

Case 14118 - cont 6-12-08

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

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

CASE NO. 14118

APPLICATION OF XTO ENERGY, INC.
FOR COMPULSORY POOLING
SAN JUAN COUNTY, NEW MEXICO.

Cont. To June 12th

AFFIDAVIT OF AARON AUSTIN

STATE OF NEW MEXICO §
 § ss.
COUNTY OF SAN JUAN §

Before me, the undersigned authority, personally appeared Aaron Austin, landman, who being fully sworn stated:

A. My qualifications as an expert are as follows:

Title: Landman
Education: University of Oklahoma, B.A. Energy Management, 2005

Experience: 2 years, 11 months.

I am over the age of majority and competent to make this Affidavit.

I am responsible for and involved in preparing the necessary documents for submittal to the New Mexico Oil Conservation Division for this case.

I am personally knowledgeable and familiar with the facts and circumstances of this case and the following factual statements.

This affidavit has been prepared in accordance with the New Mexico Oil Conservation Division Rule 1207.A(1)(b).

C. My expert opinion are based on the following facts and events:

CHRONOLOGICAL SUMMARY OF SIGNIFICANT EVENTS

1. XTO Energy Inc. ("XTO") has the right to drill and develop the oil and gas minerals from the surface to the base of the Pictured Cliffs formation underlying the N/2 of Section 28, T29N, R11W, NMPM, San Juan County, New Mexico. HSS (7/6/09)
2. XTO has proposed that the N/2 of this section be to dedicated as a standard 320-acre gas spacing unit for production from the Basin-Fruitland Coal-Gas Pool formation and the NE/4 of this section for a standard 160-acre gas spacing unit for production from the Pictured Cliffs formation to be obtained from its proposed Masden Selby Well No. 2R (API # 30-045-pending) to be located drilled at a standard location in Unit G of this section as shown on Exhibit "A" Attached.
3. On March 10, 2008, XTO proposed this spacing unit and this well to all the working interest owners
4. XTO has not been able to obtain a written voluntary agreement from those parties as listed on Exhibit "B."
5. Despite reasonable efforts, including internet searches and notices to 15 different possible address for Douglas Kensaton, XTO was unable to located Douglas Kensaton aka Douglas A. Kensaton aka Douglas L. Kensaton. See written explanation attached as Exhibit "B-1"
6. Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, XTO needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.
6. Pursuant to Commission Order R-11992, effective August 15, 2003, XTO requests that a 200% risk charge be applied.
7. In accordance with the Division's notice requirements, a copy of this application has been sent to the parties whose interest are to be pooled and whose current addresses are known as listed on Exhibit "B" of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for May 15, 2008.

RULE 1207.A(1)(b) REQUIREMENTS

In accordance with Division Rule 1207.A(1)(b) attached the following statements and exhibits in support of this case:

- (i) No opposition is expected because this party has never appeared in the prior cases.
- (ii) Map (a) outlining the spacing unit to be pooled, being the N/2 and NE/4 of Section 28, T29N, R11W, NMPM, San Juan County, New Mexico (b) showing the well location and (c) percentage of ownership interest. **See Exhibit "A" attached**
- (iii) For name and last known address of the party to be pooled with the nature and percent of their interest; I attest that a diligent search has been conducted of all public records in the county where the well is located and the party has been contacted on our behalf on several occasions. **See Exhibit "B" and "B-1" attached**
- (iv) This spacing unit is located within the Basin-Fruitland Coal-Gas Pool and the Fulcher Kutz Pictured Cliffs Gas Pool.
- (v) The pooled unit are for gas.
- (vi) Written evidence of attempts to reach voluntary agreement including letters and summaries of telephone calls are included herein. **See Exhibit "C-pages 1 thru 7" attached**
- (vii) The maximum 200% risk factor penalty was justified prior to drilling the well in accordance with Commission Order R-11992 and Division Order R-11926
- (viii) The well costs overhead rates of \$5,000.00/month drilling and \$500.00/month producing well rates, subject to COPAS adjustment should continue to apply for this case. **See Exhibit "D" attached**
- (ix) Copy of Division form C-102 showing the well location and the proposed depth of the well (approximately 1,750 feet). **See Exhibit "E" attached**
- (x) Copy of the AFE in the amount of \$585,500.00 completed well costs for this well, which we conclude, is fair, reasonable and current for wells of this type in this area. **See Exhibit "F"**

ATTESTATION

I, Aaron Austin, attested that this submittal was prepared by me and the information is correct and complete to the best of my knowledge and belief.

