

Case Number  
4671

Application

Transcripts

Small Exhibits

ETC.

1                                   BEFORE THE  
2                                   NEW MEXICO OIL CONSERVATION COMMISSION  
3                                   CONFERENCE ROOM, STATE LAND OFFICE BUILDING  
4                                   SANTA FE, NEW MEXICO  
5                                   March 1, 1972

6                                   EXAMINER HEARING

7                                   IN THE MATTER OF:                                   )  
8                                   )                                   )  
9                                   Application of V. F. Vasicek and                                   )  
10                                   J. M. Fullinwider, dba V-F                                   )  
11                                   Petroleum for compulsory pooling,                                   )  
12                                   Lea County, New Mexico.                                   )  
13                                   )

Case No. 4671

14                                   BEFORE: Mr. Richard Stamets  
15                                   Examiner.  
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TRANSCRIPT OF HEARING

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1 MR. STAMETS: We will proceed to Case Number  
2 4671.

3 MR. HATCH: This is the application of V. F. Vasicek  
4 and J. M. Fullinwider, doing business as V-F Petroleum  
5 for compulsory pooling in Lea County, New Mexico.

6 MR. STAMETS: Appearances?

7 MR. KELLAHIN: Jason Kellahin appearing for the  
8 applicant.

9 MR. KELLY: I would also like to enter my  
10 appearance, Booker Kelly appearing for Mr. and Mrs. Scott.  
11 We have filed a motion for a continuance up to thirty  
12 days and would like to have the question resolved.

13 MR. KELLAHIN: If the examiner please, if the  
14 motion for continuance is based on the concept that Mr.  
15 Scott was not approached in connection with his participation  
16 in this matter until February 9, 1972, we have here today  
17 three witnesses to testify in this case, all three who  
18 are associated in the drilling of the proposed well, and  
19 all three of whom have made strenuous efforts over long  
20 periods of time, several years, in fact, to reach some  
21 agreement with Mr. and Mrs. Scott in regard to this acreage.  
22 We cannot, unless we have an opportunity to present our  
23 case, bring this information before the Commissioner and  
24 we are prepared to go forward on that basis. Now, there  
25 is one additional fact to consider before it is said that

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1 a thirty day continuance will harm no one. The fact is  
2 that V-F Petroleum and Associates have a lease on which  
3 they hold operating rights to the south of this particular  
4 unit which will expire on April 27, 1972 unless the well  
5 involved in this action is drilled. Now, in addition to  
6 that, Mr. Scott, through his broker in Midland, Texas, has  
7 obtained options on the acreage to the south which he will  
8 pick up on its expiration. If he is successful in getting  
9 this case continued, he gets the acreage to the south  
10 which is presently held by V-F Petroleum. For those reasons,  
11 we think that no continuance should be given in this case.

12 MR. KELLY: In response to your unsworn testimony

13 --

14 MR. KELLAHIN: It will be sworn to, Mr. Kelly.

15 MR. KELLY: I would like to submit to the  
16 Commissioner an affidavit. We have taken the position that  
17 as soon as we were notified of this hearing that we needed  
18 a continuance and we needed more time. We have approached  
19 the Commission as quickly as we could on this matter and  
20 we would like to bring out the following points. In the  
21 first place, there are more reasons for a continuance than  
22 was mentioned by Mr. Kellahin. We are dealing here with  
23 an undivided one-third mineral interest in a forty-acre  
24 tract and this is not a normal situation. There is a large  
25 unleased mineral interest that Mr. Scott, who is the husband



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1 of the actual owner of this property and I think everyone  
2 realizes that he is connected with the oil business and  
3 is representing his wife in this matter. Mr. Scott has  
4 a variety of commitments which I think are quite substantial  
5 and which were set up several months ago before any of this  
6 ever came out. Today he has a board meeting of the Tenneco  
7 Oil Company, of which he is President, and also a board  
8 meeting with another corporation which is finalizing  
9 participation in developing large gas reserves in Russia.  
10 These things were set up months ago and there was absolutely  
11 no way that he could either attend this hearing or spend  
12 the time necessary to work out negotiations or inform me  
13 of what his opposition would be today.

14 Now, the affidavit that has been submitted,  
15 and I think this has already been submitted in the form of  
16 my motion and also by letter to Mr. Porter, it shows the  
17 only two specific offers that have been received on this  
18 property. The first one came in the form of a letter, which  
19 is attached to the affidavit, somewhere around the very  
20 end of January from an outfit called Spencer and Hutson.  
21 I think that offer is basically one-sixteenth overriding  
22 royalty interests and by its terms expired on February 2,  
23 1972. This letter actually arrived in Mr. Scott's office  
24 on January 31, so he didn't have much time to think about  
25 that one. Then on February 9th, another letter was written

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1 and not received until February 14th, I believe a phone  
 2 conversation might have occurred in between here from the  
 3 applicant in this case. Now, at no time, until we were  
 4 informed of it yesterday was there any idea that the applicant  
 5 was connected with Spencer and Hutson and the offers that  
 6 are attached to the affidavit are totally different. There  
 7 are three types of offers made and the only one comparable  
 8 to the first one actually doubled the participation offer  
 9 and this was not received until February 14 and the letter  
 10 states at the time the offer was made application for  
 11 forced pooling had already been filed with the Commission,  
 12 which I think is rather unique.

13 I would like to ask the examiner at this  
 14 time to state for the record when the application was filed  
 15 or received by the Commission.

16 MR. STAMETS: The application was received in  
 17 the Santa Fe office on February 2nd of this year.

18 MR. KELLY: That is even more flagrant than I  
 19 supposed. The application for forced pooling was sent  
 20 obviously before that and it was a week or ten days before  
 21 they submitted this second offer.

22 The lease in question, and that is the only  
 23 one the Commission should be concerned with, does not expire  
 24 until April 26th. The fact that the other leases expire  
 25 at the same time does not mean they cannot drill on the

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1 other leases. So, the question is their drilling time on  
2 this lease and they have a commitment lease that does not  
3 end until about the 26th of April and a thirty-day delay  
4 is certainly not going to affect them. A thirty-day delay  
5 will give us time to sit down and negotiate with these  
6 people out of the threat of a forced pooling application  
7 and I think that probably something can be worked out. It  
8 will also give Mr. Scott some time to spend a little time  
9 on this thing.

10 I would like to point out to the Commission,  
11 and I am referring in part to a very eminent authority, Mr.  
12 Morris, in his natural resources article which you are  
13 probably all familiar with. Back in 1963 concerning compulsory  
14 pooling in New Mexico, Mr. Morris made some specific  
15 remarks that showed precedents that this Commission had  
16 set out on its own. These are certainly precedents that  
17 this Commission had already made and they include efforts  
18 made to secure consent. In this case, there may have been  
19 a variety of dealings over the years involving this particular  
20 piece of land, but the point is that the offer we are looking  
21 at now was made a week to ten days after the application  
22 for forced pooling was made. So, certainly it cannot be  
23 seriously argued, as far as the offer we are discussing  
24 here, that any attempt to secure consent was made. In fact,  
25 the letter states that drilling will be started on March 1st

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1 and for all I know they have gone ahead and drilled  
2 without even bothering to wait for consent. The other  
3 criteria that this Commission uses is whether there is  
4 active protest and Mr. Morris points out that the Commission  
5 has made a distinction between active protest and whether  
6 the protestant actually appeared and here both facts have  
7 been met. Another point raised by Mr. Morris is that the  
8 Commission is often dealing with people who are unsophisticated  
9 in the oil business and in some situations these people might  
10 be better off under forced pooling situations because they  
11 don't understand really what is happening to them. Now,  
12 certainly, this argument cannot be used against Mr. Scott  
13 as he is sophisticated in the business and I think that  
14 his protest should be given its due. He knows what is a  
15 good deal for his wife and what isn't and if he feels he  
16 wants to negotiate this further, certainly no one can second  
17 guess that he does not know what he is doing.

