any drilling operation, and thereafter shall be furnished with daily drilling reports showing the progress of said well. He also shall be notified of the testing of any formation in sufficient time to permit him to have a representative present to witness such testing.

9.2 Testing. All significant shows of Hydrocarbons found in the samples or indicated from electrical logs shall be tested if a prudent operator would conduct tests.

9.3 Electric Logs. If the well is in suitable condition for running open hole logs prior to the setting of production casing, Operator shall run resistivity logs and porosity logs from total depth to the top of the highest potential producing zone, and shall run gamma ray logs from total depth to the base of the surface casing. In all other cases

Operator shall run through-casing porosity logs and gamma ray logs from the base of production casing to the base of surface casing.

9.4 Copies of Reports and Tests. The Oil and Gas Administrator shall be furnished two (2) copies of all log runs plus two (2) copies each of drill stem tests, geological reports, and other related documentation in connection with the well.

9.5 Production Reports. If any well drilled in accordance with this Agreement is completed as a producer, weekly production reports shall be made for the first sixty (60) days of production and monthly production reports shall be made thereafter. The Operator shall notify the Oil and Gas Administrator if any extraordinary events occur, such as the shutting-in of any well for a period of 60 days or longer.

9.6 Dry Holes. If any well is a dry hole, the Oil and Gas Administrator shall be furnished with three (3) copies of the plugging reports, provided, however, that before plugging and abandoning any well, the Operator shall advise the Oil and Gas Administrator whether there is any water bearing stratum in the well. If such stratum is present, the Tribe shall have the right to assume control over the well in accordance with the provisions set forth in paragraph 8.1 of this Agreement, provided that, if drilling operations are then being conducted on the well, the Tribe must exercise its right under this paragraph within twenty-four (24) hours after Operator advises the Oil and Gas Administrator of the proposed plugging and abandoning. The Operator further agrees to plug any such well at a depth mutually agreeable to the parties hereto and upon completion of such operation, the Operator shall assign all its rights in the well to the Tribe at no cost to the Tribe and Operator shall be relieved from any further obligation or liability whatsoever with respect to such well.

9.7 Continuation of Drilling by Tribe. Prior to the abandonment of any well during drilling operations, the Tribe shall have the option to assume control over the well, as provided in this paragraph. After total depth has been reached, and Operator has reviewed all data from the well, Operator must notify the Oil and Gas Administrator of Operator's final decision to abandon or attempt completion of the well. Operator must give the Oil and Gas Administration at least forty-eight (48) hours written notice prior to beginning plugging procedures on any well. The Tribe shall have the option to notify Operator in writing within twenty-four (24) hours of such notice of the Tribe's desire to assume control of the well. If Operator abandons the well, the Tribe at time of notification shall assume control of the well, and all costs thereafter incurred related to the well shall be the sole responsibility of the Tribe, and the Tribe shall be entitled to all production from such well.

9.8 Well File Information. Operator will provide to the Oil and Gas Administration, if available, the following information concerning each well reworked or drilled pursuant to this Agreement:

1. Logs -- Field Prints (2)
2. Drill stem Tests -- Field Data (2)
3. Core Analysis -- Field Data (2)
4. Logs -- Final Prints (2)
5. Drill stem Tests -- Final Prints (2)
6. Core Analysis -- Final Prints (2)
7. Revised Structure and Isopach Maps (if available)
8. Location Plat
9. Drilling Summary and Daily Drilling Report
10. Directional Survey
11. Geological Report
12. Completion Data
13. Production Test Data (AOF Potential, GOR, etc.)
14. 30-day Well Production Test Record
15. Bottom Hole Pressure Surveys
16. Gas, Oil and/or Water Analyses
17. State and Federal Completion Reports
18. Additional Governmental Permits, Reports as Requested
19. Drilling Contract
20. Operating Agreement
21. Gas Sales Contract
22. Plug and Abandonment Reports
23. State and Federal Monthly Production Reports
24. Other Information Requested by the Oil and Gas Administration

ARTICLE 10 EASEMENTS AND RIGHTS-OF-WAY

10.1 The Tribe shall grant necessary rights-of-way for facilities and pipelines outside of the Contract Area, subject to compliance with appropriate regulations and environmental requirements of the Tribe and the United States and subject to payment of applicable fees.

