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 PURPOSE OF CONSIDERING:

CASE NO. 11792

AMENDED APPLICATION OF DOYLE HARTMAN TO GIVE FULL FORCE AND EFFECT TO COMMISSION ORDER R-6447, TO REVOKE OR MODIFY ORDER R-4680-A, TO ALTERNATIVELY TERMINATE THE MYERS LANGLIE-MATTIX UNIT, LEA COUNTY, NEW MEXICO

OXY USA INC.'S MOTION TO STAY DISCOVERY AND OBJECTIONS TO DISCOVERY

OXY USA Inc. ("OXY") by its attorneys, W. Thomas Kellahin, and William F. Carr, hereby objects to Hartman's Motion for Discovery and requests the New Mexico Oil Conservation Division Stay Discovery in this case until such time as the Division enters its order on OXY's Motion to Dismiss Hartman's amended application. In the alternative, OXY objects to Hartman's Discovery requests. As grounds for this Motion, OXY states:

1. On May 8, 1997, Hartman filed an Amended Application challenging the validity of the following Division orders and OXY's compliance with said orders:

Order R-4660-Case 5086	1973 approval of Myers Langlie Mattix Unit Agreement
Order R-4680-Case 5087	1973 approval of waterflood project
Order R-6447-Case 6987	1980 statutory unitization of certain royalty interests
Order R-4680-A-Case 11168	approval OXY's 1994 EOR Project

2. On May 8, 1997, Hartman also filed a Motion for Discovery in which Hartman is attempting to engage in sweeping discovery by:

(a) taking the depositions of various OXY personnel;
(b) requiring OXY to produce voluminous records and documents; and
(c) answering an extensive and objectionable First Set of Interrogatories.

3. Hartman seeks to have OXY comply with this Discovery request on or before June 9, 1997.

4. Hartman is attempting to initiate a level of discovery in this case which is unprecedented before the Division.

5. On May 22, 1997, concurrent with this motion, OXY has filed a Motion to Dismiss Hartman's Amended Application based upon the following:

(1) Hartman lacks standing to complain about Order R-6447 (Case 6987) dated August 27, 1980 because the tracts in which Hartman owns his working interest were not committed to the Myers Langlie Mattix Unit by statutory unitization.

(2) Hartman has failed to state a claim for relief because Hartman's working interest was voluntarily committed to the Unit Agreement and Unit Operating Agreement.

(3) Hartman waived his right to protest OXY's 1994 EOR project by failing to appear as an "affected party" in Case 11168 after he was separately served with a notice of hearing including a copy of the application in case and with a copy of OXY's Application for Authorization to Inject (Division form C-108).

(4) Hartman's application must be dismissed because it is a collateral attack on Order R-6447 and R-4680-A which are "res judicata".

(5) Hartman has failed to state a claim for relief because as a matter of law Division Order R-4680-A approved a continuation of enhanced oil recovery project for this unit.

(6) Hartman has failed to state a claim for relief because as a matter of law the Myers Langlie-Mattix Unit has not terminated.

(7) Hartman lacks standing to complain about Order R-4680-A which approved OXY's 1994 EOR project.

(8) The Division lacks jurisdiction over the contractual provisions of the Unit Agreement whereby Hartman granted to OXY, as unit operator, the right to enforce collection of Hartman's indebtedness to the unit.

6. It is premature to commence complicated and involved discovery process until such time as the Division has ruled on OXY's Motion to Dismiss.

7. All of the documents and evidence necessary for the Division to rule on OXY's Motion to Dismiss are attached hereto and discovery is not necessary for the Division to enter an order on this motion.

8. The issues raised by Hartman involve events and actions which more than three years ago and in some instances some seventeen years ago and therefore no prejudice to any party will occur by staying discovery.

9. Should the Division grant OXY's Motion to Dismiss, all discoveries will be moot.

10. Should the Division deny OXY's Motion to Dismiss then OXY objects to all of Hartman's discovery requests on the grounds that such matters are irrelevant, confidential or otherwise protected from discovery. Oxy will more fully object to said discovery should this Motion to Dismiss be denied.

Wherefore, OXY moves the Division for an order Staying Discovery and all issues regarding discovery pending the Division's entry of an order on OXY's Motion to Dismiss, and, in the alternative, hereby objects to all Hartman's discovery requests.

