

OIL CONSERVATION DIVISION

RECEIVED

'92 JUN 1 AM 9 53

LAGUNA
GATUNA
INC.

Box 111

El Paso, Texas 79901

Telephone: 955-3333

May 28, 1992

Mr. Mark N. Stephenson
Mitchell Energy Corporation
Post Office Box 4000
The Woodlands, Texas 77387-4000

Re: Application of Laguna Gatuna, Inc.
for a Salt Water Disposal Permit
Little Eddy Unit Well No. 1
Unit N, Section 5, T20S, R33E
Lea County, New Mexico

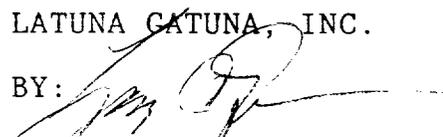
Dear Mark:

I have just talked with Dan Tuffly in your Midland Office and he expressed some concern about the depth of the packer in our proposed disposal well in Section 5, Township 20 South, Range 33 East.

We will agree to set the packer below the bone springs formation and also tie the 5 1/2 back in. This should adequately protect all of the formations in the disposal well. We appreciate your cooperation in this matter and hope you would withdraw your protest from the New Mexico Oil Conservation Division immediately so that we can start the proposed completion.

Very truly yours

LATUNA GATUNA, INC.

BY: 

Larry Q. Squires, President

cc: Oil Conservation Division
Post Office Box 2088
Santa Fe, New Mexico 87501
cc: Mitchell Energy
Attention: Mr. Dan Tuffly
400 West Illinois, Suite 1000
Midland, Texas 79701

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING
GOVERNOR

ANITA LOCKWOOD
CABINET SECRETARY



POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

June 17, 1992

KELLAHIN, KELLAHIN & AUBREY
Attorneys at Law
P. O. Drawer 2265
Santa Fe, New Mexico 87504

RE: CASE NO. 10482
ORDER NO. R-9680

Dear Sir:

Enclosed herewith are two copies of the each of the above-referenced Division order recently entered in the subject case.

Sincerely,

Florene Davidson

Florene Davidson
OC Staff Specialist

FD/sl

cc: BLM - Carlsbad
Mark Stephenson

Case 10482

June 1, 1992

RECEIVED

JUN 01 1992

OIL CONSERVATION DIVISION

Mr. William LeMay
Director Oil Conservation Division
P.O. Box 2088
Santa Fe, NM 87501

Re: APPLICATION OF LAGUNA GATUNA, INC.
FOR A SALT WATER DISPOSAL PERMIT
LITTLE EDDY UNIT WELL NO. 1
UNIT N, SECTION 5, T20S, R33E
LEA COUNTY, NEW MEXICO



Dear Mr. LeMay:

Based on the representations in Mr. Larry Squires May 28, 1992 letter, Mitchell Energy Corporation is withdrawing its protest of the captioned application. We hope the OCD will satisfy itself that the configuration and condition of the wellbore will adequately protect all productive horizons in this area.

Sincerely,

MITCHELL ENERGY CORPORATION

A handwritten signature in black ink, appearing to read 'Mark N. Stephenson'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark N. Stephenson
Manager
Production-Regulatory Affairs

MNS:mtb

cc: Mr. Larry Squires - Laguna Gatuna, Inc.
Mr. Tom Kellahin - Kellahin, Kellahin & Aubrey

LAGUNA
GATUNA
INC.

Box 2158
Hobbs NM 88240
Telephone (505) 393-7544

RECEIVED

JUN 1 1992

PRODUCTION
REGULATORY AFFAIRS

May 28, 1992

Mr. Mark N. Stephenson
Mitchell Energy Corporation
Post Office Box 4000
The Woodlands, Texas 77387-4000

Re: Application of Laguna Gatuna, Inc.
for a Salt Water Disposal Permit
Little Eddy Unit Well No. 1
Unit N, Section 5, T20S, R33E
Lea County, New Mexico

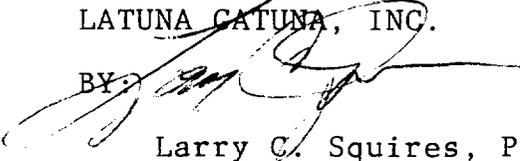
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We will agree to set the packer below the bone springs formation and also tie the 5 1/2 back in. This should adequately protect all of the formations in the disposal well. We appreciate your cooperation in this matter and hope you would withdraw your protest from the New Mexico Oil Conservation Division immediately so that we can start the proposed completion.

Very truly yours

LATUNA GATUNA, INC.