18 I would like to point out to the Commission  
19 that we are not at this point asking the Commission to deny  
20 the application but we are asking the Commission to give  
21 us time to sit down and negotiate directly with these people.  
22 This ownership or lease seems to change hands about every  
23 fifteen days, maybe these people are going to be involved  
24 a little bit longer.

25 Let us be clear about the three points I

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1 raised, whether there really has been a clear uncontradicted  
 2 effort to secure consent and if these people are still in  
 3 disagreement after thirty days, then there is no way we  
 4 can argue after thirty days that we did not have an  
 5 opportunity to sit down with these people because the burden  
 6 is going to be on the Scotts to come out and say that it  
 7 was their fault that they could not get together with them  
 8 and I assure you that that argument won't be made thirty  
 9 days hence. I think it is incumbent upon this commission  
 10 with its precedents to give us time to sit down with these  
 11 people. I am not prepared to oppose the application today,  
 12 my witnesses are not here and I have not had a chance to  
 13 discuss this with my client. So, I sincerely urge you to  
 14 give us time to sit down with these people and see if we  
 15 cannot work something out and if we cannot, obviously the  
 16 Commission has the authority to force pool.

17 I do think you should give my client the  
 18 courtesy to be able to properly present his objections on  
 19 this matter and not deal with a lot of hearsay testimony  
 20 as to what someone told someone when my client is not even  
 21 here to defend himself.

22 I would also like to point out that the  
 23 question of what the Commission's authority is in forced  
 24 pooling cases will be ambiguous as a matter of procedure  
 25 if the Commission goes ahead with this hearing over our

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1 objections and enters some sort of order. We are not  
2 looking to just delay this matter to cause these people  
3 to loose their lease, this is not the situation because  
4 they have two months. We could file an application for a  
5 De Novo Hearing and tie this up over and over, so I am  
6 suggesting that instead of pushing us into this kind of  
7 situation, even though I do not know if we would even do  
8 it, I am suggesting that you give us time to work this  
9 out. Give us time to sit down with these people and then  
10 all of these objections I have raised cannot be raised by  
11 me again.

12 Now, I do not know what sort of testimony  
13 is going to be presented today as far as the efforts that  
14 these gentlemen and others have made in regard to working  
15 out an agreement, but I do say that the only written offers  
16 that have been submitted to Mr. Scott are those attached  
17 to the affidavit. I would be at a complete disadvantage  
18 without my client here and he would be at a complete  
19 disadvantage to rebut any of the testimony that is going  
20 to be offered. I stringently urge that the Commission not  
21 take testimony at this time, but vacate this hearing until  
22 we can all be present and then these arguments cannot be  
23 raised by me again.

24 MR. HATCH: Aren't you second-guessing what might  
25 be presented in this case since we have not had an opportunity

1 to hear the applicant in this case yet?

2 MR. KELLY: Of course I am second-guessing, but  
3 the thing is that I myself could not dispute anything  
4 these people say because my client isn't here, and I informed  
5 the Commission as soon as I found out about it, that there  
6 was no way he could be here.

7 We are dealing with a lease that does not  
8 expire for two months and I say we do have time to allow  
9 these gentlemen to get together and then if they cannot  
10 work anything out, as I say, I can't raise this issue again.

11 MR. HATCH: In the affidavit, your client does  
12 not point out anything as to what he would testify to if  
13 he were here.

14 MR. KELLY: The affidavit of my client points out  
15 that the only actual offers he received are the two that  
16 are attached. One came from people that he had no idea  
17 were connected with the applicant for forced pooling;  
18 certainly the letter indicates there was no particular  
19 connection.

20 MR. HATCH: There is nothing in the affidavit  
21 that would bind him to ever be here, is there?

22 MR. KELLY: I think you can take my assurance  
23 and the whole point of my argument is that I cannot make  
24 the argument again.

25 MR. HATCH: It would appear to me that we have

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1 no assurances that he would ever be here.

2 MR. KELLY: You have my assurance and as I said  
3 my argument can never be raised again.

4 MR. HATCH: When you say he could not be here  
5 today, it is his choice not to be here today, he chose  
6 some other commitment; didn't he?

7 MR. KELLY: True, but the prior commitments were  
8 made a great deal prior to this hearing. It cannot be  
9 disputed that the written letter, the letter from the  
10 applicant here, was sent to him on February 9th, a week  
11 after the forced pooling application was filed. I think  
12 as a matter of courtesy, this Commission should give him  
13 an opportunity to sit down with these people. The idea of  
14 saying: "Well, how do we know he is going to be present the  
15 next time?" I have finished this argument on his behalf.

16 MR. HATCH: What you are really asking for is  
17 more time to negotiate.

18 MR. KELLY: Yes, more time to negotiate and also  
19 if negotiations cannot be worked out, more time to oppose  
20 the application.

21 MR. HATCH: There is no indication in the affidavit  
22 as to what his presentation would be, as to what type of  
23 testimony he would develop.

24 MR. KELLY: No, there wasn't time to do this.  
25 When I talked to him, I asked if there was any chance he

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1 could get out here and he said there was none. I told him  
2 that he had to give me something, that I could give the  
3 Commission some inclination, but as soon as they were  
4 notified of this hearing -- in fact, they were not even  
5 notified by the Commission, they found out about the fact  
6 that they were going to be force pooled from that letter.  
7 After he found out, he wrote the Commission as I understand  
8 it and said he needed a continuance. After that he got ahold  
9 of me and I filed my motion. He certainly did not wait, he  
10 got ahold of the Commission as soon as he could and notified  
11 them that he needed more time.

12 MR. HATCH: There is no indication from the  
13 affidavit that there actually will be testimony prepared,  
14 any testimony or any evidence at the present time.

15 MR. KELLY: It is my understanding, and there is  
16 certainly no way this can be considered evidence, but it is  
17 my understanding from my conversations with him that he is  
18 hoping they can sit down and work something out, and if they  
19 cannot, he will be prepared to oppose the application and  
20 my point is that since they have until April 26th, the  
21 Commission will not jeopardize this lease by giving us some  
22 additional time.

23 MR. KELLAHIN: I think it is pretty clear in this  
24 situation that you have no way of knowing what our testimony  
25 is going to be and we will defer to the Commission's

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1 judgment as to the adequacy of the offers made to Mr.  
 2 Scott. I think you will find that the testimony will show  
 3 that three of the working interest owners are here present  
 4 today and all three are involved in the drilling of this  
 5 well and all three of them have made good faith efforts to  
 6 make some kind of arrangements with Mr. Scott without  
 7 success.

8 He refers to two written offers and admittedly  
 9 there are two written offers attached to the affidavit  
 10 which were submitted to him. In addition to that Tipperary  
 11 attempted, and Mr. Dean Stolz is present to testify as to  
 12 the attempted negotiations of Tipperary. Spencer and Hutson,  
 13 Mr. Hutson is also present and he will testify as to his  
 14 attempts to negotiate with Mr. Scott; and Mr. Fullinwider  
 15 will testify as to what he has done and to the fact that  
 16 the letter of February 9th was really nothing more than the  
 17 last final effort to make some kind of arrangements with  
 18 Mr. Scott and as Mr. Kelly has stated, we increased the offer  
 19 in the letter. Mr. Fullenwider will also testify to a  
 20 telephone conversation he had with Mr. Scott yesterday and  
 21 if there is any question about it being hearsay, we have a  
 22 tape recording of it, if you would care to hear it.

23 MR. KELLY: That certainly would not correct the  
 24 hearsay of it.

25 MR. KELLAHIN: The situation is simply this, if we

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1 do not get the well drilled, we lose the acreage to the  
2 south and Mr. Fullenwider's testimony supported by his  
3 conversation with Mr. Scott will show that Mr. Scott had  
4 the option to pick up that lease at the end of the thirty  
5 days.

6 MR. KELLY: You mean at the end of April 26th?

7 MR. KELLAHIN: April 26th.

8 MR. KELLY: That again is my point, we are talking  
9 about something two months down the line and there is nothing  
10 to prohibit the drilling of that acreage to the south right  
11 now.

12 (Whereupon an off-the-record discussion was held.)

13 (Hearing resumes.)

