

TULLY & JOLLEY

ATTORNEYS AT LAW

AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

RICHARD T.C. TULLY, P.A.

RICHARD T. C. TULLY*

R. P. (RICK) TEDROW

*BOARD RECOGNIZED SPECIALIST
IN NATURAL RESOURCES -
OIL & GAS LAW

111 NORTH ORCHARD AVENUE, 2ND FLOOR

POST OFFICE BOX 268

FARMINGTON, NEW MEXICO 87499-0268

(505) 327-3388 • FAX: (505) 325-8232

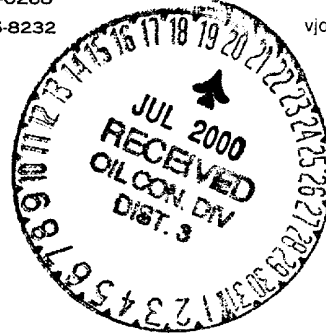
VAL R. JOLLEY, P.A.

VAL R. JOLLEY

GREGORY M. TUCKER

E-MAIL:
vjolley@sanjuancountybar.com
tuckergr01@sprynet.com

July 19, 2000



Frank T. Chavez
Supervisor, District #3
New Mexico Oil Conservation Division
1000 Rio Brazos Road
Aztec, NM 87410

Re: Maralex Resources, Inc. v. Norman L. Gilbreath et al.
CV No. 94-382-3

Dear Frank:

Enclosed for your ready reference is a copy of a Request for Allowable and Authorization to Transport for the Blancett #1 Well, API Number 30-045-09347, Property Code 25744, that was approved by your office on March 28, 2000. Our client, Norman L. Gilbreath, and this office received a copy of this Request and Authorization only few days ago.

Please note the following quoted language at the bottom of the enclosed Request and Allowable:

"By court order, Maralex Resources, Inc. named Operator".

"Previous operator: Norman Gilbreath."

We are also enclosing for your review copies of the following documents pertaining to the above-captioned law suit:

1. Order on Motions for Summary Judgment filed March 2, 2000 in the District Court for San Juan County, New Mexico.
2. Notice of Appeal filed May 1, 2000 in the District Court for San Juan County, New Mexico.
3. Order filed June 22, 2000 in the Court of Appeals for the State of New Mexico.

As you can see from the enclosed documents, the Order on Motions for Summary Judgment upon which Maralex Resources, Inc. is relying for its claim to be

Frank T. Chavez

Page Two
July 19, 2000

the operator of the Blancett #1 Well is currently on appeal to the Court of Appeals for the State of New Mexico.

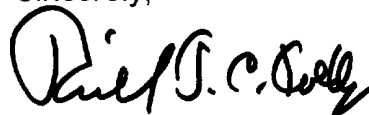
In the above-styled law suit, our client, Norman L. Gilbreath, claims that his 1959 Oil and Gas Lease is still valid and effective, and Maralex Resources, Inc. claims the 1959 Oil and Gas Lease is terminated. The Blancett #1 Well is the only well producing gas on the 1959 Oil and Gas Lease.

Maralex Resources, Inc. as the operator of the Blancett #1 Well has no incentive, and probably no intent, to keep this Well producing during the pendency of this appeal because it desires the 1959 Oil and Gas Lease to be terminated.

It will be greatly appreciated if you will advise what our client needs to do to remain as operator of this Well during the pendency of this appeal.

Thank you for your assistance and cooperation in this matter. If you need further information, please advise.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard T. C. Tully". The signature is fluid and cursive, with the first name "Richard" being the most prominent.

Richard T. C. Tully

Enclosures

cc w/o encl.

