Form 3160-3 (August 2007)

AUG - 6 2008

DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

OCD-ARTESIA

FORM APPROVED OMB No 1004-0137 Expires July 31, 2010

| 5 | Lease Senal No. | |
|----|-----------------|--|
| NΜ | INM-28095 | |

| DRILL OR | REENTER | | 6. II Indian, Aliotee (| a Hiber | anic | |
|---|---|--|------------------------------------|---------------------|--|--|
| ER | | | 7 If Unit or CA Agree | ment, Nai | ne and 1 | No |
| b Type of Well On Well Gas Well Other Single Zone Multiple Zone | | | | | | 501 |
| 2. Name of Operator NADEL AND GUSSMAN HEYCO, LLC | | | | | | |
| D. BOX 1936 SWELL N.M 88202 3b Phone No. (mehude area code) (575) 623-6601 | | | | , , | | гн |
| ny State requirem | ents*) | | 1 | | vey or A | .rea |
| | | | 12 County or Parish EDDY | | 13 Stat N | le |
| 16 No of ac | | | | | | |
| 19. Proposed | 19. Proposed Depth 20 BLM/BIA Bond No. on file NMB00520 | | | | | |
| 1 | 22 Approximate date work will start* 07/15/2008 | | 23 Estimated duration 40 DAYS | | | |
| | | ttached to th | us form | | | |
| a Lands, the | Item 20 above) 5 Operator certific 6. Such other site | ation | · | · · | | , |
| ĺ | (Printed Typed) | | f = | | 008 | |
| | | | | | | |
| Name | (Printed/Typed) | | | AUG | 2, | 2008 |
| Office | | | | | | |
| ds legal or equit | = | | - | - | | |
| | Ising Single Phone No. (575) 623-6 If No of a 650.16 If Proposed 4170' 22 Approximate 07/15/200 24. Attackore Oil and Gas on Lands, the Name Keith Name Office | Single Zone Multure 25 8 H G 2 3b Phone No. (include area code) (575) 623-6601 my State requirements.*) 16 No of acres in lease 650.16 19 Proposed Depth 4170' 22 Approximate date work will state 07/15/2008 24. Attachments are Oil and Gas Order No 1, must be a least 20 above) 5 Operator certifice 6. Such other site BLM. Name (Printed Typed) Keith Cannon Name (Printed Typed) Office ds legal or equitable title to those right | TER Single Zone Multiple Zone | FIRE Single Zone | TER Single Zone Multuple Zone R Lease Name and Well No CAN KEN 4 FEDERAL #2 9 API Well No. 30-015-26257 10 Field and Pool, or Exploratory State requirements.*) 11 Sec., T. R. M. or Blk and Survice SEC 4, T18S, R31E 12 County or Parish EDDY 16 No of acres in lease 17 Spacing Unit dedicated to this well 40 Acre 19 Proposed Depth 20 BLM/BIA Bond No. on file NMB00520 22 Approximate date work will start* 23 Estimated duration 40 DAYS 24 Attachments 4 Bond to cover the operations unless covered by an existing be lands, the 5 Operator certification 6 Such other site specific information and/or plans as may be re BLM. Name (Printed Typed) Date O6/26/2 Office CARLSBAD FIELD | ER Till Unit or CA Agreement, Name and II Single Zone |

Capitan Controlled Water Basin

(Continued on page 2)

NOTE: NEW PIT RULE 19-15-17 NMAC PART 17 A form C-144 must be approved before starting drilling operations.

SEE ATTACHED FOR CONDITIONS OF APPROVAL

Approval Subject to General Requirements & Special Stipulations Attached

*(Instructions on page 2)

District I 1625 N. French Dr., Hobbs, NM 88240 <u>District¹īI</u>

1301 W. Grand Avenue, Artesia, NM 88210 District III

1000 Rio Brazos Rd., Aztec, NM 87410

District IV

7)

1220 S. St. Francis Dr., Santa Fe, NM 87505

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

Form C-102 Revised October 12, 2005 Submit to Appropriate District Office State Lease - 4 Copies

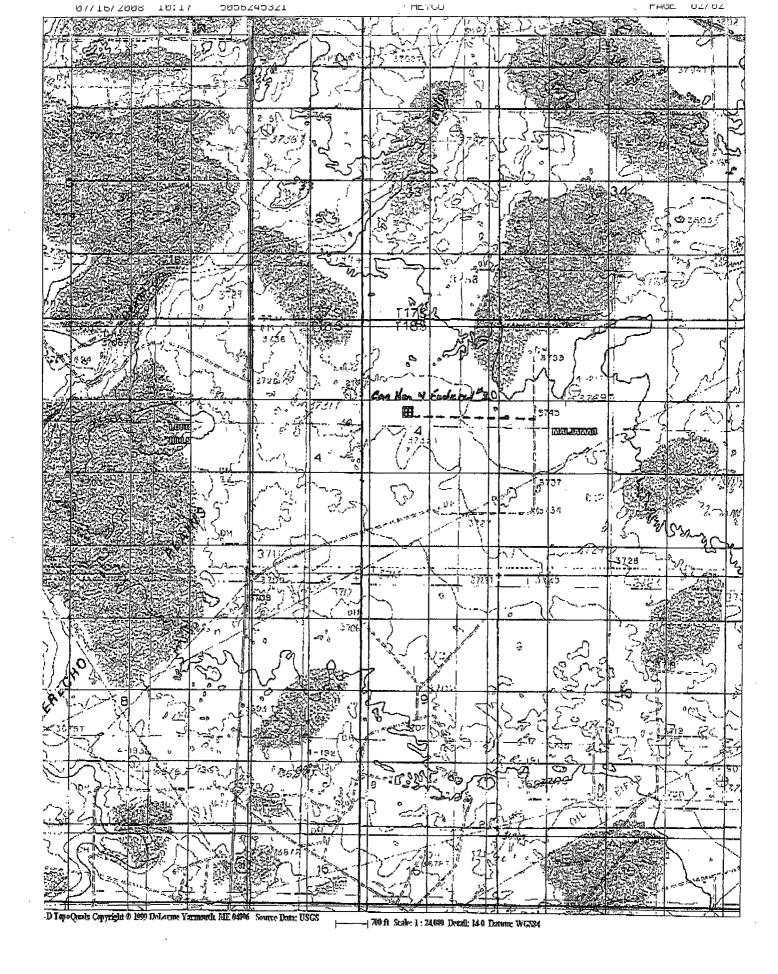
Fee Lease - 3 Copies

■ AMENDED REPORT

| | | W | ELL LC | OCATIO1 | N AND ACR | EAGE DEDIC | ATION PLA | T | | | |
|---|------------------------|---------------------|--------------|------------------------|-------------------------|------------------|----------------------|------|--------------------------|------------------------|--|
| 1, | API Number | | | ² Pool Code | • | | ³ Pool Na | me | | | |
| 3 | 0-015-26257 | | | 50385 | | | Power Gray | burg | | | |
| ⁴ Property (| Code | | | | ⁵ Property l | Name | | | ⁶ Well Number | | |
| 30501 | | Can Ken 4 Federal 2 | | | | | | | | 2 | |
| ⁷ OGRID | | (| | | ⁸ Operator I | Name | | | | ⁹ Elevation | |
| 258462 | | , | | 1 | Nadel and Gussman | HEYCO, LLC | | | | 3730.0 | |
| | | | | | ¹⁰ Surface | Location | | | | | |
| UL or lot no. | Section | Township | Range | Lot Idn | Feet from the | North/South line | Feet from the | East | /West line | County | |
| G | 4 | 188 | 31E | | 1980' | North | 1980' | | East | Eddy | |
| 11 Bottom Hole Location If Different From Surface | | | | | | | | | | | |
| UL or lot no. | Section | Township | Range | Lot Idn | Feet from the | North/South line | Feet from the | East | /West line | County | |
| ¹² Dedicated Acres | ¹³ Joint or | · Infill 14 C | onsolidation | Code 15 Or | rder No. | | | | | | |