Respectfully submitted,

W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504

William F. Carr
Campbell, Carr, Berge & Sheridan
P. O. Box 2208
Santa Fe, New Mexico 87504

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was hand delivered this 23 day of May, 1997 to:

Michael J. Condon, Esq.
Gallegos Law Firm
460 St. Michaels Drive, Bldg 300
Santa Fe, New Mexico

W. Thomas Kellahin

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
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OXY USA INC.'S MOTION TO DISMISS

Comes now OXY USA Inc. ("OXY") by its attorneys, W. Thomas Kellahin, and William F. Carr, and requests the New Mexico Oil Conservation Division dismiss the amended application of Doyle Hartman ("Hartman") referenced as "CASE NO. 6987" filed on May 8, 1997 in OCD Case 11792 on the grounds that:

(1) Hartman lacks standing to complain about Order R-6447 (Case 6987) dated August 27, 1980 because the tracts in which Hartman owns his working interest were not committed to the Myers Langlie Mattix Unit by statutory unitization.

(2) Hartman has failed to state a claim for relief because Hartman's working interest was voluntarily committed to the Unit Agreement and Unit Operating Agreement.

(3) Hartman waived his right to protest OXY's 1994 EOR project by failing to appear as an "affected party" in Case 11168 after he was separately served with a notice of hearing including a copy of the application in this case, and with a copy of OXY's Application for Authorization to Inject (Division form C-108).

(4) Hartman's application must be dismissed because it is a collateral attack on Order R-6447 and R-4680-A which are "res judicata".

(5) Hartman has failed to state a claim for relief because as a matter of law Division Order R-4680-A approved a continuation of enhanced oil recovery project for this unit.

(6) Hartman has failed to state a claim for relief because as a matter of law the Myers Langlie-Mattix Unit has not terminated.

(7) Hartman lacks standing to complain about Order R-4680-A which approved OXY's 1994 EOR project.

(8) The Division lacks jurisdiction over the contractual provisions of the Unit Agreement whereby Hartman granted to OXY, as unit operator, the right to enforce collection of Hartman's indebtedness to the unit.

and in support thereof states:

POINT I: Hartman lacks standing to complain about Order R-6447 (Case 6987) because the tracts in which Hartman owns his working interest were not committed to the Myers Langlie Mattix Unit by statutory unitization.

Hartman lacks standing to complain about Order R-6447 (Case 6987) because the tracts in which Hartman acquired his working interest in 1986 had already been voluntarily committed to the unit. His working interest was **unaffected** by the statutory unitization of certain uncommitted royalty owners who had interests in tracts **other** than those in which Hartman now has a working interest.

On November 16, 1973, the Division entered Order R-4660 in Case 5086 approving the Myers Langlie Mattix Unit and on November 20, 1973 entered Order R-4680 in Case 5087 approving a waterflood project for that unit.[1]

On August 5, 1980, the Division heard Case 6987 (Order R-6447) which was the statutory unitization application of Getty Oil Company in which Getty sought "an order unitizing certain small royalty interests thereby enabling Getty to enter lease line agreements and implement operating practices which will extend the life of this unit."[2]

Getty's landman testified[3] that "However, there still remain a total of 13 tracts for which we do not have 100 percent ratification of the royalty owners"[4] which were identified as Unit Tracts 43, 45, 50, 52, 53, 54, 55, 56, 61, 64, 65, 66 and 81.

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[1] See Exhibit 1 attached which is a plat of the unit area.

[2] See Exhibit 2 attached being a copy of Transmittal letter dated June 19, 1980 file with this application in Case 6987.

[3] See Exhibit 3 attached. copy of Transcript pages 6-12 Case 6987.

[4] See Exhibits 4 & 5 attached being a copies of Getty Exhibits 2 & 3 in Case 6987.

In 1986, Hartman obtained his 4.869074% working interest[5] in the Unit by acquiring the interests of:

(a) Texas Pacific Oil Company
in Unit Tracts 19,20,21,22,23,24,25,26 and 72
(b) Texas Pacific Oil Company, Schmitz, Scott, et al.
in Unit Tract 29,
(c) Gulf Oil Corporation in Unit Tract 63,

Hartman lacks standing to complain about Order R-6447 (Case 6907) because the working interest owners of the Unit Tracts from whom Hartman obtained his working interest in the Myers Langlie Mattix Unit were not the subject of this statutory unitization order.[6]

Statutory unitization functions in the same way that compulsory pooling does: For example, an operator will obtain the voluntarily agreement of certain working interest owners when they sign a Joint Operating Agreement and commit their interest in the spacing unit for the drilling of a well. The operator will then obtain a compulsory pooling order against any interest owner who fails to reach a voluntarily agreement. Those interest owners are "involuntarily" committed to the well. That does not mean that the consenting interest owners are subject to the pooling order nor does the pooling order supersede or replace the voluntarily agreement. Likewise, in statutory unitization, at least 75% of the interest owners have signed the unit agreement and have voluntarily committed their interests to the unit while only those parties who did not ratify the unit are subject to the terms of the statutory unitization order.

