

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

2012 FEB 15 P 12:58

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

APPLICATION OF MACK ENERGY
CORPORATION FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

Case No. 14,763

**MACK ENERGY CORPORATION'S
SURREPLY TO MOTION TO DISMISS**

Mack Energy Corporation ("Mack") submits this surreply in opposition to the Motion to Dismiss filed by Tom M. Ragsdale ("Mr. Ragsdale") and Siana Oil & Gas LLP ("Siana"). This is necessitated by new issues raised, for the first time, in Mr. Ragsdale's reply.

A. **LACK OF AUTHORITY TO OPERATE.**

In his reply, Mr. Ragsdale, for the first time, raises an issue about (i) Mack's authority to operate, and (ii) Mack's right to file the application herein, because Mack owns no working interest in the Cockburn A State Well No. 5 (the "Well"). **Reply at 4.** Mr. Ragsdale's position is incorrect, for the following reasons:

1. Mack is operator of record of the Well in the Division's files.
2. Mack's witness, Ms. Sanders, testified that Mack operates wells for the Chase Oil Corporation entities which own working interests in the Well.
3. Division rules allow an operator "or other person with standing" to file adjudicatory applications with the Division. **NMAC 19.15.4.8.A.** Based on the above facts, Mack has standing.

4. Mr. Ragsdale has received bills from and made payment to Mack for years without complaint. **Mack Exhibits 5 and 7**. Where a party fails, for a period of years, to object to operations by another party not explicitly authorized to operate an oil and gas lease, the complaining party waives the right to argue that the operating party is not entitled to operate because it does not own an interest in the lease. **Purvis Oil Corp. v. Hillin, 890 S.W.2d 931, 937 (Tex. Ct. App. - El Paso 1994)** (superseded by rule on non-relevant issue).

B. **BASIS OF PAYMENT AND DEDUCTIONS.**

In his reply, Mr. Ragsdale also states that Mack remits payment to non-operators, but that "the basis for payment and any deductions is not clear." Ms. Sanders testified that joint interest billings and payments were made to Mr. Ragsdale, and that Mack Exhibits 5 and 7 are summaries of those documents. Mr. Ragsdale admitted during cross examination that he received joint interest billings from Mack. Thus, his position is without merit. In that regard, attached hereto as Exhibit 1 is the affidavit of Ms. Sanders with typical payment information and joint interest billings, sent to Mr. Ragsdale, attached.

C. **CONSENT/NON-CONSENT.**

Mr. Ragsdale, again for the first time, now says that the problem with Mack sending the recompletion proposal in August 2011 is that it did not give him an opportunity to go consent or non-consent in the Well. **Grynberg v. Bellet, 114 N.M. 690, 694 (1992)**, addresses that situation in the absence of voluntary or compulsory pooling, and provides for recovery of costs from a non-consenting working interest owner. However, due to the cost of the recompletion procedure, pooling was initiated to cover with more specificity the situation of which Mr. Ragsdale now complains.

D. CO-TENANCY ISSUE:

Mr. Ragsdale states that co-tenancy does not apply, citing an Oklahoma case. The problem is that the New Mexico courts have adopted Texas law on this issue. Grynberg v. Bellet, 114 N.M. 690, 694 (1992) (“Following Texas law, the trial court addressed the working interest owners’ relationship based upon their status as cotenants. We adopt Texas law on this issue.”) Thus, even if Oklahoma law is in disagreement with the rule set forth in Grynberg, that is expressly not the law in New Mexico. Mack has operated in conformance with that law in its dealings with Mr. Ragsdale.

In fact, attached hereto as **Exhibit 2** is a copy of Mr. Ragsdale's first pre-hearing statement, filed with the Division, which admits that he is a co-tenant in the Well.