14 MR. STAMETS: Mr. Kelly, we will overrule your  
15 objection at this point, but allow you to enter it again  
16 after the testimony has been received.

17 MR. KELLY: Well, that will be a little too late  
18 Mr. Examiner. The point is that I cannot protect my client's  
19 interests without him being here and without being able to  
20 discuss and find out what the truth of these statements are.

21 MR. HATCH: I might interrupt here, I believe if  
22 the Examiner so wishes, he can continue the case for further  
23 testimony if that is his desire after you make another  
24 motion. I don't know whether he will or not, but it is his  
25 prerogative.

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1 MR. KELLY: I would urge the examiner that in  
2 any situation involving forced pooling, the Commission has  
3 bent over backwards to protect the rights of those being  
4 force pooled. Here we have done everything that we could  
5 to advise the Commission, the Commission may disagree with  
6 us, but we want an opportunity to negotiate with these  
7 people. The fact that they are going to lose their lease  
8 if they do not drill by April 26th is no argument that they  
9 have a hearing on March 1st. If the Commission will not  
10 agree to a thirty-day continuance, I will ask for at least  
11 until the next hearing in mid-March.

12 MR. STAMETS: There has been some indication that  
13 negotiations have taken place over a period of time and I  
14 personally would like to better understand these negotiations  
15 and I feel that the only way that can be handled is through  
16 direct sworn testimony. As I said, I will re-entertain your  
17 motion after the testimony has been heard.

18 MR. KELLAHIN: I have three witnesses I would like  
19 to have sworn.

20 (Whereupon Mr. Stolz, Mr. Hutson and Mr.  
21 Fullenwider were sworn as witnesses by Mr. Hatch.)

22 DEAN H. STOLZ,  
23 appeared as a witness and having already been duly sworn,  
24 testified as follows:  
25

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BY MR. KELLAMIN

Q Would you state your name, please?

A Dean H. Stolz.

Q By whom are you employed?

A I am President of the Tipperary Land Exploration Company.

Q Mr. Stolz, are you familiar with the application which has been submitted in the name of V. F. Vasicek and J. M. Fullinwider, doing business as V-F Petroleum?

A Yes, I am.

Q Do you have an interest in the acreage?

A Yes, our company does in terms of having a contract where the actual acreage was farmed out to V-F Petroleum.

Q Are you to participate in the drilling?

A Yes, we reserve an interest in the property.

Q Do you know Mr. Wilton Scott?

A I do.

Q Have you had any negotiations with him in connection with this acreage?

A Yes, our negotiations and relationship dates back to April of 1970.

Q Would you outline just what occurred in connection with the negotiations?

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1 A In putting together the drilling of Section 1,  
 2 Township 15 south, range 36 east, Lea County, New  
 3 Mexico, in early 1970 the one remaining outstanding  
 4 interest was Wilton Scott's wife who had a one-third  
 5 interest in Section 1, there being two other sisters  
 6 of Mrs. Scott, who had leased to parties, from whom  
 7 the acreage was acquired in April of 1970. We met  
 8 with Mr. Scott in the Tenneco offices in Houston to  
 9 talk about the possibility of working out something  
 10 with him with respect to acquiring a lease on Mrs.  
 11 Scott's interest or having him joining in the drilling  
 12 of the well. At this time, he indicated to us that it  
 13 had always been his express desire in these matters to  
 14 see these leases expire, particularly the ones relating  
 15 to his sister-in-law's interests, so that he and  
 16 another party, who he named as Mr. Frank Ladd of  
 17 Cactus Petroleum, could drill this for their own  
 18 account at some later date which obviously had to be  
 19 passed mid-1972, which is now approaching. In any  
 20 event, after some prolonged discussions, he did agree  
 21 to give us a one-year lease on the 80-acre tract being  
 22 in the east half of the northwest quarter of Section 1,  
 23 Township 15 south, range 36 east, reserving one-quarter  
 24 royalties. We then proceeded to drill a well to 12,700  
 25 feet at a cost of approximately \$250,000 and this well

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1 had a slight show in it and it was ultimately  
 2 abandoned on October 22nd of 1970 with the idea that  
 3 perhaps we would re-enter the well at a later date.  
 4 But our first choice was to see if we could develop  
 5 a drill site to the south of this in the south half of  
 6 Section 1, at least either drill it ourselves or  
 7 encourage somebody else to drill it. Accordingly,  
 8 on October 30th, 1970, Dick Shawls met with Mr. Scott  
 9 in Houston and proposed several different alternatives  
 10 to Mr. Scott.

11 MR. KELLY: What date?

12 THE WITNESS: October 30th, 1970.

13 A (Continuing) None of these alternatives were accepted  
 14 at this time and subsequent to that, on December 2nd,  
 15 we mailed a letter to Mr. Scott with three alternatives  
 16 in it.

17 MR. KELLY: Excuse me, I would like to have some  
 18 indication as to who "we" are. You have referred to "we"  
 19 several times and I would like to know who "we" are.

20 THE WITNESS: This is all Tipperary Land and  
 21 Exploration and the "we" I am speaking about is Tipperary.

22 A (Continuing) On December 2nd, we directed a letter  
 23 to Mr. Scott and offered in it three alternatives as  
 24 to participation: Reserving the royalty rights on  
 25 his own part, or in fact, sharing whatever we might

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1 derive, or farming out to a third party. On January  
2 6th, 1971, Ron Holcomb, our land manager, met with Mr.  
3 Scott once again in Houston at the Tenneco offices  
4 and at this time V-F Petroleum was showing an interest  
5 in acquiring a farm-out from us to drill a well there;  
6 also Penn Oil and United had expressed interest in  
7 drilling a well there.

8 After a long visit, once again, as was always the  
9 case with Mr. Scott, no definitive answer was given  
10 by Mr. Scott, so on January 28th, I sent a wire to  
11 Mr. Scott trying to elicit some kind of commitment  
12 from him and giving him several alternatives and  
13 suggesting that he reply immediately if one of these  
14 was acceptable to him. We had no reply and many calls  
15 followed from our office to him.

16 Subsequently, and the last thing that Tipperary  
17 did in an effort to reach Mr. Scott was on February  
18 19th which was some four months after we drilled the  
19 first well and made our first approach to Mr. Scott,  
20 we made another effort to get something done for we  
21 felt we had met our interests and we asked would he  
22 please give us a commitment. We received no commitment  
23 from Mr. Scott. We told Penn Oil that our efforts  
24 were fruitless in trying to work something out with  
25 Mr. Scott and they said that they knew the man very



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1 well and would like to contact him directly which  
2 they did.

3 MR. KELLY: I am going to have to object to  
4 this as being hearsay, talking about his conversations  
5 with Mr. Scott are bad enough, now he is going to discuss  
6 conversations between Penn Oil and Mr. Scott. I think  
7 even under the liberal rules of the Oil Commission, this  
8 would be considered rank hearsay.

9 MR. HATCH: I don't think it is necessary to  
10 testify about Penn Oil's part in this.

11 Q (By Mr. Kellahin) Just give us your part.

12 A We were nearing the end of the primary term of the  
13 one year lease agreement with Mr. Scott in May on  
14 the east half of the northwest quarter wherein we  
15 drilled the well to 12,700 feet and we had not been  
16 able to develop anything out of him at this point  
17 and were about ready to lose the lease. So, in an  
18 effort to keep some kind of tie on Mr. Scott and hopefully  
19 to develop some type of situation where he would have  
20 to give us a commitment we entered the Number 1, the  
21 well I indicated earlier, we re-entered the well at  
22 a cost of about 30 or \$40,000 and made a completion  
23 attempt which practically depleted our resources and  
24 which was subsequently plugged on September 5th after  
25 several months of testing.

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1 The only reason we elected to move at the time  
 2 was because we were about to lose this continuous  
 3 hole and Mr. Scott knew this and of course his purpose,  
 4 as we could see, was to see all our leases expire in  
 5 the area.

