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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

September 25, 1996

VIA FACSIMILE

(505) 827-8177

Mr. David R. Catanach
Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

URGENT

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

**Re: REQUEST FOR RECONSIDERATION OF DENIAL OF
MOTION TO CONSOLIDATE POOLING CASES**

NMOCD Case 11613

Application of Burlington Resources Oil & Gas

Company for Compulsory Pooling, Lea County, New Mexico

NMOCD Case 11622

Application of Penwell Energy, Inc. for

Compulsory Pooling, Lea County, New Mexico

Gentlemen:

On behalf of Burlington Resources Oil & Gas Company, we request you reconsider your decision to deny our motion to consolidate these cases for hearing on September 26, 1996.

As additional grounds we call your attention to Section 70-2-17(C) NMSA 1978 which requires ownership of an interest in oil and gas rights as a predicate to compulsory pooling. In this case the Penwell case must be dismissed because Trainer and Prince **and not** Penwell are the owners of this interest. See attached Penwell letter. NMOCD Rule 15.A.54 defines "owner" as the person who has the right to drill into and to produce from any pool and to appropriate the production either for himself or for himself and others.

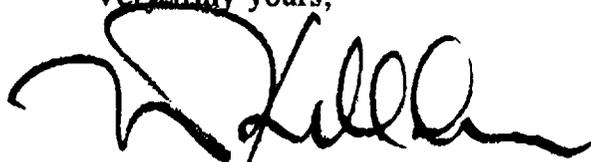
Oil Conservation Division
September 25, 1996
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In New Mexico, transfers of oil and gas ownership rights involve "real property rights" as opposed to "personal property rights" Such transfers are not enforceable with oral agreements. All that Trainer and Prince have done is make a verbal agreement with Penwell in an attempt to escape the consequences of Burlington's pooling efforts.

All Penwell is doing is filing a pooling case in order to have a means to contest Burlington's request that Burlington be designated operator. Burlington is willing to go forward tomorrow on that issue. A delay to October 3, 1996 accomplishes nothing more than to allow a non-owner (Penwell) to delay Burlington's properly filed pooling case for which Trainer and Prince have had ample notice.

We renew our request to: (a) allow Burlington to proceed with its case on September 26, 1996, (b) to consolidate the Penwell case for hearing; (c) to move the Penwell case to the September 26, 1996 docket and (d) dismiss the Penwell case.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Thomas Kellahin". The signature is fluid and cursive, with a long horizontal stroke at the end.

W. Thomas Kellahin

cfx: William F. Carr, Esq.
Burlington Resources Oil & Gas Company
Attn: Leslyn Swierc

PENWELL ENERGY, INC.

1100 ARCO BUILDING
800 N. MARIENFELD
MIDLAND, TEXAS 79701

OFF: (915) 683-2504
FAX: (915) 683-4514

September 10, 1996

Mr. C. W. Trainer and
Mr. Frederick H. Prince, IV
500 W. Texas, Suite 710
Midland, TX 79701

Re: Letter Agreement
Checkers Prospect (NM-096)
Lea County, New Mexico

Dear Mr. Trainer:

This letter is to confirm our verbal agreement whereby Penwell Energy, Inc. ("Penwell") agrees to purchase the leasehold interests currently owned by C. W. Trainer and Frederick H. Prince, IV, hereinafter ("Trainer") without warranty of title, express or implied, in and to that certain oil and gas lease as described on Exhibit "A", attached hereto and made a part hereof ("Said Lease").

The terms and conditions of this Agreement are as follows:

1. Trainer shall furnish to Penwell without warranty, express or implied, copies of Said Lease, contract files, title opinions and all other pertinent instruments and information pertaining to the captioned prospect in its possession.
2. Penwell agrees that on or before November 15, 1996, it shall use its best efforts to commence, or cause to be commenced, operations for the drilling of the Checkers "24" Federal #1 Well ("Initial Well") in search of oil and/or gas at the following location:

1980' from the East and South Lines of Section 24,
T-22-S, R-32-E, NMPM, Lea County, New Mexico.
3. Penwell, as operator, agrees to drill the Initial Well in a good and workmanlike manner, in an attempt to adequately test the Bone Spring formation at a depth of approximately 9,000' below the surface of the ground.
4. Said Lease covers 280.00 gross acres and 228.41 net acres owned by Trainer and Prince. Penwell agrees to pay

Letter Agreement
Mr. C. W. Trainer and
Mr. Frederick H. Prince, IV
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to Trainer, upon obtaining agreement from all leasehold owners for Penwell to operate all wells to be drilled on the prospect, the sum of [REDACTED] as consideration for an assignment of all of Trainer's and Prince's leasehold interest under Said Lease, from the surface of the ground down to 100' below the deepest depth drilled in each well drilled on the prospect.

5. It is understood between the parties hereto that Trainer agrees to deliver to Penwell a [REDACTED] net revenue interest in Said Lease before payout of the Checkers "24" Federal #1 well and a [REDACTED] net revenue interest after payout of said well and a [REDACTED] NRI on all subsequent wells drilled on the prospect, all proportionately reduced to the leasehold interest owned by Trainer.

6. In order for Penwell to maintain any acreage outside of the established governmental proration unit for the Checkers "24" Federal #1 well, Penwell must drill a subsequent test well within one hundred eighty (180) days after the completion of said well, and thereafter on a one hundred eighty (180) day continuous development basis.

7. In the event that Penwell is unsuccessful in obtaining operations for all wells drilled on the acreage described on the attached Exhibit "A", this purchase of leasehold offer may be withdrawn at Penwell's option and Penwell shall have no obligation to Trainer whatsoever.

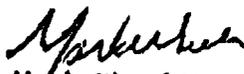
8. It is agreed and understood that Trainer and Prince shall have the continuing option to take their share of oil and gas production "in kind", as long as the entire cost, risk and liability associated with said option is borne solely by Trainer and Prince.

9. Trainer and Prince shall be furnished with daily drilling reports, logs, production reports (C-115), and other information and data obtained from the drilling of any well drilled on the acreage described in Exhibit "A".

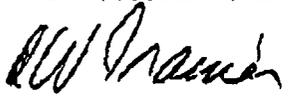
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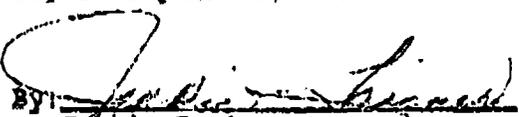
If this letter correctly sets forth your understanding of our verbal agreement, please execute in the space provided below and return to the undersigned one (1) fully executed copy of this agreement on or before September 13, 1996.

Yours very truly,


Mark Wheeler, CPL
Land Manager, Permian Basin

AGREED TO AND ACCEPTED this 12th day of September, 1996.

By: 
C. W. Trainer

By: 
Jackie Trainer

By: _____
Frederick H. Prince, IV

/cmw:checkers(2m)
xci SF / JT