E. RECOVERY OF OPERATING COSTS.

Mr. Ragsdale now admits he is not entitled to a greater working interest in the Well under NMSA 1978 §70-2-18.B than before pooling, but that under the statute he cannot be assessed operating costs. There are two problems with this argument: (1) the statute does not state that the operator cannot recover operating costs;¹ and (2) Grynberg explicitly states that operating costs are recoverable absent an agreement among the interest owners, citing the Texas case it followed:

In Neeley v. Intercity Management Corp., 732 S.W.2d 644 (Tex.Ct.App.1987), the court set out the general rules governing the relationship between cotenants. The term “nonconsenting” means that the nonoperating cotenant has not given his express or implied consent to share in the expenses of exploration, drilling, development, or

¹ The statute states in full:

Any operator failing to obtain voluntary pooling agreements, or failing to apply for an order of the division pooling the lands dedicated to the spacing or proration unit as required by this section, shall nevertheless be liable to account and pay each owner of minerals or leasehold interest, including owners of overriding royalty interests and other payments out of production, either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater.

operation of an oil well in an operating agreement or otherwise. *See id.* at 646. The court held that in the absence of an operating agreement addressing this eventuality, an operating cotenant has the right to proportionate reimbursement from a nonconsenting cotenant. ... The law, in effect, implies a contract on the part of the nonconsenting cotenant to pay his proportionate share of the reasonable and necessary expenses. *Id.*

114 N.M. at 694. (Emphasis added.)

Again, his argument fails. Moreover, if the pooling order is effective from date of first production, as claimed by Mr. Ragsdale, then operating costs are recoverable under the order.

F. SUMMARY.

The pooling statute provides that where there are separate interests in a well unit not subject to a voluntarily agreement, the Division "shall pool" the interests. **NMSA 1978 §70-2-17.C.** Thus, the Division must pool the uncommitted interest of Mr. Ragsdale.

WHEREFORE, Mack requests that Mr. Ragsdale's motion be denied.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Mack Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 15th day of February, 2012 by facsimile transmission and United States Mail:

J. Scott Hall
Montgomery & Andrews, P.A.
P.O. Box 2307
Santa Fe, New Mexico 87504
(505) 982-4289



James Bruce

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

APPLICATION OF MACK ENERGY
CORPORATION FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

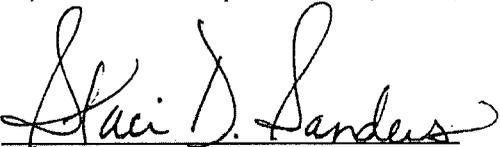
Case No. 14,763

AFFIDAVIT OF STACI D. SANDERS

COUNTY OF EDDY)
) ss.
STATE OF NEW MEXICO)

Staci D. Sanders, being duly sworn upon her oath, deposes and states:

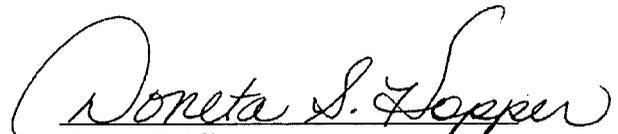
1. I am over the age of 18, and have personal knowledge of the matters stated herein.
2. I am a landman for Mack Energy Corporation ("Mack").
3. Attached hereto as Exhibits A-1 and A-2 are true and correct copies of the Joint Owner Statements (a/k/a joint interest billings) dated August 31, 2010 and September 30, 2010, respectively, which Mack mailed to Tom M. Ragsdale ("Ragsdale").
4. Attached hereto as Exhibits B-1 and B-2 are true and correct copies of the Revenue Account statements and checks dated August 30, 2010 and September 29, 2010, respectively, which Mack mailed to Ragsdale.


Staci D. Sanders

SUBSCRIBED AND SWORN TO before me this 13th day of February, 2012 by Staci D. Sanders.