6 MR. KELLY: I ask that testimony be stricken.

7 MR. HATCH: I think it should be stricken. Just  
 8 testify about what happened.

9 MR. STAMETS: Objection sustained.

10 A (Continuing) During this entire period from September  
 11 5th, when we finally plugged the Allan Well until  
 12 early in January of 1972, we talked to various people  
 13 and we always had this one insolvable problem which  
 14 related to Wilton Scott and our not being able to  
 15 extract any kind of commitment out of him. It was  
 16 during this time that V-F Petroleum initially contacted  
 17 us and they were willing to take a farm-out from us  
 18 to drill a well in Section 1, knowing full well the  
 19 problems associated with Mr. Scott. It was their  
 20 idea that they would take him to a forced pooling  
 21 session, which we are in today.

22 This was Tipperary's relationship to one Wilton  
 23 Scott, President, I guess, of Tenneco.

24 MR. KELLAHIN: Those are all the questions I have  
 25 of this witness.

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1 THE WITNESS: Oil Company.

2 MR. STAMETS: Any questions for the witness?

3 MR. KELLY: I am in a difficult position here  
4 and without waiving my right to request that this hearing  
5 be continued so I can cross-examine the witness with some  
6 idea of whether he is telling the truth or not, I would  
7 at this time renew my request that he be recalled when the  
8 hearing is, hopefully, rescheduled so that he can be subject  
9 to cross-examination.

10 I know what the situation is, but I would  
11 like to ask some questions and do it without waiving my  
12 position.

13 MR. STAMETS: Mr. Kellahin, if this hearing is  
14 continued, would the witness be available?

15 MR. KELLAHIN: If the hearing is continued, I  
16 doubt if the well will be drilled.

17 MR. STAMETS: It is Mr. Kelly's position that he  
18 would be injuring his client if he asked questions at this  
19 point.

20 MR. KELLAHIN: Not if the case is continued.

21 MR. KELLY: May we get testimony on the record  
22 that the well will not be drilled if there is any  
23 continuance?

24 MR. KELLAHIN: We are not going to testify to  
25 any such thing and I object to those comments.

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1 If we are required to bring our witness  
 2 back -- I don't know what his schedule might be, he might  
 3 be having a board meeting himself. Mr. Scott has had  
 4 ample notice, all the notice that is required by law. He  
 5 could have been here.

6 MR. KELLY: I would suggest that the Commission  
 7 not pay too much attention to the gratuitous remarks about  
 8 how this delay would result in them not drilling the well  
 9 if they are not willing to take that position as a matter  
 10 of testimony.

11 MR. HATCH: I think the Commission will not take  
 12 that as testimony.

13 MR. KELLAHIN: It was not intended as testimony.

14 MR. STAMETS: Mr. Kelly, you will proceed with  
 15 your questioning and as I said before, I will give you full  
 16 consideration at the end of the case as to a possible  
 17 continuance.

18 CROSS-EXAMINATION

19 BY MR. KELLY

20 Q Can you identify what acreage is involved in this  
 21 lease?

22 A Can I have that?

23 MR. KELLAHIN: Maybe we better have this marked.

24 (Marked Applicant's Exhibit 1 for identification.)

25 Q (By Mr. Kelly) Could you identify the acreage involved

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1 for us?

2 A Yes, a 40-acre tract surrounding this drill site to  
3 the southeast of the southwestern quarter of Section 1.

4 Q Now, the acreage that you were talking about as far  
5 as the first well you drilled is where?

6 A It was in the east half of the northwest quarter.

7 Q Is the whole Section under one lease?

8 A No.

9 Q Does Mrs. Scott have a one-third interest in the well  
10 you were talking about drilling?

11 A I believe it was seven-twenty-fourths interest under  
12 that particular Tract.

13 Q So, the negotiations you were talking about for the  
14 well that you drilled were not involved in this lease  
15 at all, the one we are concerned with today?

16 A The negotiations that I recited here all took place  
17 subsequent to the drilling of this well. We had one  
18 preliminary meeting that I recited in April of 1970,  
19 but every other letter and effort to work this out  
20 took place subsequent to the drilling of this well.

21 Q But, as I understand it, you were able to work out  
22 arrangements with the Scotts on the drilling of the  
23 Allan Number 1?

24 A On the Number 1 drill site, that's right.

25 Q Then the conversations with him concerning the acreage

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1 we are concerned with now took place at what point  
 2 in time?

3 A The first visit took place in Houston on October 30th,  
 4 1970.

5 Q And at that time you made a written offer to him?

6 A We made verbal offers on that date, followed up by  
 7 a letter of December 2nd, a copy of which you might  
 8 want to introduce.

9 Q Do you have that letter?

10 A Here it is.

11 MR. KELLAHIN: We will mark that Applicant's  
 12 Exhibit Number 2, a letter of December 2nd.

13 Q (By Mr. Kelly) What has been marked Applicant's  
 14 Exhibit Number 2 in this case is a letter signed by  
 15 a land manager, Ron Holcomb; who is he a land manager  
 16 for?

17 A Tipperary Land and Exploration Corporation.

18 Q Do you have a written response to that letter?

19 A We have no written response to that letter.

20 Q Was a counter offer made by Mr. Scott?

21 A No.

22 Q You said he just absolutely refused to consider the  
 23 matter?

24 A He always was giving it thought and consideration.

25 Q And no counter offer was made?

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1 A No.

2 Q Was there any other written offer ever made to him  
 3 other than the letters that were attached to the  
 4 affidavit of Mr. Scott, which I show you for your  
 5 review?

6 A I have a wire to him over my signature, dated January  
 7 28th, 1971.

8 MR. KELLAHIN: Can we have that marked as  
 9 Applicant's Exhibit Number 3?

10 (Marked Applicant's Exhibit Number 3 for  
 11 identification.)

12 A (Continuing) I have a copy of a letter signed by Mr.  
 13 Holcomb, once again the land manager, dated February  
 14 19th, 1971.

15 Q I assume that after the letter of February 19th, 1971  
 16 -- what was your testimony, what response did you  
 17 receive at that point?

18 A In the absence of any response subsequent inquiries  
 19 we had, which I mentioned from Penn Oil, United and  
 20 V-F Petroleum --

21 Q I mean from Mr. Scott?

22 A Once again, he gave us no definite commitment.

23 Q And so Tipperary abandoned its attempt to do anything  
 24 about the acreage?

25 A No, not at all, we continued to pursue it, but in

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1 terms of contacting Scott, we referred the parties  
 2 of interest to the problems and let them establish  
 3 their own contacts, which they did.  
 4 Q When Tipperary actually entered into an agreement with  
 5 another party, I don't know which one it was, was  
 6 Spencer and Hutson in on this property?  
 7 A We were verbally committed to them in mid-January.  
 8 Q January of 1972?  
 9 A Right, 1972.  
 10 Q And so at that point, you had no further dealings  
 11 with Mr. Scott as far as trying to make any offer to  
 12 him?  
 13 A Not directly, not directly as Tipperary.  
 14 Q In fact, Tipperary had not made an offer to him in  
 15 some time; is that correct?  
 16 A Our last offer was February 19th.  
 17 Q February 19th, 1971?  
 18 A 1971, that's right -- excuse me, let me qualify that  
 19 a little bit, we did have, that was in writing, we did  
 20 have numerous phone conversations during the period  
 21 subsequent to that and I have a note here that shows  
 22 in October of 1971 our Leonard Garvey, President in  
 23 charge of North American Exploration, called Scott  
 24 personally and once again recited the terms of our  
 25 proposal.



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1 Q Which proposal?

2 A Well, basically the February 19th proposal. We also  
3 gave him multiple choices, in fact, we also proposed  
4 to him alternatives which we hadn't thought of. We  
5 asked him to please give us a reply, but a reply was  
6 never forthcoming.

7 Q Is it your testimony that the February 19th, 1971,  
8 offer was made orally at a later date?

9 A Yes, several times.

10 Q And I believe your testimony is that the last time was  
11 in the fall of 1971?

12 A That would be right.

13 Q And that was the last time that Tipperary actually made  
14 an offer?

15 A To my recollection, I would not swear to it because  
16 I did not personally conduct this at that time because  
17 I was getting quite tired of trying to approach this  
18 man.