ARTICLE 11 INDEMNIFICATION - INSURANCE

11.1 Indemnification. The Operator agrees to indemnify and hold the Tribe and the Secretary harmless from all claims, liability and causes of action resulting in bodily injury or property damage asserted against the Operator, its agents, employees and subcontractors or any third-party which may arise by reason of the operations of the Operator, its agents, employees and subcontractors, except for Operator's conversion of any well to a water well under paragraph 8.1.

11.2 Minimum Insurance Requirements. The Operator shall carry the following minimum insurance naming both the Tribe and the Operator as insureds:

11.2.1 Comprehensive public liability insurance with limits of not less than \$300,000.00 for each accident and \$300,000.00 for death or injury of one person.

11.2.3 Comprehensive public liability property damage insurance with limits not in excess of \$1,000,000.00 for each accident and \$1,000,000.00 aggregate per policy.

11.2.4 Automobile public liability insurance with limits of \$300,000.00 for the death or injury of one person and \$1,000,000.00 for each accident.

11.2.5 Workmen's compensation insurance in the Operator's name in the statutory amount.

11.2.6 Bonds of a type and in an amount sufficient to meet requirements of applicable federal statutes and all rules and regulations applicable to this type of agreement, including the Operator's obligations for plugging and abandonment of wells, cleanup of locations, and restoring the surface of land.

11.3 Certificates of Insurance. Certificates of insurance naming the Tribe and the Secretary as additional insureds for all said policies will be furnished the Tribe and the Secretary within a reasonable time after receipt.

ARTICLE 12 EMPLOYMENT OF TRIBAL MEMBERS

12.1 Operator shall comply with Jicarilla Apache Tribal ordinances and policies concerning preference in employment, training and promotion of Jicarilla Apache tribal members.

ARTICLE 13 ARBITRATION

13.1 Sovereignty of the Tribe. Except as provided in this article, the Tribe does not waive its sovereign immunity from suit.

13.2 Arbitration Procedures. Any and all claims, demands, disputes, and controversies that may be raised under this Agreement shall be settled by arbitration. This agreement to arbitrate commences from the date of this Agreement and any controversy or issue arising out of terms of this Agreement shall be determined by arbitration in the following manner:

13.2.1 Appointment of Arbitrators. Any party considering the other to be in default of this Agreement shall give the other party written notice of the default. The party receiving the notice shall have thirty (30) days to remedy the default or to commence actions necessary to remedy the default if the default cannot reasonably be remedied within thirty (30) days. If the party alleged to be in default fails to commence remedial actions within the prescribed period or to complete remedial actions within a reasonable time, the other party may, by written notice to the other party, demand arbitration within twenty (20) days thereafter. The party demanding arbitration shall include a statement of the matter in controversy and the name of an arbitrator, who shall be a disinterested party. The other party shall, by written notice, within thirty (30) days after receipt of such notice by the first party, appoint a second arbitrator who shall be also a disinterested party. If a second arbitrator is not appointed, the first arbitrator appointed shall be the sole arbitrator. If two arbitrators are appointed, they shall agree upon a third arbitrator and shall appoint him/her by written notice signed by all three arbitrators and a copy mailed to the Tribe and Operator within five (5) days after such appointment. The third arbitrator shall then be the sole arbitrator.

13.2.2 Arbitration Hearing. Each party shall bear its own arbitration costs and expenses. The arbitration hearing shall be held at a mutually convenient location within thirty (30) days after appointment of the arbitrator on written notice to the parties. The arbitration rules and procedures of the American Arbitration Association and the New Mexico rules of evidence shall apply to the arbitration hearing. The arbitrator shall not have the authority or power to modify any express provision of this Agreement. The parties shall share equally the cost of the arbitration hearing, including reasonable compensation for the arbitrator.

13.2.3 Award. The award of the arbitrator shall be binding on the Tribe and the Operator and shall be enforceable in the United States District Court for the District of New Mexico, or if that court lacks jurisdiction over the proceeding, in any other court of competent jurisdiction. For the purpose of enforcing any such award against the Tribe, but for no other purpose, and excluding any consequential, incidental or punitive damages, the Tribe hereby waives its sovereign immunity. This waiver is limited to the purpose expressly stated in this subsection and does not apply to violation of regulations or other performance requirements and does not extend to any other claim or form of relief. The Operator shall have the right to collect any monetary award only from the proceeds of sale of products produced under the terms of this Agreement.

