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:

APPLICATION OF CONSOLIDATED OIL & GAS INC.
TO AMEND DIVISION ORDER NO. R-9033, ***CASE 10955***
SAN JUAN COUNTY, NEW MEXICO

APPLICATION OF CONSOLIDATED OIL & GAS INC.
TO AMEND DIVISION ORDER NO. R-9178, ***CASE 10956***
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO

APPLICATION OF CONSOLIDATED OIL & GAS INC. ***CASE 10957***
TO AMEND DIVISION ORDER NO. R-9179,
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO

CONSOLIDATED OIL & GAS, INC.'S MEMORANDUM OF LEGAL AUTHORITY

BACKGROUND:

Certain parties originally pooled by Richmond are being pooled again by Consolidated. In addition, during the period between issuing the orders and Consolidated's acquisition of these units and wells, some oil & gas leases have expired. Consolidated seeks amendments of the pooling orders to pool these interest owners who are now "unleased" and have refused to lease their interests.

Consolidated has purchased these wellbores from Richmond for significant value and has obtained the voluntary agreement of more than 91% of the interest owners in each well. Only Anderson and Rubow have refused to reach an agreement.

Anderson and Rubow contend that they should be allowed to participate in these wells as working interest owners without having to pay for any of the costs of drilling the wells. In support of his contentions, Anderson submitted a "Response" admitted as Exhibit 13 in which he raises certain "legal issues" and cites certain legal references as authority for his various arguments. None of those authorities support his contentions, arguments or conclusions. Rubow also filed a post hearing statement in support of his contentions.

Because both Rubow and Anderson's contentions are based upon their fundamental misunderstandings of both the law and the facts relevant to these cases, Consolidated Oil & Gas, Inc. submits for the Examiner's consideration the following Memorandum of Authority:

JURISDICTION

In 1935, the New Mexico Legislature adopted the Oil Conservation Act, now called the Oil and Gas Act" (70-2-1 to 70-2-36 NMSA-1978) and became the first state to enact a comprehensive conservation law dealing with oil and gas production. The Act included provisions for "compulsory pooling." See 70-2-17(C) NMSA-1978.

The purpose of compulsory pooling was then and still now is to prevent the economic and physical waste entailed in the drilling of unnecessary wells and to protect correlative rights of owners and lessees in oil and gas production.

Because oil and gas well spacing in New Mexico does not abrogate the rule of capture under which production from the permitted well located on a tract belongs entirely to the owners of that tract even if the well is draining gas from adjoining tracts within the spacing unit. And because the interests of the other tracts in that spacing unit under the "rule of capture"

would be denied the opportunity to protect their tracts from drainage by drilling offset wells in that spacing unit. And to avoid the resulting confiscation of their property interest in their tracts or leases, New Mexico (as well as most other states) have enacted compulsory pooling statutes that ensure each owner of an interest in the tracts, leases and lands embraced in a spacing unit a reasonable opportunity to receive the share of production attributable to his interest or to realize the value of such interest, and to prevent waste by avoiding the drilling of unnecessary wells.

The constitutionality of compulsory pooling statutes has been broadly upheld and sustained so generally that no reasonable question on this score remains. See 6 William & Myers, Sec. 905.1 at page 19.

PRACTICAL REASONS FOR COMPULSORY POOLING

In the absence of a voluntary pooling agreement, a compulsory pooling order must be obtained in New Mexico and in most states, so as to complete the apportionment of production within the spacing unit. Even in states such as Oklahoma, where a spacing unit (unlike New Mexico) apportions production, compulsory pooling is frequently necessary. For instance, if there is a dispute over how participation in the costs and risks should be structured, an order must be sought.

PREREQUISITES TO COMPULSORY POOLING IN NEW MEXICO

(1) Spacing order:

Almost all state conservation statutes, including New Mexico's, are worded in such a manner as to indicate that pooling of separate tracts and interests can be compelled only within a spacing unit established by the appropriate regulatory agency for a particular source of supply. In this case, the 320-acre spacing has been established by Division Order R-8768, as amended, for the Basin Fruitland Coal Gas Pool.

(2) Identification of parties and interests within spacing unit:

The compulsory pooling statute [70-2-17(C)], requires a finding of ownership before an order may be entered. Without that finding, the order would not be supported by substantial evidence and would thus be subject to attack. Clearly, the Division not only has authority to make this finding, but must do so to support its order.

(3) Absence of a voluntary pooling agreement:

It is a fundamental exercise of its compulsory pooling authority for the Division to make a determination that there is an absence of a voluntary agreement despite a good faith effort by the parties to reach such an agreement.

DIVISION HAS AUTHORITY TO DETERMINE FACTS RELATING TO ITS OWN JURISDICTION

Every court has the implicit and inherent authority to inquire into its own jurisdiction. In Williamson v. Tucker, 645 F.2d 404 (5th Cir. 1981), the court said:

> The unique power of district courts to make factual findings which are decisive of jurisdiction is therefore not disputed. This means that the district court is not limited to an inquiry into undisputed facts. It may hear conflicting written and oral evidence and decide for itself the factual issues which determines jurisdiction.

The same authority inheres in the Division. While the Division is a tribunal of limited jurisdiction, the Division does have such jurisdiction and authority as is expressly or by necessary implication conferred upon it by the statutes of New Mexico. Continental Oil Co., v. Oil Conservation Commission, 70 N.M. 310 (1962). Further orders entered by the Commission must be supported by the law and by substantial evidence. Fasken v. Oil Conservation Commission, 87 N.M. 292 (1975). Special

weight is given to the experience, technical competence and specialized knowledged of the Oil Conservation Commission while the court's review of Commission orders is limited to the evidence presented to the Commission. Viking Petroleum v. Oil Conservation Commission, 100 N.M. 451 (1983).

For additional references see: Lear Petroleum Corp. v. Seneca Oil Co., 590 P.2d 670 (okla. 1979), Burmah Oil & Gas Company v. Corporation Commission, 541 P.2d 834 (Okla. 1975), and Amarex, Inc. v. Baker, 655 P.2d 1040 (Okla. 1983).

It is certainly clear that individual interests may be adjudicated and determined by the Division as a by-product of its determination with respect to allowable production, compulsory pooling or presumably with respect to any other determination within the general jurisdiction of the Division without a penetrating inquiry into the question of the degree to which the public concern is involved as compared with the degree to which private rights are determined. See Shell Oil Co. v. Keen, 355 P.2d 997, 13 O.&G.R. 818 (Okla. 1960) and also Karmer, "Pooling and Unitization Orders--Application of Administrative Law Principals," Sw. Legal Fdn. Oil & Gas Inst. 259 (1983).

THE DIVISION'S EXERCISE OF ITS COMPULSORY POOLING JURISDICTION IS NOT AN IMPERMISSIBLE DETERMINATION OF PROPERTY RIGHTS.

A pooling order should not be viewed as in any way adjudicating a controversy over the validity of an oil and gas lease on the property subject to the order. Hutchins v. Humble Oil & Refining Co., 59 So. 2d 103, 1 O.&G.R. 727 (Miss. 1952).

The statutes and judicial opinions which have dealt with this matter declare that title is unaffected by the compulsory pooling order which relates to drilling, production and the allocation of production to particular premises but not to the title to the premises or ownership of the production once it is allocated to particular premises. Monsanto Chemical. v. Southern Natural Gas Co., 234 La. 939, 102 So.2d 223, 9 O.&G.R. 1110 (1958).

It is generally held that title is unaffected by a compulsory pooling order. The order is regarded as regulating oil and gas operations and the manner in which costs are shared and production is allocated to specific tracts of land within a spacing unit, but does not affect title to land or ownership of the production once allocated. Thus, despite the apportionment of production to the various tracts in the spacing unit, a pooling order is generally not considered to effect a transfer of title. See Arkansas Louisiana Gas Co. v. Southwest Natural Production Co., 60 So. 2d 9 (La. 1952).

Thus, the New Mexico Supreme Court has stated that "...just as the commission cannot perform a judicial function, neither can the court perform an administrative one." Continental Oil Co. v. Oil Conservation Commission, 70 n.m. 310 AT PAGE 819 (1962).

The general rules that has come from these cases is that the Division has jurisdiction to interpret, clarify, amend and supplement its own orders and to resolve any challenges to the public issue of conservation of oil and gas, the prevention of waste and the protection of correlative rights.

THE DIVISION HAS THE EXCLUSIVE AUTHORITY TO DETERMINE WELL COSTS AND ELECTIONS UNDER COMPULSORY POOLING ORDERS

There are a number of judicial decision in Oklahoma arising from compulsory pooling orders all of which "affected" various property or contract rights but which nevertheless where upheld as being within the exclusive jurisdiction of the Commission when exercising its regulatory functions in such cases. For Example:

(1) Adjudication of a forced pooling election issue is within the exclusive jurisdiction of the Oklahoma Corporation Commission. GHK Exploration v. Tenneco Oil Co., 847 F.2d 650, 99 O.&G.R 110, on rehearing, 857 F.2d 1388, 101 O.&G.R 513 (10th Cir. 1988);

(2) The Corporation Commission had authority to make a determination of whether a valid election to participate in the development of a well had been made. Samson Resources Co. v. Oklahoma Corporation Commission, 755 P.2d 1114, 97 O.& G.R. 150 (Okla. 1987);

(3) At various times, in the course of "riding the well down," the non-operating owner claimed to have exercised one or another of the options afforded it by the pooling order; the court sustained the Commission order that the option to participate in the drilling and production of the unit had been exercised. Samedan Oil Corp. v. Corp. Comm., 755 P.2d 664, 100 O.&G.R. 334 (Okla. 1988);

(4) Since the regulatory commission had the right to determine proper costs, it was held that the court action should be stayed pending the Commission's disposition of the application to determine proper costs. Stipe v. Theus, 603 P.2d 347, 65 O.&G.R. 41 (Okla. 1979); and

(5) The Oklahoma Supreme Court overturned a Commission ruling that the Commission lacked jurisdiction to determine the reasonableness of the costs incurred by an operator in drilling a well and remanded the cause to the Commission with instruction to make a full and complete determination as to the reasonable of costs and business decision of the unit operator. W. L. Kirkman, Inc. v. Oklahoma Corp Comm, 676 P.2d 283. 79 O&G.R. 305 (Okla. App. 1983)

A DECLARATION OF POOLING AGREEMENT

Anderson introduced a "Declaration of Pooling and Pooling Agreement" signed by Richmond and McElvain dated October 1, 1990, for the Carnes Wells and which consolidated or "pooled" the various leases held at the time into a 320-acre spacing unit for the S/2 of Section 11.

Apparently, Anderson mistakenly believes that this "Declaration" thereby entitles him to an interest in the subject wellbores for which he is now excused from paying the costs of drilling. If that is his belief, then he is wrong.

The "Declaration" is simply an instrument in which McElvain and Richmond were attempting to form a voluntary unit by the bringing together separately owned interests under the provisions of pooling clauses of multiple and separate leases. However, the "Declaration" and its declared unit are wholly dependent upon the continuing existence of the individual oil & gas leases. If, as in this case, the wells were not drilled and completed for production within the period specified in the Anderson or Quintana leases which caused those lease to expire, the Declaration cannot and does not extend, make valid, renew or otherwise "breathe life" back into those expired leases. See 6 Williams & Myers, Section 931.2 at page 588.

FARMOUT AGREEMENTS

Anderson contends that McElvain paid for the costs of the wells and that somehow "Anderson's costs were covered and such costs were forfeited with the lease expired. Anderson is wrong. He does not know or otherwise misunderstands the "farmout agreement" between Richmond and McElvain.

Farmout agreements are a very common form of agreement between operators, whereby a lease owner not desiring to drill at the time agree to assign the lease, or some portion of it to another operator who does desire to drill the tract. The assignor ("farmor") in such a deal may or may not retain an overriding royalty or production payment. The primary characteristic of the farmout is the obligation of the assignee ("farmee") to drill one or more wells on the assigned acreage as a prerequisite to completion of the transfer to him. See 8 Williams & Myers "Manual of Terms" at page 437.

In this case, because Richmond failed to establish production in the Miller #11 Well, the Carnes Well or the Federal Well, it failed to satisfy the terms of the Farmout Agreement, the leases expired and neither Richmond nor McElvain were entitled to any interest in the Anderson or Quintana leases. All of the Anderson leasehold interest has reverted to Anderson.

McElvain did not pay for the costs of the wells. Anderson's share of the well costs would have been covered only if the lease had not expired. When it did he got back his leased interest but it did not entitled him to a "free-ride" on the well costs.

PRIOR DIVISION PRECEDENTS

Should the Division grant the relief requested by Rubow and Anderson, it would be doing so contrary to well established precedent set forth in prior Division orders. For example, see:

(1) Case No. 10801, Order R-9996, issued October 19, 1993 in which the Division approved a compulsory pooling application of Merrion Oil & Gas Corporation to re-complete an existing Mesaverde pool well uphole to the Fruitland sand interval and to recover from Markham, a non-consenting interest owner, not only the costs of the recompletion but Markhams' share of the present value of the existing wellbore and a risk factor penalty despite the fact that the well had been drilled in 1961 and had repaid its costs many times over;

(2) Case No. 9994, Order R-9332, issued October 24, 1990, in which the Division approved a compulsory pooling application by Doyle Hartman whereby Chevron and Hartman would be allowed to recover their share of the reasonable and equitable value of the existing State "A" Well No 4 as compensation from contribution of that wellbore to the proposed proration unit;

(3) Case 9987, Order R-8245, issued July 8, 1986, in which the Division approved a compulsory pooling application of Mesa Grande Resources Inc. to pool Chevron's interest at a maximum 200% risk factor penalty despite the fact that Mesa Grande had already drilled the well. In addition, the Division denied Chevron's request seeking wellbore data, logs and other information from Mesa Grande;

(4) Case 9225, Order R-8639 issued April 7, 1988, in which the Commission approved a compulsory pooling application by Mesa Grande, Ltd. to pool additional interests in an existing wellbore drilled and completed in 1985, awarded the recovery for the value of the existing well,

provided risk factor penalties and other relief when the Gavilan Mancos Oil Pool was changed to 640-acres and new parties were entitled to share in production provided they pay the costs of the present value of the existing well.

CONCLUSION

Both Rubow and Anderson seek a novel and unique advantage never provided for in prior cases by the Division: to participate as working interest owners in a share of production from an existing well without having paid their share of the costs of that well. Rubow and Anderson want to claim all the benefits, but none of the costs, of a mineral owner under an effective oil & gas lease, yet at the same time also want to claim all the benefits, but none of the costs, of a mineral owner who is not subject to an oil and gas lease. They cannot have it both ways.

Consolidated has satisfied the conditions for obtaining compulsory pooling orders in these cases and is entitled to have the Division issue compulsory pooling orders (see enclosures) each of which is supported by substantial evidence and is consistent with legal authority and the precedents established by the Division in prior cases.

RESPECTFULLY SUBMITTED:

W. THOMAS KELLAHIN
KELLAHIN & KELLAHIN
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TO AMEND DIVISION ORDER NO. R-9179,
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO.

AFFIDAVIT OF PHILIP G. WOOD

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

Before me, the undersigned authority, personally appeared Philip G. Wood, who being duly sworn, stated:

A. My name is Philip G. Wood. I am over the age of majority and am competent to make this Affidavit.

B. I qualified as an expert petroleum landman before the New Mexico Oil Conservation Division at a hearing held on April 14, 1994 in the referenced cases.

During my testimony, I testified that Consolidated had purchased Richmond's interests in the Miller #11, the Carnes and the Federal wells and that $642,300 of the purchase price had been allocated to those wells and to any reserves attributed to the respective leases as set forth on Exhibit (16).

C. Following the Division hearing, I returned to my office in Denver, examined the agreements and discussed the allocation of the purchase price with various personnel of Consolidated. Based upon that review and those discussions I am providing the following supplemental evidence and testimony:

(1) In the original Richmond-Consolidated Asset Purchase Agreement, dated November 30, 1993, Consolidated was to purchase Richmond's interest in Richmond's New Mexico properties based upon a cost allocation set forth on Exhibit "A" attached to this affidavit which is the same as Consolidated Exhibit No. 16 which admitted at the Division Examiner's hearing held on April 14, 1994.