19 Q You sound like you are a little bit bitter on the  
20 subject?

21 A I am a little bit bitter.

22 Q You don't get along with Mr. Scott, I take it?

23 A Not really, the only meeting I ever had face to face  
24 with Mr. Scott was very cordial and social, I spent a  
25 very nice evening with him.

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- 1 Q I believe that you testified that Spencer and Hutson  
2 got involved late in January of 1972 and you told them  
3 to force pool him; is that correct?
- 4 A I think they indicated that this was one possibility.
- 5 Q Wasn't it your testimony that you told them that they  
6 would have to do this?
- 7 A No, I think they had written him a letter affording  
8 him some opportunity, and also there were these letters.
- 9 Q In January of 1972, these letters were not written?
- 10 A This was prior to the forced pooling, I believe. They  
11 made an effort to do something directly with him before  
12 making the decision to request forced pooling.
- 13 Q Do you know when the lease on the proposed location  
14 expires?
- 15 A I believe April 26th was the date recited, that's  
16 with the two sister-in-laws.
- 17 Q And that lease provides that you commence operations  
18 at that time; is that right?
- 19 A That's right.
- 20 Q In addition, does Tipperary have any interests in the  
21 Section immediately south of Section 12?
- 22 A Yes, we have an interest in much of the surrounding  
23 acreage in here, they are all short-term leases.
- 24 Q And those expire at the end of April also?
- 25 A That's right.

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1 Q Is there any problem as far as having actual  
2 ownership in Section 12?

3 A I can't recall whether we have a full interest in  
4 Section 12 at the present time, I will have to check  
5 the records.

6 Q Are you planning on drilling in Section 12?

7 A We are not planning on drilling, we are farming-out.

8 Q What interests have you retained?

9 A We have a small overriding interest.

10 Q But basically you are out of the picture?

11 A In terms of operating or drilling the well, but we do  
12 have royalty reservations there.

13 Q As far as you know, there is no problem in drilling  
14 Section 12?

15 A Not that I can think of off-hand.

16 MR. KELLY: Subject to the right to find out my  
17 client's side of the story, I have no further questions.  
18 I can only restate that the only information I have  
19 received is that Mr. Scott had only two firm offers and  
20 those two were submitted in this letter.

21 MR. STAMETS: Mr. Stolz, I have one additional  
22 question, what was the description of the acreage that you  
23 attempted to set up in the south to drill the second well  
24 after the first well was found to be dry?

25 THE WITNESS: The south half of Section 1.

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1 MR. STAMETS: Did you subsequently get everybody's  
2 interest in the south half except Mr. Scott's?

3 THE WITNESS: Well, we did have the other two  
4 interests which happened to be his sister-in-laws, so we  
5 had two-thirds interests at the time we made our approach  
6 to him. We had earned them by virtue of drilling the first  
7 well.

8 MR. STAMETS: Any other questions?

9 (No response.)

10 (Witness excused.)  
11

12 OSLER C. HUTSON,  
13 was called as a witness and having been already duly sworn,  
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KELLAHIN

17 Q Will you state your name?

18 A Osler C. Hutson.

19 Q What business are you engaged in?

20 A I am a petroleum geologist.

21 Q Where are you located?

22 A Midland, Texas.

23 Q In connection with your work, did you have anything  
24 to do with the acreage involved in this Hearing?

25 A Yes, in searching for prospects, my business came

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1 across this area.

2 Q Who did you contact in connection with it?

3 A On September 7th, 1971, I called Arlin Akin, an  
4 engineer who at that time was Vice President of  
5 Tipperary and asked him about the possibility of  
6 farming-out the area.

7 Q What was his reaction to that?

8 MR. KELLY: Again I have to object to the hearsay  
9 in his testimony.

10 Q (By Mr. Kellahin) What reaction did you get to your  
11 request?

12 MR. STAMETS: Just a second.

13 MR. HATCH: Are you protesting to him raising  
14 the question as to who he negotiated with? I think this is  
15 all going to the question of the interests of the parties  
16 in this property.

17 MR. KELLY: I am going to ask the Examiner that  
18 subject to final decision on my motion, testimony concerning  
19 direct negotiations with Mr. and Mrs. Scott would not be  
20 hearsay, but certainly when we are talking about what other  
21 people say who are not parties to this Hearing --

22 MR. KELLAHIN: I have to take one step at a time  
23 to get the man into a position where Mr. Scott becomes  
24 involved -- I will rephrase the question.

25 Q (By Mr. Kellahin) Did you get a format on the acreage

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1 or an agreement to format?

2 A Yes, Mr. Arlin Akin told me they would farm-out if  
 3 we could work out a deal with them, but that he had  
 4 a considerable problem with Mr. Scott.

5 Q Did he tell you that he did not have his acreage?

6 A Yes.

7 Q And you were aware that they did not have the lease  
 8 on that?

9 A Right.

10 Q Did you make an effort to obtain some agreement with  
 11 Mr. Scott?

12 A I asked Mr. Edgar, who had already been negotiating  
 13 with Mr. Scott, would he call him for me and try to  
 14 go over and see him. In October, I believe, he talked  
 15 to Mr. Scott and he said -- Mr. Edgar called me back  
 16 and told me that he would let us know, but that it  
 17 was kind of a run-around.

18 MR. KELLY: I will object to this testimony again  
 19 and ask it be stricken again. We are dealing with  
 20 negotiations with Mr. Scott and not with Mr. Edgar and what  
 21 Mr. Edgar thought he might of been getting.

22 Q (By Mr. Kellahin) Were you present when Mr. Edgar  
 23 called Mr. Scott?

24 A No, I was not.

25 MR. STAMETS: Mr. Kellahin, if you will try to

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1 confine your questions to the conversations that the  
 2 witness had with Mr. Scott.

3 Q (By Mr. Kellahin) Mr. Hutson, in dealing directly  
 4 with Mr. Scott, did you contact him yourself or attempt  
 5 to?

6 A Yes.

7 Q When was that?

8 A That was in January of 1972, when I called on Mr. Scott.

9 Q Did you make a proposal to him for a farm-out or make  
 10 some arrangements to drill this well?

11 A Yes, I did. I presented a deal to Mr. Scott and he  
 12 asked me who I was, I told him I was an exploration  
 13 geologist and we had some people interested in this  
 14 area and if we could work out a satisfactory arrangement  
 15 with him, we would like to get a well drilled.

16 Q Did he know who the people interested were?

17 A I did not tell him, no.

18 Q But he did know you were not doing this on your own  
 19 account?

20 A Oh, yes, he knew that.

21 Q Who were the other people?

22 A V-F Petroleum.

23 Q And you had your offices with them?

24 A Yes.

25 Q Were you doing this on behalf of V-F Petroleum?

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1 A Yes.

2 Q Did you get any response from Mr. Scott as a result  
 3 of your telephone conversation?

4 A Yes, he told me to call J. Mac Barnes, a broker in  
 5 Midland, Texas, and present the deal to him and  
 6 that he would be back in touch with me.

7 Q Did you do so?

8 A Yes, I called Mr. Mac Barnes and presented the deal  
 9 to him.

10 Q Did you get a response through Mr. Barnes from Mr.  
 11 Scott in regard to this?

12 A Yes, Mr. Barnes told me that did I know there was  
 13 something else in the area and I asked him what it  
 14 was and he never would tell me. So, he said that he  
 15 would contact Mr. Scott and let me know.

16 Q I hand you what has been marked V-F Petroleum Exhibit  
 17 Number 5, would you identify that Exhibit, please?

18 A Yes, it is a letter I wrote to Mr. Scott.

19 Q Was that letter the first contact you had with Mr.  
 20 Scott?

21 A No, I had the telephone conversation with him.

22 Q So, any statement referred to that Mr. Scott's only  
 23 offer was made on January 28th and expired on February  
 24 2nd, would not be true; is that correct?

25 A That's right.



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1 Q You had talked to him earlier?