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.

| 16 | | Ŷ | | ¹⁷ OPERATOR CERTIFICATION |
|----|----------|-----|-------------|---|
| | | | | I hereby certify that the information contained herein is true and complete |
| | | | | to the best of my knowledge and belief, and that this organization either |
| | | | | owns a working interest or unleased mineral interest in the land including |
| | | | | the proposed bottom hole location or has a right to drill this well at this |
| | | -0 | | location pursuant to a contract with an owner of such a mineral or working |
| | | 780 | | interest, or to a voluntary pooling agreement or a compulsory pooling |
| | | | | order herefolore entered by the division. |
| | | | | 6/26/08 |
| | | | | Signature Date |
| | | | | _ |
| | | • | 1980' | Ketth Cannon Printed Name |
| | | • (| | Printed Name |
| | | | | |
| | | | | |
| | | | | 18GLIDATENOD GEDTTEGATION |
| | | | | ¹⁸ SURVEYOR CERTIFICATION |
| | | | | I hereby certify that the well location shown on this |
| | | | | plat was plotted from field notes of actual surveys |
| | | | | made by me or under my supervision, and that the |
| | | | | same is true and correct to the best of my belief. |
| | | | | |
| | | | | |
| | | | | Date of Survey |
| | | | | Signature and Seal of Professional Surveyor |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | Cont-Secto Number |
| | | | | Certificate Number |
| L | <u> </u> | | <u> </u> | <u> </u> |



Submut to Appropriate District Office State Lease - 4 copies Fee Dease - 3 copies

State of New Mexico

Form C-102 Revised 1-1-89

OIL CONSERVATION DIVISION

P.O. Box 2088

Santa Fe, New Mexico 87504-2088

DISTRICT II
P.O. Drawer DD, Artesia, NM 88210

DISTRICT I P.O. Box 1980, Hobbs, NM 88240

DISTRICT III
1000 Rio Brazos Rd., Azzec, NM 87410

WELL LOCATION AND ACREAGE DEDICATION PLAT

All Distances must be from the outer boundaries of the section

| Operator | | | | | [1 | .case | | | | | 1 | Well No. |
|--------------------|-------------|----------------|------------------|--------------|---------------|----------------|----------------|--------------------|----------|---------------|-----------------|--------------------------------|
| Harvey | E. Y. | ates Co | | | | Cank | cen 4 Fe | ederal _ | | | | 2 |
| Unit Letter | Section | | Township | | 1 | Cange | | | [| County | | |
| G | 4 | | 18 Sc | outh | | 31 | East | NI | иРМ | | Εc | ldy |
| Actual Footage Lo | cation of 7 | Vell: | | | | | | | | | | |
| 1980 | feet fro | m the | North | | line and |] | 1980 | feet : | from th | e E | ast | line |
| Ground level Elev. | | Producir | g Formation | | 1 | , , | | | | | | Dedicated Acreage: |
| 3730.0 | | | | | | | | | | | | Acres |
| | | age dedicate | d to the subject | well by o | plored penci | or hachure | marks on the | plat below. | | | · · · · · · · · | |
| 2. If mo | ere than on | e lesse is dec | dicated to the w | ell. outline | each and ic | lentify the or | waemhip ther | reof (both as to v | vorking | ınteresi | and m | valty). |
| | | | | , | | • | | • | | | | |
| | | | | p is dedic | ated to the v | rell, have the | interest of a | il owners been o | consolid | lated by | comm | unitization, |
| unitiz | Yes | e-pooling, et | - | | . "3000" tamo | of consolida | tian. | | | | | |
| If answe | | ist the owner | | | | | | (Use reverse si | de of | | | |
| this form | n if necces | sary. | | | | | | | | | | |
| | | | | | | | | unitization, uniti | zation, | forced-p | ooling | , or otherwise) |
| or until | a DOD-stan | dard unit, eli | minating such is | sterest, ha | s been appro | oved by the I | Division. | | | | | · |
| | | | | | | | | | , [| ODE | DATY | OR CERTIFICATION |
| | | Ì | | | 1 | | j | | , | _ | | certify that the information |
| | | 1 | | - [| į. | | 1 | | coe | | | in true and complete to the |
| | | 1 | | | | | 1 | | 1 1 | | | dge and belief. |
| | | 1 | | - | 19 | | İ | | | | | |
| | | i | | | 1980 | | i | | Sig | nature | | |
| | | i | | - [| آ ا | | 1 | | | | | |
| | | - | | | l | | 1 | | Pri | nted Na | me | |
| | | - ¦ | | - George | | | <u>.</u> — — . | | | | | |
| | | İ | | | | | P | | Pos | rition | | |
| | | ! | | li . | | | Į | | | | | |
| | | 1 | | 3732 | .9 | 37321 | 1 | | Co | mpany | | |
| | | | | Ŋ | | <u> </u> | 1980 | o' |] | | | |
| | | 1 | | | | į | 130 | J | Da | Le | | |
| | | 1 | | 3728 | ـــــا و | 3731.3 ــ ــ | | | | | | |
| | | İ | | ŧ | | | | | | CT III) | LITTAL. | OD GEDTTION |
| | | i | | | VM-28 | 075 | <u> </u> | | 1 | SUK | VEY | OR CERTIFICATION |
| | | i | | | | | i | | 1 1, | hasala. | | that the well location shows |
| | | 1 | | 1 | | | 1 | | | | | is plotted from field notes of |
| | | 1 | | | | | ! | | | | | made by me or under m |
| | | 1 | | 1 | | | 1 | | | | | that the same is true and |
| | | | | | | | ! | | ! [| |) the | best of my knowledge and |
| | | 1 | | 1 | | | ļ | | be | lief. | | |
| | | | | ı | | | | | D | ate Surv | eyed | |
| | | - | | -+- | | | | | } | Nov | embe | er 11, 1989 |
| 1 | | | | 1 | | | 1 | | | gnature | | |
| | | ì | | 1 | | | i | | | Of extra jor | | |
| | | i | | | | | i | | | | // | PROFESSION . |
| | | i | | | | | i | | | $\sim L$ | | AND SUGAR |
| | | 1 | | 1 | | | 1 | | / | | ψ | 1// W/21 |
| 1 | | 1 | | 1 | | | 1 | | 11 | | 豺奇 | 1/10/11/21 |
| | | ļ | | 1 | | | ! | / | 1 | erunicate | | JOHO NO WEST, 76 |
| | | | | l | | | 1 | | η - | $-II_{\iota}$ | #[m | HALD I EIDSON 39 |
| | | | | | | • | | | 1 | -t | 1-13 | EN WENCE THE |
| 0 330 660 | 990 1 | 320 1650 | 1980 2310 | 2640 | 2000 | 1500 | 1000 | 500 | | • | 11/~ | MENES |
| | | | | | | | | | | - | _// | W W. W |

Can Ken 4 Fed 2 G-4-18S-31E Eddy Co., NM

Reentry Procedure 9 May 08

Basic Data:

13-3/8" @ 360' Circ. Cmt.
8-5/8" @ 2099' Circ. Cmt.
5-1/2" @ 8550', TOC @ 210' CBL, top cement plug 0-60' when plugged
5.5"/17ppf/N80/LTC Burst=7740 psi, 6192 psi at 80% Nom. ID=4.892" Drift ID=4.767"
2.875"/6.5ppf/J55/EUE Burst=7260 psi, 5808 psi at 80% Nom ID=2.441" Drift ID=2.347"
Collapse=7680 psi, 6144 at 80%
Tensile=99660 lb with no safety factor

Objective: Reenter well to test Grayburg sand, 7 Rivers dolomites and/or Yates sand.