(2) The original allocation of $722,400 including the value of the wellbores and the anticipated value of the oil and gas leases ("reserves") which would have been earned through various farmouts including the McElvain Farmout Agreement.

(3) On January 24, 1994, Richmond and Consolidated agreed to a reduction in the purchase price because Richmond failed to earn and therefore did not acquire any of the oil and gas lease interest ("reserves") which it might have earned through various farmouts including the McElvain Farmout Agreement. Accordingly, the allocation was amended and reduced to ~~$400,300~~ $400,000, as set forth on Exhibit "~~B~~" to this affidavit.

FURTHER AFFIANT SAYETH NOT:

Philip G. Wood

GROUP III WELLS

Well Name	Spacing Unit	Working Interest BPO	Working Interest APO	Working Interest APO	Net Revenue Interest BPO	Net Revenue Interest APO	Net Revenue Interest APO	Allocated Value (Thousands $)
Cornes 32-6-11 #1 (SJ)	T32N-R6W, Sec 11 S/2	87.51%	60.39%	60.39%	69.99%	48.34%	48.34%	192.3
Federal 32-6-9 #1 (SJ)	T32N-R6W, Sec 9 E/2	96.42%	67.56%	57.12%	80.42%	56.60%	45.59%	264.0
Miller 32-6-10 #1 (SJ)	T32N-R6W, Sec 10 E/2	35.24%	24.67%	24.67%	24.67%	18.50%	18.50%	80.1
Miller 32-6-11 #1 (SJ)	T32N-R6W, Sec 11 N/2	65.05%	43.86%	43.86%	51.29%	34.57%	34.57%	186.0
						Total Group III		$ 722.4
						TOTAL ALLOCATED VALUE		$6,200.0

* Situated in La Plata (LP) and Archuleta (A) Counties, Colorado and San Juan (SJ) and Rio Arriba (RA) Counties, New Mexico.

EXHIBIT A TO WOOD AFFIDAVIT

SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT

This SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT, dated as of January 24, 1994, is by and between Richmond Petroleum Inc., a Texas corporation ("Seller"), and Consolidated Oil & Gas, Inc., a Delaware corporation ("Buyer"), and is an amendment to the Asset Purchase Agreement, dated as of November 30, 1993, executed by Buyer and Seller, and as amended by the parties as of December 30, 1993 (as amended, the "Agreement"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

WHEREAS, the Buyer and Seller desire to amend the Agreement on the following terms relating to the terms for purchase of the Group II Wells and the Group III Wells.

AGREEMENT

The parties hereto agree as follows:

1. Except as set forth in this Amendment, Buyer waives any conditions to the purchase of the Group II Wells and Group III Wells relating to third party consents and title.

2. At a Closing on or before January 31, 1994, Seller shall sell to Buyer the Group II Wells and the Group III Wells on the terms hereof. At such Closing, Buyer shall receive, among the other items required by the Agreement, as amended hereby, the following:

(a) Written certification by Seller that it has not encumbered its right, title and interest in and to the Group II Wells and the Group III Wells (the absence of such encumbrances being a condition to the Closing); and

(b) Evidence reasonably satisfactory to Buyer of the approval of such sale and Closing by the shareholders of Seller's corporate parent and the Board of Directors of Seller, or alternatively, a written opinion of counsel to Seller, reasonably satisfactory to Buyer, to the effect that such sale and Closing is validly authorized, this Amendment is validly executed and the terms of this Amendment are fully enforceable by Buyer.

3. Section 2.1(a) of the Agreement shall be amended by the addition of the following sentence at the end of such Section:

> "The Allocated Value for the Group II Wells and the Group III Wells for the sole purpose of

determining the amount to be paid at Closing shall be $1,384,000 and $400,000, respectively."

4. Section 2.2(d)(i) of the Agreement shall be amended to read as follows:

"(i) Seller shall deliver to the Buyer the Assignment, Bill of Sale and Conveyance of Working Interests, Royalty Interests and Mineral Interests in the form attached hereto as Exhibit 2.2(b) for the Closing Assets, to the extent they consist of Group I Wells, and the Special Warranty Deed in the form attached hereto as Exhibit 2.2(d)(i) for the Closing Assets, to the extent they consist of Group II Wells or Group III Wells, and"

5. Section 2.3 of the Agreement shall be amended to read as follows:

"2.3 Post-Closing Purchase Price

(a) As soon as reasonably practicable after each Closing involving Group I Wells, but not later than the 180th day following the date of the Initial Closing, Seller shall prepare and deliver to Buyer a statement setting forth each final adjustment to the Purchase Price for Group I Wells and showing the calculation of each such adjustment (including, but not limited to, adjustments to account for differences between estimated taxes in Section 2.1(b)(i)(A) and actual taxes paid for 1992) ("Final Settlement Statement"). As soon as reasonably practicable, but not later than the 20th day following receipt of Seller's Final Settlement Statement, Buyer shall deliver to Seller a written report containing any changes that Buyer proposes be made to such statement. The parties shall undertake to agree on the Final Settlement Statement, as adjusted, by setting forth the Post-Closing Purchase Price for Group I Wells no later than 210 days after the date of the Initial Closing. If Seller and Buyer are unable to reach an agreement on the final adjustments to the Purchase Price applicable to the Group I Wells, the matter shall be determined by arbitration pursuant to Section 15.11. Within two (2) business days after agreement by Seller and Buyer on a Final Settlement Statement or upon a determination by the arbitrator of a Final Settlement Statement, Buyer or Seller, as the

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CASE NO. 10957
APPLICATION OF CONSOLIDATED OIL & GAS, INC. TO AMEND DIVISION ORDER NO. R-9079, SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO.

AFFIDAVIT OF GEORGE BROOME

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

Before me, the undersigned authority, personally appeared George Broome, who being duly sworn, stated:

A. My name is George Broome. I am over the age of majority and am competent to make this Affidavit.

B. My qualifications as an expert oil and gas transactions are as follows:

(1) Education: B. S. in geological engineering from the University of Arizona in 1961.

(2) Experience: 1961-1965 Schlumberger Well Surveying Corp, Field Engineer, California and Alaska
1965 to present-Exploration, production and land duties with McElvain Oil & Gas Properties, Inc. Currently vice-president, Land and Properties.

(3) Number of Years involved in oil & gas industry: 33 years

(4) Number of Years involved in oil and gas transactions: 29 years

(5) I have personal knowledge of the facts and circumstances expressed in this affidavit. I was in charge of the acquisition of all of the leases involved in the subject drilling units and was involved in the negotiation of the Farmout Agreement between McElvain and Richmond Petroleum Inc. dated June 16, 1989.

C. The following factual summary and the opinions I have expressed therein are based upon my own knowledge and experience in dealing with these facts and circumstances:

1. By Oil & gas Lease dated July 19, 1988, E. T. Anderson, IV, individually and as Independent Executor and Trustee under various wills ("Anderson") leased the SE/4SE/4 of Section 9 and the SE/4SW/4 of Section 11, T32N, R6W, NMPM, San Juan County, New Mexico to T. H. McElvain, Jr., which provided among other things that: (a) Anderson would receive a 1/5th royalty interest in any oil/gas production attributed to the property; and (b) that McElvain would receive a 4/5th working interest in any oil/gas production attributed to the property, provided production would be obtained on or before July 19, 1990.

2. By Oil & gas Lease dated May 20, 1988, Stella M. Quintana leased an 83 acre parcel being the N/2SE/4 and a 3 acre parcel in the SE/4SW/4NE/4 of Section 11, T32N, R6W, NMPM, San Juan County, New Mexico to T. H. McElvain, Jr., which provided among other things that: (a) Quintana would receive a 1/8th royalty interest in any oil/gas production attributed to the property; and (b) that McElvain would receive a 7/8th working interest in any oil/gas production attributed to the property, provided production would be obtained on or before May 20, 1992.

3. James J. Rubow purchased Stella M. Quintana's oil and gas mineral interest in the property described in paragraph (2) above subject to the Quintana oil & gas lease to McElvain, Jr. In addition, Jim Rubow has also acquired Buddy W. Baker's interest in the Quintana lease.

4. On June 16, 1989, T. H. McElvain, Jr. signed a "farmout agreement" with Richmond Petroleum Inc. ("Richmond") which included the Quintana lease, Anderson lease and other leases. Attached as Exhibit C.

5. A Farmout Agreement is a very common form of agreement between operators where one operator desires to drill and another does not. In this case, McElvain was the lessee of certain oil & gas leases, including the Anderson and Quintana leases, and had the right to drill the subject wells. However, McElvain did not desire to drill and Richmond agreed to drill the wells. Therefore the Farmout Agreement provided, among other things, that if Richmond would pay for, timely drill and complete the various wells as wells capable of production then and only then would Richmond "earn" the right to a portion of McElvain's interest in these leases. Because Richmond would pay for McElvain's share of the costs of the well and if timely drilled and completed, McElvain would assign a portion of McElvain's interest in these lease to Richmond.

6. Specifically for the E/2 of Section 9 (Federal 32-6-9 Well No 1) if had Richmond performed its obligations under the Farmout, then the following allocation of interest in production would have occurred:

(1) As to the Anderson Lease:

Richmond:
Before payout: 100% x 4/5th x 3.579% = 2.8632%
After payout: 2/3rd x 4/5th x 3.579% = 1.9088%

McElvain:
Before payout: -0-% x 4/5th x 3.579 = -0-%
After payout: 1/3rd x 4/5th x 3.579 = 0.9544%

Anderson:
Before payout: 1/5th x 3.579 % = 0.7158%
After payout: 1/5th x 3.579% = 0.7158%

(2) As to the Quintana Lease:

No portion of the Quintana lease was dedicated to this spacing unit.

7. Specifically for the S/2 of Section 11 (Carnes 32-6-11 Well No 1) if had Richmond performed its obligations under the Farmout, then the following allocation of interest in production would have occurred:

(1) As to the Anderson Lease:

Richmond:
Before payout: 100% x 4/5th x 3.125% = 2.5%
After payout: 2/3rd x 4/5th x 3.125% = 1.6667%

McElvain:
Before payout: -0-% x 4/5th x 3.125% = -0-%
After payout: 1/3rd x 4/5th x 3.125% = 0.8333%

Anderson:
Before payout: 1/5th x 3.125% = 0.625%
After payout: 1/5th x 3.125% =0.625%

(2) As to the Quintana Lease:

Richmond:
Before payout: 100% x 7/8th x 5% = 4.375%
After payout: 2/3rd x 7/8th x 5% = 2.9167%

McElvain:
Before payout: -0-% x 7/8th x 5%= -0-%
After payout: 1/3rd x 7/8th x 5%= 1.4583%

*Quintana:
Before payout: 1/8th x 5% = 0.625%
After payout: 1/8th x 5% = 0.625%

*the Quintana lease interest is owned by Jim Rubow

8. Specifically for the N/2 of Section 11 (Miller 32-6-11 Well No. 1) if had Richmond performed its obligations under the Farmout, then the following allocation of interest in production would have occurred:

As to the Quintana Lease:
Richmond:
Before payout: 100% x 7/8th x 0.25773% = 0.2255%
After payout: 2/3rd x 7/8th x 0.25773% = 0.15034%

McElvain:
Before payout: -0-% x 7/8th x 0.25773% = -0-%
After payout: 1/3rd x 7/8th x 0.25773% = 0.07517%

Quintana:
Before payout: 1/8th x 0.25773% = 0.032216%
After payout: 1/8th x 0.25773% = 0.032216%

As to the Anderson Lease:

No portion of the Anderson lease was dedicated to this spacing unit.

9. Because Richmond failed to establish production in the Miller 11 Well, the Carnes Well or the Federal Well, it failed to satisfy the terms of the Farmout Agreement and certain oil and gas leases expired including the Anderson lease and the Quintana lease.

10. Although Richmond paid for the McElvain share of the costs of the wells, it failed to "earn" any interest in the McElvain leases. McElvain paid no part of the costs of either the Miller, the Carnes or the Federal wells

11. Because Richmond did not earn any interest in any of the leases subject to the farmout, no assignment was made by McElvain to Richmond of any of the leases.

12. The Anderson lease expired and therefore those interests in the E/2 of Section 9 are now allocated as follows:

(1) As to the Anderson Lease:
Richmond: -0-%
McElvain: -0-%
Anderson: 5/5th x 3.579 % = 3.579%

(2) As to the Quintana Lease: not applicable

13. The Anderson and Quintana lease expired and therefore those interests in the S/2 of Section 11 are now allocated as follows:

(1) As to the Anderson Lease:
Richmond: -0-%
McElvain: -0-%
Anderson: 5/5th x 3.125% = 3.125%

(2) As to the Quintana Lease:

Richmond: -0-%
McElvain: -0-%
Quintana: 8/8th x 5% = 5%

14. The Quintana lease expired and therefore those interests in the N/2 of Section 11 are now allocated as follows:

As to the Quintana Lease:

Richmond: -0-%
McElvain: -0-%
Quintana: 8/8th x 0.257732% = 0.257732%

15. On November 14, 1990, McElvain, in error, tendered a check to Anderson for shut-in gas royalties for the Federal No 1 well. The subject lease had expired and no shut-in royalty was due or payable.

16. On April 18, 1994, McElvain executed appropriate releases of the Quintana oil & gas lease and the Anderson oil & gas lease and has forwarded the originals of said releases to the San Juan County Clerk for recording. True and accurate copies of the two releases are attached as Exhibit "A" and "B" to this affidavit.

FURTHER AFFIANT SAYETH NOT:

George Broome

State of New Mexico)
) SS
County of Santa Fe)

SUBSCRIBED AND SWORN TO before me this 22 day of April, 1994 by George Broome.

Notary Public

(SEAL)

My Commission Expires:

April 17, 1996

STATE OF NEW MEXICO

COUNTY OF RIO ARRIBA

PARTIAL RELEASE OF LEASE

KNOW ALL MEN BY THESE PRESENTS, THAT the undersigned hereby releases, surrenders, and forever quitclaims unto the Lessors named therein, and their successors in interest, any and all rights whatsoever acquired or held under that certain Oil and Gas Lease executed by STELLA M. QUINTANA, a widow, in favor of T. H. McELVAIN, JR., dated May 20, 1988, and recorded in Book 123 at Page 838 of the records of Rio Arriba County, and in Book 1089 at Page 490 of the records of San Juan County, New Mexico, covering the following described lands:

Rio Arriba County, New Mexico
Township 32 North, Range 6 West, N.M.P.M.

Section 11: N/2SE, and a 3-acre tract of land located in the SESWNE, being that portion of said tract lying South and East of the San Juan River, said tract being identified as Parcel 31A in that certain instrument entitled "Order Confirming Title" dated November 24, 1961, and recorded in Book 69 at Page 101, in the Office of the County Clerk, Rio Arriba County, New Mexico.

EXECUTED this 15th day of April, 1994.

T. H. McElvain, Jr.

STATE OF NEW MEXICO

COUNTY OF SANTA FE

The foregoing instrument was acknowledged before me on this 15th day of April, 1994, by T. H. McElvain, Jr.

S E A L

Phyllis Marshall, Notary Public for
the State of New Mexico
My commission expires February 14, 1998

STATE OF NEW MEXICO

COUNTY OF SAN JUAN

RELEASE OF LEASE

KNOW ALL MEN BY THESE PRESENTS, THAT the undersigned hereby releases, surrenders, and forever quitclaims unto the Lessor named therein, and their successors in interest, any and all rights whatsoever acquired or held under that certain Oil and Gas Lease executed by E. T. ANDERSON, IV a/k/a EDMUND T. ANDERSON, IV, INDIVIDUALLY, AND AS INDEPENDENT EXECUTOR AND TRUSTEE UNDER THE WILLS OF EDMUND T. ANDERSON, III a/k/a E. T. ANDERSON, III, EDMUND T. ANDERSON, and E. T. ANDERSON; and LILLIAN ANDERSON a/k/a LILLIAN GARTIN ANDERSON and LILLIAN G. ANDERSON, in favor of T. H. McELVAIN, JR., dated July 19, 1988, and recorded in Book 1092 at Page 175 of the records of San Juan County, New Mexico, covering the following described lands:

San Juan County, New Mexico
Township 32 North, Range 6 West, N.M.P.M.