BY: 

Larry C. Squires, President

cc: Oil Conservation Division
Post Office Box 2088
Santa Fe, New Mexico 87501
cc: Mitchell Energy
Attention: Mr. Dan Tuffly
400 West Illinois, Suite 1000
Midland, Texas 79701

KELLAHIN, KELLAHIN AND AUBREY

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN*
KAREN AUBREY†

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

JASON KELLAHIN (RETIRED 1991)

May 5, 1992

Mr. William J. LeMay
Oil Conservation Division
State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87501

HAND DELIVERED

10/182

RE: Application of Laguna
Gatuna, Inc for approval
of the Little Eddy Unit Well #1
for Salt Water Disposal
Lea County, New Mexico

Dear Mr. LeMay:

On April 9, 1992 the above referenced application was filed with the Division seeking administrative approval to use the Little Eddy Unit Well #1 located in Unit N, Section 5, T20S, R33E, Lea County, New Mexico as a salt water disposal well.

As a result of an objection filed by Mitchell Energy Corporation, I request that this matter be set for hearing on the next available examiner's docket now scheduled for May 28, 1992 at the Division Offices in Santa Fe, New Mexico.

In accordance with Division notice requirements, we are sending a copy of this letter, including Form C-108, to all parties within the one-half mile area of review. Those parties are hereby notified by certified mail return receipt that they have the right to appear at the hearing, to make a statement to the Division, to present evidence and cross-examine witnesses either in support of or in opposition to the application. Those parties are directed to contact the Division or the applicant's attorney to determine what additional rights they may have. In addition, they are advised that the Division requires the filing of a prehearing statement by any party desiring to participate in this

Mr. William J. LeMay
May 5, 1992
Page Two

case with a copy to the undersigned not later than 4:00
PM on May 22, 1992.

Very truly yours,



W. Thomas Kellahin

WTK/jcl

Enclosure

cc: Mr. Larry Squires

cc: Certified Mail-Return Receipt

Bureau of Land Management

Mitchell Energy Corporation
ATTN: Mark Stephenson

Barber Oil Inc.

Santa Fe Energy Company

ltrt505a.142



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



BRUCE KING
GOVERNOR

ANITA LOCKWOOD
CABINET SECRETARY

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

MEMORANDUM

TO: OIL OPERATORS AND INTERESTED PARTIES

FROM: WILLIAM J. LEMAY, Director *WJL*
Oil Conservation Division

**SUBJECT: PROPOSED RULES AND REGULATIONS FOR ENHANCED OIL
RECOVERY PROJECT CERTIFICATION FOR SEVERANCE TAX
RELIEF**

DATE: MAY 14, 1992

House Bill 23, commonly referred to as the "Enhanced Oil Recovery Act", was passed by the New Mexico Legislature this year and signed into law by Governor King. This legislation requires the Oil Conservation Division to establish rules and regulations to qualify certain projects for severance tax relief. In accordance with the implementation of this legislation, enclosed are proposed rules and procedures for your evaluation and comment. The Oil Conservation Commission will take testimony on rules and regulations to implement the Enhanced Oil Recovery Act at their June 18, 1992 hearing. We invite your participation in this rulemaking process.

Dockets Nos. 17-92 and 18-92 are tentatively set for June 11, 1992 and June 25, 1992. Applications for hearing must be filed at least 23 days in advance of hearing date.

DOCKET: EXAMINER HEARING - THURSDAY - MAY 28, 1992

**8:15 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM, STATE LAND OFFICE BUILDING,
SANTA FE, NEW MEXICO**

The following cases will be heard before David R. Catanach, Examiner or Michael E. Stogner, Alternate Examiner:

CASE 10477: **Application of Mewbourne Oil Company for compulsory pooling, Eddy County, New Mexico.** Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described area in Section 26, Township 19 South, Range 27 East, and in the following manner: the N/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre gas spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated McMillan-Atoka Gas Pool, Undesignated Angell Ranch Atoka-Morrow Gas Pool, Undesignated North McMillan-Morrow Gas Pool and Undesignated South Millman-Morrow Gas Pool; the NE/4 forming a 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre gas spacing within said vertical extent; and, the NE/4 NE/4 forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Millman-Grayburg Pool. Said units are to be dedicated to a single well to be drilled in the NE/4 NE/4 (Unit A) of said Section 26. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 7 miles east of Lakewood, New Mexico.

CASE 10478: **Application of Merrion Oil and Gas Corporation for pool creation and temporary special pool rules, Sandoval County, New Mexico.** Applicant, in the above-styled cause, seeks the creation of a new pool for the production of oil from the Fractured Mancos Shale formation comprising all of Townships 18 and 19 North, Range 3 West, and the promulgation of temporary special rules therefor including provisions for 640-acre oil spacing, designated well locations, and special allowables. Said area is centered approximately 18 miles south-southwest of Cuba, New Mexico.

CASE 10479: **Application of Bird Creek Resources, Inc. for compulsory pooling, Eddy County, New Mexico.** Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface to the base of the Delaware formation underlying the NW/4 NE/4 (Unit B) of Section 22, Township 23 South, Range 28 East, forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent which presently includes but is not necessarily limited to the East Loving-Delaware Pool. Said unit is to be dedicated to a well to be drilled at a standard oil well location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 1.75 miles east-northeast of Loving, New Mexico.