Outline:

- 1. Dig out wellhead, dress off 8-5/8", weld extension onto 5-1/2" casing, weld 3000 psi slip on wellhead onto 8-5/8", dress off 5-1/2", install tubing head adaptor, install BOP and test wellhead to 3000 psi.
- 2. MIRU WSU and reentry package. Pick up 4.75" bit and collars and drill out the following plugs using fresh water. Use 2-7/8"/6.5/J55/EUE tubing. Clean out to 4120'. POOH with bit, pick up scraper, make scraper run to PBD, pickle tubing with 500 gals 15% HCl, circulate hole clean then fill hole with clean 2% KCl water (approx. 100 bbls volume with tubing OOH).

Surface plug 0-60' Plug from 158-410' Plug from 1806-2150' Cement and CIBP from 3453-3700'

3. RU wireline, install lubricator and perf the Grayburg Sand with 3-3/8" or 4" casing guns loaded 3 spf at 60-120° phasing at the depths shown below (inclusive):

<u>Grayburg Sd</u>: 3945-54' (30) OH Logs <u>Grayburg Sd</u>: 3943-52' (30) GR/CCL CBL

- 4. RIH with retrievable packer assembly to approx. 3800' (open perfs 3756-66'), set packer, open bypass, pump acid close to packer, close bypass, load annulus (and keep loaded with fluid), and acidize with 500 gals. NE Fe 7.5% HCl. Pump acid at 3-5 bpm while limiting treating pressure to 5500 psi and keeping annulus full of fluid. Drop slug of 15 ballsealers after pumping 350 gals acid. Swab/flow test until notified to do otherwise.
- 5. If decision made to frac, install treating valve and frac down tubing at 15 bpm using low gel load crosslink fluid carrying 30,000 lbs 16/30 curable resin coated white sand (4 ppg max). Will flush 1-2 bbls short of top perf or when calculated bottom hole sand concentration is getting ready to fall, whichever occurs first. Engineer will work with service company on final frac design. Limit treating pressure to 5500 psi while

keeping annulus full of fluid. Recommend having kill truck on annulus in case well screens out or packer fails and it becomes necessary to circulate the well clean.

Note: Service company needs to run a family of breaker tests to yield data showing a range of break tests from fast to slow gel breaks on location. If their tests on location don't yield a wide-enough range of break times, they will have to re-run their tests on location, leading to a delay in pumping the job (est BHT = 100° F).

6. Leave well **shut in overnight** to allow resin to cure. Bleed pressure down (1 bpm max), clean out fill if needed and PWOP for a few weeks to get test of this zone before making decision whether to add pay uphole.

- 7. When ready to move uphole, plugback method will be determined based on results of previous zone. If abandoning the Grayburg Sand, will set CIBP + 35' cement at 3725'. Load casing with fluid and test plug and casing to 3000 psi.
- 8. RU wireline, install lubricator and perf the 7R with 3-3/8" or 4" casing guns loaded 1 spf at any phasing at the depths shown below (inclusive):

```
7R: 2468', 2470', 2507', 2509', 2511', 2516', 2518', 2656', 2658', 2662', 2677', 2678' (12) OH Logs 7R: 2464', 2466', 2503', 2505', 2507', 2512', 2514', 2652', 2654', 2658', 2673', 2674' (12) GR/CCL/CBL
```

- 9. RIH with retrievable packer assembly, spot 200 gals NE Fe 20% HCl acid at 2650', pull packer to 2400', reverse 5 bbls down annulus, set packer, put 1000 psi on annulus and acidize with 1500 gals. NE Fe 20% HCl. Pump acid at 3-5 bpm while limiting treating pressure to 5500 psi and holding 500 psi on annulus. Drop 30 ballsealers through job. Swab/flow test until notified to do otherwise.
- 10. If decision made to frac, unseat packer and TOOH. Install 5k frac valve (assuming we've had no indications of casing problems) and frac down casing at 40 bpm using low gel load crosslink fluid carrying 100,000 lbs 16/30 white sand (last 50,000 lbs curable resin coated, 3 ppg max). Will flush 2-3 bbls short of top perf or when calculated bottom hole sand concentration is getting ready to fall, whichever occurs first. Engineer will work with service company on final frac design.
- 11. Leave well **shut in overnight** to allow resin to cure. Bleed pressure down (1 bpm max) and PWOP for a few weeks to get test of this zone before making decision whether to add pay up hole.

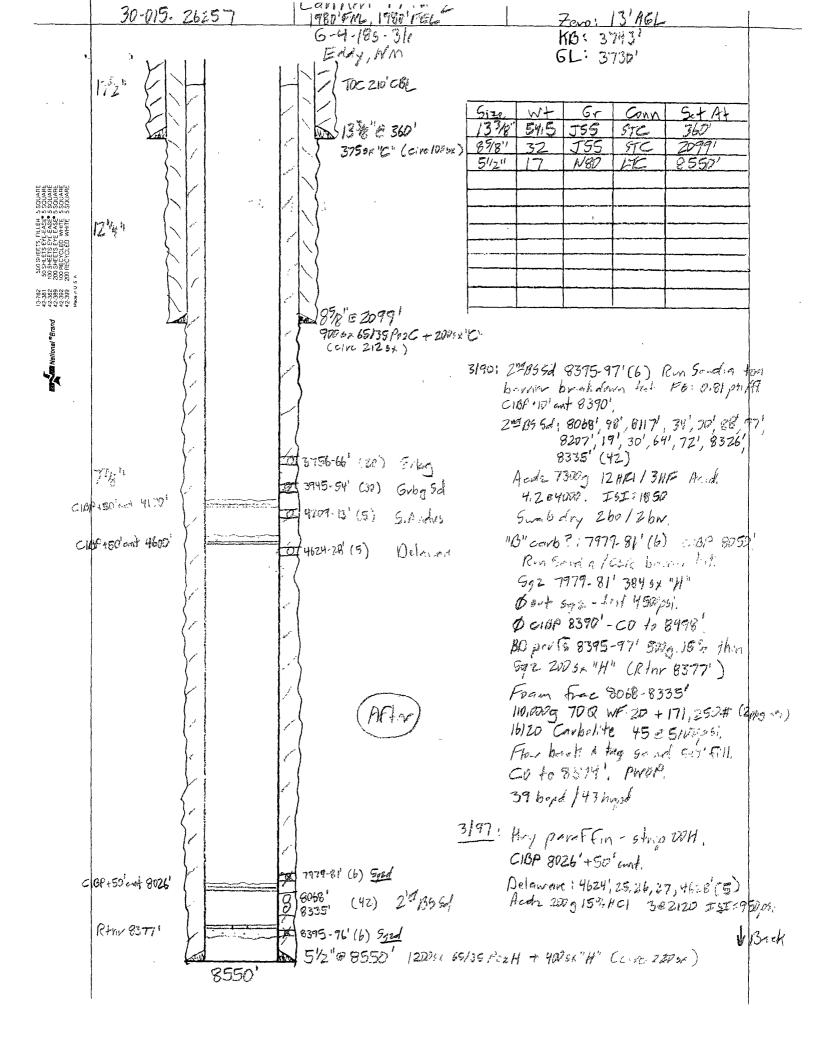
- 12. When ready to move uphole, plugback method will be determined based on results of previous zone. If abandoning the 7R, will set CIBP at 2460'.
- 13. RU wireline, install lubricator and perf the Yates Sand with 3-3/8" or 4" casing guns loaded 3 spf at 60-120° phasing at the depths shown below (inclusive):