Hartman, wrongly, wants the Division to treat his voluntarily committed interest as if it had been compelled "involuntarily" into the unit. That did not happen and does not happen in this type of case.

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[5] See Exhibit 6 being Exhibit C to Hartman's Counterclaim in Dallas litigation and also Revised Exhibit 10"B" to Unit Agreement filed in OCD Case 6987.

[6] None of these owners was provided with notice of hearing for Case 6907 which demonstrates no intention to affect the working interest owners by statutory unitization.

POINT II:

Hartman has failed to state a claim for relief because Hartman's working interest was voluntarily committed to the Unit Agreement and Unit Operating Agreement.

Hartman lacks standing to complain about Order R-6447 (Case 6987) because the working interest owners of the Unit Tracts from whom Hartman obtained his working interest in the Myers Langlie Mattix Unit ratified the unit agreement pursuant to the statutory unitization order.[7]

On November 16, 1973, the Division entered Order R-4460 in Case 5086 which approved the Myers Langlie Mattix Unit and by Order R-6447, dated August 27, 1980, entered in Case 6987, the Division approved the statutory unitization of certain non-committed royalty interests in the unit area.

The owners of the working interest now owned by Hartman were notified of and had the opportunity to appear in both unitization hearings but did not do so. Following the Statutory Unitization hearing, Getty sought ratification of the unit agreement by the owners of interests therein as required by the statutory unitization order. Ratifications were obtained from the required percentage of the unit working interest owners and royalty interest owners for statutory unitization of the Myers Langlie Mattix Unit Area to be effective.

The working interest in the unit area was not subject to this statutory unitization application because all working interests had been voluntarily committed to the Unit. Furthermore, this application did not change the boundary of the Unit or the participation of any working interest owner in the Unit.[8]

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[7] See Exhibit 7 being Exhibit 14 in Case 6987

[8] See Exhibit 8 attached. Copy of Getty's Exhibit 15 in Case 6987.

Accordingly, in 1986, when Hartman obtained 4.869074% of the unit working interest, he acquired interests which had been voluntarily committed to the unit by the owners thereof. Hartman, as successor in interest to these owners, is now bound by their voluntary commitment of these interests to the unit.

POINT III:

Hartman waived his right to protest OXY's 1994 EOR project by failing to appear as an "affected party" in Case 11168 after he was separately served with a notice of hearing, including a copy of the application in this case, and with a copy of OXY's Application for Authorization to Inject (Division Form C-108).

Hartman now complains that:

(a) OXY's 1994 EOR project for the Unit constituted an improper "redevelopment" of an "expired" unit;

(b) the 1994 EOR project constituted an "amendment of plan of unitization" which the Division failed to approved as an amendment to the statutory unitization order; and

(c) Hartman did not receive notice that OXY was seeking a 1,800 psi surface injection pressure limitation which the Division approved in Order R-4680-A.

Contrary to Hartman's allegations, on November 28, 1994, Hartman received two different notices: a copy[9] of OXY's Form C-108[10] which

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[9] See Exhibit 9 attached, being a return receipt card for article #P583-518-940 showing delivery of the C-108 to Hartman

[10] Exhibit 10 attached, being part of the C-108 showing, among other things, notice to Hartman of the 1,800 psi surface pressure limitation issue

specifically included its request for a 1,800 psi surface injection pressure limitation; and a copy[11] of OXY's Notice[12] of its application to the Division for approval of its 1994 EOR Project.

As of the date of the hearing on December 15, 1994, Hartman had failed to enter an appearance in this case and thereby **waived** his right to now complain about Order R-4680-A.

Despite being afforded an adequate opportunity, Hartman declined to participate in the December 15, 1994 hearing before the Division where he would have been given a timely review of these issues and **instead** waits for more than **three (3) years** before now filing an application with the Division to raise issues which he could have raised in 1994.