My Commission Expires:

June 6, 2013


Notary Public

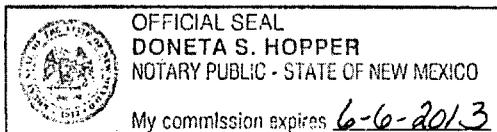


EXHIBIT 1

A/R Owner Statement with Invoices

Mack Energy Corporation
P.O. Box 960
Artesia NM 88211-0960

Owner Cod 004828
Owner Nam Tom M. Ragsdale
Owner Statemen S2010081000070
Statement Dat 08/31/2010

JOINT OWNER STATEMENT

Tom M. Ragsdale

P O Box 10303
Midland TX 79702

Reference	Description	Amount	Balance
	Balance Forward		1,378.31
	Service Charge		0.00
Payments and Adjustments			
0001382	Cash Receipts PAYMENT 08/16/2010	(237.97)	
1371	Cash Receipts PAYMENT 07/28/2010	(1,080.23)	
	**** Balance After Payments ****		60.11
Current Invoices			
I2010081000177	0947 State CD	120.48	
I2010081000200	0949 Cockburn A State	127.89	
	**** Total Current Invoices ****		248.37
	**** Total Due ****		308.48

Current	30 Days	60 Days	90 Days	120+ Days
237.29	253.87	449.06	283.41	3,043.79

EXHIBIT **A-1**

A/R Owner Statement with Invoices

Mack Energy Corporation
 Property Name: State CD
 Property #: 0947

Owner Cod 004828
 Owner Nam Tom M. Ragsdale
 Owner Statemen S2010081000070
 Invoice #: I2010081000177
 Inv Date: 08/31/2010

JOINT OWNER INVOICE

Reference	Service Date	Description	Gross Amount	Owner Decimal	Owner Amount
Lease Operating Expense					
6005	08/30/2010	Administrative Overhead	706.29	0.06250000	44.14
6020	07/01/2010	Communication & Vehicle Exp	39.22	0.06250000	2.46
6020	07/21/2010	Communication & Vehicle Exp	0.20	0.06250000	0.02
6020	07/22/2010	Communication & Vehicle Exp	2.14	0.06250000	0.14
6020	07/23/2010	Communication & Vehicle Exp	0.62	0.06250000	0.04
6020	07/26/2010	Communication & Vehicle Exp	0.92	0.06250000	0.06
6020	07/27/2010	Communication & Vehicle Exp	0.68	0.06250000	0.04
6020	07/28/2010	Communication & Vehicle Exp	0.12	0.06250000	0.01
6020	07/29/2010	Communication & Vehicle Exp	4.73	0.06250000	0.29
6020	07/31/2010	Communication & Vehicle Exp	82.78	0.06250000	5.19
6020	08/01/2010	Communication & Vehicle Exp	40.00	0.06250000	2.51
6020	08/02/2010	Communication & Vehicle Exp	4.98	0.06250000	0.31
6020	08/03/2010	Communication & Vehicle Exp	0.99	0.06250000	0.06
6020	08/04/2010	Communication & Vehicle Exp	3.73	0.06250000	0.23
6020	08/05/2010	Communication & Vehicle Exp	9.70	0.06250000	0.61
6020	08/06/2010	Communication & Vehicle Exp	3.57	0.06250000	0.23
6020	08/09/2010	Communication & Vehicle Exp	10.59	0.06250000	0.67
6020	08/10/2010	Communication & Vehicle Exp	0.47	0.06250000	0.03
6020	08/11/2010	Communication & Vehicle Exp	2.45	0.06250000	0.15
6020	08/12/2010	Communication & Vehicle Exp	4.95	0.06250000	0.31
6020	08/13/2010	Communication & Vehicle Exp	2.20	0.06250000	0.15
6020	08/16/2010	Communication & Vehicle Exp	6.64	0.06250000	0.41
6020	08/17/2010	Communication & Vehicle Exp	2.90	0.06250000	0.19
6020	08/18/2010	Communication & Vehicle Exp	0.51	0.06250000	0.03
6020	08/19/2010	Communication & Vehicle Exp	22.67	0.06250000	1.41
6020	08/24/2010	Communication & Vehicle Exp	0.47	0.06250000	0.03
6020	08/27/2010	Communication & Vehicle Exp	0.21	0.06250000	0.01
6025	08/30/2010	Company Salaries & Taxes	286.93	0.06250000	17.94
6030	08/01/2010	Company Benefits	(3.34)	0.06250000	(0.21)
6030	08/30/2010	Company Benefits	77.01	0.06250000	4.81
6040	08/04/2010	Hot Oil/Water Treatment	230.01	0.06250000	14.38
6045	07/01/2010	Insurance	64.47	0.06250000	4.03
6045	08/01/2010	Insurance	63.95	0.06250000	4.00
6045	08/30/2010	Insurance	8.01	0.06250000	0.50
6065	08/13/2010	Power & Fuel	186.62	0.06250000	11.66
6080	08/06/2010	Supplies & Materials	58.26	0.06250000	3.64
Total Lease Operating Expense			1,926.65		120.48
Total Billable Amount			1,926.65		120.48
Prepayments Applied					0.00
Amount Due-Your Share					120.48