I recommend that a compulsory pooling order be entered which provides that:

- (1) XTO Energy, Inc. be to the named Operator;
- (2) In the event a working interest owner fails to elect to participate, then provisions be made to recover out of production the costs of the drilling, completing, equipping and operating the gas well, including a risk factor penalty; and
- (3) Provisions for overhead rates of \$5,000 per month drilling and \$500 per month operating and a provision for an adjustment method of the overhead rates as provided by COPAS;

FURTHER AFFIANT SAYETH NOT:



Aaron Austin, petroleum landman

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS:
COUNTY OF SAN JUAN)

BEFORE me, the undersigned, a Notary Public in and for said County and State, on this ___ day of April 2008 personally appeared Aaron Austin, a person who subscribed the name of the maker thereof to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.


Notary Public

My Commission expires:



Exhibit "B-1"

Douglas Kenaston was found to own a leasehold interest in the subject unit from XTO's title search. However, XTO's title attorney was unable to locate a current address for Mr. Kenaston. Douglas Kenaston's address both past and present, were searched for utilizing the following on-line databases:

<http://phone.people.yahoo.com> (Yahoo People search)
www.enformion.com
www.nexis.com
www.google.com

Each database provided for name and address, in addition to multiple listings for "Douglas Kenaston". The www.google.com search was the last method used which returned only results that matched the first three searches. The most relied upon databases were Enformion and Nexis which returned most of the results.

March 10, 2008

VIA CERTIFIED U. S. MAIL

Douglas L. Kenaston
P.O. Box 3322
Pinedale, CA 93650

Re: New Well Proposal
Masden Selby 2R
Township 29 North, Range 11 West
Section 28: N/2 (Fruitland Coal Formation)
NE/4 (Pictured Cliffs Formation)
San Juan County, New Mexico

Dear Mr. Kenaston:

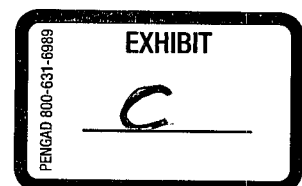
XTO hereby proposes the drilling of the Masden Selby 2R Well in the captioned unit(s) to test the Fruitland Coal and Pictured Cliffs Formations. The proposed location for this well is 1530' FNL and 1835' FEL, Sec. 28, T29N-R11W. The anticipated total depth will be 1,750'.

An examination of the mineral title has disclosed that an individual named "Douglas Kenaston" may have an interest in the subject well, as set out below. This well proposal is being sent to you subject to confirmation that you in fact are the correct Douglas Kenaston and the owner of this interest. Please contact me and provide any documentation you have. Based on an examination of the mineral ownership records located in San Juan County, NM, it appears that your interest in the proposed units will be the following:

<u>Unit</u>	<u>Ownership</u>
Fruitland Coal Unit (N/2)	.0875
Pictured Cliffs Unit (NE/4)	.175

Enclosed you will find an Authority for Expenditure ("AFE") estimating the cost of the proposed well. The total cost of the well is estimated to be \$585,500.00. The total costs of the well will be allocated based on your ownership of each zone and calculated based on the allocation formula as described in the enclosed Joint Operating Agreement ("JOA").

Please make your participation election below and sign and return one copy of this letter, the enclosed AFE, and JOA to my attention at the address shown on the bottom of this page. Please make your election within the 30 day time frame as provided for in the



Masden Selby 2R Drilling Proposal
March 10, 2008

Operating Agreement. Technical questions should be addressed to Mr. Robin Tracy, Manager, Reservoir Division, San Juan, at (817) 885-2422. Please call me at (817) 885-3064 with any land related questions.