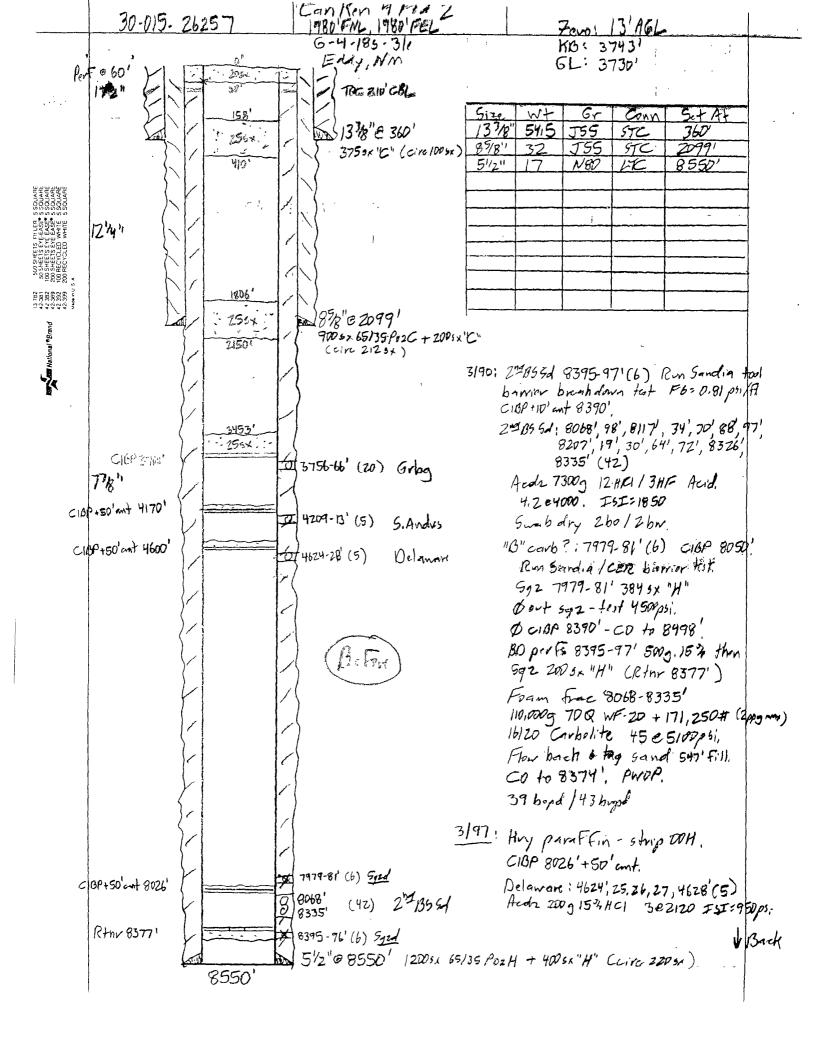
<u>Yates Sd</u>: 2375-84' (30) OH Logs Yates Sd: 2371-80' (30) GR/CCL/CBL

14. RIH with retrievable packer assembly, set packer, open bypass, pump acid close to packer, close bypass, load annulus, and acidize with 500 gals. NE Fe 7.5% HCl. Pump acid at 3-5 bpm while limiting treating

- pressure to 5500 psi and keeping annulus full of fluid. Drop slug of 15 ballsealers after pumping 350 gals acid. Swab/flow test until notified to do otherwise.
- 15. If decision made to frac, unseat packer and TOOH. Install 5k frac valve (assuming we've had no indications of casing problems) and frac down casing at 15 bpm using low gel load crosslink fluid carrying 30,000 lbs 16/30 curable resin coated white sand (4 ppg max). Will flush 2-3 bbls short of top perf or when calculated bottom hole sand concentration is getting ready to fall, whichever occurs first. Engineer will work with service company on final frac design.
- 16. Leave well **shut in overnight** to allow resin to cure. Bleed pressure down (1 bpm max), clean out fill if needed and PWOP for a few weeks to get test of this zone before making decision whether to drill out plug(s) and commingle with zone(s) down hole—let's discuss.

Kbc/can ken 4 fed 2 grbg 7r yates reentry





3/97: 50-200' Free oil on top. 5% out sumbdry. · Frac 15,000g 30#XL + 36,340# 16/30 white 11.20 1600psi ISI-970psi PWOP. 80 looped / 57 looped / 65 mcFd.

6197: Lower prop intake below ports.

9/97: Pump chy 1/2" to 1/4" plunger.

3/00: CIBP 4600' + 50' cmt 5. Andres: 4209', 10, 11, 12, 4213' (5) Arabe 1200g 15% HC1, 3.30 1600ps; ISI=970ps; Sunb 100% wtr.

10104: Act 5000g. 15% HCI 4. to 2100,05%. FYI= 1220ps; Sund who

1/05: CIBP 4170'+50'cm+ Part Grag 3756-3766 (20) Acare 3000 15 6/101. 5 @ 3150 pgi. ISI 1450,081. Swal 1 bo/ 11 hw.

Readz 6000g. 152 HCI 6,8 & 4000psi. ISI = 1400psi 5mb 1b0/37bw. PWOP. Obopd/Sbypa/Ometal.

Application Nadel and Gussman Heyco, LLC Can Ken 4 Federal #2 Sec 4, T18S, R31E 1980' FNL & 1980' FEL Eddy County, New Mexico

In conjunction with Form 3160-3, Application For Permit To Drill Or Deepen subject well, Nadel and Gussman Heyco, LLC submits the following ten items of pertinent information in accordance with Onshore Oil & Gas Order No. 10.

1. Geologic Name of Surface Formation: PERMIAN

2. Estimated Tops of Significant Geologic Markers:

| Formation | Depth | |
|--------------|-------|-------|
| Rustler | 665' | Water |
| Yates | 2020' | Oil |
| Seven Rivers | 2435' | Oil |
| Bowers | 2885' | Oil |
| Queen | 3125' | Oil |
| Penrose | 3330' | Oil |
| Grayburg | 4605' | Oil |
| PTD | 4170' | |

7-31-08 NOTUD NAUD NWI

No other formations are expected to yield oil, gas, or fresh water in measurable volumes. The surface fresh water sands will be protected by setting 13'3/8" casing at 450' and circulating Cement back to surface. Potash/ fresh water sands will be protected by setting 9 5/8" casing at 3000' and circulating cement back to surface. Morrow intervals will be isolation by setting 5 ½" Casing to total depth and circulating cement up into the 9 5/8" casing.

3. Proposed Casing Program:

| Hole size | Depth | OD Csg | <u>Weight</u> | <u>Collar</u> | Grade | New/Used |
|-----------|------------|---------|---------------|---------------|-------|--------------|
| 17 ½" | 0' – 360' | 13 3/8" | · 54# | ST&C | J-55 | In Place CMT |
| 12 ¼" | 0' -2099' | 8 5/8" | 32# | ST&C | J-55 | In place CMT |
| 7 7/8" | 0' – 4170' | 5 ½" | 17# | LT&C | N-80 | In Place CMT |

Safety Factors: Burst 1.0 Collapse 1.125 Tension 1.8

4. Cement Program: (Note yields; and DV tool depths if multiple stages)

| a. | 13 3/8" | Surface | Cement to surface with: Cmtd w/- 375 sx Cl class C w/ 2% CaCl Circ 100 sx to pit |
|----|---------|--------------|--|
| b. | 9 5/8" | Intermediate | Cement to surface with: Cmtd w/ - 900 sx 65/35 "C" poz w/ 2% CaCl +200 sx Cl "C" w/ 2% CaCl Circ 212 sx to pit |
| C. | 5 1/2" | Production | First Stage: Cmtd w/ 1200 sx 65/35 "H" + 400 sx Cl "H" Circ 220 sx to pit |

5. Pressure Control Equipment:

The blowout preventor equipment (BOPE) shown in Exhibit #1 will consist of a (3m system) COA