A/R Owner Statement with Invoices

Mack Energy Corporation
 Property Name: Cockburn A State
 Property #: 0949

Owner Cod 004828
 Owner Nam Tom M. Ragsdale
 Owner Statemen S2010081000070
 Invoice #: I2010081000200
 Inv Date: 08/31/2010

JOINT OWNER INVOICE

Reference	Service Date	Description	Gross Amount	Owner Decimal	Owner Amount
Lease Operating Expense					
6005	08/30/2010	Administrative Overhead	706.29	0.06250000	44.14
6020	07/01/2010	Communication & Vehicle Exp	39.22	0.06250000	2.46
6020	07/21/2010	Communication & Vehicle Exp	0.20	0.06250000	0.02
6020	07/22/2010	Communication & Vehicle Exp	2.14	0.06250000	0.14
6020	07/23/2010	Communication & Vehicle Exp	0.62	0.06250000	0.04
6020	07/26/2010	Communication & Vehicle Exp	0.92	0.06250000	0.06
6020	07/27/2010	Communication & Vehicle Exp	0.68	0.06250000	0.04
6020	07/28/2010	Communication & Vehicle Exp	0.12	0.06250000	0.01
6020	07/29/2010	Communication & Vehicle Exp	4.73	0.06250000	0.29
6020	07/31/2010	Communication & Vehicle Exp	82.78	0.06250000	5.19
6020	08/01/2010	Communication & Vehicle Exp	40.00	0.06250000	2.51
6020	08/02/2010	Communication & Vehicle Exp	4.98	0.06250000	0.31
6020	08/03/2010	Communication & Vehicle Exp	0.99	0.06250000	0.06
6020	08/04/2010	Communication & Vehicle Exp	3.73	0.06250000	0.23
6020	08/05/2010	Communication & Vehicle Exp	9.70	0.06250000	0.61
6020	08/06/2010	Communication & Vehicle Exp	3.57	0.06250000	0.23
6020	08/09/2010	Communication & Vehicle Exp	10.59	0.06250000	0.67
6020	08/10/2010	Communication & Vehicle Exp	0.47	0.06250000	0.03
6020	08/11/2010	Communication & Vehicle Exp	2.45	0.06250000	0.15
6020	08/12/2010	Communication & Vehicle Exp	4.95	0.06250000	0.31
6020	08/13/2010	Communication & Vehicle Exp	2.20	0.06250000	0.15
6020	08/16/2010	Communication & Vehicle Exp	6.64	0.06250000	0.41
6020	08/17/2010	Communication & Vehicle Exp	2.90	0.06250000	0.19
6020	08/18/2010	Communication & Vehicle Exp	0.51	0.06250000	0.03
6020	08/19/2010	Communication & Vehicle Exp	22.67	0.06250000	1.41
6020	08/24/2010	Communication & Vehicle Exp	0.47	0.06250000	0.03
6020	08/27/2010	Communication & Vehicle Exp	0.21	0.06250000	0.01
6025	08/30/2010	Company Salaries & Taxes	286.93	0.06250000	17.94
6030	08/01/2010	Company Benefits	(3.34)	0.06250000	(0.21)
6030	08/30/2010	Company Benefits	77.01	0.06250000	4.81
6040	07/28/2010	Hot Oil/Water Treatment	361.67	0.06250000	22.61
6045	07/01/2010	Insurance	64.47	0.06250000	4.03
6045	08/01/2010	Insurance	63.95	0.06250000	4.00
6045	08/30/2010	Insurance	8.01	0.06250000	0.50
6065	08/13/2010	Power & Fuel	231.74	0.06250000	14.48
Total Lease Operating Expense			2,045.17		127.89
Total Billable Amount			2,045.17		127.89
Prepayments Applied					0.00
Amount Due-Your Share					127.89