CASE 10480: **Application of Marathon Oil Company for compulsory pooling, Lea County, New Mexico.** Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Undesignated Lea-Wolfcamp Pool underlying the S/2 of Section 1, Township 20 South, Range 35 East, forming a standard 320-acre gas spacing and proration unit for said pool. Said unit is to be dedicated to the plugged and abandoned Amoco Production Company Selby Well No. 1 located at a standard gas well location 660 feet from the South line and 1980 feet from the West line (Unit N) of said Section 1. Also to be considered will be the cost of re-entering and recompleting said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in re-entering and recompleting said well. Said well is located approximately 9 miles west by south of Monument, New Mexico.

CASE 10481: **Application of Meridian Oil Inc. for a high angle/horizontal directional drilling pilot project, special operating rules therefor, a non-standard oil proration unit, and special project oil allowable, San Juan County, New Mexico.** Applicant, in the above-styled cause, seeks to initiate a high angle/horizontal directional drilling pilot project in the Undesignated Gallegos-Gallup Associated Pool underlying the N/2 of Section 29, Township 26 North, Range 10 West, which is considered a standard 320-acre gas spacing and proration unit for said pool but is an unorthodox oil proration unit, all pursuant to the special pool rules as promulgated by Division Order No. R-5353, as amended. The applicant proposes to re-enter its Huerfano Unit Well No. 218, located at a standard surface location 800 feet from the North line and 790 feet from the West line (Unit D) of said Section 29, kick-off from vertical in an easterly direction until an angle of approximately 90 degrees is achieved and continue drilling horizontally for approximately 1250 feet. Applicant further seeks the adoption of special operating provisions and rules within the pilot project area including the designation of a prescribed area limiting the horizontal displacement of said well's producing interval such that it can be no closer than 790 feet to the outer boundary of the aforementioned 320-acre spacing and proration unit and special allowable provisions are to be considered should said well be classified as an oil producer. Said unit is located approximately 5.5 miles northwest of the El Huerfano Trading Post on State Highway 44.

CASE 16402: Application of Laguna Gatuna, Inc. for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to re-enter the Pan American Petroleum Corporation Little Eddy Unit Well No. 1 (plugged and abandoned July, 1966) located 660 feet from the South line and 1980 feet from the West line (Unit N) of Section 5, Township 20 South, Range 33 East, and utilize said wellbore to dispose of produced salt water into the Undesignated Gem-Bone Spring Pool through the perforated interval from approximately 9136 feet to 9188 feet, the Wolfcamp formation through the perforated interval from approximately 11,184 feet to 11,248 feet, and the Devonian formation through the openhole interval from 14,608 feet to 14,895 feet. Said well is located approximately 2 miles north of U.S. Highway 62/180 at mile marker No. 72.

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
POST OFFICE BOX 2088
SANTA FE, NEW MEXICO 87504

**PROPOSED RULES AND PROCEDURES
FOR QUALIFICATIONS OF
ENHANCED OIL RECOVERY
PROJECTS AND CERTIFICATION FOR
THE RECOVERED OIL TAX RATE**

A. General

Applications for qualification of enhanced oil recovery projects or expansions of existing enhanced oil recovery projects for the recovered oil tax rate pursuant to the New Mexico "Enhanced Oil Recovery Act" (Laws 1992, Chapter 38, Sections 1 through 5) shall be accepted by the Oil Conservation Division after March 6, 1992.

B. Applicability

These rules apply to:

1. enhanced oil recovery (EOR) projects;
2. expansions of existing EOR projects;
3. the expanded use of enhanced oil recovery technology in existing EOR projects;
and
4. the change from a secondary recovery project to a tertiary recovery project.

C. Definitions

1. "Crude oil" means oil and other liquid hydrocarbons removed from natural gas at or near the wellhead.
2. "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department.

3. "Enhanced Oil Recovery (EOR) Project" means the use or the expanded use of any process for the displacement of crude oil from an oil well or pool classified by the Division other than a primary recovery process, including but not limited to the use of a pressure maintenance process, a waterflooding process, an immiscible, miscible, chemical, thermal or biological process or any other related process.
4. "Expansion or Expanded Use" means a significant change or modification as determined by the Oil Conservation Division in (a) the technology or process used for the displacement of crude oil from an oil well or pool classified by the Division; or (b) the expansion, extension or increase in size of the geologic area or adjacent geologic area that could reasonably be determined to represent a new or unique area of activity.
5. "Operator" means the person responsible for the actual physical operation of an enhanced recovery project.
6. "Positive Production Response" means that the rate of oil production from the wells or pools affected by an enhanced recovery project is greater than the rate that would have occurred without the project.
7. "Primary Recovery" means the displacement of crude oil from an oil well or pool classified by the Division into the well bore by means of the natural pressure of the oil well or pool, including but not limited to artificial lift.
8. "Recovered Oil Tax Rate" means the tax rate, as set forth in Paragraph (3) of Subsection A of Section 7-29-4 NMSA 1978, on crude oil produced from an enhanced recovery project.
9. "Secondary Recovery Project" means an enhanced recovery project that: (a) occurs subsequent to primary recovery and is not a tertiary recovery project; (b) involves the application, in accordance with sound engineering principles of carbon dioxide miscible fluid displacement, pressure maintenance, waterflooding or any other secondary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.
10. "Termination" means the discontinuance of an enhanced recovery project by the operator.