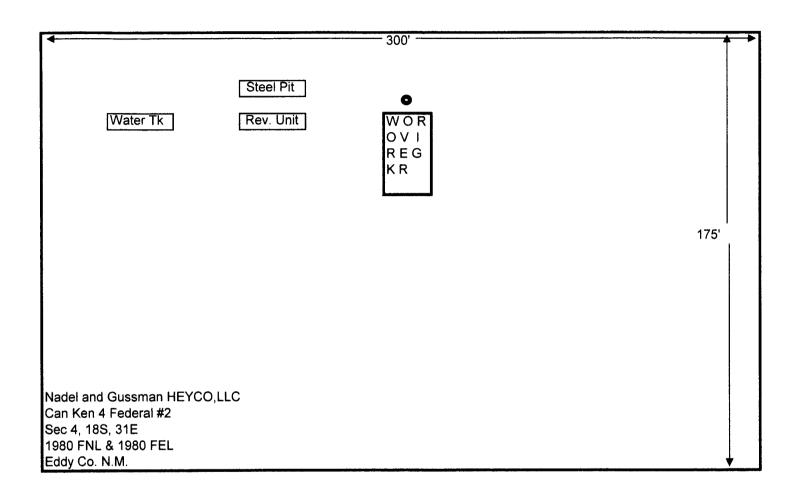
COA

6. Drilling Fluid Program:

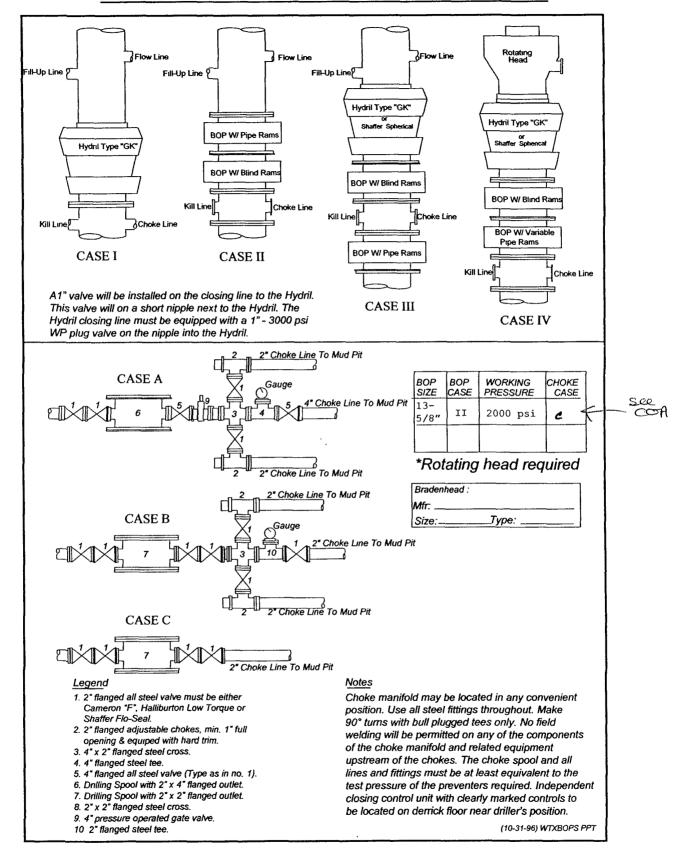
| Depth | Mud Wt. | Visc | Fluid Loss | Type System |
|------------|---------|------|------------|-------------|
| 0' - 4170' | 8.4 | NA | NC | Fresh Water |

The necessary mud products for weight addition and fluid loss control will be on Location at all times. Mud Program Sudject to change due to hole conditions.

- 7. Auxiliary Equipment:
 - a. A full opening drill pipe stabbing valve having the appropriate Connections will be on the rig floor at all times.
 - b. Hydrogen Sulfide detection equipment will be in operation after drilling Out the Surf plug Down to Depth
- 8. Testing, Logging, & Coring Program: There will been no Logging or coring
- Abnormal Conditions, Pressures, Temperature, or Potential Hazards:
 No abnormal conditions are expected. There is no known presence of H2S in this area.
 If H2S is encountered the operator will comply with the provisions of Onshore Oil and Gas
 Order No 6. All personnel will be familiar with all aspects of safe operation of equipment being used to Reenter this well.
- Anticipated Starting Date & Duration of Operation:
 The anticipated starting date is set for as soon as possible after examination and approval of all drilling requirements.
 Duration of this project will be approximately 15 days from start of
 Construction of drilling pad until finish of completion operations



Nadel and Gussman Heyco, LLC MINIMUM BLOWOUT PREVENTER REQUIREMENTS



NADEL AND GUSSMAN HEYCO, L.L.C. P.O. BOX 1936 ROSWELL N.M. 88202 (575) 623-6601 (Office) (575) 624-5321 (Fax)

Re: Can Ken 4 Federal #2 SHL: 1980' FNL & 1980' FEL Unit Letter G, Sec. 4-T18S-R31E Eddy, NM Rule 118 H2S Exposure

Dear Mr. Ingram

Nadel and Gussman Heyco have evaluated this well and we do not expect to encounter hydrogen sulfide. However, we will employ a third party monitoring system. We will begin monitoring prior to drilling out the intermediate casing and will continue monitoring the remainder of the well.

Please contact me if you have any additional questions. (575) 626-1936

Sincerely,

Keith Cannon Drilling Superintendent 6/12/08

CONTACTING AUTHORITIES

Nadel and Gussman HEYCO personnel must liason with local and state agencies to ensure a proper response to a major release. Additionally, the OCD must be notified of the release as soon as possible but no later than 4 hours. Agencies will ask for information such as; type and volume of release, wind direction, location of release, etc. Be prepared with all information available. The following call list of essential and potential responders has been prepared for use during a release. This response plan must be in coordination with the State of New Mexico's "Hazardous Materials Emergency Response Plan" (HMER).

| LOCATION | ENTITY | PHONE NUMBER: |
|-----------------|------------------------------------|---------------------|
| Artesia | Sheriff's Office | (575) 746-9888 |
| Artesia | State Police | (575) 748-9718 |
| Carlsbad | Bureau of land Management | (575) 887-6544 |
| | Ambulance | 911 |
| Loco Hills | Fire Department | (575) 677-2349 |
| Artesia | Fire Department | (575) 746-2701 |
| Carlsbad | Local Emergency Planning Committee | (575) 887-3798 |
| Roswell | Nadel and Gussman HEYCO, LLC | Off. (575) 623-6601 |
| Midland Tx | Terry West, Drilling Engineer. | Cell (432) 682-1472 |
| Artesia | Keith Cannon, Drlg Superintendent | Cell (575) 626-1936 |
| Artesia | Clay Stevens, Safety Man | Cell (575) 626-1965 |
| OTHER CONTACTS | | |
| Artesia | Schlumberger Technology | (575) 748-1392 |
| Artesia | South Environmental | (575) 420-1942 |
| Hobbs | Horizon Mud | (575) 393-8641 |
| Lovington | Assurance Fire Safety | (575) 396-7004 |
| Odessa, TX | Wild Well Control, Inc. | (432) 550-6202 |
| Odessa, TX | Cudd Pressure Control, Inc. | (432) 563-3356 |
| Lubbock, TX | Flight for Life | (806) 743-9911 |
| Albuquerque, NM | Med Flight Air Ambulance | (505) 842-4433 |

WELL CONTROL

The following procedures will be implemented when a loss of primary control is indicated.

Indicators of loss of primary control are flow from th well; an increase in pit volume; or when the drilling fluid used to fill the hole in trips is less than the calculated pipe displacement volume. The emergency signal for well control procedures will be a single long blast of the rig air horn.

Kick While Drilling - Procedures and Responsibilities

Driller:

- 1. Stop the rotary and hoist the kelly above the rotary table.
- 2. Stop the mud pump(s).
- 3. Check for flow.
- 4. If flowing, sound the alarm immediately.
- 5. Ensure that all crew members fulfill their responsibilities to secure the well.
- 6. Record drill pipe and casing shut-in pressures and pit volume increase and begin kill sheet.