Your early consideration of this matter is appreciated.

Yours truly,

Aaron Austin
Landman

Enclosures

_____ **Elect to participate** in the drilling and completion of the Masden Selby 2R well described hereinabove.

_____ **Elect to go Non-Consent** in the drilling and completion of the Masden Selby 2R well described hereinabove, subject to the Non-Consent penalties as set-out in the governing operating agreement.

Owner: _____

By: _____

Printed Name: _____

Title: _____

Date: _____



March 13, 2008

VIA CERTIFIED U. S. MAIL

CEDB Holdings, LLC
125 Lincoln Avenue #223
Santa Fe, NM 87501

Re: New Well Proposal
Masden Selby 2R
Township 29 North, Range 11 West
Section 28: N/2 (Fruitland Coal Formation)
NE/4 (Pictured Cliffs Formation)
San Juan County, New Mexico

To Whom It May Concern,

XTO hereby proposes the drilling of the Masden Selby 2R Well in the captioned unit(s) to test the Fruitland Coal and Pictured Cliffs Formations. The proposed location for this well is 1530' FNL and 1835' FEL, Sec. 28, T29N-R11W. The anticipated total depth will be 1,750'.

Based on an examination of the mineral ownership records located in San Juan County, NM, it appears that CEDB Holdings, LLC interest in the proposed units will be the following:

<u>Unit</u>	<u>Ownership</u>
Fruitland Coal Unit (N/2)	.009375
Pictured Cliffs Unit (NE/4)	0.01875

Enclosed you will find an Authority for Expenditure ("AFE") estimating the cost of the proposed well. The total cost of the well is estimated to be \$585,500.00. The total costs of the well will be allocated based on the ownership of each zone and calculated based on the allocation formula as described in the enclosed Joint Operating Agreement ("JOA").

Please make your participation election below and sign and return one copy of this letter, the enclosed AFE, and JOA to my attention at the address shown on the bottom of this page. Please make your election within the 30 day time frame as provided for in the Operating Agreement. Technical questions should be addressed to Mr. Robin Tracy, Manager, Reservoir Division, San Juan, at (817) 885-2422. Please call me at (817) 885-3064 with any land related questions.



March 13, 2008

VIA CERTIFIED U. S. MAIL

Donda Hunt Morgan
640 S. Carolina SE Ave
Washington, D.C. 2003

Re: New Well Proposal
Masden Selby 2R
Township 29 North, Range 11 West
Section 28: N/2 (Fruitland Coal Formation)
NE/4 (Pictured Cliffs Formation)
San Juan County, New Mexico

Dear Ms. Morgan,

XTO hereby proposes the drilling of the Masden Selby 2R Well in the captioned unit(s) to test the Fruitland Coal and Pictured Cliffs Formations. The proposed location for this well is 1530' FNL and 1835' FEL, Sec. 28, T29N-R11W. The anticipated total depth will be 1,750'.

Based on an examination of the mineral ownership records located in San Juan County, NM, it appears that your interest in the proposed units will be the following:

<u>Unit</u>	<u>Ownership</u>
Fruitland Coal Unit (N/2)	.009375
Pictured Cliffs Unit (NE/4)	0.01875

Enclosed you will find an Authority for Expenditure ("AFE") estimating the cost of the proposed well. The total cost of the well is estimated to be \$585,500.00. The total costs of the well will be allocated based on the ownership of each zone and calculated based on the allocation formula as described in the enclosed Joint Operating Agreement ("JOA").

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March 13, 2008

VIA CERTIFIED U. S. MAIL

Nelda W. Wilkinson Trust UTA Dated 10-30-75
1401 Fairway Terrace
Clovis, NM 88101

Re: New Well Proposal
Masden Selby 2R
Township 29 North, Range 11 West
Section 28: N/2 (Fruitland Coal Formation)
NE/4 (Pictured Cliffs Formation)
San Juan County, New Mexico

To Whom It May Concern,

XTO hereby proposes the drilling of the Masden Selby 2R Well in the captioned unit(s) to test the Fruitland Coal and Pictured Cliffs Formations. The proposed location for this well is 1530' FNL and 1835' FEL, Sec. 28, T29N-R11W. The anticipated total depth will be 1,750'.