11. "Tertiary Recovery Project" means an enhanced recovery project that: (a) occurs subsequent to the completion of a secondary recovery project; (b) involves the application, in accordance with sound engineering principles, of carbon dioxide miscible fluid displacement, pressure maintenance, water flooding or any other tertiary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

D. Procedure

1. The Division's general rules of procedure shall apply to applications for qualifications of EOR projects unless altered or amended by these rules.
2. To be eligible for the recovered oil tax rate the operator must apply for and be granted Division approval of a new EOR project or the expansion of an existing EOR project prior to the commencement of actual injection of fluids into the reservoir, provided, however, no project or expansion approved by the Division prior to March 6, 1992 shall qualify for the recovered tax rate.
3. All applications for approval of EOR projects or the expansion of EOR projects shall be filed in triplicate with the Division at its Santa Fe office. One copy of the application and all attachments shall also be filed with the appropriate Division's district office.
4. All applications shall be executed and certified by the operator or its authorized representative having knowledge of the facts therein and shall contain:
 - a. Operators name and address;
 - b. Description of the project area including:
 - (1) a plat outlining the project area;
 - (2) description of the project area by section, township and range;
 - (3) total acres; and
 - (4) name of the subject pool and formation.

- c. Status of operations in the project area:
 - (1) if unitized, the name of the unit and the date and number of the Division Order approving the unit plan of operation;
 - (2) if an application for approval of a unit plan has been made, the date the application was filed with the Division; and
 - (3) if not unitized, identify each lease in the project area by lessor, lessee and legal description.

- d. Method of recovery to be used:
 - (1) identify fluids to be injected;
 - (2) if the Division has approved the project, provide the date and number of the Division Order; and
 - (3) if the project has not been approved by the Division, provide the date the application for approval was filed with the Division on Form C-108.

- e. Description of the projection:
 - (1) number of producing wells;
 - (2) number of injection wells;
 - (3) capital cost of additional facilities;
 - (4) total project cost;
 - (5) the estimated total value of the additional production that will be recovered as a result of this project;
 - (6) anticipated date for commencement of injection;
 - (7) if application is made for an expansion of an existing project, explain what changes in technology will be used or what additional geographic area will be added to the project area.

- f. Production history: Provide graphs, charts and other supporting data to show the production history of oil, gas, casinghead gas, and water from the project area.
5. Upon receipt of the required information, the application will be set for hearing.

E. Approval - Certification

1. Project Approval: An EOR project will be approved, a certification of approval issued and the project area designated for the recovered oil tax rate when the operator proves that:
 - a. the application of the proposed enhanced recovery techniques to the reservoir should result in an increase in the amount of crude oil that may be ultimately recovered therefrom;
 - b. the project area has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of crude oil; and
 - c. the application is economically and technically reasonable and has not been prematurely filed.

2. Positive Production Response Certification:
 - a. For the recovered oil tax rate to apply, to oil produced from a qualified EOR project, the operator must demonstrate a positive production response to the Division. Applications for certification of a positive production response shall be filed with the Division at its Santa Fe office and shall include:
 - (1) a copy of the Division's certification of approval of the enhanced recovery project or expansion;
 - (2) a plat of the affected area showing all injection and producing wells with completion dates;

- (3) production graphs and supporting data demonstrating a positive production response and showing the volumes of water or other substances that have been injected on the lease or unit since initiation of the enhanced recovery project.
- b. The Division Director shall have authority to administratively approve an application and certify a positive production response, or at his discretion or at the request of the applicant, may set the application for hearing.
- c. The Division shall certify that a positive production response has occurred and notify the Secretary of the Taxation and Revenue Department. This certification and notice shall set forth the date the certification was made and the date the positive production response occurred provided however:
 - (1) for a secondary recovery project, the positive production response must occur not later than five (5) years from the date the Division issued the certification of approval of the enhanced oil recovery project or expansion; and
 - (2) for a tertiary recovery project, the positive production response must occur not later than seven (7) years from the date the Division issues the certification of approval for the enhanced recovery project or expansion.

F. Reporting Requirements

- 1. The operator of a certified EOR project shall report annually on the status of the project. The report will be for the year ending May 31 and shall be filed with the Division at its Santa Fe office. The report shall contain:
 - a. The date and number of the Division's certification order for the project.
 - b. Production graphs showing oil, gas and water production.
 - c. A graph showing the volumes of fluid injected and the average injection pressures.
 - d. Certification that the project is still a viable EOR project as approved.