Hydrogen Sulfide Drilling Operations Plan

- 1. Company and Contract personnel admitted on location should be trained by a qualified H₂S safety instructor to the following:
 - A. Characteristics of H₂S.
 - B. Physical Effects and Hazards.
 - C. Proper Use of Safety Equipment and Life Support Systems.
 - D. Principle and Operation of H₂S Detectors, Warning System and Briefing.
 - E. Evacuation Procedure, Routes and First Aid.
 - F. Proper Use of 30 minute Pressure Demand Air Pack.

2. H₂S Detection and Alarm Systems

- A. H₂S Detectors and Audio Alarm System to be Located at Bell Nipple, End of Blooie Line (mud pit) and on Derrick floor or doghouse.
- 3. Windsock and/or Wind Streamers
 - A. Windsock at Mud Pit Area Should be High Enough to be Visible.
 - B. Windsock at Briefing Area Should be High Enough to be Visible.
 - C. There Should be a Windsock at Entrance to Location.
- 4. Condition Flags and Signs
 - A. Warning Sign on Access Road to Location.
 - B. Flags to be Displayed on Sign at Entrance to Location.
 - 1. Green Flag, Normal Safe Condition.
 - 2. Yellow Flag, Indicates Potential Pressure and Danger.
 - 3. Red Flag, Danger H₂S Present in Dangerous Concentration Only Emergency Personnel Admitted to Location.
- 5. Well Control Equipment
 - A. See Attached Diagram.
- 6. Communication
 - A. While Working Under Masks Chalkboards Will be Used for Communication.
 - B. Hand Signals will be Used Where Chalk Board is Inappropriate.
 - C. Two Way Radio or Cell Phone will be Used to Communicate off Location in Case of Available at Most Drilling Foreman's Trailer or Living Quarters.
- 7. Drillstem Testing
 - A. Exhausts will be Watered.
 - B. Flare Line will be Equipped with an Electric Igniter or a propane pilot light in case gas reaches the surface.
 - C. If Location is near any Dwelling a Closed DST will be Performed.
- 8. Drilling Contractor Supervisor will be Required to be Familiar with the Effects H₂S has on tubular goods and other mechanical equipment.
- 9. If H₂S Encountered, Mud system will be Altered if Necessary to Maintain Control of Formation. A Mud Gas Separator will be Brought into Service Along with H₂S Scavengers if Necessary.

1. Existing Roads:

Exhibit A is a portion of a New Mexico map showing the location of the proposed location. The location is approximately 10 miles South East of Loco Hills, NM. Leave Loco Hills on US 82 & travel East 5 miles & turn South on Co Rd.222 Go 3.2 mile & turn left on Caliche road. Go 1.3 miles Turn left. Go 0.3 turn left. Go 0.6 mile to location.

2. Planned Access Roads:

No new road will be built to access this location

3. Location of Existing Wells:

See EXHIBIT B From the surveying company / vicinity map

4. Location of Tank Batteries, Electric Lines, Etc:

In the event a producing well is drilled, a tank battery will be built on the location.

5. Location and Type of Water Supply:

Water will be obtained from commercial sources.

6. Source of Construction Material:

There will be no new Construction, will be using Existing well pad

7. Methods of Handling Waste Disposal:

Waste will be handled in an approved manner. The wellsite will be cleaned of all waste within 30 days of final completion of the well.

8. Ancillary Facilities:

N/A

9. Wellsite Layout:

- a. EXHIBIT D shows the relative location and dimensions of the well pad, reserve pits, and major rig components.
- b. The land is relatively flat with sandy soil
- c. The pad and pit area have been staked.

10. Plan for Restoration of the Surface:

- a. After drilling and completion operations are completed, all equipment and other materials not needed for further operations will be removed. Pits will be back filled and the location cleaned of all trash to leave the wellsite as pleasant in appearance as possible.
- b. If the proposed operation is nonproductive, all restoration and/or vegetation requirements of the BLM will be complied with, and will be accomplished as quickly as possible. All pits will be filled and leveled within 90 days after abandonment.

11. Other Information:

- a. The mineral and surface owner is the Federal Government, Land and Grazing leasing Bill Williams had been contacted.
- b. The topography consists of sandy soil with native grasses. No wildlife was observed, but the usual inhabitants of this region are Jackrabbits, Reptiles, Coyotes, etc.
- c. There are no ponds, lakes, or rivers in this area.
- d. An Archaeological Survey has been made and a copy has been sent to the Carlsbad BLM office. There is no evidence of any significant archaeological, historical, or cultural sites in the area. Further, there are no occupied dwellings or windmills in the area.
- e. Should any incidental oil be recovered during testing of this well, this oil will be considered waste oil and not sellable due to contamination by drilling and/or completion fluids.

Keith Cannon, Drilling Superintendent Nadel and Gussman Heyco, LLC P.O. Box 1936 Roswell, NM 505-623-6601

May 5, 2008

Operator's Certification:

I certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; that the work associated with operations proposed herein will be performed by Nadel and Gussman Heyco, LLC and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Keith Cannon, Drilling Superintendent Nadel and Gussman Heyco, LLC P.O. Box 1936

Roswell, NM 505-623-6601

June 26, 2008

United States Department of the Interior

BUREAU OF LAND MANAGEMENT Roswell Resource Area P.O. Drawer 1857 Roswell, New Mexico 88202-1857

Statement Accepting Responsibilities for Operations

Operator Name: Nadel and Gussman Heyco, LLC

Street or Box: P.O. Box 1936

City, State: Roswell, New Mexico

Zip Code: 88202

The undersigned accepts all applicable terms, conditions, stipulations, and restrictions concerning operations conducted on the leased land or portion thereof, as described below.

Lease No.:

Lease Name: Can Ken 4 Federal #2

Legal description of land: Sec 4, T18S, R31E, Eddy County, New Mexico

Formation(s) (if applicable): Middle Morrow

Bond Coverage: Statewide Bond

BLM Bond File No.: NMb00520

Authorized Signature: //

Title: Drilling Superintendent

Date: 6/26/08

PECOS DISTRICT, CONDITIONS OF APPROVAL

| OPERATOR'S NAME: | NADEL & GUSSMAN HEYCO LLC |
|-----------------------|------------------------------------|
| LEASE NO.: | NM28095 |
| WELL NAME & NO.: | Can Ken 4 Federal #2 |
| SURFACE HOLE FOOTAGE: | 1980' FNL & 1980' FEL |
| BOTTOM HOLE FOOTAGE | |
| LOCATION: | Section 4, T. 18 S., R 31 E., NMPM |
| COUNTY: | Eddy County, New Mexico |

TABLE OF CONTENTS

Standard Conditions of Approval (COA) apply to this APD. If any deviations to these standards exist or special COAs are required, the section with the deviation or requirement will be checked below.

| General Provisions |
|---|
| Permit Expiration |
| Archaeology, Paleontology, and Historical Sites |
| Noxious Weeds |
| Special Requirements |
| Lesser Prairie Chicken |
| Construction |
| Notification |
| Topsoil |
| Reserve Pit |
| Federal Mineral Material Pits |
| Well Pads |
| Roads |
| Road Section Diagram |
| ☑ Drilling |
| Production (Post Drilling) |
| Well Structures & Facilities |
| ☐ Interim Reclamation |
| Final Abandonment/Reclamation |

I. GENERAL PROVISIONS

The approval of the Application For Permit To Drill (APD) is in compliance with all applicable laws and regulations: 43 Code of Federal Regulations 3160, the lease terms, Onshore Oil and Gas Orders, Notices To Lessees, New Mexico Oil Conservation Division (NMOCD) Rules, National Historical Preservation Act As Amended, and instructions and orders of the Authorized Officer. Any request for a variance shall be submitted to the Authorized Officer on Form 3160-5, Sundry Notices and Report on Wells.