Section 9: SESE
Section 11: SESW

EXECUTED this 15th day of April, 1994.

T. H. McElvain, Jr.

STATE OF NEW MEXICO

COUNTY OF SANTA FE

The foregoing instrument was acknowledged before me on this 15th day of April, 1994, by T. H. McElvain, Jr.

S E A L

Phyllis Marshall, Notary Public for
the State of New Mexico
My commission expires February 14, 1998

FARMOUT AGREEMENT

THIS AGREEMENT, made and entered into this 16th day of June, 1989, between T. H. McELVAIN, Jr., individually (hereinafter called "Farmor"), and RICHMOND-HOGUE OIL & GAS COMPANY, a Texas general partnership (hereinafter called "Farmee").

I

OIL AND GAS LEASES

Farmor represents, without warranty of title of any kind or character, that it owns and continues to acquire certain oil and gas leases (the "Leases") described in Exhibit A hereto covering lands in Rio Arriba and San Juan Counties, New Mexico, and that Farmor's net revenue interests in such Leases aggregates not less than 80% of gross production from all lands covered by the Leases.

II

INTENT OF THE PARTIES

Farmor and Farmee desire to explore and develop, or cause to be explored and developed, the Leases as to the Fruitland (Coal) Formation during the period which will qualify for the income tax credit for producing fuel from a non-conventional source [Internal Revenue Code Section 29(c)(1)(B)(i)]. At the date of this Agreement, wells drilled and completed by December 31, 1990 so qualify. Farmor and Farmee understand that said period may be legislatively extended. Farmor and Farmee understand and agree that, although said qualification period may be legislatively extended, it is the intent of both parties to drill and complete or abandon all Test Wells provided for herein by December 31, 1990.

III

AREA OF MUTUAL INTEREST

Farmor and Farmee agree to an Area of Mutual Interest (AMI) comprised of the following lands:

In San Juan and Rio Arriba Counties, New Mexico,
Sections 19, 30 and 31, Township 31 North, Range 4 West
Sections 23, 24, 25, 26, 35 and 36, Township 31 North, Range 5 West
Section 7, Township 32 North, Range 5 West
Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22 and 23, Township 32 North, Range 6 West

In Archuleta and La Plata Counties, Colorado.
Sections 19, 20 and 21, Township 32 North, Range 5 West
Sections 22, 23 and 24, Township 32 North, Range 6 West;

said lands are outlined in Red on the attached Exhibit B. Farmor agrees to extend the provisions and benefits of this Farmout Agreement to any renewals or extensions of the Leases, and to any new leases Farmor obtains within the AMI, and Farmee agrees to extend the consideration herein provided for the Leases to any new leases Farmor acquires within the AMI through December 31, 1990. Farmee shall have thirty (30) days after receipt from Farmor of copies of the renewals or extensions of the Leases or new leases acquired within the AMI within which to satisfy itself as to the title to said Leases. Unless Farmee within such 30-day period shall furnish Farmor with a written title opinion reflecting the title to such acquisition is not merchantable of record, Farmee shall pay to Farmor One Hundred Fifty Dollars ($150.00) per net acre covered by the renewal or extension or newly acquired lease, and upon receipt of such payment, such acreage shall be incorporated into the Leases and subject to the various provisions of this Agreement. Farmee further agrees to extend the drilling obligations set forth in "TEST WELLS" below to the extent necessary to explore and develop any such new leases in the same manner as provided herein for the Leases. Farmee agrees to convey to Farmor an Overriding Royalty Interest of Seven and One-Half Percent (7½%) and a One-Third (1/3) Reversionary Interest after Payout (as defined in Article VIII herein) on any lease or mineral interest Farmee may acquire within the AMI through December 31, 1990.

IV

TEST WELLS

The Leases comprise parts of twelve (12) Basin Fruitland/ Pictured Cliffs proration units as prescribed by the New Mexico Oil Conservation Division, and presently cover approximately One Thousand Six Hundred Forty-Five (1,645) net acres. Farmee shall commence, or cause to be commenced, the drilling of one Test Well for each such proration unit (the "Test Wells") at locations of Farmee's choice (subject to the approval of the governing agency) and shall drill each well to a depth sufficient to test the Fruitland (Coal) Formation and shall complete or abandon each such well within one hundred and twenty (120) days from spud date. Subject to the terms and provisions of this Agreement, Farmee shall be obligated to commence the drilling of two (2) Test Wells on or before November 1, 1989 and to commence the drilling of two (2) additional Test Wells on or before May 1, 1990. In the event Farmee shall fail to complete the four Test Wells within the time, manner and to the depth hereinabove provided, this Agreement shall automatically terminate as of the date of such failure as to all undeveloped acreage covered by this Agreement on the date of such failure. In the event of such

termination of this Agreement, Farmee shall forfeit all consideration paid to Farmor in accordance with Article V below. Farmee shall drill each such Test Well with due diligence in a workmanlike manner. It is understood that Farmee accepts the obligation to drill each Test Well as set forth above and may discharge its obligation to continue to drill future Test Wells on each proration unit included within the Leases by notifying Farmor, in writing, no later than July 1, 1990 as to the units for which Test Wells will not be drilled. Upon timely notification, Farmor will release Farmee from the obligation to drill the Test Wells so identified; Farmee shall forfeit all consideration paid in accordance with Article V below for leasehold included in the spacing units for any Test Well so released. Farmee agrees to drill and complete or abandon the Test Wells not released by December 31, 1990 in order to qualify them for the tax credit. If by December 31, 1990, Farmee fails to drill and complete or abandon all of the Test Wells not released by the July 1, 1990 notice, Farmee agrees to pay Farmor, on or before January 31, 1991, liquidating damages in an amount equal to One Hundred and Fifty Dollars ($150.00) per net acre included in each drilling unit not released and not drilled and completed or abandoned.

Farmor reserves the right to take over and complete or abandon any Test Well drilled under the terms of this Farmout Agreement that Farmee has determined to plug and abandon. Should Farmee elect to plug and abandon any such Test Well; it shall notify Farmor who will have forty-five (45) days from receipt of notice to elect to take over said well. Farmee shall be relieved of any obligation to properly plug any Test Well taken over by Farmor under this provision.

V

TITLE PAPERS

Farmor shall furnish to Farmee all title materials concerning the Leases and the Leasehold acreage, including but not limited to broker's reports, copies of the leases, title opinions, that Farmor has in its possession, and Farmee shall reimburse Farmor for all title work expenses incurred and for expenses associated with title work in progress at the date of this Farmout Agreement. To date, Farmor has paid a total of Twelve Thousand Nine Hundred Fifty-Six and 38/100 ($12,956.38) for Title Opinions and for expenses incurred in title curative matters, which amount shall be due and payable upon execution of this Agreement. Farmor does not make any representation or warranty concerning the completeness or accuracy of the materials in its files. Farmee shall, at its sole cost, risk and expense, proceed with due diligence and in a workmanlike manner to conduct such title examination and secure such curative matters as are necessary to satisfy Farmee that title is merchantable to the extent of an Eighty Percent (80%) Net Revenue Interest. The title to any lease or leases shall be considered to have failed

if Farmee shall have furnished Farmor with an attorney's written opinion that the title is not merchantable to the extent of an Eighty Percent (80%) Net Revenue Interest in the lease or leases. Failure by Farmee to make a reasonable attempt to clear title to any of the Leases will constitute forfeiture of the consideration paid attributable to such Leases to which title has not been cleared.

Upon execution, in addition to the title reimbursement amount set forth above, Farmee shall pay Farmor an amount in cash equal to One-Third (1/3) of One Hundred Fifty Dollars ($150.00) per net acre purported to be covered by the Leases, or Eighty-Two Thousand Two Hundred Fifty Dollars ($82,250.00). The balance, in the amount of Two-Thirds (2/3) of One Hundred Fifty Dollars ($150.00) per net acre, or One Hundred Sixty-Four Thousand Five Hundred Dollars ($164,500.00), plus an additional One Hundred Fifty Dollars ($150.00) per net acre for any additional acreage determined to be covered by the Leases or any additional acreage acquired between the execution of this agreement and July 15, 1989, shall be paid on or before July 15, 1989. If on or before July 15, 1989 Farmee shall furnish Farmor with evidence that title shall have failed to more than Twenty-Five Percent (25.0%) of the net acres covered by the Leases, this Agreement shall terminate in its entirety and the entire consideration paid upon its execution shall be refunded to Farmee.

VI

DRILLING OPERATIONS AND PRODUCTION TESTS

Farmee shall bear all expenses, liabilities and risks incurred in or associated with the drilling, testing, completing, equipping or plugging and abandoning of the Test Wells and shall indemnify and hold harmless Farmor from any and all liabilities as a result of such activities, and in drilling such Wells shall observe and comply with the terms and conditions of this Farmout Agreement, the Leases on which the Wells are located and applicable laws, rules and regulations.

Farmor and its agents and representatives shall have access at all times to the Test Wells, to log books, to any cores or other samples taken in connection with drilling operations and to all other information pertaining to the Test Wells. At least one (1) week before operations on a Test Well are commenced, Farmee shall notify Farmor of the exact location of such Test Well and the commencement date.

Before conducting any coring operation, drillstem test, electric log survey, velocity survey or other logging operation on a Test Well, Farmee will give Farmor adequate and reasonable notice to enable it to have a representative present.

VII

INSURANCE

Prior to commencing operations for the drilling of any Test Well Farmee shall obtain insurance coverages as outlined in the form of Operating Agreement attached hereto as Exhibit D. On request, Farmee shall furnish Farmor for approval prior to commencement of operations hereunder, Certificates of Insurance signed by authorized representatives of the insurance companies certifying to insurance coverage in minimum amounts as there specified.

Farmee shall require that each contractor and subcontractor used by it in the performance of operations covered by this Agreement have minimum insurance coverage equivalent to that set out above.

VIII

ASSIGNMENTS

Upon completion of each Test Well as a well capable of commercial production, which for the purposes of this Farmout Agreement shall be defined as production in sufficient amounts to be sold in the usual course of business, Farmor shall, upon request by Farmee, execute and deliver to Farmee an assignment, in the form of Exhibit C hereto, assigning such Farmor's right, title and interest in the Leases insofar as they cover the half section proration unit attributable to such Test Well, subject to the retention and reservation by Farmor of an Overriding Royalty Interest of the difference between lease burdens of record as of the date of execution of this Agreement and Twenty Percent (20.0%), and the further retention and reservation by Farmor of a reversionary interest after Payout (as defined below) equivalent to One-Third (1/3) of the leasehold interest assigned by Farmor to Farmee. For the purposes of this Farmout Agreement, Payout for any Test Well shall be defined to be the date on which income attributable to the interest earned by Farmee under this Agreement in any Test Well, exclusive of production, conservation, severance, sales and other taxes required by law to be withheld by the purchaser of production, shall equal Farmee's acquisition cost of the Leases included in the proration unit for such Test Well, plus Farmee's share of all costs for drilling, completing and equipping such Test Well, and plus Farmee's share of all costs for operating the Test Well to produce such amount. Prior to Payout, Farmee shall furnish Farmor current monthly statements summarizing all receipts and disbursements that are necessary to determine Payout. The Payout provision set forth herein shall apply separately to each Test Well.

The assignment shall provide that, upon Payout of each Test Well, a One-Third (1/3) working interest shall automatically revert to Farmor in and to the Leases insofar as they cover the

half section proration attributable to such Test Well. Farmee agrees that this interest shall be free of any encumbrance created after the date of this Agreement. Upon payout of each Test Well, Farmor agrees to pay its proportionate share of the royalty interest and Farmor's overriding royalty interest in the Leases.

The obligations of Farmor to deliver each of such assignments, as described immediately above, are expressly conditioned upon Farmee's drilling and completion of the relevant Test Well within the time period provided by this Agreement, and upon Farmee's compliance with the other terms of this Agreement. Such assignments shall be without representation or warranty of title.

IX

INFORMATION AND REPORTS

Farmee shall furnish Farmor with the following information concerning the drilling and completion of each Test Well:

(1) Daily written confirmation on the progress of the well, which shall include drilling depth, information on all tests, including character, thickness, name of any formation penetrated, shows of oil, gas or water, and detailed reports on all drillstem tests. If requested, such reports shall be communicated by telephone followed by written confirmation.

(2) Two copies of all forms furnished to any governmental authority.

(3) Two field and two final prints of all electrical logging surveys.

(4) Two field and two final prints of the well log upon completion.

(5) One certified copy of the plugging record, if any.

(6) Samples of all cores and cuttings, if so requested.

(7) Two copies of all reports of drillstem tests, core analyses, well site geology, gas deliverability and/or open flow potential.

X

OPERATING AGREEMENT

Attached hereto as Exhibit D is a form of Operating Agreement the terms of which shall govern (i) the computation of Farmee's costs for the purposes of determining Payout, and (ii) the parties' joint operation of the Test Wells following Payout. Such Operating Agreement shall be deemed to be a separate agreement as to each half section upon which a Test Well is located.

XI

PARTIES

Nothing contained in this Farmout Agreement shall be construed to create a partnership, joint venture, association, trust, mining partnership or other entity or to constitute Farmee the agent of Farmor.

XII

NOTICES

All notices and deliveries to Farmor and Farmee hereunder shall be given and made as follows:

Farmor: T. H. McElvain Oil & Gas Properties
P.O. Box 2148
Santa Fe, New Mexico 87504-2148

(Delivery Address:
220 Shelby Street
Santa Fe, New Mexico 87501)

Farmee: Richmond-Hogue Oil & Gas Company
1651 North Harwood
Suite 360
Dallas, Texas 75201

Each party shall have the right to change its address for notices and deliveries at any time, and from time to time, by giving notices thereof.

XIII

GENERAL

Time is of the essence of this Farmout Agreement.

Farmee shall comply with the nondiscrimination provisions of Executive Order 11246 and the Regulations issued thereunder, if applicable to the Leases.

This Farmout Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

None of the provisions of this Farmout Agreement shall be deemed to have merged with any assignment or other document hereafter executed.

There shall be no waiver or extension of this Agreement or any terms herein unless executed in writing by Farmor and Farmee.

IN WITNESS WHEREOF, this Farmout Agreement has been executed in multiple counterparts, each of which shall be deemed an original, effective as of the day and year first above written.

FARMOR:

T. H. McELVAIN, JR.

By Catherine M. Harvey
Catherine M. Harvey, Agent and
Attorney-in-Fact

FARMEE:

RICHMOND-HOGUE OIL & GAS COMPANY

By _____
General Partner

STATE OF NEW MEXICO

COUNTY OF SANTA FE

Before me, the undersigned authority, on this 16th day of June, 1989, personally appeared CATHERINE M. HARVEY as Agent and Attorney-in-Fact for T. H. McELVAIN, JR., and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for the purposes and consideration therein expressed, and in the capacity therein stated.

Theresa H. Hickey

S E A L

Theresa H. Hickey
Notary Public for the State
of New Mexico
My commission expires: 03-31-91

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on this 23rd day of June, 1989, by Mike Hogue, the Managing General Partner of RICHMOND-HOGUE OIL & GAS COMPANY, a Texas general partnership, on behalf of said partnership.