13.2.4 Continued Operations. In the event of any monetary or non-monetary dispute to be settled under this Article, the Operator shall continue to conduct all operations hereunder without interference by the Tribe until such dispute is resolved, provided that the Operator without contribution by the Tribe may at all times be subject to penalties assessable by the Secretary of the Interior or his authorized representative in the event of violation of law or regulation.

ARTICLE 14
CONFIDENTIALITY OF INFORMATION

14.1 The Tribe shall have access at reasonable times and locations to all raw and interpretive geological, geophysical and other resource data, structural mapping, and geologic and engineering evaluations concerning the Contract Area. During the term of this Agreement Operator and the Tribe shall keep all such data concerning the Contract Area confidential except that Operator or the Tribe may show such data to (a) its employees, (b) as required by third parties for the purposes of preparing reserve estimate reports and other related reports, (c) any persons or entities as required by law or (d) the Secretary. Operator may also show such data to (a) such other persons as may wish to purchase all or a portion of, or acquire a mortgage lien upon, Operator's or a working interest owner's interest in the Contract Area or any production therefrom, or (b) such other persons as are associated or who desire to become associated with the Operator or one or more working interest owners in the Contract Area in drilling a well or who have acquired or desire to acquire a farmout agreement or other interest in a portion of the Contract Area. The Tribe may also show such data to (a) such other persons as may be interested in developing Hydrocarbons on other lands of the Tribe outside the Contract Area, (b) such other persons as may be interested in purchasing or otherwise using the Tribe's in-kind share of production, or (c) holders of Tribal bonds or persons interested in purchasing Tribal bonds. Before such information is disclosed to persons not parties hereto (except as required by law), the person disclosing such information shall take reasonable precautions to insure that such persons to whom the information is disclosed likewise will maintain such information confidential.

ARTICLE 15
FORCE MAJEURE

15.1 Operator shall not be subject to any liability nor shall it be subject to the loss or forfeiture of any rights hereunder for failure to carry out the provisions hereof during the time and to the extent that the failure to do so shall be due to laws, regulations or orders promulgated by any governmental agency having jurisdiction, or due to the action, judgment or decree of any court, or to floods, storms, fires, acts of God, or public enemies, strikes, insurrections, labor troubles, freezing of wells, breakdown or failure of plant or machinery, failure of manufacturers to deliver material or of carriers to transport the same, or to any other cause similar to those hereinabove enumerated over which Operator reasonably has no control and which forbids or prevents the performance of all or any part of the condition of this Agreement. This provision shall not affect or be construed as compelling Operator to settle any labor dispute contrary to its wishes.

ARTICLE 16
ASSIGNMENT/FIRST RIGHT OF REFUSAL

16.1 Consent of Tribe. Operator shall not assign, sell, exchange, lease, mortgage, or otherwise dispose of all or any part of its interests under this Agreement without the prior written consent of the Tribe and the BIA, which consent shall not be unreasonably withheld.

16.2 Unconsented Assignment Void. Any assignment, sale, exchange, lease, mortgage, or other transfer of any interest without the Tribe's prior written consent shall be null and void.

16.3 Right of First Refusal. Should Operator desire to assign or sell all or part of its interests under this Agreement, it shall promptly give written notice to the Tribe with full information concerning such proposed assignment or sale. The Tribe then shall have the option for a period of forty-five (45) days after receipt of such notice to purchase such interest upon the same terms and conditions. The foregoing shall not apply if such proposed assignment is to a wholly-owned subsidiary of Operator. Any change in terms of a proposed assignment shall result in a new first right of refusal in favor of the Tribe.

16.4 Obligations Prior to Assignment. Before Operator may consummate a proposed assignment or sale of any interest, there must be a showing satisfactory to the Tribe that full provision has been made for conservation and protection of the Contract Area and the proper abandonment of all wells drilled on any portion of the Contract Area affected by the assignment or sale. Upon consummation by Operator of an assignment or sale that has been approved by the Tribe, Operator shall thereafter be relieved and discharged from all obligations and duties owing to the Tribe under this Agreement with respect to the portions of the Contract Area affected by such assignments or sales. However, Operator shall remain primarily liable with respect to all obligations and duties owed under this Agreement arising prior to the effective date of such assignment or sale.