II. PERMIT EXPIRATION

If the permit terminates prior to drilling and drilling cannot be commenced within 60 days after expiration, an operator is required to submit Form 3160-5, Sundry Notices and Reports on Wells, requesting surface reclamation requirements for any surface disturbance. However, if the operator will be able to initiate drilling within 60 days after the expiration of the permit, the operator must have set the conductor pipe in order to allow for an extension of 60 days beyond the expiration date of the APD. (Filing of a Sundry Notice is required for this 60 day extension.)

III. ARCHAEOLOGICAL, PALEONTOLOGY & HISTORICAL SITES

Any cultural and/or paleontological resource discovered by the operator or by any person working on the operator's behalf shall immediately report such findings to the Authorized Officer. The operator is fully accountable for the actions of their contractors and subcontractors. The operator shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery shall be made by the Authorized Officer to determine the appropriate actions that shall be required to prevent the loss of significant cultural or scientific values of the discovery. The operator shall be held responsible for the cost of the proper mitigation measures that the Authorized Officer assesses after consultation with the operator on the evaluation and decisions of the discovery. Any unauthorized collection or disturbance of cultural or paleontological resources may result in a shutdown order by the Authorized Officer.

IV. NOXIOUS WEEDS

The operator shall be held responsible if noxious weeds become established within the areas of operations. Weed control shall be required on the disturbed land where noxious weeds exist, which includes the roads, pads, associated pipeline corridor, and adjacent land affected by the establishment of weeds due to this action. The operator shall consult with the Authorized Officer for acceptable weed control methods, which include following EPA and BLM requirements and policies.

V. SPECIAL REQUIREMENT(S)

Timing Limitation Stipulation/Condition of Approval for Lesser Prairie-Chicken: Oil and gas activities including 3-D geophysical exploration, and drilling will not be allowed in lesser prairie-chicken habitat during the period from March 1st through June 15th annually. During that period, other activities that produce noise or involve human activity, such as the maintenance of oil and gas facilities, geophysical exploration other than 3-D operations, and pipeline, road, and well pad construction, will be allowed except between 3:00 am and 9:00 am. The 3:00 am to 9:00 am restriction will not apply to normal, around-the-clock operations, such as venting, flaring, or pumping, which do not require a human presence during this period. Additionally, no new drilling will be allowed within up to 200 meters of leks known at the time of permitting. Normal vehicle use on existing roads will not be restricted. Exhaust noise from pump jack engines must be muffled or otherwise controlled so as not to exceed 75 db measured at 30 ft. from the source of the noise.

VI. CONSTRUCTION

A. NOTIFICATION

The BLM shall administer compliance and monitor construction of the access road and well pad. Notify the Carlsbad Field Office at (575) 234-5972 at least 3 working days prior to commencing construction of the access road and/or well pad.

When construction operations are being conducted on this well, the operator shall have the approved APD and Conditions of Approval (COA) on the well site and they shall be made available upon request by the Authorized Officer.

B. TOPSOIL

Pad is already built.

C. RESERVE PITS

Tanks are required for drilling operations: No Pits.

The operator shall properly dispose of drilling contents at an authorized disposal site.

D. FEDERAL MINERAL MATERIALS PIT

If the operator elects to surface the access road and/or well pad, mineral materials extracted during construction of the reserve pit may be used for surfacing the well pad and access road and other facilities on the lease.

Payment shall be made to the BLM prior to removal of any additional federal mineral materials from any site other than the reserve pit. Call the Carlsbad Field Office at (575) 234-5972.

E. WELL PAD SURFACING

Surfacing of the well pad is not required.

If the operator elects to surface the well pad, the surfacing material may be required to be removed at the time of reclamation.

The well pad shall be constructed in a manner which creates the smallest possible surface disturbance, consistent with safety and operational needs.

F. ON LEASE ACCESS ROADS

Road Width

The access road shall have a driving surface that creates the smallest possible surface disturbance and does not exceed fourteen (14) feet in width. The maximum width of surface disturbance, when constructing the access road, shall not exceed thirty (30) feet.

Surfacing

Surfacing material is not required on the new access road driving surface. If the operator elects to surface the new access road or pad, the surfacing material may be required to be removed at the time of reclamation.

Where possible, no improvements should be made on the unsurfaced access road other than to remove vegetation as necessary, road irregularities, safety issues, or to fill low areas that may sustain standing water.

The Authorized Officer reserves the right to require surfacing of any portion of the access road at any time deemed necessary. Surfacing may be required in the event the road deteriorates, erodes, road traffic increases, or it is determined to be beneficial for future field development. The surfacing depth and type of material will be determined at the time of notification.

Crowning

Crowning shall be done on the access road driving surface. The road crown shall have a grade of approximately 2% (i.e., a 1" crown on a 14' wide road). The road shall conform to Figure 1; cross section and plans for typical road construction.

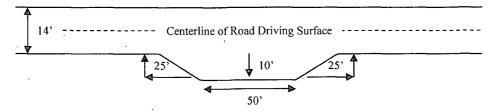
Ditching

Ditching shall be required on both sides of the road.

Turnouts

Vehicle turnouts shall be constructed on the road. Turnouts shall be intervisible with interval spacing distance less than 1000 feet. Turnouts shall be constructed on all blind curves. Turnouts shall conform to the following diagram:

Standard Turnout - Plan View

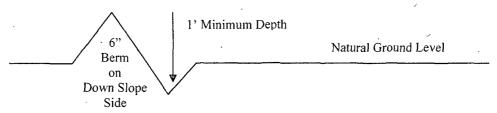


Drainage

Drainage control systems shall be constructed on the entire length of road (e.g. ditches, sidehill outsloping and insloping, lead-off ditches, culvert installation, and low water crossings).

A typical lead-off ditch has a minimum depth of 1 foot below and a berm of 6 inches above natural ground level. The berm shall be on the down-slope side of the lead-off ditch:

Cross Section of a Typical Lead-off Ditch



All lead-off ditches shall be graded to drain water with a 1 percent minimum to 3 percent maximum ditch slope. The spacing interval are variable for lead-off ditches and shall be determined according to the formula for spacing intervals of lead-off ditches, but may be amended depending upon existing soil types and centerline road slope (in %);

Formula for Spacing Interval of Lead-off Ditches

Example - On a 4% road slope that is 400 feet long, the water flow shall drain water into a lead-off ditch. Spacing interval shall be determined by the following formula:

400 foot road with 4% road slope:
$$\frac{400'}{4\%} + 100' = 200'$$
 lead-off ditch interval

Culvert Installations

Appropriately sized culvert(s) shall be installed at the deep waterway channel flow crossing.

Cattleguards

An appropriately sized cattleguard(s) sufficient to carry out the project shall be installed and maintained at fence crossing(s).

Any existing cattleguard(s) on the access road shall be repaired or replaced if they are damaged or have deteriorated beyond practical use. The operator shall be responsible for the condition of the existing cattleguard(s) that are in place and are utilized during lease operations.

A gate shall be constructed and fastened securely to H-braces.