Belinda M. Patterson

S E A L

Notary Public for the State
of
My commission expires: _____

BELINDA M. PATTERSON
Notary Public, State of Texas
My Comm. Expires 8-1-92

EXHIBIT "A"
Attached to and made a part of that certain
Farmout Agreement between T.H.McElvain, Jr. Farmor
and Richmond-Hogue Oil & Gas Company, Farmee
and dated June 16, 1989,

SCHEDULE OF LEASES

8000 A Belinda Lopez, Lessor and T H McElvain, Lessee, dated 15-Jun-88, recorded in volume 1093 at page 74 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 8: SE SE
Section 9: SW SW

8001 A Martin A Pierce et ux Beverly Y Pierce, Lessor and T H McElvainLessee, dated 1-Nov-88, recorded in volume 1094 at page 269 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE SE
Section 11: SE SW

8001 B David L Lunt, Lessor and T H McElvain, Lessee, dated 10-Jul-88, recorded in volume 1089 at page 819 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE SE
Section 11: SE SW

8001 C Letitia Ann Simmons Letitia Ann Simmons, Trustee, Lessor and T H McElvain, Lessee, dated 15-Apr-88, recorded in volume 1088 at page 426 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE SE
Section 11: SE SW

8001 D Edmund T Anderson E T Anderson IV, Executor and Trustee, Lessor and T H McElvain, Lessee, dated 19-Jul-88, recorded in volume 1092 at page 175 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE SE
Section 11: SE SW

8002 A Dale A Young et ux Mary Ann Young, Lessor and T H McElvain, Lessee, dated 1-May-88, recorded in volume 1089 at page 201 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SW NE
Section 9: W/2 SE

8002 B Archie Don Young et ux Phyllis I Young, Lessor and T H McElvain, Lessee, dated 1-May-88, recorded in volume 1088 at page 427 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SW NE
Section 9: W/2 SE

8002 C Ida Re Nee Young a widow, Lessor and T H McElvain, Lessee, dated 15-May-88, recorded in volume 1089 at page 148 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SW NE
Section 9: W/2 SE

8003 A Miller Minerals no McElvain Interest, Lessor and T H McElvain, Lessee, dated 1-Jan-89, recorded in volume at page and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of NE SE

8003 B Claude I Hobson, Lessor and T H McElvain, Lessee, dated 15-Nov-88, recorded in volume 1095 at page 627 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of NE SE
Section 9: part of N/2
Section 9: part of Lot 3

8003 C John P Westervelt et ux Gwendolyn E Westervelt, Lessor and T H McElvain, Lessee, dated 25-Oct-88, recorded in volume 1095 at page 562 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of NE SE

8003 D George C Westervelt et ux Nita C Westervelt, Lessor and T H McElvain, Lessee, dated 25-Oct-88, recorded in volume 1096 at page 347 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of NE SE

8003 E Clara M Bauer, Lessor and T H McElvain, Lessee, dated 25-Jan-89, recorded in volume 1103 at page 436 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of N/2
Section 9: part of NE SE

8003 F American Cancer Society, Lessor and T H McElvain, Lessee, dated 5-Feb-89, recorded in volume 1101 at page 53 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of N/2
Section 9: part of NE SE

8003 G John S McDonald, Lessor and T H McElvain, Lessee, dated 20-Jan-89, recorded in volume 1098 at page 827 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of N/2
Section 9: part of NE SE

8003 H M J McDonald Wells Fargo Bank, Trustee, Lessor and T H McElvain, Lessee, dated 20-Apr-89, recorded in volume 1103 at page 383 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NE
Section 9: part of N/2
Section 9: part of NE SE

8003 I Ted R Myatt et ux Lois Myatt, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 452 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 J Isobell Upton, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 455 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 K Marvin Layland et ux Daisy W Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 454 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 L Minnie Grace Layland Estate of Herbert Dawson Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 453 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 M D H Myatt et ux Opal Myatt, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 456 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 N Lillian Myatt, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 532 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 O Herman Myatt et ux Laverne Myatt, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 533 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 P June E Benart et vir Robert Benart, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 832 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 Q Ruby Meredith, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 687 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 R Juanita Walters et vir Gene Walters, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1103 at page 60 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 S Martin Layland et ux Betty Ann Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 1016 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 T Donald Lealand et ux Enna LeaLand, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 838 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 U Clifford Lealand, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 831 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 V Irvin B LayLand Evelyn Layland, Independent Executrix, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 688 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 W James LayLand et ux Maxine Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 1015 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 X Jewell E Leck et vir Wesley Leck, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 685 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 Y Lawrence Layland et ux Hazel Dell Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 616 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 Z Thurman Layland et ux Eva Layland, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 642 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 AA Margarette Plemons, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1102 at page 686 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 AB Mabel Lealand, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1103 at page 61 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 AC Salvador J Martinez, Lessor and T H McElvain, Lessee, dated 20-Apr-88, recorded in volume 1088 at page 430 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8003 AD Mary Lydia Martinez, Lessor and T H McElvain, Lessee, dated 20-Apr-88, recorded in volume 1088 at page 428 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AE Raynel A Martinez, Lessor and T H McElvain, Lessee, dated 20-Apr-88, recorded in volume 1088 at page 429 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AF John A Martinez, Lessor and T H McElvain, Lessee, dated 15-May-88, recorded in volume 1089 at page 491 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AG Ray T A Sanchez et ux Sylvia Jean Sanchez, Lessor and T H McElvain, Lessee, dated 15-Nov-88, recorded in volume 1096 at page 348 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AH Theresa M Salazar, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1096 at page 349 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AI Inez R Havlik, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1098 at page 293 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AJ Jim Sanchez Margit Sanchez et vir, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1096 at page 323 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AK Anthony Sanchez, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1098 at page 325 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AL Arthur J Sanchez Barbara Sanchez et vir, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1098 at page 326 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AM Eleanor M Calderon Juan Calderon et ux, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 1098 at page 156 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW

8003 AN Patsy L Williamson James Williamson et ux, Lessor and T H McElvain, Lessee, dated 1-Apr-89, recorded in volume 1103 at page 151 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lot 3
Section 10: S/2 SE SW
Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8004 A Lillian T Emigh, Lessor and T H McElvain, Lessee, dated 25-Oct-88, recorded in volume 1095 at page 92 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NW
Section 9: S 10 a of SW NW
Section 9: N 20 a of NW SW
Section 9: N 10 a of NE SW

8004 B Leota D Emigh, Lessor and T H McElvain, Lessee, dated 26-Oct-88, recorded in volume 1095 at page 91 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: SE NW
Section 9: S 10 a of SW NW
Section 9: N 20 a of NW SW
Section 9: N 10 a of NE SW

8005 A Charlie Aragon, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 1096 at page 477 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lots 1, 2 & 3
Section 9: part of SE NE

8005 B Lupita Brown, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 1096 at page 478 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 9: part of Lots 1, 2 & 3
Section 9: part of SE NE

8006 A Charles W McCarty Sunwest Bank of Albuquerque, Trustee, Lessor and T H McElvain, Lessee, dated 1-Nov-85, recorded in volume 1035 at page 2 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: Lots 3 & 4
Section 10: SE NW
Section 10: NE SW
Section 10: N/2 SE SW
Section 10: NW SW
Section 10: SW NW

8006 B George C Anison, Lessor and T H McElvain, Lessee, dated 5-Apr-88, recorded in volume 1088 at page 425 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: Lots 3 & 4
Section 10: SE NW
Section 10: NE SW
Section 10: N/2 SE SW

8006 C Sal Lee Anderson aka Sal Lee Ryan, Lessor and T H McElvain, Lessee, dated 5-Jan-88, recorded in volume 1035 at page 117 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: Lots 3 & 4
Section 10: SE NW
Section 10: NE SW
Section 10: N/2 SE SW

8006 D Duff-Leach Kenneth C Leach and Diane Duff Leach, Co-Trustees, Lessor and T H McElvain Lessee, dated 5-May-88, recorded in volume 1089 at page 492 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: NW SW
Section 10: SW NW

8006 E Ted and Kim Duff Ted Edward Duff and Kimberlee Annette Duff, Co-Trustees, Lessor and T Lessee, dated 5-May-88, recorded in volume 1089 at page 493 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 10: NW SW
Section 10: SW NW

8007 A Salvador J Martinez, Lessor and T H McElvain, Lessee, dated 20-Apr-88, recorded in volume 1088 at page 430 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: SE NW, part of NE NW
Section 15: part of NE NW

8008 A Esther Abeyta, Lessor and T H McElvain, Lessee, dated 1-Jul-88, recorded in volume 123 at page 930 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 11: Lot 1 & N 1020' of SE NE
Section 12: W 75' of N 1020' of S/2 NW
Section 12: W 75' of Lot 4
Section 14: part of N/2 NE

8008 B Maria L Rivera Maria B Santistevan, Administrator, Lessor and T H McElvain, Lessee, dated 25-Jun-88, recorded in volume 123 at page 954 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: parts of Lots 3 & 4
Section 14: part of N/2 NE

8008 C Estefanita A Serrano, Lessor and T H McElvain, Lessee, dated 15-Jun-88, recorded in volume 123 at page 908 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of N/2 NE

8008 D Miguel A Abeyta, Lessor and T H McElvain, Lessee, dated 5-Jun-88, recorded in volume 123 at page 900 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of N/2 NE

8008 E Primitiva A Garcia et vir Eluterio Garcia, Lessor and T H McElvain, Lessee, dated 5-Jun-88, recorded in volume 123 at page 913 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of N/2 NE

8009 Celia Quintana, Lessor and T H McElvain, Lessee, dated 25-May-88, recorded in volume 1090 at page 669 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 11: Lot 2 & SW NE S&E 3

8010 Salome A Herrera et vir Joseph M. Herrera, Lessor and T H McElvain, Lessee, dated 20-Jul-88, recorded in volume 124 at page 78 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S 300' of SE NE
Section 12: W 75' of S 300' of SW NW

8011 Stella M Quintana, Lessor and T H McElvain, Lessee, dated 20-May-88, recorded in volume 123 at page 838 and covering the following lands in Township 32N, Range 6W, San Juan and Rio Arriba County, NM

Section 11: N/2 SE
Section 11: part of SE SW NE

8012 Enrique Espinosa Joseph Espinosa, Personal Representative, Lessor and T H McElvain, Lessee, dated 25-Jun-88, recorded in volume 123 at page 1026 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: NW SE SE, N/2 SW SE

8013 A Miguel F Quintana, Lessor and T H McElvain, Lessee, dated 15-Jun-88, recorded in volume 123 at page 957 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE
Section 12: part of SE SW
Section 13: part of NE NW

8013 B Juan Andres Quintana et ux Inez Q Quintana, Lessor and T H McElvain, Lessee, dated 15-Jun-88, recorded in volume 124 at page 406 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE
Section 12: part of SW SW
Section 13: NW NW S&E 1.14a

8013 C Epimenio Quintana et ux Adela M Quintana, Lessor and T H McElvain, Lessee, dated 1-Jul-88, recorded in volume 124 at page 33 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE
Section 12: part of S/2 SE NW

8013 D Celia Quintana, Lessor and T H McElvain, Lessee, dated 20-Jul-88, recorded in volume 124 at page 177 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 E Patricia Gallegos et vir Joe M Gallegos, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 399 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 F Jose Eugenio Quintana et ux Lupe Quintana, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 357 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 G Rumaldo Quintana et ux Inez Quintana, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 393 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 H Viola Quintana, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 120 at page 800 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 I Josephine Q Roller et vir Frank Roller, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 413 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 J Inez Archuleta, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 501 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 K Eloy Quintana et ux Cecilia Quintana, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 402 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 L Natividad O Chavez et vir Frank G Chavez, Lessor and T H McElvain, Lessee, dated 25-Jul-88, recorded in volume 124 at page 174 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE
Section 12: part of SE SE NW

8013 M Phoebe Q Chavez et vir Frank G Chavez, Lessor and T H McElvain, Lessee, dated 5-Aug-88, recorded in volume 124 at page 544 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 N Cecilia Baca, Lessor and T H McElvain, Lessee, dated 25-Sep-88, recorded in volume 124 at page 681 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 O Steve Garcia et ux Deanna Garcia, Lessor and T H McElvain, Lessee, dated 5-Oct-88, recorded in volume 125 at page 204 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM
Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 P Teresa Booth et vir H Edward Booth, Lessor and T H McElvain, Lessee, dated 5-Oct-88, recorded in volume 126 at page 270 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM
Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8013 Q Pete Garcia et ux Sonia Garcia, Lessor and T H McElvain, Lessee, dated 5-Oct-88, recorded in volume 125 at page 372 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM
Section 11: S/2 S/2 SE, NE SE SE
Section 12: part of SW NE

8014 A Annie Lovato Jimenez, Lessor and T H McElvain, Lessee, dated 20-Jun-88, recorded in volume 124 at page 75 and covering the following lands in Township 32N, Range 6W, Rio Arriba\San Juan County, NM
Section 11: NE SW, S/2 SE NW SW, SE SW NW SW

8014 B Christobal Lovato et ux Margaret Lovato, Lessor and T H McElvain, Lessee, dated 20-Jun-88, recorded in volume 123 at page 1023 and covering the following lands in Township 32N, Range 6W, Rio Arriba\San Juan County, NM

Section 11: NE SW, S/2 SE NW SW, SE SW NW SW

8014 C Sophia L Payne, Lessor and T H McElvain, Lessee, dated 25-Jun-88, recorded in volume 124 at page 286 and covering the following lands in Township 32N, Range 6W, Rio Arriba\San Juan County, NM

Section 11: NE SW, S/2 SE NW SW, SE SW NW SW

8015 A Mary E Weathers et vir Manuel Ceburn Weathers, Lessor and T H McElvain, Lessee, dated 25-Jun-88, recorded in volume 1091 at page 542 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 11: part of SW

8015 B Delfin Martinez et ux Beatrice Martinez, Lessor and T H McElvain, Lessee, dated 25-Sep-88, recorded in volume 1095 at page 628 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 11: part of SW

8016 Cecil C Carnes, Lessor and T H McElvain, Lessee, dated 8-Jul-88, recorded in volume 1090 at page 952 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 11: part of SW

8017 A John A Mascarenas et ux Irene Mascarenas, Lessor and T H McElvain, Lessee, dated 25-Aug-88, recorded in volume 124 at page 538 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of SW SW

8017 B Adela M Quintana et vir Jose E Quintana, Lessor and T H McElvain, Lessee, dated 25-Aug-88, recorded in volume 124 at page 410 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of SW SW

8017 C Viola M Lucero, Lessor and T H McElvain, Lessee, dated 25-Aug-88, recorded in volume 124 at page 435 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of SW SW

8018 A Jose E Marquez, Lessor and T H McElvain, Lessee, dated 20-Jul-88, recorded in volume 124 at page 431 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of SE SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8018 B Pete Marquez et ux Gloria S Marquez, Lessor and T H McElvain, Lessee, dated 5-Jul-88, recorded in volume 124 at page 293 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of SE SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8018 C Maima Santistevan, Lessor and T H McElvain, Lessee, dated 10-Jul-88, recorded in volume 124 at page 36 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of E SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8018 D Katie Martinez et vir Joe S Martinez, Lessor and T H McElvain, Lessee, dated 20-Jul-88, recorded in volume 124 at page 170 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of SE SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8018 E Tommie Martinez et vir Tony Martinez, Lessor and T H McElvain, Lessee, dated 5-Jul-88, recorded in volume 124 at page 194 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of SE SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8018 F Demis Candelaria, Lessor and T H McElvain, Lessee, dated 5-Jul-88, recorded in volume 124 at page 198 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: NW SW
Section 12: part of SE SE NW
Section 13: part of SW NW
Section 14: SW NE
Section 14: part of NW SE
Section 14: part of NE SW
Section 14: part of SE NE

8019 A Regina G Candelaria et vir Manuel C Candelaria, Lessor and T H McElvain, Lessee, dated 10-Jul-88, recorded in volume 124 at page 563 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of NW

8019 B Jose D Lopez et ux Leta A Lopez, Lessor and T H McElvain, Lessee, dated 15-Aug-88, recorded in volume 124 at page 678 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of NW

8019 C Gilbert Gallegos et ux Marian R Gallegos, Lessor and T H McElvain, Lessee, dated 10-Nov-88, recorded in volume 125 at page 331 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of NW

8020 A Cleotilde Nickerson, Lessor and T H McElvain, Lessee, dated 1-Jul-88, recorded in volume 123 at page 927 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of Lots 3 & 4
Section 12: NE SW

8020 B John Steve Candelaria et ux Alvina Candelaria, Lessor and T H McElvain, Lessee, dated 5-Aug-88, recorded in volume 124 at page 360 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of Lots 3 & 4
Section 12: NE SW
Section 14: part of NE NE

8021 A Victor P Marquez, Lessor and T H McElvain, Lessee, dated 20-Sep-88, recorded in volume 124 at page 550 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of Lot 3