ARTICLE 17
NOTICES

17.1 All notices and communications required or permitted hereunder shall be in writing and shall be deemed to have been duly made if actually delivered to, or mailed by registered or certified mail, postage prepaid, addressed to the parties at the following addresses. Written notice may also be given by facsimile transmission and shall be effective upon receipt of the transmission. Either party may, by written communication so delivered to the other, change the name or address to which delivery thereafter shall be made.

TRIBE:

Jicarilla Apache Tribe
P.O. Box 507
Dulce, NM 87528
Attn: Office of the President

Jicarilla Apache Tribe
P.O. Box 507
Dulce, NM 87528
Attn: Oil and Gas Administration
FAX: (505) 759-3881

OPERATOR:

Mallon Oil Company
999 18th Street, Suite 1700
Denver, CO 80202
Attn: Vice President, Land

FAX: (303)293-3601

ARTICLE 18
MISCELLANEOUS PROVISIONS

18.1 Recordation. Either party may file this Agreement in the Records of the Tribe, the BIA, the county or the state or a Memorandum of Agreement may be filed in lieu thereof which shall be executed by the parties on request of either party.

18.2 Relationship to Third Party Agreements. This Agreement shall be independent of and unaffected by any joint venture, partnership, lease, or other third party agreement entered into by the Tribe for the purpose of exploring and developing other tribal lands. Nothing contained herein shall preclude the Tribe from entering into any other joint venture, lease, service contract or other agreement it chooses regarding lands not subject to this Agreement.

18.3 Severability. The invalidity of any term or provision of this Agreement shall not affect the validity of any other provision herein.

18.4 Removal of Buildings, Improvements and Equipment. Operator shall be the owner of and shall have the right to remove from the Contract Area, within 90 days after termination of this Agreement, in whole or in part, any and all buildings, structures, casing, material and/or equipment placed thereon for the purpose of development and operation under this Agreement, except for casing in wells and other material, equipment and structures necessary for the continued operation of wells producing or capable of producing hydrocarbons in paying quantities as determined by the Secretary on the lands affected by the portion of the Agreement terminated; and unless refused by the Tribe, all such casing in wells, material, structures and equipment shall be and become the property of the Tribe.

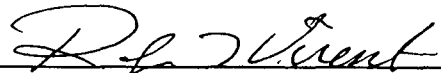
18.5 Signatures. The parties agree that this Agreement may be signed in counterparts and that such signatures shall have the same legal effect as a single instrument signed by both parties.

ARTICLE 19
BANKRUPTCY

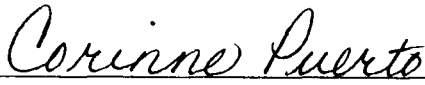
19.1 In the event of insolvency, bankruptcy or receivership of the Operator, this Agreement and all other agreements pertinent hereto shall be voidable by the Tribe as to any undeveloped lands within the Contract Area.

IN WITNESS WHEREOF, this Agreement was executed as of the date first above written.

JICARILLA APACHE TRIBE

By: 
President

Attest:


Secretary

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) :ss
COUNTY OF Rio Arriba)

The foregoing instrument was acknowledged before me this 27 day of May,
19 98 by Rodger T. Vicente, who is the President of the Jicarilla
Apache Tribe on behalf of and for the benefit of the Jicarilla Apache Tribe.

Elsa P. Elote
Notary Public

My Commission Expires:

June 8, 1999

OPERATOR:

MALLON OIL COMPANY

By: Randy Stalcup
Randy Stalcup

Title: Vice President-Land

Attest:
Ry Bz
Secretary

ACKNOWLEDGMENT

STATE OF COLORADO)
COUNTY OF DENVER) :ss

The foregoing instrument was acknowledged before me this 1 day of MAY, 1998
by [RANDY STALCUP], who is the VICE PRESIDENT - LAND of
[MALLON OIL COMPANY].

Carol Naranjo
Notary Public

My Commission Expires:

11/22/99

APPROVED PURSUANT TO THE INDIAN
MINERAL DEVELOPMENT ACT OF 1982:

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

By: [Signature]
Superintendent, Jicarilla Agency

Approved pursuant to 209 DM 8,
Secretary's Order Nos. 3150 and
3177, as amended, 10 BIAM Bulletin
13, as amended, and Albuquerque
Area Addendum Release No. 9401.