Norman L. Gilbreath
and Loretta E. Gilbreath
P. O. Box 208
Aztec, NM 87410

David H. Brainerd, Esq.
Attorney at Law
3306 North Knudsen Avenue
Farmington, NM 87401

District I
PO Box 1900, Hobbs, NM 88241-1900
District II
PO Drawer DD, Artesia, NM 88211-0719
District III
1000 Rio Grande Rd., Aztec, NM 87410
District IV
PO Box 2088, Santa Fe, NM 87504-2088

State of New Mexico
Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION
PO Box 2088
Santa Fe, NM 87504-2088

Form C-1
Revised February 10, 15
Instructions on back
Submit to Appropriate District Office
5 Copies

☐ AMENDED REPORT

I. REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT

Operator name and Address Maralex Resources, Inc. P.O. Box 338 Ignacio, CO 81137		OGRID Number 013998
Reason for Filing Code CH Eff 04/01/00		Pool Code 7/280
API Number 30-045-09347	Pool Name Aztec PC	Well Number 1
Property Code 25744	Property Name Blancett	

II. Surface Location

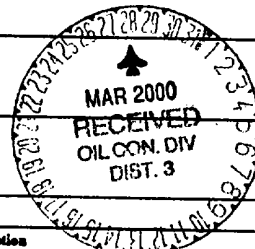
UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South Line	Feet from the	East/West line	County
G	24	30N	12W		2230	N	2000	E	San Juan

Bottom Hole Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
Same as above									
Lee Code P	Producing Method Code P	Gas Connection Date	C-129 Permit Number	C-129 Effective Date	C-129 Expiration Date				

III. Oil and Gas Transporters

Transporter OGRID	Transporter Name and Address	POD	O/G	POD ULSTR Location and Description
007057	El Paso Natural Gas Co. P.O. Box 4990 Farmington, NM 87499		G	G Sec 24, T30N, R12W San Juan County, NM



IV. Produced Water

POD	POD ULSTR Location and Description
	G Section 24-T30N-R12W, San Juan County, NM

V. Well Completion Data

Spud Date	Ready Date	TD	PBTD	Perforations
Hole Size	Casing & Tubing Size	Depth Set	Sacks Cement	

VI. Well Test Data

Date New Oil	Gas Delivery Date	Test Date	Test Length	Tbg. Pressure	Csg. Pressure
Choke Size	Oil	Water	Gas	AOF	Test Method

I hereby certify that the rules of the Oil Conservation Division have been complied with and that the information given above is true and complete to the best of my knowledge and belief.

Signature: *Carla S. Shaw*

Printed name: Carla S. Shaw

Title: Production Technician

Date: 03/27/00

Phone: 970/563-4000

OIL CONSERVATION DIVISION

Approved by: *[Signature]*
SUPERVISOR DISTRICT #3

Title:

Approval Date: MAR 28 2000

If this is a change of operator fill in the OGRID number and name of the previous operator

By court order, Maralex Resources, Inc. named Operator.

Previous Operator Signature

Printed Name

Title

Date

Previous operator: Norman Gilbreath 15991

RECEIVED MAR 07 2000

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
IN THE DISTRICT COURT

FILED
DISTRICT COURT
SAN JUAN COUNTY,
NM

MAR 2 4 14 PM '00

MARALEX RESOURCES, INC.

Plaintiff/Counter-Defendant,

vs.

No. CV 94-382

NORMAN L. GILBREATH and
LORETTA E. GILBREATH, husband
and wife, et al.

Defendants,

and

NORMAN L. GILBREATH and
LORETTA E. GILBREATH, husband
and wife, et al.

Third Party Plaintiffs/
Counter-Claimants,

vs.

A. M. MICKEY O'HARE,

Third Party Defendant.



ORDER ON MOTIONS FOR SUMMARY JUDGMENT

This matter came before the Court on notice for hearing January 24, 2000, upon all pending motions with the plaintiff and third-party defendant appearing by their counsel and in person by A. M. O'Hare, the defendants and counterclaimants Gilbreaths appearing by their counsel and in person, and the defendants Blancetts appearing by their counsel and in person. The Court first took up the Cross-Motion for Summary Judgment and Motion for Reconsideration filed by Gilbreaths and after that the Motion

for Summary Judgment filed by Maralex and O'Hare. The Court received the oral arguments of counsel, has considered the pleading on file, affidavits, briefs and legal authorities of the parties and being fully advised in the premises concludes that there are no genuine issues of material fact and that summary judgments can be entered as a matter of law AND IT IS THEREFORE ORDERED AND ADJUDGED AS FOLLOWS,