A/R Owner Statement with Invoices

Mack Energy Corporation
P.O. Box 960
Artesia NM 88211-0960

Owner Cod 004828
Owner Nam Tom M. Ragsdale
Owner Statemen S2010091000070
Statement Dat 09/30/2010

JOINT OWNER STATEMENT

Tom M. Ragsdale

P O Box 10303
Midland TX 79702

Reference	Description	Amount	Balance
	Balance Forward		308.48
	Service Charge		0.00
Payments and Adjustments			
1405	Cash Receipts PAYMENT	09/14/2010 (248.37)	
		**** Balance After Payments ****	60.11
Current Invoices			
I2010091000175	0947 State CD	109.87	
I2010091000206	0949 Cockburn A State	119.25	
		**** Total Current Invoices ****	229.12
		**** Total Due ****	289.23

Current	30 Days	60 Days	90 Days	120+ Days
237.29	253.87	449.06	283.41	3,043.79

EXHIBIT **A.2**

A/R Owner Statement with Invoices

Mack Energy Corporation

Owner Cod 004828
Owner Nam Tom M. Ragsdale
Owner Statemen S2010091000070

Mack Energy Corporation
P.O. Box 960
Artesia NM 88211-0960
(575) 748-1288

Mack Energy Revenue Account

Bank of Texas, N.A.
Dallas, TX

Check No	Check Date	Check Amount
0000013568	08/30/2011	*****\$7,106.08

PAY *Seven Thousand One Hundred Six Dollars and Eight Cents*

TO Tom M. Ragsdale
THE P O Box 10303
ORDER Midland TX 79702
OF

BY _____

⑈0000013568⑈ ⑆111014325⑆ 8093025132⑈

PLEASE DETACH AT PERFORATION ABOVE

PLEASE DETACH AT PERFORATION ABOVE

Mack Energy Corporation

P.O. Box 960
Artesia NM 88211-0960
(575) 748-1288

Check Number 0000013568

Prod Date	Product Int Type	Price	Deck Dcml Dist Dcml	Gross Volume Owner Volume	Gross Value Owner Value	Rlly Chargebacks	Gross Taxes Owner Taxes	Gross Deducts Owner Deducts	Gross Net Owner Net
Property: 0947.001			State CD 1		NM Lea		Section: 32 Township: 017-S Range: 033-E		
07/2011	GAS		0.01041667	296.73	3,703.09		347.23	0.00	3,355.86
	ORR1	12.48	0.01041667	3.09	38.57	0.00	3.61	0.00	34.96
07/2011	GAS		0.05156250	296.73	3,703.09		347.23	0.00	3,355.86
	W1	12.48	0.05156250	15.30	190.94	0.00	17.80	0.00	173.04
07/2011	OIL		0.01041667	395.00	37,230.52		3,193.14	0.00	34,037.38
	ORR1	94.25	0.01041667	4.11	387.52	0.00	33.26	0.00	354.56
07/2011	OIL		0.05156250	395.00	37,230.52		3,193.14	0.00	34,037.38
	W1	94.25	0.05156250	20.37	1,919.70	0.00	164.65	0.00	1,755.05
Property: 0949.005			Cockburn A State 5		NM Lea		Section: 32 Township: 017-S Range: 033-E		
07/2011	GAS		0.01041667	593.48	7,408.31		694.47	0.00	6,711.84
	ORR1	12.48	0.01041667	6.18	77.15	0.00	7.24	0.00	69.91
07/2011	GAS		0.05273437	593.48	7,408.31		694.47	0.00	6,711.84
	W1	12.48	0.05273437	31.30	390.57	0.00	35.52	0.00	353.95
07/2011	OIL		0.01041667	802.06	75,597.75		6,483.79	0.00	69,113.97
	ORR1	94.25	0.01041667	8.35	787.48	0.00	67.54	0.00	719.94
07/2011	OIL		0.05273437	802.06	75,597.75		6,483.79	0.00	69,113.97
	W1	94.25	0.05273437	42.30	3,986.60	0.00	341.93	0.00	3,644.67
Gross Totals:				4,174.54	247,875.36		21,437.28	0.00	226,438.10
Net Totals:				131.00	7,778.83	0.00	672.76	0.00	7,106.08