POINT IV:

Hartman's application must be dismissed because it is a collateral attack on Order R-6447 and Order R-4680-A which are "Res Judicata"

In 1986, Hartman obtained his 4.869074% working interest[13] in the Unit, **but** waits more than eleven years[14] to contend that the unit agreement and unit operating agreement now fail to comply with the statutory unitization order.

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[11] See Exhibit 11 attached, being a copy of the Certificate of Notice showing, among other things, that Hartman received notice of the hearing by signing for return receipt card #321-036-996.

[12] See Exhibit 12, being a copy of the Notice letter received by Hartman prior to the Hearing in Case 11168

[13] See Exhibit 6 being Exhibit C to Hartman's Counterclaim in Dallas litigation and also Revised Exhibit 10"B" to Unit Agreement filed in OCD Case 6987.

[14] until after he is sued in 1997 by OXY for collection of his debt to the unit

Despite the fact that Hartman's predecessors in title ratified the unit agreement **after** the statutory unitization order and despite the fact that Hartman has waited more than eleven years to raise these complaints, an examination of the existing record in this matter demonstrates that Hartman's allegations are without merit.[15]

In 1980, the Commission ordered that an area comprising some 9,360 acres more or less, "are approved for statutory unitization"[16] and that the "applicant shall waterflood for the secondary recovery of oil, gas, gaseous substances... and all associated....hydrocarbons within and produced from the unit area."[17]

In 1994, the Division ordered that "OXY...is hereby authorized to **expand** (emphasis added) its ...Myers Langlie-Mattix Unit Waterflood Project...by converting 16 existing wells to injectors..."[18]

Contrary to the assertions of Hartman, the Division has already decided these issues and has found that due public notice was properly given in these cases as required by law, and the Division had jurisdiction over the proper parties.

In **Amoco Production Co. v. Heimann,** 904 F.2d 1405, the Tenth Circuit Court of Appeals held that "Determinations by New Mexico Oil Conservation Commission and New Mexico Supreme Court, that oil and gas unitization plan was fair and protected lessor's correlative rights, would be accorded collateral estoppel effect, fairness of unit participation plan was "actually litigated" before Commission, given express statutory obligation of Commission to protect "correlative rights" and Commission's findings that per acre allocation of unit revenues protected such rights." Further, the Court also held that "Under New Mexico law, findings of administrative agencies acting within their proper capacity are granted preclusive effect."

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[15] See OCD case files for Cases 11168, 6987, 5087, and 5086

[16] See Ordering Paragraphs (1) and (2) of Order R-6447

[17] See Ordering Paragraph (5) of Order R-6447.

[18] See Order R-4680-A

POINT V:

Hartman has failed to state a claim for relief because as a matter of law, Division Order R-4680-A approved a continuation of an enhanced oil recovery project for this unit.

On December 15, 1994, the Division heard Case 11168 (Order R-4680-A) in which Oxy, pursuant to the New Mexico "Enhanced Oil Recovery Act" and in accordance with the Division's "Underground Injection Control" Rule 701(G) sought and obtained approval of an expansion of its Myers Langlie-Mattix Unit Waterflood Project by changing the injection pattern including the conversion of 16 producers to injection wells, to reactivate a plugged injector and to qualifying portions of its Myers Langlie-Mattix Unit Waterflood Project for the recovered oil tax rate.

In Order R-4680-A entered March 31, 1995, among other things, the Division **found** that:

OXY is the current operator of both the Myers Langlie-Mattix Unit ("Unit") which was approved by Division Order R-4660 issued November 16, 1973 and the Myers Langlie-Mattix Unit Waterflood Project ("Existing EOR Project") which was approved by Division Order R-4680 issued effective November 20, 1973.

At the time of unitization approval by the Division on November 16, 1973, the Unit encompassed 9923.68 acres. Waterflood operations were initiated during the 1970s on 80-acre five-spot injection patterns. Ultimate primary oil recovery from the Unit has been 9,000 MBBL.

As of October 31, 1994, total oil production from the Unit had been 15,200,000 barrels. At that time, the Unit was producing at 613 BOPD and 7032 BWPD from 93 active producing wells and 66 active injector wells. Approximately 688 MBBL of secondary reserves were estimated to be recoverable under the current mode of 80-acre five spot patterns.

OXY proposed to utilize changes in technology and the process to be used for displacement of oil for a Project Area[19] consisting of 760 acres, more or less, to recover oil that otherwise will not be recovered by converting 16 producers to injection wells, to again utilize 1 plugged injection well (Unit Well No. 134) and to have authorization for the necessary changes to convert said waterflood project from 80-acre five spot patterns to 20-acre infill with 40-acre 5-spot patterns.