2 A Yes, I had talked to him earlier.

3 Q And you also talked with a man you understood to be  
 4 his agent, Mr. Barnes?

5 A Yes.

6 Q And you indicated that Mr. Barnes communicated with  
 7 you and said that he could not work out a deal?

8 A Yes, Mr. Barnes called me back and informed me that  
 9 Mr. Scott did not want to make any kind of deal.

10 Q Did he qualify that as any deal with you or did he  
 11 not want to make any deal?

12 A He just said he did not want to make any kind of  
 13 deal.

14 MR. KELLAHIN: That completes my examination  
 15 of this witness.

16 MR. STAMETS: Any questions of this witness?

17 MR. KELLY: With the same forewarning.

18 CROSS-EXAMINATION

19 BY MR. KELLY

20 Q Mr. Hutson, in your letter of January 28th, 1972,  
 21 which has been marked Exhibit 5, I take it that you  
 22 did present the offer and you did mean that the offer  
 23 would expire on February 2nd, 1972?

24 A Would you repeat that?

25 Q This was the offer you made; wasn't it?

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- 1 A Yes, sir.
- 2 Q And the only conversation you had with Mr. Scott
- 3 was the conversation prior to this date; isn't that
- 4 right?
- 5 A I had a conversation with his agent, Mr. Barnes.
- 6 Q Did you have any conversations with Mr. Scott?
- 7 A No, I did not, not after this.
- 8 Q Did you have any conversations prior to this?
- 9 A Yes, prior to this letter in the first part of
- 10 January.
- 11 Q And at that time, you orally made the same offer;
- 12 isn't that correct?
- 13 A Yes.
- 14 Q And that was the only offer you made to him?
- 15 A I believe that's right.
- 16 Q And at the end of January, you resubmitted the offer
- 17 in written form?
- 18 A Yes.
- 19 Q And by its terms it expires on February 2nd, 1972;
- 20 is that right?
- 21 A Right.
- 22 Q That was the extent of your negotiations?
- 23 A Yes.
- 24 Q And you did not inform him that you were representing
- 25 V-F Petroleum?

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1 A No, I did not at that time, no.

2 Q Do you have an interest in the well?

3 A Yes, I do.

4 Q What is that?

5 A Overriding royalty.

6 Q And did you describe your interest in the well to Mr.  
 7 Scott?

8 A No, I did not describe my interest to him.

9 Q So, as far as you know, Mr. Scott believed that Spencer  
 10 and Hutson were the people he was negotiating with?

11 A That's right.

12 Q Did you have anything to do with the representations  
 13 of the offer of February 9th, that is in the letter?

14 A The February 9th offer from V-F Petroleum?

15 Q Yes?

16 A Only in the sense that I knew about it, we were working  
 17 together.

18 Q You were no longer negotiating with Mr. Scott?

19 A No, not personally, no.

20 Q Your attempts have been fully recounted up to date?

21 A Right.

22 Q I take it your letter of January 28th, 1972, was your  
 23 initial offer, your beginning offer?

24 A Well, I had talked to him previously and to his agent  
 25 and I asked his agent to get some answer from him;

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1 this letter was to try to do something.

2 Q So it was your initial offer?

3 A It wasn't my initial offer.

4 MR. KELLAMIN: We have been over this and he has  
 5 testified that an offer was made verbally, the witness also  
 6 testified, not once, but three or four times, in response  
 7 to Mr. Kelly's question, that there was a verbal offer  
 8 made and then there was a written offer made at the end  
 9 of the negotiations.

10 Q (By Mr. Kelly) But as I understand it, the telephone  
 11 offer was the same offer, you didn't discuss any other  
 12 offer with him, this was the only offer you discussed  
 13 with him; is that right?

14 A That's right.

15 Q You didn't give him any other alternatives; did you?

16 A I told him we were ready to work any kind of deal.

17 Q But, this was the only offer you made to him?

18 A Written offer.

19 Q I believe you testified that you made the same oral  
 20 offer to him?

21 A I did, but we were always ready to negotiate.

22 Q Did he tell you that he had already been made better  
 23 offers in the past?

24 A No, he didn't.

25 Q Were you aware that he had already been made better

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1 offers in the past?

2 A No.

3 Q You hadn't discussed that with the Tipperary people?

4 A As I recall Mr. Edgar said that our offer was probably  
 5 as good or better than anything that he had been made.

6 Q Good or better than any that had been made previously?

7 A I think that's what we talked about, I can't remember  
 8 exactly.

9 MR. KELLY: That's all I have.

10 REDIRECT EXAMINATION

11 BY MR. KELLAHIN:

12 Q In reply to a question by Mr. Kelly, you stated that  
 13 Spencer and Hutson were the people he was negotiating with,  
 14 he did understand, did he not, that you were agents  
 15 for undisclosed principals?

16 A Yes.

17 MR. KELLY: I am going to object. We have no  
 18 idea what his state of mind was as to what he understood.

19 MR. STAMETS: I would like to ask a question to  
 20 clarify a point in my own mind. I understood you to testify  
 21 that when you spoke to Mr. Scott on the telephone, you did  
 22 represent yourself as representing another party?

23 THE WITNESS: Yes, I told him that we were geologists  
 24 and that we had a party that was interested in drilling this  
 25 well.

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1 MR. STAMETS: However, in your letter of January  
 2 28th -- is this the same as Exhibit 5?

3 MR. KELLAHIN: Yes.

4 MR. STAMETS: Let me have Exhibit 5. In your  
 5 letter of January 28th to Mr. Scott, it says that Mr. Mac  
 6 Barnes of Midland, Texas, has informed us that you have  
 7 rejected our offer and so on and so on; in the second paragraph  
 8 in the third line, it says: "After we recover our drilling  
 9 and producing costs from the initial well;" is that an  
 10 accurate quote?

11 THE WITNESS: "After we recover our drilling and  
 12 producing costs?"

13 MR. STAMETS: Yes?

14 THE WITNESS: I guess that is accurate enough in  
 15 the sense that we knew who was going to drill the well  
 16 and I told Mr. Scott in the beginning that we were not the  
 17 operators in the sense that as exploration geologists, we  
 18 put the deals together and presented them to companies.

19 MR. STAMETS: Is there any indication in the letter  
 20 that the deal was presented for another party?

21 THE WITNESS: I cannot see that, no, sir. All I  
 22 was doing was just writing a letter, "we" could be taken  
 23 either way, it seems to me.

24 Q (By Mr. Kellahin) Did Mr. Scott ever come back with  
 25 a counter offer?

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1 A No, he told me to call Mr. Barnes and to present my  
 2 offer to him and I never did hear from Mr. Scott  
 3 again except through Mr. Barnes.

4 Q Did he ever suggest that he might come back with a  
 5 counter offer?

6 A I told Mr. Mac Barnes that we would entertain any offers  
 7 that he would care to make when I talked with Mr. Mac  
 8 Barnes.

9 MR. STAMETS: Are there any other questions of  
 10 this witness?

11 (No response.)

12 (Witness excused.)

13  
 14 J. M. FULLINWIDER,  
 15 appeared as a witness and having been already duly sworn,  
 16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. KELLAHIN

19 Q Would you state your name?

20 A J. M. Fullinwider, F-u-l-l-i-n-w-i-d-e-r.

21 Q Mr. Fullinwider, are you a partner in V-F Petroleum?

22 A Yes, I am co-cwner and general manager.

23 Q In connection with your work with V-F Petroleum, did  
 24 you have anything to do with an attempt to put together  
 25 a drilling unit on the acreage involved in this case?

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1 A Yes, approximately a year ago, we were interested in  
 2 drilling a well in here and we were advised that the  
 3 Tipperary Corporation at that time were willing to  
 4 farm out their acreage.

5 Q Before we get into the discussions that occurred,  
 6 will you look at Exhibit 1 and just describe what you  
 7 are trying to force pool in this case?

8 A The actual acreage that we are attempting to force  
 9 pool is the forty-acre tract and would be located in  
 10 the southeast quarter of the southwest quarter of  
 11 Section 1, Township 15 south, range 36 east in Lea  
 12 County, New Mexico.