8021 B Yvonne Marquez, Lessor and T H McElvain, Lessee, dated 15-Sep-88, recorded in volume 124 at page 541 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of Lot 3

8022 A Ben E Maez et ux Angy Maez, Lessor and T H McElvain, Lessee, dated 5-Aug-88, recorded in volume 124 at page 290 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM
Section 12: part of Lots 3 & 4

8022 B Luis S Maez et ux Marie Maez, Lessor and T H McElvain, Lessee, dated 25-Jul-88, recorded in volume 124 at page 210 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM
Section 12: part of Lots 3 & 4

8022 C Bences Maez et ux Caroline Maez, Lessor and T H McElvain, Lessee, dated 5-Aug-88, recorded in volume 124 at page 495 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: part of Lots 3 & 4

8023 A Gaby Escondon et vir Manuel Escondon, Lessor and T H McElvain, Lessee, dated 5-Dec-88, recorded in volume 125 at page 649 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 12: N/2 NW SE, N/2 S/2 NW SE & SW SW NW SE

8024 Joseph C Quintana et ux Betty Jo Quintana, Lessor and T H McElvain, Lessee, dated 5-Jul-88, recorded in volume 123 at page 951 and covering the following lands in Township 32N, Range 6W, Rio Arriba\San Juan County, NM

Section 14: part of NW SE
Section 14: E/2 NW

8025 A Tony Martinez et ux Tommie Martinez, Lessor and T H McElvain, Lessee, dated 1-Aug-88, recorded in volume 124 at page 396 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of NW SE
Section 14: part of NE SW

8025 B Manuel F Martinez, Lessor and T H McElvain, Lessee, dated 1-Sep-88, recorded in volume 124 at page 511 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of NW SE
Section 14: part of NE SW

8025 C Rosalie Martinez, Lessor and T H McElvain, Lessee, dated 1-Sep-88, recorded in volume 124 at page 498 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of NW SE
Section 14: part of NE SW

8025 D Helen Hernandez, Lessor and T H McElvain, Lessee, dated 1-Sep-88, recorded in volume 125 at page 42 and covering the following lands in Township 32N, Range 6W, Rio Arriba County, NM

Section 14: part of NW SE
Section 14: part of NE SW

8026 William Truman Mann et ux Patricia Brinson Mann, Lessor and T H McElvain, Lessee, dated 25-Jun-88, recorded in volume 1092 at page 588 and covering the following lands in Township 32N, Range 6W, San Juan County, NM

Section 15: N/2 NE SW

8027 A Silviano Abeyta et ux Philomena Abeyta, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 125 at page 401 and covering the following lands in Township 31N, Range 5W, Rio Arriba County, NM

Section 25: NE

8027 B Maria L Rivera Maria Benedita Santistevan, Administrator, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 125 at page 623 and covering the following lands in Township 31N, Range 5W, Rio Arriba County, NM

Section 25: NE

8027 C Primitivia A Garcia et vir Eluterio Garcia, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 125 at page 370 and covering the following lands in Township 31N, Range 5W, Rio Arriba County, NM

Section 25: NE

8027 D Estefanita A Serrano, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 125 at page 409 and covering the following lands in Township 31N, Range 5W, Rio Arriba County, NM

Section 25: NE

8027 E Miguel A Abeyta, Lessor and T H McElvain, Lessee, dated 15-Dec-88, recorded in volume 125 at page 375 and covering the following lands in Township 31N, Range 5W, Rio Arriba County, NM

Section 25: NE

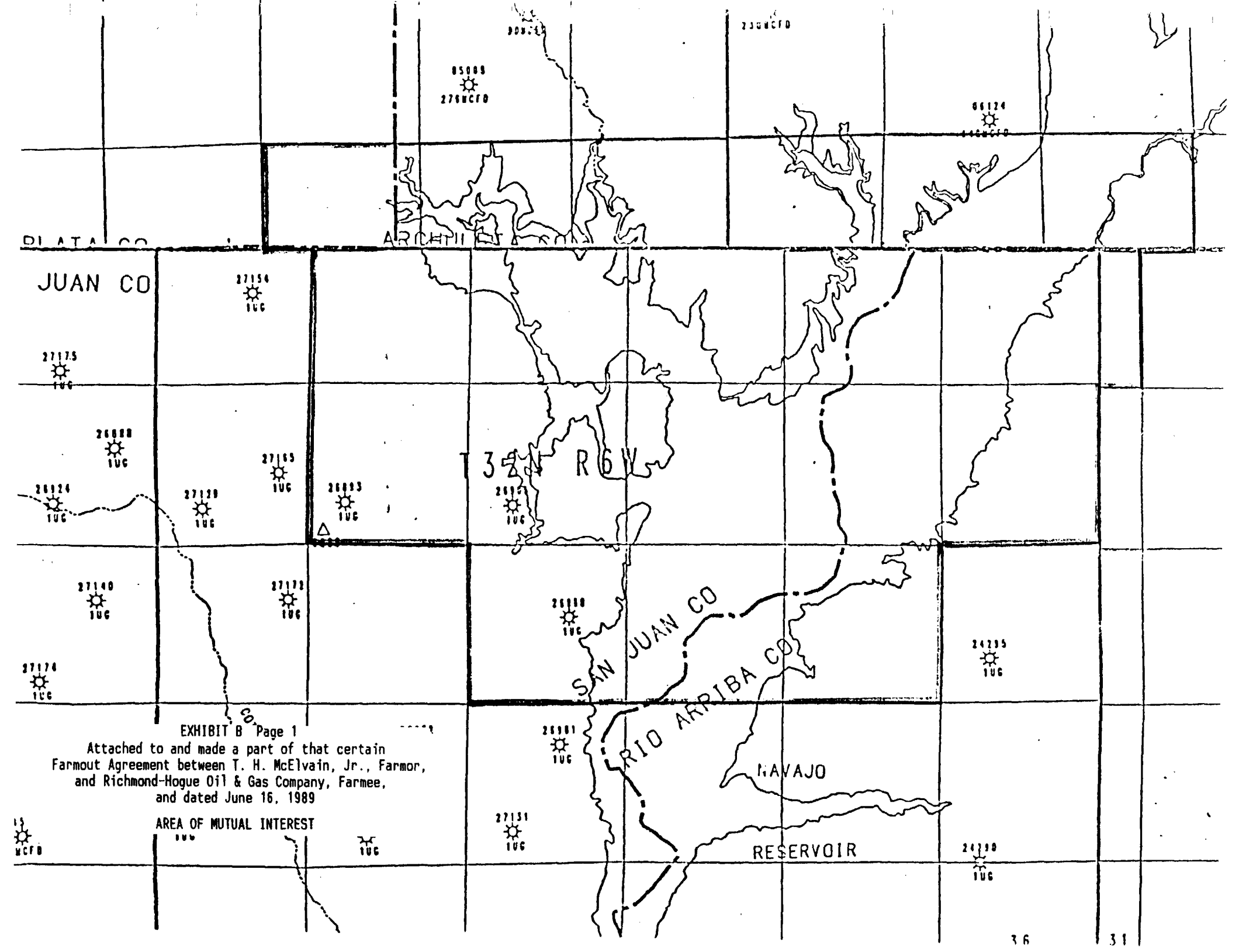

EXHIBIT B Page 1
Attached to and made a part of that certain
Farmout Agreement between T. H. McElvain, Jr., Farmor,
and Richmond-Hogue Oil & Gas Company, Farmee,
and dated June 16, 1989

AREA OF MUTUAL INTEREST

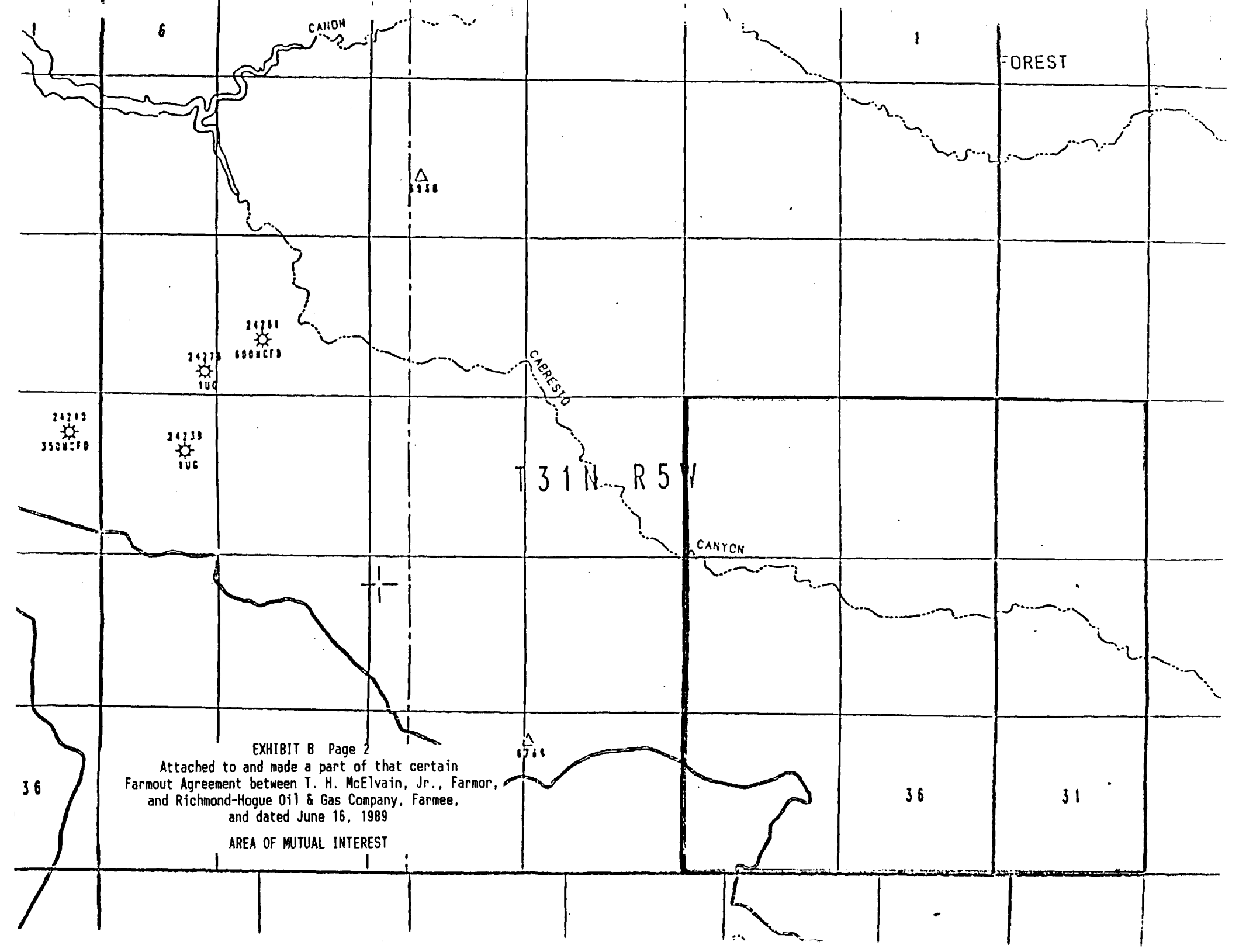

EXHIBIT B Page 2
Attached to and made a part of that certain
Farmout Agreement between T. H. McElvain, Jr., Farmor,
and Richmond-Hogue Oil & Gas Company, Farmee,
and dated June 16, 1989

AREA OF MUTUAL INTEREST

EXHIBIT C
Attached to and made a part of that certain
Farmout Agreement between T. H. McElvain, Jr., Farmor
and Richmond-Hogue Oil & Gas Company, Farmee
and dated June 16, 1989

FORM OF ASSIGNMENT

ASSIGNMENT OF INTEREST IN OIL AND GAS LEASES

THIS ASSIGNMENT, between T. H. McElvain, Jr., Post Office Box 2148, Santa Fe, New Mexico 87504-2148 ("Assignor"), and RICHMOND-HOGUE OIL AND GAS COMPANY, a Texas General Partnership, 2651 North Harwood, Suite 360, Dallas, Texas 75201 ("Assignee"),

W I T N E S S E T H:

Assignor, in consideration of Ten Dollars ($10.00) and more, the receipt and sufficiency of which are hereby acknowledged, does hereby grant, assign and convey unto Assignee and Assignee's successors and assigns, the entire interest of Assignor in the oil and gas leases in (San Juan or Rio Arriba) County, New Mexico ("the Lease Acreage") described in Exhibit "A" attached hereto and reference made a part hereof, together with a like interest in all rights, privileges and personal property thereunder, appurtenant thereto or used in connection therewith, subject, however, to the following:

1. OVERRIDING ROYALTY RESERVATION:

1.1 Assignor hereby excepts and reserves a total overriding royalty of Twenty Percent (20.0%) of the proceeds received from the sale of all (8/8ths) of the oil and gas which may be produced, saved and marketed from the Lease Acreage or any extensions or renewals thereof. The overriding royalty shall be computed and paid at the same time and in the same manner as royalties payable to the lessor(s) under the Lease Acreage are computed and paid, and Assignor shall be responsible for Assignor's proportionate part of all taxes and assessments levied upon or against or measured by the production of oil and gas therefrom. The overriding royalty shall (a) be the total overriding royalty fro which Assignee shall be obligated and shall include all existing royalties, overriding royalties and other obligations payable out of production from said lands, (b) be proportionately reduced if this Assignment grants to Assignee less than the entire leasehold estate in the lands, and (c) be subject to any governmentally approved communitization or other agreement forming a well spacing or proration unit under the rules or regulations of the applicable conservation authority to which the Lease Acreage is now committed or may hereafter be

committed, and in such event the overriding royalty shall be computed and paid on the basis of the oil and gas allocated to the lands pursuant to the terms of the agreement. No change in the ownership of the overriding royalty shall be binding upon Assignee until such time as Assignee shall have been furnished with either the original, a certified copy , or an acceptable reproduction copy of the recorded instrument or instruments effecting the change in ownership.

1.2 ""Payout" is defined to be the date on which income attributable to the interest in the well on the Lease Acreage acquired by Assignee in this Assignment, exclusive of production, conservation, severance, sales and other taxes required by law to be withheld by the purchaser of production, shall equal Assignee's acquisition cost of the Lease Acreage, plus Assignee's share of all costs for drilling, completing and quipping the well on the Lease Acreage, plus Assignee's share of all costs for operating the well to produce such amount. Prior to Payout, Assignee shall give Assignor current monthly statements summarizing all receipts and disbursements that are necessary to determine Payout. Effective at 7:00 AM on the date next succeeding Payout, an undivided One-Third (1/3) of the interest conveyed to Assignee by this Assignment shall automatically revert to Assignor. The One-Third (1/3) interest reverting to Assignor shall be free and clear of all encumbrances, overriding royalties or other burdens on production which are not in force on the date hereof. After Payout, the overriding royalty reserved by Assignor in paragraph 1.1 above shall remain in force and effect, and Assignor shall bear its proportionate One-Third (1/3) of the burden of such overriding royalty.

2. ABANDONMENT AND SURRENDER:

2.1 If Assignor should at any time desire to release or surrender the Lease Acreage or any part thereof, Assignor shall tender to Assignee an assignment of the Lease Acreage as to the lands sought to be surrendered. In such event Assignee shall accept such assignment within ten (10) days from the time the same is tendered, failing in which Assignor shall be free to surrender or relinquish the Lease Acreage. In the event the assignment is accepted by Assignee, then Assignee shall save, hold and protect Assignor harmless from all liability of whatsoever character subsequently accruing under the Lease Acreage on account of the lands covered by this assignment.

2.2 Assignee shall notify Assignor in writing of Assignee's intention to abandon any well on the Lease Acreage and Assignor shall have thirty (30) days after receipt of such notice of intention to abandon in which to elect to take over the well Assignee proposes to abandon. In the event Assignor elects to take over the well, Assignor shall pay to Assignee the reasonable market value of the salvable materials in the well, less the cost of salvage, and Assignee shall reconvey to Assignor

the spacing and proration unit upon which the well is located. In the event Assignor does not elect to take over the well within the time her provided, Assignee shall plug and abandon the well in accordance with the applicable rules and regulations.