Fence Requirement

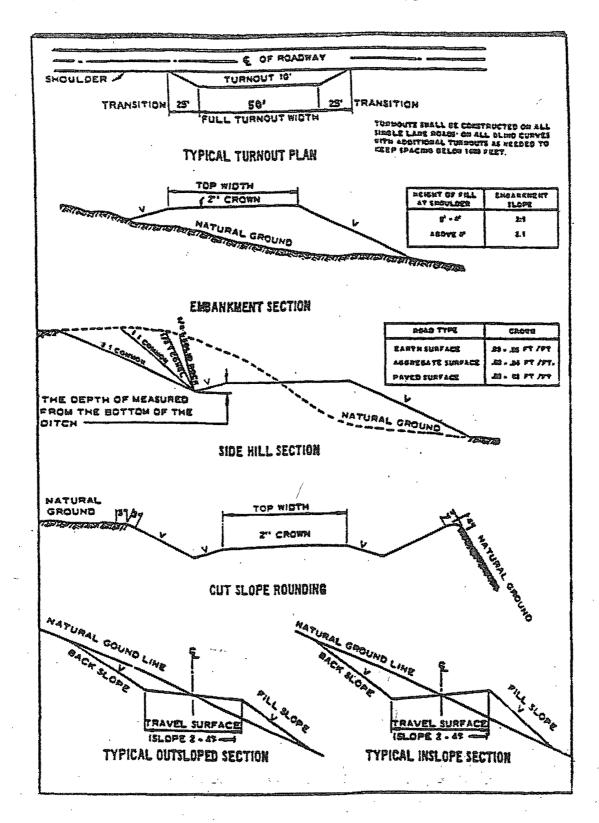
Where entry is required across a fence line, the fence shall be braced and tied off on both sides of the passageway prior to cutting.

The operator shall notify the private surface landowner or the grazing allotment holder prior to crossing any fence(s).

Public Access

Public access on this road shall not be restricted by the operator without specific written approval granted by the Authorized Officer.

Figure 1 - Cross Sections and Plans For Typical Road Sections



VII. DRILLING-RE-ENTRY

A. DRILLING OPERATIONS REQUIREMENTS

The BLM is to be notified a minimum of 4 hours in advance for a representative to witness:

- a. Spudding well re-entry
- b. BOPE tests
 - Eddy County
 Call the Carlsbad Field Office, 620 East Greene St., Carlsbad, NM 88220, (575) 361-2822
- 1. Hydrogen Sulfide monitoring system will be on location. Hydrogen Sulfide has been reported in the Queen formation which is behind cemented casing. If Hydrogen Sulfide is encountered, please provide measured values and formations to the BLM.
- 2. Unless the production casing has been run and cemented or the well has been properly plugged, the drilling rig shall not be removed from over the hole without prior approval.

B. CASING - RE-ENTRY

NB! When the well was plugged, the plug at the top of the Bone Spring formation was not set. Based on offset wells, the top of the Bone Spring formation is approximately 5600'. A 160 foot plug is to be set at 5650-5490'. This will require drilling out the plugs/CIBPs at 4170' and 4600' in addition to the work already planned.

A CIT is to be performed on the 5-1/2" casing per Onshore Oil and Gas Order 2.III.B.1.h prior to drilling the plug at 3700'. Contact BLM 575-361-2822 for witness.

Prior to setting the plug at the top of the Bone Spring formation, a pressure test is to be done of the casing and perforations below the Delaware perforations to verify that the perforations squeezed at 7979-7981' are holding. If this test is okay, the Bone Spring plug can be set at 5650-5490'. If test fails, a plug will be required at the lower perforations. Other zones above this will also require plugs to be reset. BLM to witness pressure test and plugs that will be required to be reset to block existing perforations.

- 1. The 13-3/8" surface casing is set at 360' with cement circulated to the surface.
- 2. The 8-5/8" intermediate casing is set at 2099' and cement circulated to the surface.
- 3. The 5-1/2" production casing is set at 8550' with TOC at 210' with CBL.
- 4. If hardband drill pipe is rotated inside casing, returns will be monitored for metal. If metal is found in samples, drill pipe will be pulled and rubber protectors which have a larger diameter than the tool joints of the drill pipe will be installed prior to continuing drilling operations.

C. PRESSURE CONTROL

- 1. All blowout preventer (BOP) and related equipment (BOPE) shall comply with well control requirements as described in Onshore Oil and Gas Order No. 2 and API RP 53 Sec. 17.
- 2. Minimum working pressure of the blowout preventer (BOP) and related equipment (BOPE) required for drilling below the surface casing shoe shall be 2000 (2M) psi. Per Onshore Order 2.III.A.2.a.ii, a choke manifold is required.
- 3. The appropriate BLM office shall be notified a minimum of 4 hours in advance for a representative to witness the tests.
 - a. The tests shall be done by an independent service company.
 - b. The results of the test shall be reported to the appropriate BLM office.
 - c. All tests are required to be recorded on a calibrated test chart. A copy of the BOP/BOPE test chart and a copy of independent service company test will be submitted to the appropriate BLM office.
 - d. The BOP/BOPE test shall include a low pressure test from 250 to 300 psi. The test will be held for a minimum of 10 minutes if test is done with a test plug and 30 minutes without a test plug.

WWI 073108

VIII. PRODUCTION (POST DRILLING)

A. WELL STRUCTURES & FACILITIES

Placement of Production Facilities

Production facilities should be placed on the well pad to allow for maximum interim recontouring and revegetation of the well location.

Containment Structures

The containment structure shall be constructed to hold the capacity of the entire contents of the largest tank, plus 24 hour production, unless more stringent protective requirements are deemed necessary by the Authorized Officer.

Painting Requirement

All above-ground structures including meter housing that are not subject to safety requirements shall be painted a flat non-reflective paint color Shale Green, Munsell Soil Color Chart # 5Y 4/2

IX. INTERIM RECLAMATION & RESERVE PIT CLOSURE

A. INTERIM RECLAMATION

If the well is a producer, interim reclamation shall be conducted on the well site in accordance with the orders of the Authorized Officer. The operator shall submit a Sundry Notices and Reports on Wells (Notice of Intent), Form 3160-5, prior to conducting interim reclamation.

During the life of the development, all disturbed areas not needed for active support of production operations should undergo interim reclamation in order to minimize the environmental impacts of development on other resources and uses.

The operators should work with BLM surface management specialists to devise the best strategies to reduce the size of the location. Any reductions should allow for remedial well operations, as well as safe and efficient removal of oil and gas.

During reclamation, the removal of caliche is important to increasing the success of revegetating the site. Removed caliche may be used for road repairs, fire walls or for building other roads and locations. In order to operate the well or complete workover operations, it may be necessary to drive, park and operate on restored interim vegetation within the previously disturbed area. Disturbing revegetated areas for production or workover operations will be allowed. If there is significant disturbance and loss of vegetation, the area will need to be revegetated. Communicate with the appropriate BLM office for any exceptions/exemptions if needed.

Seed Mixture for LPC Sand/Shinnery Sites

The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)* per acre. There shall be no primary or secondary noxious weeds in the seed mixture. Seed will be tested and the viability testing of seed will be done in accordance with State law(s) and within nine (9) months prior to purchase. Commercial seed will be either certified or registered seed. The seed container will be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed will be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture will be evenly and uniformly planted over the disturbed area (smaller/heavier seeds have a tendency to drop the bottom of the drill and are planted first). The holder shall take appropriate measures to ensure this does not occur. Where drilling is not possible, seed will be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of at least one full growing season after seeding.

Species to be planted in pounds of pure live seed* per acre:

| Species | lb/acre | |
|--------------------|---------|-------|
| Plains Bristlegras | ss 51 | .bs/A |
| Sand Bluestem | 51 | bs/A |
| Little Bluestem | 31 | bs/A |
| Big Bluestem | 61 | bs/A |
| Plains Coreopsis | 21 | bs/A |
| Sand Dropseed | 11 | bs/A |
| | | |

^{**}Four-winged Saltbush

Pounds of seed x percent purity x percent germination = pounds pure live seed (Insert Seed Mixture Here)

⁵lbs/A

^{*} This can be used around well pads and other areas where caliche cannot be removed.

^{*}Pounds of pure live seed:

X. FINAL ABANDONMENT & REHABILITATION REQUIREMENTS

Upon abandonment of the well and/or when the access road is no longer in service the Authorized Officer shall issue instructions and/or orders for surface reclamation and restoration of all disturbed areas.

On private surface/federal mineral estate land the reclamation procedures on the road and well pad shall be accomplished in accordance with the private surface land owner agreement.