13 Q To what formation to you propose to drill?

14 A We propose to go to the lower wall of the Camp formation  
 15 at approximately 11,000 feet.

16 Q What spacing is that pool?

17 A There is no pool, it is wildcat, a rank wildcat.

18 Q Under the Commission rules, do you know what the  
 19 spacing would be?

20 A It is forty acres state-wide.

21 Q That would be for oil?

22 A Yes.

23 Q Are you projecting this well for oil?

24 A Yes.

25 Q What interests do you have under the well site?



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1 A We have a farm-out from Tipperary and Tipperary  
2 leases under the proposed location.

3 Q What is this situation with the rest of the acreage  
4 that is colored in yellow?

5 A We have a farm-out on all of the acreage that is  
6 colored in yellow.

7 Q Did you make any effort to get a voluntary agreement  
8 out of Mr. Scott?

9 A Yes, we have.

10 Q Would you describe what you did in that connection?

11 A We were, of course, aware because of our many months  
12 or even a year's familiarity with this situation and  
13 Mr. Scott's wife's interest in here. Since Mr. Scott  
14 was managing her affairs, and particularly since he  
15 is an oil professional, being the President of Tenneco,  
16 and we knew of Tipperary's negotiations with him and  
17 how fruitless they had been -- as a matter of fact,  
18 we were interested in drilling the thing over a year  
19 ago when Tipperary was contacting Mr. Scott to see  
20 what could be done, I won't say in our behalf because  
21 it was Tipperary's acreage, but had they succeeded in  
22 their attempts, a well would have been drilled a year  
23 ago.

24 We knew they didn't succeed and it was brought to  
25 our attention by Spencer and Hutson who office with us.

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1 So, in October of 1971, some months after we had  
 2 been interested, they brought this area to our  
 3 attention and we said we knew all about the problems,  
 4 that we probably knew more than they did about it.

5 They wanted to proceed in trying to put something  
 6 together and we told them to please go ahead. At  
 7 the time, I was tied up in negotiations for a gas  
 8 contract and I wanted them to handle it and, you know,  
 9 to keep in touch. I was very familiar with Spencer  
 10 and Hutson, I mean Mr. Hutson's office door is from  
 11 you to me away from my office door and we kept up  
 12 day by day contact.

13 In the meantime, the farm-out had been negotiated  
 14 with Tipperary and we knew we had to do something  
 15 about Mr. Scott before the expiration date on the  
 16 acreage ran out. At that time, Mr. Hutson contacted  
 17 Mr. Scott with no results and this was just one more  
 18 contact of him that had been made by Tipperary.

19 It was at this time we decided we might have to  
 20 force pool him, in fact, we probably would, because  
 21 it wasn't a question of trying to spell anything out  
 22 to Mr. Scott, he understood the deal very, very well.

23 So it was suggested that we institute forced  
 24 pooling proceedings in time to get the well drilled  
 25 and in order to protect our acreage position in there

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1 because once the acreage starts falling apart, you're  
2 dead.

3 At the time the forced pooling was filed against  
4 Mr. Scott, we had looked at the acreage situation and  
5 we thought that maybe we could work out a deal with  
6 Mr. Scott -- we didn't think so, but this acreage  
7 here in the north half of 12 was going to expire in  
8 April and we thought that maybe we could extend the  
9 leases from Tipperary under the farm-out with the  
10 landowners and that would give us a little more elbow  
11 room to try to work out some understanding with Mr.  
12 Scott.

13 So, the landowners in the north half of Section  
14 12 were contacted and they told us that they sold over  
15 a year ago on a lease option to Mr. J. Mac Barnes of  
16 Midland, Texas. Well, this really startled us because  
17 we didn't know of this situation and it was obvious  
18 that we were getting into hot water here from the  
19 standpoint of these leases running out.

20 So, we immediately instructed you, Mr. Kellahin,  
21 to file forced pooling proceedings against Mr. Scott,  
22 which you did get underway. Then I called Mr. Scott  
23 and talked to him about this situation -- do you want  
24 me to keep telling --

25 Q When did you talk to him by phone?

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1 A I called him on February 8th, 1972.

2 Q What was the result of your discussions on February  
3 8th, 1972?

4 A Well, I introduced myself and I told him that we  
5 were familiar with his negotiations with Tipperary  
6 because of our interests a year ago; I told him that  
7 on the phone and I also told him that we were familiar  
8 with his discussions with Mr. Hutson because Mr. Hutson  
9 had called on our behalf.

10 I told him that we would like to see if we could  
11 resolve this together with him to get the well drilled.  
12 We also discussed mutual friends on the Board of  
13 Tenneco, I was trying to establish some rapport with  
14 him and let him know we were serious and wanted to  
15 work with him.

16 He was very pleasant on the phone and told me  
17 that he had received an offer from Spencer and Hutson  
18 and said that he didn't know they were working for me.  
19 I told him they were, and that it wasn't important  
20 whether he knew it or not, that was a side remark,  
21 and he mentioned one-sixteenth convertible to one-quarter  
22 and he said that he wasn't interested in one-sixteenth  
23 convertible to one-quarter.

24 I asked him what he would be interested in and  
25 Mr. Scott would not reply to that at all and so I told

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1 him that we had several propositions to make to him  
2 and that we didn't want to presume that they were  
3 the right propositions for him because we knew he was  
4 a professional and we knew he was watching after his  
5 wife's interests, so we would not presume to say that  
6 he would have to take one of these.

7 I was very careful to tell him this and if he had  
8 any adjustments or approaches or new provisions, that  
9 we would be just delighted to consider them. He said  
10 fine and asked what our provisions were and I gave them  
11 to him. They were first of all that he lease to us  
12 his wife's interests, he and his wife together lease  
13 to us, and we would pay him \$25 per acre cash bonus  
14 on the standard New Mexico form which provides for  
15 excess royalties in the amount of 3.16 for a primary  
16 term of three years and one dollar per acre rent.

17 I told him that was the sort of reasonable offer  
18 that we had made in the area a lot of times and that  
19 it wasn't high and it wasn't low, it was just a decent  
20 offer, an oil man's offer.

21 He just said kind of: "Umm." I said that Mrs.  
22 Scott could farm out the mineral interests to us  
23 under the 40-acre drill site which I described to him  
24 on the phone or such other single well proration unit  
25 that might be approved, I didn't know what the Commission

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1 might approve, but 40 was all we were interested in.

2 I told him he would have the option of converting  
3 the one-acre override to a one-half working interest  
4 and I suggested that V-F Petroleum would continue as  
5 operator and at that time execute the standard form  
6 operating agreement and I told him what the agreement  
7 was. It was an ODC with the usual attachments and I  
8 sent him a copy of that.

9 I said that on the balance of the acreage besides  
10 the initial well you will have an option, you and your  
11 wife, as to each well we drill and as to whether you  
12 want to farm-out to us or join us.

13 If you don't want to farm-out on the second well,  
14 then join us and there will be no problem. I told  
15 him that I would give him that option and that on every  
16 location he could take it or leave it each time. I  
17 asked him to just join us because he had a one-third  
18 interest in there and we wanted to drill and we had a  
19 two-thirds interest.

20 I told him what the well would cost to dry hole,  
21 I told him the dry hole would cost approximately 120  
22 or \$130,000, whatever it says there -- \$132,000 to  
23 drill the hole and that the completion would be  
24 approximately \$111,000 making a total for the completed  
25 well of \$242,000.

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1 I told him that was just an estimate and maybe  
 2 we could do it for less and that he would be free  
 3 to join us for his one-third interest. I told him  
 4 I would be pleased to send him an operating agreement  
 5 and then we could be off and running.

6 Then I said that these were test proposals and  
 7 if they didn't suit him, what would he like to do,  
 8 and he gave me no encouragement whatsoever. I don't  
 9 know whether he wanted to do anything and I told him  
 10 that I appreciate that he might not want to do anything  
 11 because I knew what he had going for him, that if our  
 12 leases expired, he would be in a better position  
 13 later.