1. The plaintiff Maralex Resources, Inc.'s motion for partial summary judgment concerning the declaration of the validity of the oil and gas leases held by it on the mineral interests of the defendants Blancetts and the invalidity of the oil and gas lease previously held by the defendants Gilbreaths and Caprock Energy Company was ruled upon in favor of plaintiff on such motion and a Summary Judgment Order was entered in this cause on February 16, 1996. Thereafter the defendants Gilbreaths and Caprock Energy Company moved to set aside the Summary Judgment Order and for reconsideration; on September 30, 1997, the Court entered its Order On Motion to Set Aside Summary Judgment and Reconsider, whereby it reconsidered the said prior decision on partial summary judgment and having done so concluded that the February 16, 1996 Summary Judgment Order was properly granted and was affirmed. The defendants Gilbreaths and Caprock Energy Company have once again by their pending motions raised the issues concerning the termination of the December 30, 1959 lease on the mineral estate of the Blancetts, the Court has once again considered the arguments of the parties and concludes that the December 30, 1959 lease terminated as a matter of law and that the Summary Judgment Order granted plaintiff Maralex Resources, Inc. on those issues is reconfirmed and should be effectuated.

2. The plaintiff and counter defendant O'Hare has moved for partial summary judgment in their favor on all claims alleged under the Amended Counterclaim filed on September 24, 1997, on behalf of counterclaimants Gilbreaths and Caprock Energy Company; the Court concludes that the movants are entitled to judgment as a matter of law and the motion for partial summary judgment on the Amended Counterclaim is hereby granted in favor of counterdefendants Maralex Resources and O'Hare and against Gilbreaths and Caprock Energy Company.

3. The Fourth Cause of Action of the plaintiff's Complaint, for damages by reason of the Gilbreaths continuing to possess and sell the oil and gas production from the Blancett No. 1 well after termination of the December 30, 1959 lease, remains for adjudication . The Motion For Order to Compel Gregory J. Nibert, Esq., to Appear at Deposition which was filed on December 21, 1999, by the defendants and counterclaimants Gilbreaths and Caprock Energy Company is mooted by the Court's ruling reflected in Paragraph 1. above.

4. The defendants Norman L. Gilbreath and Loretta E. Gilbreath are hereby enjoined from continuing to operate and retain dominion over the Blancett No. 1 well and from possessing and selling the production of oil and gas therefrom and they shall forthwith surrender possession to plaintiff.

5. There being no just reason for delay the orders granting partial summary judgment on the plaintiff's claim of lease ownership and summary judgment on the Counterclaim constitute a final judgment pursuant to Rule 1-54B. NMRA.

ORIGINAL SIGNED BY
BYRON CATON

Honorable Judge Bryon Caton
District Court Judge

Submitted:

GALLEGOS LAW FIRM, P.C.

By J.E. Gallegos
J.E. GALLEGOS

460 St. Michael's Drive
Building 300
Santa Fe, NM 87501
(505) 983-6686

Attorneys for Maralex Resources and A.M.
Mickey O'Hare

Noted:

TULLY & JOLLY

By _____
RICHARD T.C. TULLY
111 North Orchard Avenue
2nd Floor
P.O. Box 266
Farmington, New Mexico 87499-0268

Attorneys for Gilbreath and Caprock
Energy Company

Noted:

BRIONES LAW FIRM

By Telephonically Approved 02/04/00
FLEX BRIONES
333 E. Main Street
Farmington, NM 87401-2786

Attorney for Blancetts

COPIES MAILED Gallegos
TO COUNSEL Briones
OF RECORD Tully
3-3-00

ELEVENTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF SAN JUAN
DISTRICT COURT

SAN JUAN COUNTY,
NM

MAY 1 1 10 PM '00

CV NO. 94-382-3

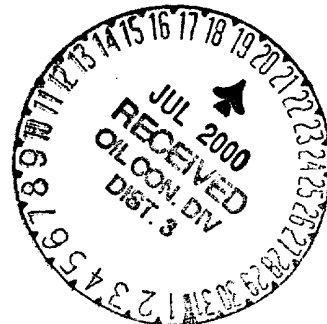
NORMAN L. GILBREATH, LORETTA
E. GILBREATH and CAPROCK
ENERGY COMPANY, INC.,

Appellants,

vs.