- e. Any additional data the Director deems necessary for continued approval; further the Director may set any such application for hearing would it appear necessary.

G. Termination

1. When active operation of an approved enhanced recovery project or expansion is terminated, the operator shall notify the Division and the Secretary of Taxation and Revenue in writing not later than the thirtieth (30th) day after the termination of the enhanced recovery project or expansion.
2. Qualification for the recovered oil tax rate ends on the first day of the first calendar month that begins on or after the ninety-first day following the termination of the enhanced recovery project or expansion.



The Legislature of the State of New Mexico

40th Legislature, 2nd Session

LAWS 1992

CHAPTER 38

HOUSE BILL 23, as amended

with emergency clause, and Certificate of Correction

Introduced by

REPRESENTATIVES DONALD L. WHITAKER, E. KELLY MORA, DAVID G. MARTINEZ,
ANGIE VIGIL PEREZ, ROBERT P. WALLACH, GARY D. ROBBINS, HENRY KIKI SAAVEDRA,
H. JOHN UNDERWOOD, MICHAEL OLGUIN, CISCO McSORLEY, EARLENE ROBERTS,
RICHARD P. CHENEY, LINN J. TYTLER, MARIANO (MARIO) TORREZ, BEN LUJAN,
RAYMOND G. SANCHEZ, RICHARD E. OLSON, ROBERT S. LIGHT,
MAX COLL, PAUL W. HARRINGTON, JERRY W. SANDEL,
JOE M. STELL, RAMON HUERTA, PAUL D. BARBER,
KIP W. NICELY, LUCIANO "LUCKY" VARELA,
GEORGE D. BUFFETT AND FREDERICK A. PERALTA



FOR THE ENERGY, NATURAL RESOURCES AND
ENVIRONMENT COMMITTEE AND

THE REVENUE STABILIZATION AND TAX
POLICY REVIEW COMMITTEE

EMERGENCY CLAUSE

State of New Mexico
House of Representatives

OFFICE of the CHIEF CLERK

Santa Fe

STEPHEN RAY ARIAS

FORTIETH LEGISLATURE

CHIEF CLERK 1983

SECOND SESSION, 1992

C E R T I F I C A T E O F C O R R E C T I O N

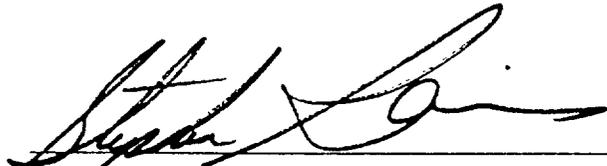
The following error was found in

HOUSE BILL 23, as amended, with emergency clause

and has been corrected in enrolling and engrossing:

1. On page 11, line 11 of printed bill, the period has been deleted and replaced with the punctuation and word "; and", and appears on page 11, line 9 of the enrolled and engrossed bill.

Respectfully submitted,



ENROLLING AND ENGROSSING COMMITTEE
CHAIRMAN
HOUSE OF REPRESENTATIVES

CHAPTER 38

AN ACT

1 RELATING TO TAXATION; ENACTING THE ENHANCED OIL RECOVERY ACT;
2 AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING
3 AN EMERGENCY.
4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. SHORT TITLE.--Sections 1 through 5 of this act may
7 be cited as the "Enhanced Oil Recovery Act".
8

9 Section 2. DEFINITIONS.--As used in the Enhanced Oil Recovery
10 Act:

11 A. "crude oil" means oil and other liquid hydrocarbons
12 removed from natural gas at or near the wellhead;

13 B. "division" means the oil conservation division of the
14 energy, minerals and natural resources department;

15 C. "enhanced recovery project" means the use or the
16 expanded use of any process for the displacement of crude oil from
17 an oil well or pool classified by the division pursuant to Paragraph
18 (11) of Subsection B of Section 70-2-12 NMSA 1978 other than a
19 primary recovery process, including but not limited to the use of a
20 pressure maintenance process, a water flooding process, an immisci-
21 ble, miscible, chemical, thermal or biological process or any other
22 related process;

23 D. "expansion or expanded use" means a significant change
24 or modification, as determined by the oil conservation division in:

25 (1) the technology or process used for the

1 displacement of crude oil from an oil well or pool classified by the
2 division pursuant to Paragraph (11) of Subsection B of Section
3 70-2-12 NMSA 1978; or

4 (2) the expansion, extension or increase in size of
5 the geologic area or adjacent geologic area that could reasonably be
6 determined to represent a new or unique area of activity;

7 E. "operator" means the person responsible for the actual
8 physical operation of an enhanced recovery project;

9 F. "person" means any individual, estate, trust, re-
10 ceiver, business trust, corporation, firm, copartnership, coopera-
11 tive, joint venture, association or other group or combination
12 acting as a unit, and the plural as well as the singular number;

13 G. "positive production response" means that the rate of
14 oil production from the wells or pools affected by an enhanced
15 recovery project is greater than the rate that would have occurred
16 without the project;