Based on an examination of the mineral ownership records located in San Juan County, NM, it appears that your interest in the proposed units will be the following:

<u>Unit</u>	<u>Ownership</u>
Fruitland Coal Unit (N/2)	.009375
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March 13, 2008

VIA CERTIFIED U. S. MAIL

John Joe Wilkinson Estate
524 Highland Park Dr.
Hurst, TX 76054

Re: New Well Proposal
Masden Selby 2R
Township 29 North, Range 11 West
Section 28: N/2 (Fruitland Coal Formation)
NE/4 (Pictured Cliffs Formation)
San Juan County, New Mexico

To Whom It May Concern,

XTO hereby proposes the drilling of the Masden Selby 2R Well in the captioned unit(s) to test the Fruitland Coal and Pictured Cliffs Formations. The proposed location for this well is 1530' FNL and 1835' FEL, Sec. 28, T29N-R11W. The anticipated total depth will be 1,750'.

Based on an examination of the mineral ownership records located in San Juan County, NM, it appears that your interest in the proposed units will be the following:

<u>Unit</u>	<u>Ownership</u>
Fruitland Coal Unit (N/2)	.009375
Pictured Cliffs Unit (NE/4)	0.01875

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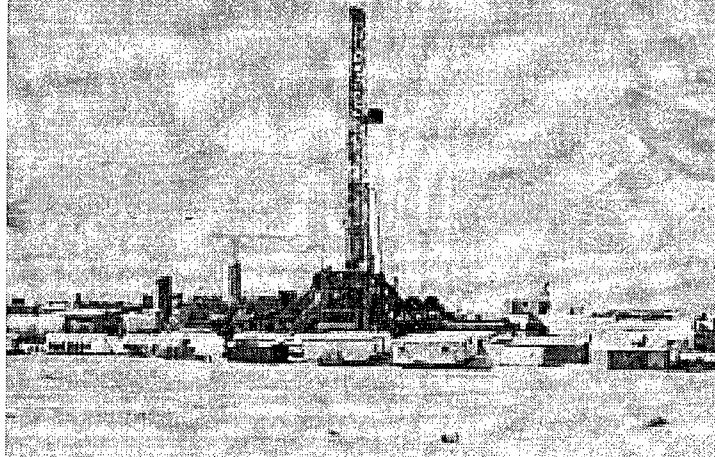
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THE ERNST & YOUNG
GLOBAL OIL & GAS CENTER

Fixed-Rate Overhead Survey

2005 - 2006

 **ERNST & YOUNG**
Quality In Everything We Do



PENGAD 800-631-6989

EXHIBIT

D

San Juan

New Mexico

Monthly Drilling Well Fixed Overhead Rates

Responses	Wells	Depth	Minimum	Average	Median	Maximum
2	332	0 - 5,000	\$3,500	\$4,649	\$4,649	\$5,797
2	157	5,001 - 10,000	\$3,500	\$4,794	\$4,794	\$6,087
		10,001 - 15,000				
		15,001 - 20,000				
		20,001 +				
1	1	No Depth Limit	\$6,417	\$6,417	\$6,417	\$6,417

Monthly Producing Well Fixed Overhead Rates

Minimum	Average	Median	Maximum
\$290	\$435	\$435	\$580
\$400	\$400	\$400	\$400
\$642	\$642	\$642	\$642

FIXED-RATE OVERHEAD SURVEY

11

5000 K/m drilling
5000 K/m of.

Plus
- copies -

DISTRICT I
1625 N. French Dr., Hobbs, N.M. 88240

DISTRICT II
1301 W. Grand Ave., Artesia, N.M. 88210

DISTRICT III
1000 Rio Brazos Rd., Aztec, N.M. 87410

DISTRICT IV
1220 South St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
Energy, Minerals & Natural Resources Department
OIL CONSERVATION DIVISION
1220 South St. Francis Dr.
Santa Fe, NM 87505