MARALEX RESOURCES, INC. A. M.
"MICKEY" O'HARE, RICHARD M.
BLANCETT, KENNETH W. BLANCETT
and ELSIE BLANCETT,

Appellees.



NOTICE OF APPEAL

Defendants, Third Party Plaintiffs, Counter-Claimants and Cross-Claimants-
"Appellants", by counsel, appeal the District Court's Order on Motions for Summary
Judgment entered on March 2, 2000 to the New Mexico Court of Appeals. A copy of
this Order is attached hereto as Exhibit "1".

Respectfully submitted,

TULLY & JOLLEY

Richard T. C. Tully, Esq.
111 North Orchard Avenue, 2nd Floor
P. O. Box 268
Farmington, NM 87499

CERTIFICATE OF SERVICE

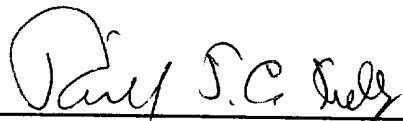
I hereby certify that a copy of this Notice of Appeal was sent by first class mail, postage prepaid, on this 1st day of May, 2000 to the following persons entitled to such service:

Patricia C. Rivera Wallace, Esq.
Attorney Clerk
New Mexico Court of Appeals
P. O. Box 2008
Santa Fe, NM 87504-2008

Honorable Byron Caton
District Judge, Division III
Eleventh Judicial District
920 Municipal Drive, Suite 1
Farmington, NM 87401

J. E. Gallegos, Esq.
Gallegos Law Firm, P. C.
460 St. Michael's Drive, Building 300
Santa Fe, NM 87505

Felix Briones, Jr., Esq.
Briones Law Firm, P. A.
333 East Main Street
Farmington, NM 87401



Richard T. C. Tully, Esq.

RECEIVED MAR 07 2000

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
IN THE DISTRICT COURT

FILED
DISTRICT COURT
SAN JUAN COUNTY,
NM

MAR 2 4 14 PM '00

MARALEX RESOURCES, INC.

Plaintiff/Counter-Defendant,

vs.

No. CV 94-382

NORMAN L. GILBREATH and
LORETTA E. GILBREATH, husband
and wife, et al.

Defendants,

and

NORMAN L. GILBREATH and
LORETTA E. GILBREATH, husband
and wife, et al.

Third Party Plaintiffs/
Counter-Claimants,

vs.

A. M. MICKEY O'HARE,

Third Party Defendant.

ORDER ON MOTIONS FOR SUMMARY JUDGMENT

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for Summary Judgment filed by Maralex and O'Hare. The Court received the oral arguments of counsel, has considered the pleading on file, affidavits, briefs and legal authorities of the parties and being fully advised in the premises concludes that there are no genuine issues of material fact and that summary judgments can be entered as a matter of law AND IT IS THEREFORE ORDERED AND ADJUDGED AS FOLLOWS,

1. The plaintiff Maralex Resources, Inc.'s motion for partial summary judgment concerning the declaration of the validity of the oil and gas leases held by it on the mineral interests of the defendants Blancetts and the invalidity of the oil and gas lease previously held by the defendants Gilbreaths and Caprock Energy Company was ruled upon in favor of plaintiff on such motion and a Summary Judgment Order was entered in this cause on February 16, 1996. Thereafter the defendants Gilbreaths and Caprock Energy Company moved to set aside the Summary Judgment Order and for reconsideration; on September 30, 1997, the Court entered its Order On Motion to Set Aside Summary Judgment and Reconsider, whereby it reconsidered the said prior decision on partial summary judgment and having done so concluded that the February 16, 1996 Summary Judgment Order was properly granted and was affirmed. The defendants Gilbreaths and Caprock Energy Company have once again by their pending motions raised the issues concerning the termination of the December 30, 1959 lease on the ~~mineral~~ estate of the Blancetts, the Court has once again considered the arguments of the parties and concludes that the December 30, 1959 lease terminated as a matter of law and that the Summary Judgment Order granted plaintiff Maralex Resources, Inc. on those issues is reconfirmed and should be effectuated.