17 H. "primary recovery" means the displacement of crude oil
18 from an oil well or pool classified by the division pursuant to
19 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978 into the
20 well bore by means of the natural pressure of the oil well or pool,
21 including but not limited to artificial lift;

22 I. "recovered oil tax rate" means that tax rate, as set
23 forth in Paragraph (3) of Subsection A of Section 7-29-4 NMSA 1978,
24 on crude oil produced from an enhanced recovery project;

25 J. "secondary recovery project" means an enhanced

1 recovery project that:

2 (1) occurs subsequent to the completion of primary
3 recovery and is not a tertiary recovery project;

4 (2) involves the application, in accordance with
5 sound engineering principles, of carbon dioxide miscible fluid
6 displacement, pressure maintenance, water flooding or any other
7 secondary recovery method accepted and approved by the division
8 pursuant to the provisions of Paragraph (14) of Subsection B of
9 Section 70-2-12 NMSA 1978 that can reasonably be expected to result
10 in an increase, determined in light of all facts and circumstances,
11 in the amount of crude oil that may ultimately be recovered; and

12 (3) encompasses a pool or portion of a pool the
13 boundaries of which can be adequately defined and controlled;

14 K. "severance" means the taking from the soil of any
15 product in any manner whatsoever;

16 L. "termination" means the discontinuance of an enhanced
17 recovery project by the operator; and

18 M. "tertiary recovery project" means an enhanced recovery
19 project that:

20 (1) occurs subsequent to the completion of a second-
21 ary recovery project;

22 (2) involves the application, in accordance with
23 sound engineering principles, of carbon dioxide miscible fluid
24 displacement, pressure maintenance, water flooding or any other
25 tertiary recovery method accepted and approved by the division

1 pursuant to the provisions of Paragraph (14) of Subsection B of
2 Section 70-2-12 NMSA 1978 that can reasonably be expected to result
3 in an increase, determined in light of all facts and circumstances,
4 in the amount of crude oil that may ultimately be recovered; and

5 (3) encompasses a pool or portion of a pool the
6 boundaries of which can be adequately defined and controlled.

7 Section 3. PROCEDURES FOR QUALIFYING FOR THE RECOVERED OIL TAX
8 RATE.--

9 A. Crude oil severed and sold from an enhanced recovery
10 project or the expansion of an existing project shall qualify for
11 the recovered oil tax rate if, before the enhanced recovery project
12 or expansion begins operation, the division approves the project or
13 expansion and designates the area to be affected by the project or
14 expansion, but no project or expansion approved by the division
15 prior to the effective date of the Enhanced Oil Recovery Act shall
16 qualify for the recovered oil tax rate.

17 B. The operator of a proposed enhanced recovery project
18 or expansion shall apply to the division for approval of the pro-
19 posed enhanced recovery project or expansion and shall provide the
20 division with any relevant information the division requires for
21 that approval.

22 C. If approval by the division of a unitization agreement
23 as set forth in Chapter 70, Article 7 NMSA 1978 is required for
24 purposes of carrying out the enhanced recovery project or expansion,
25 the division shall not approve the enhanced recovery project or

1 expansion unless it approves the unitization agreement.

2 D. An operator may apply for approval of a proposed
3 enhanced recovery project or expansion concurrently with an applica-
4 tion for approval of a unitization agreement as set forth in Chapter
5 70, Article 7 NMSA 1978 for the purposes of carrying out the pro-
6 posed enhanced recovery project or expansion.

7 E. The division shall only approve a proposed enhanced
8 recovery project or expansion if it determines that the application
9 for approval has not been prematurely filed either for economic or
10 technical reasons and that the area to be affected by the enhanced
11 recovery project or expansion has been so depleted that it is
12 prudent to apply enhanced recovery techniques to maximize the
13 ultimate recovery of crude oil from the well or pool.

14 F. Upon the approval of the application for an enhanced
15 recovery project or expansion, the division shall issue a certifica-
16 tion of approval to the operator and designate the area to be
17 affected by the enhanced recovery project or expansion.

18 G. The recovered oil tax rate shall apply only to the
19 crude oil produced from the area the division certifies to be
20 affected by the enhanced recovery project or expansion.

21 H. The operator shall file an application for certifica-
22 tion of a positive production response with the division to be
23 eligible to receive the recovered oil tax rate.

24 I. The recovered oil tax rate shall only apply to crude
25 oil produced from an enhanced recovery project or the expansion of

1 an existing project beginning the first day of the month following
2 the date the division certifies that a positive production response
3 has occurred and if the application for certification of positive
4 production response is filed:

5 (1) not later than five years from the date the
6 division issues the certification of approval of the enhanced
7 recovery project or expansion if the enhanced recovery project or
8 expansion is designated a secondary recovery project; or

9 (2) not later than seven years from the date the
10 division issues the certification of approval of the enhanced
11 recovery project or expansion if the enhanced recovery project or
12 expansion is designated a tertiary recovery project.