2.3 This Assignment shall terminate and revert to Assignor after the expiration of one hundred twenty (120) consecutive days within which no oil or gas is produced or producible from the Lease Acreage, and no diligent drilling or reworking operations are being conducted thereon. Upon termination of this Assignment as provided in this subparagraph, Assignee shall execute and deliver to Assignor a reassignment of the Lease Acreage.

2.4 Any reconveyance of the Lease Acreage provided for in this paragraph shall be made by Assignee, free and clear of all liens, encumbrances, overriding royalties and other burdens on production which are not in force on the date hereof.

3. BINDING EFFECT:

The terms and provisions of this Assignment shall be construed as covenants running with the above described lands and shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns.

4. MISCELLANEOUS:

4.1 This Assignment of Interest in Oil and Gas Lease is made by Assignor without warranties of whatever nature or kind, but with full substitution and subrogation of Assignee in and to all covenants and warranties by others heretofore given or made in respect of the interests granted herein or any part thereof.

4.2 Notwithstanding the date on which this Assignment is executed, the same shall be effective with the date oil or gas was first produced or producible from the Lease Acreage.

EXECUTED this _____ day of _____, 19___.

EXHIBIT D

Attached to and made a part of that certain Farmout Agreement between T. H. McElvain, Jr., Farmor and Richmond-Hogue Oil & Gas Company, Farmee and dated June 16, 1989

(JOINT OPERATING AGREEMENT)

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. 10955
Order No. R-9033-A

APPLICATION OF CONSOLIDATED
OIL & GAS, INC. TO AMEND
DIVISION ORDER NO. R-9033,
SAN JUAN COUNTY, NEW MEXICO.

CONSOLIDATED OIL & GAS, INC.'S
PROPOSED
ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 14, 1994 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this _____ day of April, 1994, the Division Director, having considered the testimony, the recorded and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause, the parties herein and the subject matter thereof.

(2) The applicant, Consolidated Oil & Gas, Inc. ("Consolidated"), seeks to amend Division Order No. R-9033 which designated Richmond Petroleum Inc. ("Richmond") as operator and compulsory pooled Lots 1 and 2, the S/2NE/4 and the SE/4 (E/2 equivalent) of Section 9, Township 32 North, Range 6 West, for the drilling of the Federal 32-6-9 Well No. 1 ("the Federal Well") at an unorthodox coal gas well location (See also Division Administrative Order NSL-2720) 510 feet from the North line and 210 feet from the East line (Unit A) of said Section 9 in the Basin Fruitland Coal Gas Pool and forming a 279.40-acre gas spacing and proration unit. Consolidated further seeks amendments including the substitution of Consolidated as operator, provisions for supplemental elections to participate, to add additional parties, to revise the various reporting dates in this order and to otherwise reissue and renew the subject order including the recovery of both actual and future costs of drilling and completing the said well including a charge for the risk involved.

(3) This 279.40-acre gas spacing and proration unit in the Basin Fruitland Coal Gas Pool consists of the E/2 of said Section 9 which is a "divided unit" composed of four separate tracts. See Consolidated Exhibit 2.

(4) At the time of the hearing, Consolidated sought to have this amended order apply to the following parties and interests:

(a) Ralph O. Bogeberg and Suzanne W. Bogeberg (address unknown) with a 0.03579098 net revenue interest in the spacing unit as a result of 10 net acres in tract 3 (SW/4NE/4SE/4 of Section 9); and

(b) Edmund T. Anderson IV, individually and as Trustee of the Mary Anderson Boll Family Trust, ("Anderson") 2521 Humble, Midland Texas 79705, with a 0.03579098 net revenue interest in the spacing unit as a result of a 10 net acre/40 gross acre interest in Tract 4 (SE/4SE/4 of Section 9).

(5) Anderson voluntarily appeared in person at the hearing in opposition to the granting of Consolidated's application and has submitted to the jurisdiction of this Division.

(6) Consolidated is the successor in interest to Richmond having acquired all of Richmond's "right, title and interest" in the Federal Well and its coal gas spacing unit.

(7) Order No. R-9033 provided among other things that (a) the Federal Well should be commenced on or before January 1, 1990, unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling.

(8) On December 11, 1989, the Division granted Richmond's request for an extension of the drilling commencement date from January 1, 1990 to May 1, 1990.

(9) On May 1, 1990, the Division granted a further extension of the commencement date to May 27, 1990.

(10) On May 13, 1990, Richmond commenced the Federal Well in Unit A of Section 9 (located on tract 2) and drilled to a total depth of 2430 feet stopping at the top of the Basin Fruitland Coal Gas Pool. On May 16, 1990, casing was set in the wellbore and operations suspended.

(11) At the time Division Order R-9033 was issued on November 3, 1989, Anderson had subjected his interest to an oil and gas lease, dated July 19, 1988, issued to T. H. McElvain, Jr., in which Anderson retained a 1/5th royalty and granted to McElvain a 4/5th working interest and provided for a primary term of two years and as long thereafter as oil or gas or either was produced from those lands or lands with which it was pooled.

(12) On June 16, 1989, McElvain signed a "farmout" agreement with Richmond which would have allowed Richmond to "earn" 2/3rds of the McElvain's 4/5th interest in the Anderson lease (also covering other leases) provided Richmond drilled, completed and produced the Federal Well prior to July 19, 1990. (See Affidavit of George Broome).

(13) If Richmond had properly performed under the Farmout Agreement then the Anderson Lease interest would have been allocated as follows:

Richmond:
Before payout: 100% x 4/5th x 3.579% = 2.8632%
After payout: 2/3rd x 4/5th x 3.579% = 1.9088%

McElvain:
Before payout: -0-% x 4/5th x 3.579% = -0-%
After payout: 1/3rd x 4/5th x 3.579% = 0.9544%

Anderson:
Before payout: 1/5th x 3.579% = 0.7158%
After payout: 1/5th x 3.579% = 0.7158%

(14) The Anderson oil & gas lease expired on July 19, 1990 because Richmond did not complete and produce the Federal well in time to extend that lease. [See Anderson Exhibit____]

(15) Although Richmond paid for the McElvain share of the costs of the well, it failed to "earn" any interest in the Anderson lease and failed to fulfill the terms of the Farmout Agreement. [See Affidavit of George Broome]

(16) McElvain paid no part of the costs of the Federal Well. (See Affidavit of George Broome)

(17) Because of the expiration of the Anderson lease, Richmond did not earn any interest in that lease under the Farmout Agreement and the Anderson interest in the spacing unit would be allocated as follows:

Richmond: -0- %
McElvain: -0-%
Anderson: 5/5th of 3.579% = 0.03579098

(18) Richmond expended $140,034.72 on the Federal Well. {See Consolidated Exhibit 10]

(19) All of that sum was paid by Richmond and not by any other interest owner.

(20) On January 24, 1994, Consolidated acquired the interests of Richmond in the Federal well and any right, title and interest Richmond may have earned or held in the oil & gas leases to be dedicated to this well. (See Consolidated Exhibit 9, also testimony and affidavit of Philip G. Wood).

(21) In the original Richmond-Consolidated Asset Purchase Agreement, dated November 30, 1993, $722,400 was the purchase price to be paid to Richmond for its New Mexico properties with $264,000 of that price being allocated to the Federal Well and the value of any leases earned by Richmond for that spacing unit. (See Consolidated Exhibit 16).

(22) On January 24, 1994, Consolidated amended its Agreement with Richmond and reduced the $722,400 allocation to the New Mexico properties to $400,000. That reduction in allocation was made to exclude the value attributed to leases and reserves which Richmond had failed to earn under various farmouts including the McElvain Farmout. (See Affidavit of Philip G. Wood).

(23) On March 1, 1994, Consolidated wrote to Anderson, advised him of its acquisition of the Richmond interest in the Federal Well, and proposed various voluntary agreements to Anderson including an offer to lease or to participate by Anderson paying his share of the actual costs already spent by Richmond and any future costs necessary for the well.

(24) On or about March 18, 1994, Consolidated re-entered the Federal Well and deepened it into the coal gas pool at a total depth of 2,739 feet and obtained a gas sample in order to timely qualify the well for the Internal Revenue Code Section 29 tax credit. This work was at an AFE cost of $46,400 and at an actual cost of $42,000. See Consolidated Exhibit 11 and testimony of Alan Harrison]

(25) Consolidated has been unable to reach a voluntary agreement with Anderson because Anderson refuses to lease and claims that he should be entitled to participate in the production from the Federal Well by only paying for his share of the completion costs that Consolidated has paid or will pay for the well.

(26) Anderson contends that:

(a) the Division has no jurisdiction over him because while he is the owner of the oil and gas minerals and his lease of those mineral to McElvain has expired, he does not have the right to drill into and to produce those mineral until McElvain releases the expired lease;

(b) the Division cannot interpret its own jurisdiction because such a determination is the exclusive provence of the courts;

(c) the Division cannot decide "legal issue" concerning the validity of the Anderson-McElvain oil and gas lease and until a court does so the Division cannot proceed to pool his interest;

(d) the Division has no authority to require Anderson to compensate Consolidated for Anderson's share of the value of Federal well which Consolidated purchased from Richmond;

(e) if the Division enters a compulsory pooling order in this case, it is determining property rights which is a judicial function of the courts and not the Division; and

(f) that Consolidated will be "unjustly enriched" if Anderson now has to pay his share of the total well costs.

(27) Consolidated responds that:

(a) Anderson is not entitled to receive 100 percent of his share of the production in the spacing unit unless he also pays 100 percent of his share of the costs incurred in obtaining that production;

(b) Anderson is not entitled to a share in the value of a wellbore that was not drilled on his lease and for which he paid none of the costs;

(c) Anderson would receive a "windfall" if he is allowed to be excused from paying his share of the costs of the well while being entitled to receive all of his share of production.

(d) that an expired oil and gas lease which has not been released of record by McElvain, does not entitled Anderson to a share of the value of the wellbore.

(28) In response to Anderson's contentions, the Division finds that:

(a) the Division has jurisdiction over Anderson because he is the owner of the oil and gas minerals and his lease of those mineral to McElvain has expired;

(b) the Division can interpret its own jurisdiction and does so in this case and finds that it has jurisdiction over the parties, the property and the subject matter herein;

(c) that the McElvain release of the Anderson Oil and Gas lease submitted by the Affidavit of George Broome renders moot any "legal issue" of the validity of the Anderson-McElvain oil and gas lease which has indisputably expired and the Division can proceed to issue an appropriate compulsory pooling order in this case;

(d) the Division has authority to require Anderson to compensate Consolidated for Anderson's share of the value of Federal well which Consolidated purchased from Richmond;

(e) by entering a compulsory pooling order in this case it is not determining property rights but is issuing an order within its jurisdiction to do so;

(f) that Consolidated will not be "unjustly enriched" if Anderson now has to pay his share of the total well costs; and

(g) that Anderson will receive more than his fair share of production unless he also pays his share of actual and future well costs.

(29) Consolidated has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 92.841% of the working interest ownership in the subject spacing unit for the proposed well.

(30) At all times relevant hereto, the SE/4SE/4 which constitutes the remaining 3.579% working interest in the subject spacing unit has been under the ownership and control of Anderson.

(31) Despite good faith efforts undertaken over a reasonable period of time, Consolidated has been unable to reach a voluntary agreement with Anderson concerning voluntary participation in the subject spacing unit and the Federal Well.

(32) That Consolidated has made a good faith effort to reach a voluntarily agreement with the appropriate parties and is entitled to compulsory pooling.

(33) It would circumvent the purposes of the New Mexico Oil & Gas Act to allow a party owning a certain percentage of the working interest in the spacing unit

at the time said party was served with a compulsory pooling application, to avoid or delay having that entire percentage interest pooled by claiming his interest is not subject to the jurisdiction of the Division.

(34) Consolidated's estimated cost for a completed well is:

(a) Richmond actual costs:	$139,748.88
(b) Consolidated actual costs:	$42,000.00
(c) Consolidated estimated future costs	$195,000.
Total	$376,748.88

(35) The Division finds that the estimated total actual and estimated costs of the Federal well set forth in paragraph (34) above to be fair and reasonable.

(36) Consolidated presented uncontested testimony that all of the 156% risk factor still remains to be taken and therefore the 156% penalty should be continued in this case.

(37) There is substantial evidence to support approval of the Consolidated's application and its application should be approved.

(38) In addition, by adopting the Consolidated position and by rejecting the Anderson position, the Division has determined that:

(c) Compulsory pooling is necessary and reasonable in this case to form a spacing unit for drilling, completing and producing the subject well;

(d) The maximum 156% risk factor penalty should be applied based upon: (1) the Consolidated testimony, and (2) the corresponding failure of Anderson to put that matter at issue;

(39) Approval of this application as set forth in the above findings and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Consolidated Oil & Gas Inc, is hereby granted and Division Order R-9033 is hereby amended as provided herein.

(2) All mineral interests, whatever they may be, of the following named parties, in the Basin Fruitland Coal Gas Pool underlying the E/2 of Section 9, Township 32 North, Range 6 West, NMPM, San Juan County, New Mexico, are hereby pooled to form an 279.40-acre gas spacing and proration unit to be dedicated to the Federal 32-6-9 Well No. 1 which was drilled at an unorthodox gas well location 510 feet from the North line and 210 feet from the East line (Unit A) of said Section 9, to wit:

(a) Edmund T. Anderson IV,
individually and as Trustee
of the Mary Anderson Boll Family Trust
2521 Humble
Midland, Texas 79705

(b) Ralph O. Bogeberg and
Suzanne W. Bogeberg

PROVIDED HOWEVER THAT, the operator of said unit shall commence the further completion of said well on or before the 1st day of September, 1994, and shall thereafter continue the completion of said well with due diligence to test the Basin Fruitland Coal Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence further completion of said well on or before the 1st day of September, 1994, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Consolidated Oil & Gas Inc. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and prior to commencing the further completion of said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs as follows:

(a) An itemized schedule of actual costs already spent to date by Richmond and Consolidated, and

(b) An itemized schedule of estimated well costs to be spent.

(5) Within 30 days from the date the two schedules of actual costs and of estimated future costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of the combined total of actual and estimated future well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of said actual and estimated costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

A. The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date of schedule of said well costs is furnished to him; and

B. As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date the schedules of said costs is furnished to him.

(9) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(10) $3,500.00 per month while drilling and $350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

(11) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(12) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(14) Should all the parties to this compulsory-pooling reach voluntary agreement subsequent to the entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory-pooling provisions of this order.

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE, at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,
Director

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. 10956
Order No. R-9178-A

APPLICATION OF CONSOLIDATED OIL & GAS, INC.
TO AMEND DIVISION ORDER NO. R-9178,
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO.

CONSOLIDATED OIL & GAS, INC.'S
PROPOSED
ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 14, 1994 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this _____ day of April, 1994, the Division Director, having considered the testimony, the recorded and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause, the parties herein and the subject matter thereof.

(2) The applicant, Consolidated Oil & Gas, Inc. ("Consolidated"), seeks to amend Division Order No. R-9178 which designated Richmond Petroleum Inc. ("Richmond") as operator and compulsory pooled Lots 1 through 4, the S/2N/2 (N/2 equivalent) of irregular Section 11, Township 32 North, Range 6 West, for the drilling of the Miller "11" Well No. 1 ("the Miller 11 Well") at an unorthodox coal gas well location 1132 feet from the North line and 760 feet from the West line (Unit E) of said Section 11 in the Basin Fruitland Coal Gas Pool and forming a 232.80-acre non-standard gas spacing and proration unit. Consolidated further seeks amendments including the substitution of Consolidated as operator, provisions for supplemental elections to participate, to add additional parties, to revise the various reporting dates in this order and to otherwise reissue and renew the subject order including the recovery of both actual and future costs of drilling and completing the said well including a charge for the risk involved.

(3) This 232.80-acre non-standard gas spacing and proration unit in the Basin Fruitland Coal Gas Pool consists of the N/2 equivalent of said Section 11 which is a "divided unit" composed of five separate tracts. See Consolidated Exhibit 4.