Form C-102

Revised October 12, 2005

Submit to Appropriate District Office

State Lease - 4 Copies

Fee Lease - 3 Copies

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number	² Pool Code	³ Pool Name
⁴ Property Code	⁵ Property Name MASDEN SELBY	⁶ Well Number 2R
⁷ OGRD No.	⁸ Operator Name XTO ENERGY INC	⁹ Elevation 5409'

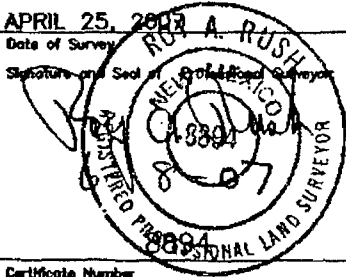
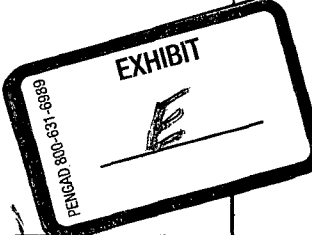
¹⁰ Surface Location

UL or lot no. G	Section 28	Township 29-N	Range 11-W	Lot Idn	Feet from the 1530	North/South line NORTH	Feet from the 1835	East/West line EAST	County SAN JUAN
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¹¹ Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
¹² Dedicated Acres	¹³ Joint or Infill	¹⁴ Consolidation Code	¹⁵ Order No.						

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

QTR. CORNER FD 3 1/4" AC. LS 11598 1993		S 89-41-43 W SEC. CORNER 2623.83' (M) FD 3 1/4" AC. 1999 BLM		¹⁷ OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division. Signature _____ Date _____ Printed Name _____
LAT: 36.69988° N. (NAD 83) LONG: 107.99433° W. (NAD 83) LAT: 36°41'59.56" N. (NAD 27) LONG: 107°59'37.37" W. (NAD 27)		1530' 1835' S 00-01-51 E 2636.26' (M)		
28		QTR. CORNER FD 3 1/4" AC. 1999 BLM		¹⁸ SURVEYOR CERTIFICATION I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief. APRIL 25, 2007 Date of Survey Signature and Seal of Registered Surveyor  Certificate Number _____
				



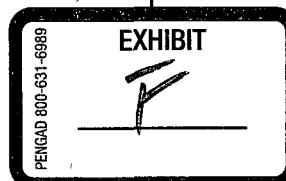
XTO ENERGY INC.
AUTHORITY FOR EXPENDITURE

AFE

AFE NO.: 710831
AFE DESC: D&C BASIN FRTLND COAL GAS WELL
DATE: 02/16/2007
AFE TYPE: DEVELOPMENT DRILLING
OPERATOR: 81 - XTO ENERGY INC.
SECTION/TOWNSHIP/RANGE: 28/29N/11W

DISTRICT: SAN JUAN
FIELD: BASIN
ACCOUNTING ID: 68372
WELL NAME: MASDEN-SELBY 02R FC
STATE/COUNTY: NEW MEXICO / SAN JUAN
XTO WI DECIMAL: 0.750000000