13 J. Qualification for the recovered oil tax rate ends on
14 the first day of the first calendar month that begins on or after
15 the ninety-first day following the termination of the enhanced
16 recovery project or expansion.

17 K. If the active operation of an approved enhanced
18 recovery project or expansion is terminated, the operator shall
19 notify the division and the secretary of taxation and revenue in
20 writing, not later than the thirtieth day after the termination of
21 the enhanced recovery project or expansion.

22 L. In addition to the powers enumerated in Section
23 70-2-12 NMSA 1978, the division shall adopt, promulgate and enforce
24 rules and regulations concerning the approval of the applications,
25 the designation of the affected areas and the operation, expansion

1 and termination of the enhanced recovery projects as provided for in
2 the Enhanced Oil Recovery Act.

3 Section 4. NOTIFICATION TO THE SECRETARY OF TAXATION AND
4 REVENUE--DUTIES OF THE SECRETARY.--

5 A. The division shall immediately notify the secretary of
6 taxation and revenue upon:

7 (1) certifying that a positive production response
8 has occurred for an enhanced oil recovery project, in which case the
9 notice shall contain the date certification was made and the date
10 positive production response occurred;

11 (2) receiving notification of termination of an
12 enhanced recovery project, in which case the notice shall contain
13 the date of termination; and

14 (3) adopting and promulgating rules and regulations
15 pursuant to the provisions of the Enhanced Oil Recovery Act.

16 B. The secretary of taxation and revenue shall adopt and
17 promulgate rules and regulations to enforce the provisions of the
18 Enhanced Oil Recovery Act.

19 Section 5. SECRETARY OF TAXATION AND REVENUE APPROVAL--
20 REFUND.--

21 A. The person responsible for paying the oil and gas
22 severance tax on production from the enhanced recovery project shall
23 not qualify to receive the recovered oil tax rate unless that
24 person:

25 (1) applies to the secretary of taxation and revenue

1 in the form and manner prescribed by the secretary for approval to
2 pay the oil and gas severance tax on crude oil severed and saved
3 from the enhanced recovery project at the recovered oil tax rate;

4 (2) includes the certifications from the division of
5 approval and designation of the affected areas of the enhanced
6 recovery project and of a positive production response from the
7 enhanced recovery project; and

8 (3) provides all relevant material that the secre-
9 tary of taxation and revenue considers necessary to administer the
10 applicable provisions of the Enhanced Oil Recovery Act.

11 B. An approval of the secretary of taxation and revenue
12 in accordance with Subsection A of this section shall be applicable
13 to crude oil severed and sold from the enhanced recovery project on
14 and after the first day of the month following the month in which
15 the division certifies that a positive production response with
16 respect to the enhanced recovery project has occurred. If the oil
17 and gas severance tax is paid at a rate imposed in Paragraph (2) of
18 Subsection A of Section 7-29-4 NMSA 1978 on crude oil severed and
19 saved from the enhanced recovery project after the month in which
20 the division certifies that a positive production response with
21 respect to the enhanced recovery project has occurred, a claim for
22 refund may be filed in accordance with Section 7-1-26 NMSA 1978 for
23 the excess in tax over the amount due using the recovered oil tax
24 rate. Notwithstanding the provisions of Subsection E of Section
25 7-1-26 NMSA 1978 any such refund granted shall be made in the form

of a credit against future oil and gas severance tax liabilities.

Section 6. Section 7-29-2 NMSA 1978 (being Laws 1959, Chapter 52, Section 2, as amended) is amended to read:

"7-29-2. DEFINITIONS.--As used in the Oil and Gas Severance Tax Act:

A. "commission", "department", "division" or "oil and gas accounting division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

C. "severance" means the taking from the soil any product in any manner whatsoever;

D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;

E. "product" or "products" means oil, natural gas or liquid hydrocarbon, individually or any combination thereof, or carbon dioxide;

F. "operator" means any person:

(1) engaged in the severance of products from a production unit; or

(2) owning an interest in any product at the time of

1 severance who receives a portion or all of such product for his
2 interest;

3 G. "primary recovery" means the displacement of oil and
4 of other liquid hydrocarbons removed from natural gas at or near the
5 wellhead from an oil well or pool as classified by the oil conserva-
6 tion division of the energy, minerals and natural resources depart-
7 ment pursuant to Paragraph (11) of Subsection B of Section 70-2-12
8 NMSA 1978 into the well bore by means of the natural pressure of the
9 oil well or pool, including but not limited to artificial lift;

10 H. "purchaser" means a person who is the first purchaser
11 of a product after severance from a production unit, except as
12 otherwise provided in the Oil and Gas Severance Tax Act;

13 I. "person" means any individual, estate, trust, re-
14 ceiver, business trust, corporation, firm, copartnership, coopera-
15 tive, joint venture, association or other group or combination
16 acting as a unit, and the plural as well as the singular number;