EXHIBIT **B-1**

Date 09/02/2011 Account Number 8093025132 Serial Number 13568 Amount \$7,106.08

ENDORSE HERE:

X

PAY TO THE ORDER OF
FIRST NATIONAL BANK OF MIDLAND
MIDLAND, TX 79701
118324201
FOR DEPOSIT ONLY
TOM M. RAGSDALE
000044180

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE
FOR FINANCIAL INSTITUTION USAGE ONLY *

* FEDERAL RESERVE BANK REGULATION CC



Security features on this document include a Micro-Print Signature Line
and Bleed-Thru MICR & Arabic Numbers.
Absence of these features may indicate alteration.

Mack Energy Corporation
P.O. Box 960
Artesia NM 88211-0960
(575) 748-1288

Mack Energy Revenue Account

Bank of Texas, N.A.
Dallas, TX

Check No	Check Date	Check Amount
0000013721	09/29/2011	*****\$3,859.32

PAY *Three Thousand Eight Hundred Fifty Nine Dollars and Thirty Two Cents*

TO Tom M. Ragsdale
THE P O Box 10303
ORDER Midland TX 79702
OF

BY _____

⑈0000013721⑈ ⑆111014325⑆ 8093025132⑈

PLEASE DETACH AT PERFORATION ABOVE

PLEASE DETACH AT PERFORATION ABOVE

Mack Energy Corporation

P.O. Box 960
Artesia NM 88211-0960
(575) 748-1288

Check Number 0000013721

Prod Date	Product Int Type	Price	Deck Dcml Dist Dcml	Gross Volume Owner Volume	Gross Value Owner Value	Rlty Chargebacks	Gross Taxes Owner Taxes	Gross Deducts Owner Deducts	Gross Net Owner Net
Property: 0947.001			State CD 1		NM Lea		Section: 32 Township: 017-S Range: 033-E		
08/2011	GAS		0.01041667	264.01	3,098.60		290.55	0.00	2,808.05
	ORR1	11.74	0.01041667	2.76	32.28	0.00	3.02	0.00	29.26
08/2011	GAS		0.05156250	264.01	3,098.60		290.55	0.00	2,808.05
	W1	11.74	0.05156250	13.61	159.77	0.00	14.98	0.00	144.79
08/2011	OIL		0.01041667	230.21	19,155.82		1,642.93	0.00	17,512.89
	ORR1	83.21	0.01041667	2.40	199.54	0.00	17.12	0.00	182.42
08/2011	OIL		0.05156250	230.21	19,155.82		1,642.93	0.00	17,512.89
	W1	83.21	0.05156250	11.87	987.72	0.00	84.71	0.00	903.01
Property: 0949.005			Cockburn A State 5		NM Lea		Section: 32 Township: 017-S Range: 033-E		
08/2011	GAS		0.01041667	565.75	6,639.97		622.62	0.00	6,017.35
	ORR1	11.74	0.01041667	5.89	69.17	0.00	6.48	0.00	62.69
08/2011	GAS		0.05273437	565.75	6,639.97		622.62	0.00	6,017.35
	W1	11.74	0.05273437	29.89	350.15	0.00	32.84	0.00	317.31
08/2011	OIL		0.01041667	462.07	38,448.94		3,297.66	0.00	35,151.28
	ORR1	83.21	0.01041667	4.81	400.51	0.00	34.35	0.00	366.16
08/2011	OIL		0.05273437	462.07	38,448.94		3,297.66	0.00	35,151.28
	W1	83.21	0.05273437	24.37	2,027.68	0.00	173.90	0.00	1,853.68
			Gross Totals:	3,044.08	134,686.66		11,707.52	0.00	122,979.14
			Net Totals:	86.63	4,226.72	0.00	367.40	0.00	3,859.32