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4. The defendants Norman L. Gilbreath and Loretta E. Gilbreath are hereby enjoined from continuing to operate and retain dominion over the Blancett No. 1 well and from possessing and selling the production of oil and gas therefrom and they shall forthwith surrender possession to plaintiff.

5 There being no just reason for delay the orders granting partial summary judgment on the plaintiff's claim of lease ownership and summary judgment on the Counterclaim constitute a final judgment pursuant to Rule 1-54B. NMRA.

ORIGINAL SIGNED BY
BYRON CATON

Honorable Judge Bryon Caton
District Court Judge

Submitted:

GALLEGOS LAW FIRM, P.C.

By J.E. Gallegos
J.E. GALLEGOS

460 St. Michael's Drive
Building 300
Santa Fe, NM 87501
(505) 983-6686

Attorneys for Maralex Resources and A.M.
Mickey O'Hare

Noted:

TULLY & JOLLY

By _____
RICHARD T.C. TULLY
111 North Orchard Avenue
2nd Floor
P.O. Box 266
Farmington, New Mexico 87499-0268

Attorneys for Gilbreath and Caprock
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BRIONES LAW FIRM

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FLEX BRIONES
333 E. Main Street
Farmington, NM 87401-2786

Attorney for Blancetts

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TO COUNSEL Briones
OF RECORD Tully
3-3-00

RECEIVED JUN 26 2000

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

CO JUN 22 AM 10:32

COURT OF APPEALS
STATE OF NEW MEXICO
P.R. WALLACE, CLERK

MARALEX RESOURCES, INC.,

Plaintiff-Appellee,

vs.

No. 21,333
San Juan County
CV 94-382-3

NORMAN L. GILBREATH and
LORETTA E. GILBREATH,

Defendants-Appellants,

and

NORMAN L. GILBREATH and
LORETTA E. GILBREATH,

Third-Party Plaintiffs/
Counter-Claimants-Appellants,

vs.

A. M. MICKEY O'HARE,
Third-Party Defendant-Appellee.



ORDER

This matter came before the Court on Plaintiff's Motion to Dismiss the Appeal and Defendants' Response to the motion. The Rules of Appellate Procedure require that parties file a notice of appeal "within thirty (30) days after

1 the judgment or order appealed from is filed in the district court clerk's office."
2 Rule 12-201(A) NMRA 2000. The rules also provide a method for extending the
3 time for filing the notice of appeal. "Before the time for filing a notice of appeal
4 has expired, upon a showing of good cause, the district court may extend the time
5 for filing the notice of appeal for a period not to exceed thirty (30) days from the
6 expiration of the time otherwise prescribed." R. 12-201(E)(1). Thus, if an
7 extension is sought prior to the expiration of the thirty-day period, appellant need
8 only show good cause. Chavez v. U-Haul Co. of N.M., Inc., 1997-NMSC-051,
9 ¶ 7, 124 N.M. 165, 947 P.2d 122.

13 Here, a request for extension was filed on March 31, 2000, less than thirty
14 days after the filing of the order being appealed from. Thus, the extension was
15 timely sought. Counsel's reason for requesting an extension was that he had been
16 out of town for 17 days and had not had enough time to review the matter and
17 advise his clients regarding the appeal. This is a sufficient showing of good cause.
18 Cf. Vigil v. Thriftway Marketing Corp., 117 N.M. 176, 180, 870 P.2d 138, 142
19 (Ct. App. 1994). The trial court granted the extension until May 1, 2000.
20 Defendants' notice of appeal was filed on May 1, 2000, pursuant to that extension.
21

22 The notice of appeal was timely filed and there is no basis to dismiss the
23
24
25

1 appeal.

2 **IT IS THEREFORE ORDERED** that the motion to dismiss is **DENIED**.

3
4 Defendants' docketing statement shall be filed within twenty (20) days of the filing
5 of this order.
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10 
11 RICHARD C. BOSSON, Judge

12 
13 LYNN PICKARD, Chief Judge
14

15 
16 RODERICK T. KENNEDY, Judge
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