While new producers have been drilled in the EOR Project as infill wells, the Division agreed that none of those producers will be recovering enough primary oil to pay for their costs. Instead, these producers are an integral part of the EOR project being necessary in order to close the injection patterns and improve sweep efficiency for the secondary recovery project.

The reduction in the waterflood pattern from 80-acre to 40-acre pattern will improve the sweep efficiency by increasing in size the geologic area being affected by this new activity and increasing ultimate recovery from the project area.

Based on the testimony presented in this case, the Division found that:

> (a) the reduction in the waterflood injection well pattern in the project area should result in a substantial increase in the amount of crude oil ultimately recovered therefrom;
>
> (b) the proposed enhanced oil recovery project is economically and technically feasible and has not been prematurely filed;

On February 6, 1997, in accordance with Division rules and procedures, OXY obtained the Division's certification of a positive injection response which qualified the project area for the tax credit.[20] Despite his criticism of OXY's 1994 EOR project, Hartman is now attempting to claim his "share" of that tax credit.

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[19] See Exhibit 13 attached being Exhibit 1 in Case 11168

[20] See Exhibit 14 attached.

There is no merit to Hartman's contention that the 1994 EOR project constituted an "amendment of plan of unitization" which the Division failed to approved as an amendment to the statutory unitization order (Order R-6447). Hartman has misunderstood Section 70-7-9 NMSA 1978.

Hartman is **wrong** when he contends that OXY's 1994 program to increase secondary recovery by infill drilling approved by Division Order R-4680-A violates the Statutory Unitization Act and the Division's rules for Enhanced Oil Recovery Projects (R-9708).

Section 70-7-9 NMSA 1978 is used when either the horizontal or vertical limits of the unit area previously established and approved by a statutory unitization order are enlarged to include additional tracts not previously included or in the alternative to delete tracts which were previously included, or to change the vertical limits of the unit.

Correctly, the Division has never required a unit subject to the statutory unitization act to be "amended" pursuant to Section 70-7-9 NMSA 1978 when the operator seeks approval of changes in its waterflood pattern, or the approval of additional injection wells pursuant to the Division's Underground Injection Control rules.

POINT VI

Hartman has failed to state a claim for relief because, as a matter of law, the Myers Langlie-Mattix Unit, including unit agreement and unit operating agreement, has not terminated

Hartman, wrongly contends that the unit terminated when it "had fulfilled its purpose as originally stated in support of the request for unit approval in 1973.."[21] In fact, the methods for unit termination are **not** based upon the volume of hydrocarbons produced or forecasted to be produced. The Division has previously approved agreements which specifically describe when the unit will terminate.

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[21] See Hartman's Amended Application Paragraph 19

Article 22 of the Unit Operating Agreement provides "22.1 Termination. Upon termination of the Unit Agreement, the following shall occur:...."

The Unit Agreement provides in Article 24 (page 22-23) for the termination of the unit only under the following specific and limited conditions:

> "the term of this agreement shall be for and during the time that Unitized Substances are or can be produced in quantities sufficient to repay the cost of producing same from the Unitized Land and should production cease so long thereafter as drilling, reworking, or other operations to restore production (**including secondary recovery operations**) are prosecuted thereon without cessation of more than ninety (90) consecutive days, and should production be restored so long thereafter as such Unitized Substances can be produced as aforesaid." **[or]**
>
> "This agreement may be terminated at any time with the approval of the Commissioner and the Supervisor by Working Interest Owners owning tracts with a combined Phase II Participation of at least seventy five percent (75%)."

As of October 31, 1994, total oil production from the Unit had been 15,200,000 barrels. At that time, the Unit was still producing 613 BOPD and 7032 BWPD from 93 active producers using 62 active water injector wells. Approximately 688 MBBL of secondary reserves were estimated to be recoverable under that mode of 80-acres five spot patterns.

Beginning in 1994, Oxy advised Hartman and the other working interest owners that it is necessary to convert 16 producers to injection wells, to again utilize 1 plugged injection well for injection and to change waterflood injection pattern from 80-acre five spot patterns to 20-acre infill with 40-acre 5-spot patterns.[22]

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[22] See Exhibit 13 attached.

Additionally, the Division agreed as late as February, 1997 that the unit was still responding to waterflood operations and was producing secondary reserves.[23]

The project was subsequently approved by the Working Interest Owners pursuant to an Authority for Expenditure[24] dated May 4, 1994, in accordance with the terms of the Unit Operating Agreement.