(4) At the time of the hearing, Consolidated sought to have this amended order apply to the following parties and interests:

James J. Rubow ("Rubow") Passport Energy, Inc., 1645 Court Place, Suite 324, Denver, Colorado 80202, who had also acquired the interest of Buddy W. Baker, resulting in a total 0.00257732 net revenue interest in the spacing unit as a result of 0.6 net acres of 3 gross acres in tract 3 (SW/4SE/4NE/4 of Section 11).

(5) Rubow entered a written appearance in opposition to the granting of Consolidated's application and has submitted to the jurisdiction of this Division.

(6) Consolidated is the successor in interest to Richmond having acquired all of Richmond's "right, title and interest" in the Miller "11" Well and its coal gas spacing unit.

(7) Order No. R-9178 provided among other things that (a) the Miller "11" Well should be commenced on or before August 1, 1990, unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling.

(8) On June 23, 1990, Richmond commenced the Miller "11" Well in Unit E of Section 11 (located on tract 1) and drilled to a total depth of 2871 feet into the Basin Fruitland Coal Gas Pool, cased the well and suspended operations until December 16, 1992 when the well was perforated.

(9) At the time Division Order R-9178 was issued on May 23, 1990, Rubow's interest was subject to an oil and gas lease dated May 20, 1988 from Stella M. Quintana to T. H. McElvain, Jr., in which Quintana retained a 1/8th royalty and granted to McElvain a 7/8th working interest and provided for a primary term of four years and as long thereafter as oil or gas or either was produced from those lands or lands with which it was pooled.

(10) On June 16, 1989, McElvain signed a "farmout" agreement with Richmond which would have allowed Richmond to "earn" 2/3rds of the McElvain's 7/8th interest in the Quintana lease (also covering other leases) provided Richmond drilled, completed and produced the Miller "11" Well prior to May 23, 1992. (See Affidavit of George Broome).

(11) If Richmond had properly performed under the Farmout Agreement then the Quintana Lease interest would have been allocated as follows:

Richmond:
Before payout: 100% x 7/8th x 0.25773% = 2.2255%
After payout: 2/3rd x 7/8th x 0.25773%= 0.15034%

McElvain:
Before payout: -0-% x 7/8th x 0.25773% = -0-%
After payout: 1/3rd x 7/8th x 0.25773%= 0.07517%

Quintana:
Before payout: 1/8th x 0.25773% = 0.0322%
After payout: 1/8th x 0.25773% = 0.0322%

(12) The Quintana oil & gas lease expired on May 23, 1992 because Richmond did not complete and produce the Miller "11" Well in time to extend that lease. [See Consolidated Exhibit 12]

(13) Although Richmond paid for the McElvain share of the costs of the well, it failed to "earn" any interest in the Quintana lease and failed to fulfill the terms of the Farmout Agreement. [See Affidavit of George Broome]

(14) McElvain paid no part of the costs of the Miller "11" Well. (See Affidavit of George Broome)

(15) Because of the expiration of the Quintana lease, Richmond did not earn any interest in that lease under the Farmout Agreement and the Quintana interest now held by Rubow in the spacing unit would be allocated as follows:

Richmond: -0- %
McElvain: -0-%
Quintana (now Rubow):
5/5th of 0.25773% = 0.0025773

(16) Richmond expended $142,872.67 on the Miller "11" Well. {See Consolidated Exhibit 10]

(17) All of that sum was paid by Richmond and not by any other interest owner.

(18) On January 24, 1994, Consolidated acquired the interests of Richmond in the Miller "11" well and any right, title and interest Richmond may have earned or held in the oil & gas leases to be dedicated to this well. (See Consolidated Exhibit 9, also testimony and affidavit of Philip G. Wood).

(19) In the original Richmond-Consolidated Asset Purchase Agreement, dated November 30, 1993, $722,400 was the purchase price to be paid to Richmond for its New Mexico properties with $186,000 of that price being allocated to the Miller "11" Well and the value of any leases earned by Richmond for that spacing unit. (See Consolidated Exhibit 16).

(20) On January 24, 1994, Consolidated amended its Agreement with Richmond and reduced the $722,400 allocation to the New Mexico properties to $400,000. That reduction in allocation was made to exclude the value attributed to leases and reserves which Richmond had failed to earn under various farmouts including the McElvain Farmout. (See Affidavit of Philip G. Wood).

(21) On March 1, 1994, Consolidated wrote to Rubow, advised him of its acquisition of the Richmond interest in the Miller "11" Well, and proposed various voluntary agreements to Rubow including an offer to lease or to participate by Rubow paying his share of the actual costs already spent by Richmond and any future costs necessary for the well.

(22) Consolidated has been unable to reach a voluntary agreement with Rubow because Rubow refuses to lease and claims that he should be entitled to participate in the production from the Miller "11" Well by only paying for his share of the completion costs that Consolidated has paid or will pay for the well.

(23) In his statement filed with the Division after the hearing, Rubow contends among other things that:

(a) he was provided inadequate notice;

(b) Consolidated is not an owner of oil & gas rights underlying the tracts in question;

(c) McElvain has not released of record the expired oil & gas lease covering the Rubow oil & gas interest;

(d) Consolidated has failed to provide him with a proposed Joint Operating Agreement, proposals for gathering, marketing gas and well data including logs and drilling reports;

(e) it is "unfair" that Consolidated seeks the recovery from Rubow of his share of the total costs of the well including his share of costs spent by Richmond for the drilling of the well;

(f) that because when the Miller "11" Well was commenced, Rubow's interest was still subject to an oil and gas lease, then Rubow should be able to participate for his full share of the production from the well but not have to pay for his share of the costs of drilling the well which produces that production;

(g) that the risk factor penalty cannot be awarded because the well has already been drilled, and because Consolidated did not drill the well then no penalty should be imposed on his interest;

(24) Consolidated responds that:

(a) In accordance with Division Rule 1207 Consolidated caused notice of this hearing to be sent to Rubow on March 21, 1994 which was 23 days prior to the April 14, 1994 hearing date;

(b) Consolidated purchased Richmond's interest in the Miller "11" Well and its spacing unit by Special Warranty Deed submitted as Consolidated Exhibit 9;

(c) McElvain has executed a release of the expired oil & gas lease which affected the Rubow interest and has sent that release to the Rio Arriba County Clerk for recording;

(d) Consolidated has no obligation to share wellbore data with Rubow who is a non-consenting

working interest owner in the spacing unit and who refuses to agree to participate in paying his share of the total costs of the well; nor does Consolidated have any obligation to gather or market Rubow's share of any production;

(e) that regardless of whether Richmond or Consolidated has paid for the costs of the well, that wellbore is now owned by Consolidated and Rubow as a non-consenting working interest owner must pay his share of the total well costs in order to be entitled his share of production;

(f) Because the Quintana lease expired before the Miller "11" Well was completed for production, no party earned any rights pursuant to that lease and Rubow would be given a "free-ride" if he did not have to pay for any of the drilling costs of the well;

(g) Alan Harrison, a petroleum engineering, testified for Consolidated that the 156% risk factor penalty for drilling the well still remained because of the method of drilling the well and the risk that the production would be insufficient to pay for the costs of the well.

(25) In response to Rebow's contentions, the Division finds that:

(a) the Division has jurisdiction over Rubow because he is the owner of the oil and gas minerals for which compulsory pooling is sought and that Consolidated has complied with the notice provisions of Division Rule 1207.

(b) Consolidated is the owner of the Miller "11" Well and has the right to seek to compulsory pool the Rubow interest in the subject spacing unit;

(c) McElvain's release of the expired Quintana oil & gas lease makes moot any contention by Rubow that the Quintana lease has any affect upon his interest;

(d) Because Rubow has a 0.00257732% unleased mineral interest in this spacing unit which has not been voluntarily committed to this spacing unit, Consolidated has no obligation to share wellbore data

with Rubow; and the Division lacks jurisdiction to obligate Consolidated to gather or market Rubow's share of any production;

(e) Unless Rubow as a non-consenting working interest owner is required to pay his share of the total well costs in order to receive his share of production, he will obtain an unfair advantage over the other working interest owners in the well which would be contrary to the provision of Section 70-2-17 (c);

(f) Rubow requests to recover his share of production without incurring any expense for the costs of drilling the well would be contrary to the provisions of Section 70-2-17(c) and would violate the correlative rights of Consolidated;

(g) As a result of numerous prior orders of the Division, the Division has established the precedent of interpreting the "risk involved in the drilling of such well" provision of Section 10-1-17(c) to be a generic phrase which includes all operational risks, including but not limited to actual drilling of the well, the installation of casing, cementing, perforating, testing, reworking, recompleting, plugging back, sidetracking, deepening, or establishing production in paying quantities. In addition, Section 70-2-17(c) provides for compulsory pooling for wells to be drilled or which have been drilled under terms which are just and reasonable. It is reasonable in this case to award the 156% risk factor penalty.

(26) In addition, the Division finds that:

(a) it has authority to require Rubow to compensate Consolidated for Rubow's share of the total cost of Miller "11" Well which Consolidated purchased from Richmond;

(b) that Consolidated will not be "unjustly enriched" if Rubow now has to pay his share of the total well costs; and

(c) that Rubow will receive more than his fair share of production unless he also pays his share of actual and future well costs.

(27) Consolidated has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 99.74227% of the working interest ownership in the subject spacing unit for the proposed well.

(28) At all times relevant hereto, the remaining 0.25773% working interest in the subject spacing unit has been under the ownership and control of Rubow.

(29) Despite good faith efforts undertaken over a reasonable period of time, Consolidated has been unable to reach a voluntary agreement with Rubow concerning voluntary participation in the subject spacing unit and the Miller "11" Well.

(30) That Consolidated has made a good faith effort to reach a voluntarily agreement with the appropriate parties and is entitled to compulsory pooling.

(31) It would circumvent the purposes of the New Mexico Oil & Gas Act to allow a party owning a certain percentage of the working interest in the spacing unit at the time said party was served with a compulsory pooling application, to avoid or delay having that entire percentage interest pooled by claiming his interest is not subject to the jurisdiction of the Division.

(32) Consolidated's estimated cost for a completed well is:

(a) Richmond actual costs:	$142,872.67
(b) Consolidated actual costs:	$ -0-
(c) Consolidated estimated future costs	$170,000.
Total	$312,872.67

(33) The Division finds that the estimated total actual and estimated costs of the Miller "11" Well set forth in paragraph (32) above to be fair and reasonable.

(34) Consolidated presented uncontested testimony that all of the 156% risk factor still remains to be taken and therefore the 156% penalty should be continued in this case.

(35) There is substantial evidence to support approval of the Consolidated's application and its application should be approved.

(36) In addition, by adopting the Consolidated position and by rejecting the Rubow's position, the Division has determined that:

(c) Compulsory pooling is necessary and reasonable in this case to form a spacing unit for drilling, completing and producing the subject well;

(d) The maximum 156% risk factor penalty should be applied and is just and reasonable.

(37) Approval of this application as set forth in the above findings and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Consolidated Oil & Gas Inc, is hereby granted and Division Order R-9178 is hereby amended as provided herein.

(2) All mineral interests, whatever they may be, of the following named parties, in the Basin Fruitland Coal Gas Pool underlying the N/2 equivalent of Section 11, Township 32 North, Range 6 West, NMPM, San Juan and Rio Arriba Counties, New Mexico, are hereby pooled to form an 232.80-acre non-standard gas spacing and proration unit to be dedicated to the Miller "11" Well

No. 1 which was drilled at an unorthodox gas well location 1132 feet from the North line and 760 feet from the West line (Unit E) of said Section 11, to wit:

James T. Rubow
1645 Court Place #324
Denver, Colorado 80202

PROVIDED HOWEVER THAT, the operator of said unit shall commence the further completion of said well on or before the 1st day of September, 1994, and shall thereafter continue the completion of said well with due diligence to test the Basin Fruitland Coal Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence further completion of said well on or before the 1st day of September, 1994, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Consolidated Oil & Gas Inc. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and prior to commencing the further completion of said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs as follows:

(a) An itemized schedule of actual costs already spent to date by Richmond and Consolidated, and

(b) An itemized schedule of estimated well costs to be spent.

(5) Within 30 days from the date the two schedules of actual costs and of estimated future costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of the combined total of actual and estimated future well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of said actual and estimated costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

A. The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date of schedule of said well costs is furnished to him; and

B. As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date the schedules of said costs is furnished to him.

(9) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(10) $3,500.00 per month while drilling and $350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

(11) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(12) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(14) Should all the parties to this compulsory-pooling reach voluntary agreement subsequent to the entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory-pooling provisions of this order.

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE, at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,
Director

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. 10957
Order No. R-9179-A

APPLICATION OF CONSOLIDATED OIL & GAS, INC.
TO AMEND DIVISION ORDER NO. R-9179,
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO.

CONSOLIDATED OIL & GAS, INC.'S
PROPOSED
ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 14, 1994 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this _____ day of April, 1994, the Division Director, having considered the testimony, the recorded and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause, the parties herein and the subject matter thereof.

(2) The applicant, Consolidated Oil & Gas, Inc. ("Consolidated"), seeks to amend Division Order No. R-9179 which designated Richmond Petroleum Inc. ("Richmond") as operator and compulsory pooled the S/2 of Section 11, Township 32 North, Range 6 West, for the drilling of the Carnes "11" Well No. 1 ("the Carnes Well") at an unorthodox coal gas well location 1800 feet from the South line and 230 feet from the West line (Unit L) of said Section 11 in the Basin Fruitland Coal Gas Pool and forming a standard 320-acre gas spacing and proration unit. Consolidated further seeks amendments including the substitution of Consolidated as operator, provisions for supplemental elections to participate, to add additional parties, to revise the various reporting dates in this order and to otherwise reissue and renew the subject order including the recovery of both actual and future costs of drilling and completing the said well including a charge for the risk involved.

(3) This standard 320-acre gas spacing and proration unit in the Basin Fruitland Coal Gas Pool consists of the S/2 of said Section 11 which is a "divided unit" composed of seven separate tracts. See Consolidated Exhibit 3.

(4) At the time of the hearing, Consolidated sought to have this amended order apply to the following parties and interests:

(a) James J. Rubow ("Rubow"), Passport Energy, Inc., 1645 Court Place, Suite 324, Denver, Colorado, 80202, who had also acquired the interest of Buddy W. Baker, resulting in a total 5% net revenue interest in the spacing unit as a result of 16 net acres in tract 6 (N/2SE/4 of Section 11);

(b) Edmund T. Anderson IV, individually and as Trustee of the Mary Anderson Boll Family Trust, ("Anderson") 2521 Humble, Midland Texas 79705, with a 0.031250 net revenue interest in the spacing unit as a result of a 10 net acre/40 gross acre interest in Tract 5 (SE/4SW/4 of Section 11);

(c) Manuel A. Rodriquez, 9295 S. Kalil Drive, Scottsdale, Arizona with a 0.0018702651 net revenue interest in the spacing unit as a result of an interest in Tract 4; and

(d) Richard G. Clark, 9295 S, Kalil Drive, Scottsdale, Arizona 85260 with a 0.0018702651 net revenue interest in the spacing unit as a result of an interest in Tract 4.

(5) Anderson voluntarily appeared in person at the hearing in opposition to the granting of Consolidated's application and has submitted to the jurisdiction of this Division.

(6) Rubow entered a written appearance in opposition to the granting of Consolidated's application and has submitted to the jurisdiction of the Division.

(7) Despite good faith efforts, neither Consolidated nor Richmond have been able to located either Rodriquez or Clark who were both pooled by Order R-9179.

(8) Consolidated is the successor in interest to Richmond having acquired all of Richmond's "right, title and interest" in the Carnes Well and its coal gas spacing unit.

(9) Order No. R-9179 provided among other things that (a) the Carnes Well should be commenced on or before August 1, 1990, unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling.

(10) On June 5, 1990, Richmond commenced the Carnes Well in Unit L of Section 11 (located on tract 2) and drilled to a total depth of 2839 feet into the Basin Fruitland Coal Gas Pool, casing was set in the wellbore and operations suspended.