DETAIL OF EXPENDITURES	DRYHOLE	COMPLETION	SUPPLEMENT	TOTAL
Drilling/Rig Move	35,250.00	0.00	0.00	35,250.00
Completion Unit	0.00	4,700.00	0.00	4,700.00
Surf/Int Csg Crew/Laydown Service	940.00	0.00	0.00	940.00
Roads & Location	5,640.00	0.00	0.00	5,640.00
Mud/Chemicals	2,350.00	0.00	0.00	2,350.00
Well Logging: Open Hole	4,230.00	0.00	0.00	4,230.00
Surf/Int Cement & Related Services	2,585.00	0.00	0.00	2,585.00
Bits, Mills, Reamers	2,350.00	0.00	0.00	2,350.00
Drlg Rentals: Sub-Surface	470.00	0.00	0.00	470.00
Drlg Rentals: Surface	3,290.00	0.00	0.00	3,290.00
Rig Fuel, Power & Water	4,700.00	0.00	0.00	4,700.00
Cased Hole Logging/Perf	0.00	5,170.00	0.00	5,170.00
Stimulation & Pumping Services	0.00	94,000.00	0.00	94,000.00
Drlg Supervision (Co & Contract)	5,170.00	0.00	0.00	5,170.00
Drlg Overhead	940.00	0.00	0.00	940.00
Drlg Trucking & Hot Shot	1,880.00	0.00	0.00	1,880.00
Completion Dress Location	0.00	470.00	0.00	470.00
Fluid Haul/Solid Control	2,820.00	0.00	0.00	2,820.00
Flowback	0.00	470.00	0.00	470.00
Frac Tanks/Fluid Hauling	0.00	7,050.00	0.00	7,050.00
Prod Csg Cement & Related Service	0.00	5,640.00	0.00	5,640.00
Prod Csg Crew/Laydown Service	0.00	1,410.00	0.00	1,410.00
Cmpl Rentals: Sub-Surface	0.00	470.00	0.00	470.00
Cmpl Rentals: Surface	0.00	470.00	0.00	470.00
Cmpl Engr/Supervision	0.00	1,410.00	0.00	1,410.00
Cmpl Overhead	0.00	1,410.00	0.00	1,410.00
Cmpl Trucking & Hot Shot	0.00	1,410.00	0.00	1,410.00
Plug and Abandon Unsuccessful Well	2,350.00	0.00	0.00	2,350.00
Cmpl Fluid/Chem/Transp	0.00	7,050.00	0.00	7,050.00
WIP-Intan. Devlpmt Costs TOTAL:	74,965.00	131,130.00		206,095.00
Tubing	0.00	2,350.00	0.00	2,350.00
Wellhead Equipment	1,410.00	0.00	0.00	1,410.00
Pumping & Lifting Equipment	0.00	13,160.00	0.00	13,160.00
Tank Batteries	0.00	21,150.00	0.00	21,150.00
Lease & Flow Lines	0.00	4,700.00	0.00	4,700.00
Sub-surface Pump, Rods, & Acces	0.00	2,350.00	0.00	2,350.00
Automation Equipment	0.00	5,640.00	0.00	5,640.00
Surface Casing	2,350.00	0.00	0.00	2,350.00
Production / Liner Casing	0.00	9,400.00	0.00	9,400.00





XTO ENERGY INC.
AUTHORITY FOR EXPENDITURE

AFE NO.:	710831	DISTRICT:	SAN JUAN
AFE DESC:	D&C BASIN FRTLND COAL GAS WELL	FIELD:	BASIN
DATE:	02/16/2007	ACCOUNTING ID:	68372
AFE TYPE:	DEVELOPMENT DRILLING	WELL NAME:	MASDEN-SELBY 02R FC
OPERATOR:	81 - XTO ENERGY INC.	STATE/COUNTY:	NEW MEXICO / SAN JUAN
SECTION/TOWNSHIP/RANGE:	28/29N/11W	XTO WI DECIMAL:	0.750000000

DETAIL OF EXPENDITURES

DRYHOLE

COMPLETION

SUPPLEMENT

TOTAL

Tubing Head / X-mas Tree	0.00	4,700.00	0.00	4,700.00
Wellhead Comp Install	0.00	4,230.00	0.00	4,230.00
WIP-Lease & Well Equip. TOTAL:	3,760.00	67,680.00		71,440.00

TOTAL THIS AFE:

78,725.00

198,810.00

277,535.00

*** This AFE is an estimate only. By returning one signed copy, you agree to pay your share of the actual costs incurred. ***

REMARKS:

Prepared By: LeAnna Hanhardt

Approved By: Keith Hutton

Signature: _____

Non Operator Approval

DATE _____

COMPANY _____

BY _____

TITLE _____