Commencing with the joint interest bill in approximately the month of July 1994, Hartman ceased paying his share of the joint interest billings.

In response to Oxy's repeated attempts to collect these funds from Hartman, Hartman's only responses were (1) objecting to the Unit waterflood project, although it was performed in accordance with the Unit Agreement and the Unit Operating Agreement, and (2) to complain about the price received for his crude oil although Hartman had the right to take his production in kind.

POINT VII

HARTMAN lacks standing to complain about Order R-4680-A which approved OXY's 1994 EOR project

Hartman lacks standing to complain about Order R-4680-A which approved OXY's request, on behalf of the unit, to conduct additional enhanced oil recovery (including authorizing tax credits) in compliance with the underground injection control regulations **because** Hartman is a "consenting" working interest owner in accordance with the terms of the unit operating agreement.

Article 17.1 of the Unit Operating Agreement permits any party, including Hartman, to withdraw from further participation in the Unit by assigning all of his right, title and interest in the Unit, the Unitized Formation, its lease or leases and any other operating rights, etc to those

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[23] See Exhibit 14, attached.
[24] See Exhibit 15, attached.

parties who desire to continue Unit operations. That would have relieved Hartman from any further liability concerning Unit operations and he was so advised by letters from OXY dated August 19, 1994[25] and September 13, 1994.[26]

Hartman, however, did not elect to withdraw and, therefore, has elected to continue participating in the Unit and has continued to take his share of production in the estimated amount of 16,728 barrels **without** paying his proportionate share of costs, estimated to be $729,000 as of May 1, 1997.

POINT VIII:

The Division lacks jurisdiction over the contractual provisions of the Unit Agreement whereby Hartman granted to OXY, as unit operator, the right to enforce collection of Hartman's indebtedness to the unit.

Hartman, as a consenting working interest owner subject to the terms and conditions of Myers Langlie-Mattix Unit Agreement[27] and Unit Operating Agreement, is in default and has granted to OXY as unit operator the right to enforce collection of Hartman's indebtedness to the unit.

Article 11.5 of the Joint Operating Agreement[28] provides that, among other things, that "In addition, upon default by any Working interest Owner in the payment of its share of Unit expense, Unit Operator, without prejudice to other existing remedies, shall have the right to collect from the purchaser the proceeds from the sale of such Working Interest Owner's share of Unitized Substances until the amount owed by such Working Interest Owner, plus interest as aforesaid, has been paid."

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[25] See Exhibit 16 attached.
[26] See Exhibit 17 attached.
[27] See Exhibit 18, attached.
[28] See Exhibit 19 attached.

Hartman argues that he has declared himself to be a "non-consenting" working interest owner and therefore OXY's sole remedy is to "take" Hartman's share of unit production until such time as OXY has been reimbursed for Hartman's share of the costs. Unfortunately, if that is OXY's remedy which they deny, Hartman has precluded OXY from taking Hartman's share of his oil because he now has taken an estimated 16,728 barrels of oil and keeps switching purchasers in order to avoid OXY's right to take.[29]

Hartman claims that OXY can receive reimbursement for unit expenses billed to Hartman only out of Hartman's share of production. However, Hartman has precluded OXY from doing that by taking his share of oil in kind.

OXY has filed a civil suit in Dallas County, Texas in Case 97-02173 in order to compel Hartman to reimburse the unit for his share of costs, including interest and attorney fees.

The Division lacks jurisdiction over Hartman's attempt to avoid reimbursing an estimated $729,000.00 (as of May 1, 1997) to OXY, as unit operator, which Hartman is obligated to pay pursuant to the Myers Langlie-Mattix Unit Operating Agreement, all of which is the subject of pending civil litigation in Dallas County, Texas.

Hartman's application before the Division is nothing more than an attempt to avoid his contractual obligation to the unit and thwart OXY's efforts to collect Hartman's debt.

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[29] See Exhibit 20 attached.

SUMMARY

OXY requests that the Division dismiss the Hartman application without further hearing.

Respectfully submitted,

W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504

William F. Carr
Campbell, Carr, Berge & Sheridan
P. O. Box 2208
Santa Fe, New Mexico 87504

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was hand delivered this 23 day of May, 1997 to:

Michael J. Condon, Esq.
Gallegos Law Firm
460 St. Michaels Drive, Bldg 300
Santa Fe, New Mexico

W. Thomas Kellahin