(11) At the time Division Order R-9179 was issued on May 23, 1990, Anderson had subjected his interest to an oil and gas lease, dated July 19, 1988, issued to T. H. McElvain, Jr., in which Anderson retained a 1/5th royalty and granted to McElvain a 4/5th working interest and provided for a primary term of two years and as long thereafter as oil or gas or either was produced from those lands or lands with which it was pooled.

(12) At the time of Division Order R-9179 was issued on May 23, 1990, Rubow's interest was subject to an oil and gas lease dated May 20, 1988 from Stella M. Quintana to T. H. McElvain, Jr, in which Quintana retained a 1/8th royalty and granted to McElvain a 7/8th working interest and provided for a primary term of four years and as long thereafter as oil or gas or either was produced from those lands or lands within which it was pooled.

(13) On June 16, 1989, McElvain signed a "farmout" agreement with Richmond which would have allowed Richmond to "earn" 2/3rds of the McElvain's 4/5th interest in the Anderson lease, and to "earn" 2/3rds of the McElvain's 7/8th interest in the Quintana lease (also covering other leases) provided Richmond drilled, completed and produced the Carnes Well prior to July 19, 1990 for the Anderson lease and prior to May 20, 1992 for the Quintana lease. (See Affidavit of George Broome).

(14) If Richmond had properly performed under the Farmout Agreement then the following allocation of interest in production would have occurred:

(a) as to the Anderson Lease:

Richmond:
Before payout: 100% x 4/5th x 3.125% = 2.5%
After payout: 2/3rd x 4/5th x 3.125% = 1.6667%

McElvain:
Before payout: -0-% x 4/5th x 3.125% = -0-%
After payout: 1/3rd x 4/5th x 3.125% =0.833%

Anderson:
Before payout: 1/5th x 3.125% = 0.625%
After payout: 1/5th x 3.125% = 0.625%

(a) as to the Quintana Lease:

Richmond:
Before payout: 100% x 7/8th x 5% = 4.375%
After payout: 2/3rd x 7/8th x 5% = 2.9167%

McElvain:
Before payout: -0-% x 7/8th x 5% = -0-%
After payout: 1/3rd x 7/8th x 5% =0.833%

Rubow:
Before payout: 1/8th x 5% = 0.625%
After payout: 1/8th x 5% = 0.625%

(15) But both the Quintana and Anderson leases expired and therefore those interests in the S/2 of Section 11 are now allocated as follows:

(a) As to the Anderson Lease:
Richmond: -0-%
McElvain: -0-%
Anderson: 5/5th x 3.125% = 3.125%

(b) As to the Quintana Lease:
Richmond: -0-%
McElvain: -0-%
Rubow: 8/8th x 5% = 5%

(16) The Anderson oil & gas lease expired on July 19, 1990 because Richmond did not complete and produce the Carnes Well in time to extend that lease. [See Anderson Exhibit____]

(17) The Quintana oil & gas lease expired on May 20, 1992 because Richmond did not complete and produce the Carnes Well in time to extend that lease. [See Anderson Exhibit____]

(18) Although Richmond paid for the McElvain share of the costs of the Carnes well, it failed to "earn" any interest in either the Quintana lease or the Anderson lease and failed to fulfill the terms of the Farmout Agreement. [See Affidavit of George Broome]

(19) McElvain paid no part of the costs of the Carnes Well. (See Affidavit of George Broome)

(20) Because of the expiration of the Anderson lease and the Carnes lease, Richmond did not earn any interest in those leases under the Farmout Agreement.

(21) Richmond expended $224,616.72 on the Carnes Well. {See Consolidated Exhibit 10]

(22) All of that sum was paid by Richmond and not by any other interest owner.

(23) On January 24, 1994, Consolidated acquired the interests of Richmond in the Carnes Well and any right, title and interest Richmond may have earned or held in the oil & gas leases to be dedicated to this well. (See Consolidated Exhibit 9, also testimony and affidavit of Philip G. Wood).

(24) In the original Richmond-Consolidated Asset Purchase Agreement, dated November 30, 1993, $722,400 was the purchase price to be paid to Richmond for its New Mexico properties with $192,300 of that price being allocated to the Carnes Well and the value of any leases earned by Richmond for that spacing unit. (See Consolidated Exhibit 16).

(25) On January 24, 1994, Consolidated amended its Agreement with Richmond and reduced the $722,400 allocation to the New Mexico properties to $400,000. That reduction in allocation was made to exclude the value attributed to leases and reserves which Richmond had failed to earn under various farmouts including the McElvain Farmout. (See Affidavit of Philip G. Wood).

(26) On March 1, 1994, Consolidated wrote to Anderson and to Rubow, advising each of them of its acquisition of the Richmond interest in the Carnes Well, and proposed various voluntary agreements to Anderson and Rubow including an offer to lease or to participate by Anderson and Rubow each paying his share of the actual costs already spent by Richmond and any future costs necessary for the well.

(27) On or about March 8, 1994, Consolidated re-entered the Carnes Well, cleaned out the wellbore, perforated the well in the Fruitland Coal Gas Pool and obtained a gas sample in order to timely qualify the well for the Internal Revenue Code Section 29 tax credit. This work was at an AFE cost of $24,850 and an estimated actual cost of $20,200. See Consolidated Exhibit 11 and testimony of Alan Harrison]

(28) Consolidated has been unable to reach a voluntary agreement with either Anderson or Rubow because each refuses to lease and claims that he should be entitled to participate in the production from the Carnes Well by only paying for his share of the completion costs that Consolidated has paid or will pay for the well.

(29) Anderson contends that:

(a) the Division has no jurisdiction over him because while he is the owner of the oil and gas minerals and his lease of those mineral to McElvain has expired, he does not have the right to drill into and to produce those mineral until McElvain releases the expired lease;

(b) the Division cannot interpret its own jurisdiction because such a determination is the exclusive provence of the courts;

(c) the Division cannot decide "legal issue" concerning the validity of the Anderson-McElvain oil and gas lease and until a court does so the Division cannot proceed to pool his interest;

(d) the Division has no authority to require Anderson to compensate Consolidated for Anderson's share of the value of Carnes Well which Consolidated purchased from Richmond;

(e) if the Division enters a compulsory pooling order in this case, it is determining property rights which is a judicial function of the courts and not the Division; and

(f) that Consolidated will be "unjustly enriched" if Anderson now has to pay his share of the total well costs.

(30) In his statement filed with the Division after the hearing, Rubow contends among other things that:

(a) he was provided inadequate notice;

(b) Consolidated is not an owner of oil & gas rights underlying the tracts in question;

(c) McElvain has not released of record the expired oil & gas lease covering the Rubow oil & gas interest;

(d) Consolidated has failed to provide him with a proposed Joint Operating Agreement, proposals for gathering, marketing gas and well data including logs and drilling reports;

(e) it is "unfair" that Consolidated seeks the recovery from Rubow of his share of the total costs of the well including his share of costs spent by Richmond for the drilling of the well;

(f) that because when the Carnes Well was commenced, Rubow's interest was still subject to an oil and gas lease, then Rubow should be able to participate for his full share of the production from the well but not have to pay for his share of the costs of drilling the well which produces that production; and

(g) that the risk factor penalty cannot be awarded because the well has already been drilled, and because Consolidated did not drill the well then no penalty

should be imposed on his interest.

(31) Consolidated responds to Rubow's claims that:

(a) In accordance with Division Rule 1207 Consolidated caused notice of this hearing to be sent to Rubow on March 21, 1994 which was 23 days prior to the April 14, 1994 hearing date;

(b) Consolidated purchased Richmond's interest in the Carnes Well and its spacing unit by Special Warranty Deed submitted as Consolidated Exhibit 9;

(c) McElvain has executed a release of the expired oil & gas lease which affected the Rubow interest and has sent that release to the Rio Arriba County Clerk for recording;

(d) Consolidated has no obligation to share wellbore data with Rubow who is a non-consenting working interest owner in the spacing unit and who refuses to agree to participate in paying his share of the total costs of the well; nor does Consolidated have any obligation to gather or market Rubow's share of any production;

(e) that regardless of whether Richmond or Consolidated has paid for the costs of the well, that wellbore is now owned by Consolidated and Rubow as a non-consenting working interest owner must pay his share of the total well costs in order to be entitled his share of production;

(f) Because the Quintana lease expired before the Carnes Well was completed for production, no party earned any rights pursuant to that lease and Rubow would be given a "free-ride" if he did not have to pay for any of the drilling costs of the well;

(g) Alan Harrison, a petroleum engineering, testified for Consolidated that the 156% risk factor penalty for drilling the well still remained because of the method of drilling the well and the risk that the production would be insufficient to pay for the costs of the well.

(32) Consolidated responds to Anderson's claims that:

(a) Anderson is not entitled to receive 100 percent of his share of the production in the spacing unit unless he also pays 100 percent of his share of the costs incurred in obtaining that production;

(b) Anderson is not entitled to a share in the value of a wellbore that was not drilled on his lease and for which he paid none of the costs;

(c) Anderson would receive a "windfall" if he is allowed to be excused from paying his share of the costs of the well while being entitled to receive all of his share of production.

(d) that an expired oil and gas lease which has not been released of record by McElvain, does not entitled Anderson to a share of the value of the wellbore.

(33) In response to Rebow's contentions, the Division finds that:

(a) the Division has jurisdiction over Rubow because he is the owner of the oil and gas minerals for which compulsory pooling is sought and that Consolidated has complied with the notice provisions of Division Rule 1207.

(b) Consolidated is the owner of the Carnes Well and has the right to seek to compulsory pool the Rubow interest in the subject spacing unit;

(c) McElvain's release of the expired Quintana oil & gas lease makes moot any contention by Rubow that the Quintana lease has any affect upon his interest;

(d) Because Rubow has a 5% unleased mineral interest in this spacing unit which has not been voluntarily committed to this spacing unit, Consolidated has no obligation to share wellbore data with Rubow; and the Division lacks jurisdiction to obligate Consolidated to gather or market Rubow's share of any production;

(e) Unless Rubow as a non-consenting working interest owner is required to pay his share of the total well costs in order to receive his share of

production, he will obtain an unfair advantage over the other working interest owners in the well which would be contrary to the provision of Section 70-2-17 (c);

(f) Rubow requests to recover his share of production without incurring any expense for the costs of drilling the well would be contrary to the provisions of Section 70-2-17(c) and would violate the correlative rights of Consolidated;

(g) As a result of numerous prior orders of the Division, the Division has established the precedent of interpreting the "risk involved in the drilling of such well" provision of Section 10-1-17(c) to be a generic phrase which includes all operational risks, including but not limited to actual drilling of the well, the installation of casing, cementing, perforating, testing, reworking, recompleting, plugging back, sidetracking, deepening, or establishing production in paying quantities. In addition, Section 70-2-17(c) provides for compulsory pooling for wells to be drilled or which have been drilled under terms which are just and reasonable. It is reasonable in this case to award the 156% risk factor penalty.

(34) In response to Anderson's contentions, the Division finds that:

(a) the Division has jurisdiction over Anderson because he is the owner of the oil and gas minerals and his lease of those mineral to McElvain has expired;

(b) the Division can interpret its own jurisdiction and does so in this case and finds that it has jurisdiction over the parties, the property and the subject matter herein;

(c) that the McElvain release of the Anderson Oil and Gas lease submitted by the Affidavit of George Broome renders moot any "legal issue" of the validity of the Anderson-McElvain oil and gas lease which has indisputably expired and the Division can proceed to issue an appropriate compulsory pooling order in this case;

(d) the Division has authority to require Anderson to compensate Consolidated for Anderson's share of the value of Carnes Well which Consolidated purchased from Richmond;

(e) by entering a compulsory pooling order in this case it is not determining property rights but is issuing an order within its jurisdiction to do so;

(f) that Consolidated will not be "unjustly enriched" if Anderson now has to pay his share of the total well costs; and

(g) that Anderson will receive more than his fair share of production unless he also pays his share of actual and future well costs.

(35) In addition, the Division finds that:

(a) it has authority to require Rubow and Anderson each to compensate Consolidated for their share of the total cost of Carnes Well which Consolidated purchased from Richmond;

(b) that Consolidated will not be "unjustly enriched" if Rubow and Anderson each now has to pay his share of the total well costs; and

(c) that Rubow and Anderson each will receive more than his fair share of production unless he also pays his share of actual and future well costs.

(36) Consolidated has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 91.875% of the working interest ownership in the subject spacing unit for the proposed well.

(37) At all times relevant hereto, the remaining 8.125% working interest in the subject spacing unit has been under the ownership and control of Rubow and Anderson.

(38) Despite good faith efforts undertaken over a

reasonable period of time, Consolidated has been unable to reach a voluntary agreement with either Anderson or Rubow concerning voluntary participation in the subject spacing unit and the Carnes Well.

(39) That Consolidated has made a good faith effort to reach a voluntarily agreement with the appropriate parties and is entitled to compulsory pooling.

(40) It would circumvent the purposes of the New Mexico Oil & Gas Act to allow a party owning a certain percentage of the working interest in the spacing unit at the time said party was served with a compulsory pooling application, to avoid or delay having that entire percentage interest pooled by claiming his interest is not subject to the jurisdiction of the Division.

(41) Consolidated's estimated cost for a completed well is:

(a) Richmond actual costs: $224,616.72
(b) Consolidated est. actual costs: $20,200.00
(c) Consolidated estimated future costs $150,000.
Total $394,816.72

(42) The Division finds that the estimated total actual and estimated costs of the Carnes Well set forth in paragraph (34) above to be fair and reasonable.

(43) Consolidated presented uncontested testimony that all of the 156% risk factor still remains to be taken and therefore the 156% penalty should be continued in this case.

(44) There is substantial evidence to support approval of the Consolidated's application and its application should be approved.

(45) In addition, by adopting the Consolidated position and by rejecting the Anderson and Rubow

positions, the Division has determined that:

(c) Compulsory pooling is necessary and reasonable in this case to form a spacing unit for drilling, completing and producing the subject well;

(d) The maximum 156% risk factor penalty should be applied and is just and reasonable.

(46) Approval of this application as set forth in the above findings and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Consolidated Oil & Gas Inc, is hereby granted and Division Order R-9179 is hereby amended as provided herein.

(2) All mineral interests, whatever they may be, of the following named parties, in the Basin Fruitland Coal Gas Pool underlying the S/2 of Section 11, Township 32 North, Range 6 West, NMPM, San Juan County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to the Carnes "11" Well No. 1 which was drilled at an unorthodox gas well location 1800 feet from the South line and 230 feet from the West line (Unit L) of said Section 11, to wit:

(a) Edmund T. Anderson IV,
individually and as Trustee
of the Mary Anderson Boll Family Trust
2521 Humble
Midland, Texas 79705

(b) James J. Rubow
Passport Energy, Inc.,
1645 Court Place, Suite 324,
Denver, Colorado, 80202

(c) Manuel A. Rodriquez
9295 S. Kalil Drive
Scottsdale, Arizona

(d) Richard G. Clark
9295 S. Kalil Drive
Scottsdale, Arizona 85260

PROVIDED HOWEVER THAT, the operator of said unit shall commence the further completion of said well on or before the 1st day of September, 1994, and shall thereafter continue the completion of said well with due diligence to test the Basin Fruitland Coal Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence further completion of said well on or before the 1st day of September, 1994, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Consolidated Oil & Gas Inc. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and prior to commencing the further completion of said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs as follows:

(a) An itemized schedule of actual costs already spent to date by Richmond and Consolidated, and

(b) An itemized schedule of estimated well costs to be spent.

(5) Within 30 days from the date the two schedules of actual costs and of estimated future costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of the combined total of actual and estimated future well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of said actual and estimated costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

A. The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date of schedule of said well costs is furnished to him; and

B. As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of both actual and estimated well costs within 30 days from the date the schedules of said costs is furnished to him.

(9) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(10) $3,500.00 per month while drilling and $350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

(11) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(12) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be

placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(14) Should all the parties to this compulsory-pooling reach voluntary agreement subsequent to the entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory-pooling provisions of this order.

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE, at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,
Director