EXHIBIT **B-2**

Date 10/05/2011 Account Number 8093025132 Serial Number 13721 Amount \$3,859.32

ENDORSE HERE:

X

PAY TO THE ORDER OF
FIRST NATIONAL BANK OF MIDLAND
MIDLAND, TX 79701

118324201
FOR DEPOSIT ONLY
TOM M. RAGSDALE

DO NOT SIGN ~~0000418~~ STAMP BELOW THIS LINE
FOR FINANCIAL INSTITUTION USAGE ONLY *

* FEDERAL RESERVE BANK REGULATION CC



Security features on this document include a Micro-Print Signature Line
and Bleed-Thru MICR & Arabic Numbers.
Absence of these features may indicate alteration.

BEFORE THE NEW MEXICO CONSERVATION DIVISION

APPLICATION OF MACK ENERGY
CORPORATION FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO

Case No. _____

Pre-Hearing Statement and Motion to Continue Hearing

Siana Oil & Gas, L.L.C. ("Siana") as the owner of leasehold interests in the SE/4 NW/4 of Section 32, Township 17 South, Range 33 East N.M.P.M. in Lea County, New Mexico in which Mack Energy Corporation also owns a leasehold interest. Siana recently received the application filed in the above proceeding and files this Pre-Hearing Statement and Motion to Continue Hearing.

Having recently received the above Application and considering the Thanksgiving Holiday, Siana will not be in a position to be prepared to proceed to hearing on December 1, 2011 and seeks a continuance for a period of at least thirty days, in order to afford Siana time to evaluate the application, retain counsel and prepare for the hearing.

As a co-tenant in the leasehold estate, Siana objects to the Application on the grounds that compulsory pooling is not warranted. Specifically, Mack has taken the position in the past that a joint operating agreement governs operations on the subject property, thereby making the request unnecessary. Although Mack recently indicated that a joint operating agreement may not govern operations, Mack has engaged in no meaningful discussions with Siana as to whether a joint operating agreement governs operations between the parties and if not the proposed terms of such an agreement.

Mack has presented no evidence or made any allegations to suggest or prove that the operation at issue is necessary, or that it will enhance production, nor has it given any justification for forcing Siana to participate in the costs of the operation or forcing Siana to bear a 200% penalty for failing to participate.

EXHIBIT 2

Tom S. Ragsdale will likely testify at the hearing on all issues pertinent to the application. Siana has initially retained Tom Zabel at Zabel Freeman as counsel, 420 Heights Blvd., Houston, Texas 77002, and is in the process of retaining New Mexico counsel. To the extent permitted Siana requests that Mr. Zabel be permitted to assist as counsel in the proceeding. Siana may identify other potential witnesses as it further evaluates the application. Siana does not believe that the hearing should take longer than one-half to a full day.

Respectfully submitted,

Handwritten signature of Tom M. Ragsdale in black ink, appearing as 'TOL M. RAGSDALE'.

Tom M. Ragsdale, President of Siana
Oil & Gas, L.L.C.

Certificate

I certify that a true and correct copy of the foregoing document was sent via telecopy and US mail to James Bruce, attorney at law, 369 Montezuma, No. 213, Santa Fe, New Mexico 87501 and facsimile at 505-982-2151.

Handwritten signature of Tom M. Ragsdale in black ink, appearing as 'TOL M. RAGSDALE'.

Tom M. Ragsdale