17 J. "interest owner" means a person owning an entire or
18 fractional interest of whatsoever kind or nature in the products at
19 the time of severance from a production unit, or who has a right to
20 a monetary payment that is determined by the value of such products;

21 K. "new production natural gas well" means a producing
22 crude oil or natural gas well proration unit that begins its initial
23 natural gas production on or after May 1, 1987 as determined by the
24 oil conservation division of the energy, minerals and natural
25 resources department;

1 L. "qualified enhanced recovery project", prior to
2 January 1, 1994, means the use or the expanded use of carbon dioxide
3 when approved by the oil conservation division of the energy,
4 minerals and natural resources department pursuant to the Enhanced
5 Oil Recovery Act for the displacement of oil and of other liquid
6 hydrocarbons removed from natural gas at or near the wellhead from
7 an oil well or pool classified by the oil conservation division
8 pursuant to Paragraph (11) of Subsection B of Section 70-2-12 NMSA
9 1978; and

10 M. "qualified enhanced recovery project", on and after
11 January 1, 1994, means the use or the expanded use of any process
12 approved by the oil conservation division of the energy, minerals
13 and natural resources department pursuant to the Enhanced Oil
14 Recovery Act for the displacement of oil and of other liquid hydro-
15 carbons removed from natural gas at or near the wellhead from an oil
16 well or pool classified by the oil conservation division pursuant to
17 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978, other
18 than a primary recovery process; the term includes but is not
19 limited to the use of a pressure maintenance process, a water
20 flooding process, and immiscible, miscible, chemical, thermal or
21 biological process or any other related process."

22 Section 7. Section 7-29-4 NMSA 1978 (being Laws 1980, Chapter
23 62, Section 5, as amended) is amended to read:

24 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--
25 INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

1 A. There is imposed and shall be collected by the depart-
2 ment a tax on all products that are severed and sold. The measure
3 of the tax and the rates are:

4 (1) on natural gas severed and sold:

5 (a) except as provided in Subparagraph (b) of
6 this paragraph, whichever of the following rates produces the
7 greater tax: 1) three and three-fourths percent of the value of
8 products; or 2) using a pressure base of 15.025 pounds per square
9 inch absolute and at a temperature of sixty degrees fahrenheit, a
10 tax per one thousand cubic feet (mcf) of sixteen and three-tenths
11 cents (\$.163) until June 30, 1990, after which the rate of three and
12 three-fourths percent of the taxable value determined under Section
13 7-29-4.1 NMSA 1978 of products shall be used; and

14 (b) from a new production natural gas well,
15 three and three-fourths percent of the taxable value determined
16 under Section 7-29-4.1 NMSA 1978;

17 (2) on oil and on other liquid hydrocarbons removed
18 from natural gas at or near the wellhead, except as provided in
19 Paragraph (3) of this subsection, three and three-fourths percent of
20 taxable value determined under Section 7-29-4.1 NMSA 1978;

21 (3) on oil and on other liquid hydrocarbons removed
22 from natural gas at or near the wellhead produced from a qualified
23 enhanced recovery project, one and seven-eighths percent of the
24 taxable value determined under Section 7-29-4.1 NMSA 1978, provided
25 that the annual average price of west Texas intermediate crude oil,

1 determined by the department by averaging the posted prices in
2 effect on the last day of each month of the twelve-month period
3 ending on May 31 prior to the fiscal year in which the tax rate is
4 to be imposed, was less than twenty-eight dollars (\$28.00) per
5 barrel; and

6 (4) on carbon dioxide, three and three-fourths
7 percent of the taxable value determined under Section 7-29-4.1 NMSA
8 1978.

9 B. Every interest owner shall be liable for this tax to
10 the extent of his interest in such products. Any Indian tribe,
11 Indian pueblo or Indian shall be liable for this tax to the extent
12 authorized or permitted by law.

13 C. The tax imposed by this section may be referred to as
14 the "oil and gas severance tax".

15 Section 8. EMERGENCY.--It is necessary for the public peace,
16 health and safety that this act take effect immediately. _____

S/ RAYMOND G. SANCHEZ
RAYMOND G. SANCHEZ, SPEAKER
HOUSE OF REPRESENTATIVES

S/ STEPHEN R. ARIAS
STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

S/ CASEY LUNA
CASEY LUNA, PRESIDENT
SENATE

S/ MARGARET LARRAGOITE
MARGARET LARRAGOITE, CHIEF CLERK
SENATE

Approved by me this 6th day of March, 1992

15
BRUCE KING, GOVERNOR
STATE OF NEW MEXICO

DFA Comments on Proposed Rules for
Qualifications of EOR Projects

1. insert on p. 5 a new item D(4)(g).

g. projected production with and without the project.

2. on p. 5 insert a new item E(2).

E. 2. The Division shall notify the Secretary of the Taxation and Revenue Department and the Secretary of Finance and Administration upon project approval and shall provide the report required in D(4)(g), projected production with and without the project.