14 I told him I would send him an operating agreement  
 15 and that I was going to send him a written offer of  
 16 what I told him on the phone and that I hoped I would  
 17 hear from him. After that he signed off and I never  
 18 heard from him again.

19 Q On the following day, did you write him a letter  
 20 covering what you just outlined?

21 A Yes.

22 Q And is that shown in Applicant's Exhibit Number 6?

23 A Yes, along with an operating agreement.

24 Q As far as the operating agreement you sent him that  
 25 has been marked Exhibit Number 9?

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1 A Yes.

2 Q Did you get any answers from that letter?

3 A No, sir.

4 Q Subsequently, did you have a conversation -- before  
 5 we go into that, at the time you were talking to him,  
 6 did you tell him about the forced pooling?

7 A Yes, I did. I told him that naturally we were aware  
 8 of the expiration of the leases and I told him it was  
 9 necessary for a forced pooling hearing and while we  
 10 didn't want to go through that, and I was very specific  
 11 that we didn't want to take the time away from business  
 12 up here in Santa Fe -- that's not exactly true, I love  
 13 Santa Fe.

14 I told him we didn't want to spend the money and  
 15 time to come up here, that we would much rather work  
 16 out a deal with him, but that we were prepared to go  
 17 through with it because we wanted to drill and we knew  
 18 that the cards were stacked in our favor -- what I  
 19 meant --

20 MR. KELLY: I think your testimony speaks for  
 21 itself.

22 A (Continuing) We thought we would prevail at a hearing  
 23 and I told him that we would rather he join us so we  
 24 wouldn't have to do that.

25 Q Did you call him then, subsequent to your letter; did



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1 you talk to him again?

2 A Yes, sir.

3 Q When was that?

4 A I talked to him on February 29th, 1972, which I believe  
 5 was yesterday.

6 Q I hand you what has been marked Applicant's Exhibit No.  
 7 7 and ask you to identify that Exhibit?

8 A This is a photostatic copy of the option purchase of  
 9 the oil and gas lease which was taken by J. Mac Barnes  
 10 of Midland, Texas, concerning some acreage to the  
 11 south of Section 12 which is recorded in Lea County.

12 Q Is the recording date shown on that Exhibit?

13 A Yes, it is recorded in Book 97, Page 828.

14 Q Does that cover part of the acreage which you presently  
 15 hold under your farm-out agreement with Tipperary?

16 A Yes.

17 Q I hand you what has been marked Applicant's Exhibit  
 18 8, would you identify that Exhibit please?

19 A That is another option purchase of oil and gas leases  
 20 from some of the landowners in the area by J. Mac  
 21 Barnes of Midland, Texas. It is recorded in Book 297,  
 22 Page 822 of the Records of Lea County.

23 Q Did you discuss those option agreements with Mr. Scott?

24 A Yes, after I learned of their existence and we got  
 25 copies from the County Clerk. We discussed them with

1 Mr. Barnes first, and Mr. Scott second.

2 Q What led you to discuss them with Mr. Scott, they  
 3 are in Mr. Barnes' name?

4 MR. KELLY: I would like to object to this line  
 5 of questioning unless the option agreements have something  
 6 to do with the acreage involved in the forced pooling  
 7 application.

8 MR. KELLAHIN: I think they certainly do and we  
 9 will develop this one step at a time.

10 MR. KELLY: I will object to this type of testimony  
 11 unless there is some foundation laid. May I question the  
 12 witness on these documents?

13 MR. STAMETS: Yes.

14 CROSS-EXAMINATION

15 BY MR. KELLY

16 Q The Exhibit you are referring to now, does that cover  
 17 the acreage involved in this forced pooling hearing?

18 A No, sir.

19 Q Does it cover Section 12?

20 A Part of Section 12.

21 Q And at the present time, you have a right to drill  
 22 that acreage; isn't that correct?

23 A Which acreage?

24 Q Section 12?

25 A We have a right to, yes.

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1 Q You have a right to commence drilling operations  
 2 at any moment; isn't that correct?

3 A If you are talking about legally, yes.

4 Q In no way is your legal right to drill Section 12  
 5 tied in with your problem in Section 1, is it?

6 A I would imagine that that could be answered in the  
 7 affirmative.

8 Q Well, you are the man testifying, is that correct?

9 A No, it is not correct.

10 Q It isn't?

11 A We do not have a right to drill Section 12, we have  
 12 a right to drill Section 1 under our farm-out with  
 13 Tipperary.

14 Q That is the agreement between you and Tipperary?

15 A Correct.

16 Q This was a matter of negotiations?

17 A It is a matter of legal rights while I sit here and  
 18 talk, sir.

19 Q And you are saying that your particular corporation  
 20 does not have a legal right to drill in Section 12?

21 A Correct.

22 Q You did not negotiate for that?

23 A The farm-out does not give us the legal right to drill  
 24 in Section 12 at this time.

25 Q Whose idea was that?

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1 A Geologists, and engineers, oil executives, investment  
 2 specialists.

3 Q So the point is that you want to prove your acreage  
 4 in Section 12 by force pooling the acreage in Section  
 5 1; isn't that correct?

6 A It is possible we might drill a dry hole too.

7 MR. KELLY: I suggest that Section 12 is totally  
 8 outside the scope of this hearing.

9 MR. KELLAHIN: We feel that it is material for  
 10 the reason that it shows the reasons why Mr. Scott is  
 11 reluctant to negotiate with anybody on this acreage, he  
 12 will acquire it. If we do not get the well drilled, he  
 13 will acquire this acreage and that is exactly the reason  
 14 he is trying to hold us up on it.

15 MR. HATCH: I think the question is whether there  
 16 is an agreement to drill in Section 1 and whether there  
 17 is an agreement in Section 12, I don't see the relevancy.

18 MR. KELLAHIN: Are you sustaining the objection  
 19 or overruling it?

20 MR. STAMETS: The objection will be sustained.

21 Q (By Mr. Kellahin) Mr. Fullinwider, you said that you  
 22 had a right to drill in Section 1 at the present time?

23 A Yes, on Tipperary's leases.

24 Q Do you earn other acreage by drilling a hole on Section  
 25 1?

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- 1 A Yes, we earn the right on the other leases.
- 2 Q Let's assume for the moment that you are not permitted
- 3 to drill a well for thirty days, what will occur?
- 4 A I am not so certain that anything actually will occur
- 5 from the standpoint of something happening in space
- 6 and time, but we will no longer be interested in
- 7 drilling the well because there won't be time to
- 8 develop it and protect the acreage.
- 9 Q Is it your testimony that if this case is continued
- 10 for thirty days, you will not participate any further
- 11 in it?
- 12 A That is correct. I was thinking earlier that when
- 13 Mr. Kelly said he could not come here thirty days
- 14 hence with the same arguments, I thought that it would
- 15 not be necessary for there would be no one here.
- 16 Q You have testified as to your contacts with Mr. Scott
- 17 personally, and all of them were subsequent to the
- 18 filing of this application; is that right?
- 19 A That's correct.
- 20 Q But you did have Mr. Hutson contact him?
- 21 A Correct.
- 22 Q And was he acting as your agent?
- 23 A Correct.
- 24 Q Does Mr. Hutson have an interest in this?
- 25 A He does.

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- 1 Q Does Mr. Stolz's company, Tipperary, have an interest
- 2 in this?
- 3 A They do.
- 4 Q You said at the time you contacted Mr. Scott, you
- 5 did send him an estimate of the well costs and they
- 6 were \$242,000 for a completed well?
- 7 A Yes, a pumping well.
- 8 Q Is that, in your opinion, the reasonable cost of a
- 9 well in this area?
- 10 A Yes, sir.
- 11 Q Have you had experience in drilling similar wells?
- 12 A Yes, and from my experience and the current prices
- 13 for both services and materials, I would say this
- 14 reflects the current costs.
- 15 Q And the form of the operating agreement which you
- 16 sent to Mr. Scott, that would be one that Mr. Scott
- 17 would be familiar with in his business; wouldn't it?
- 18 A I should think so. He told me on the phone that he
- 19 was familiar with this; in fact, I asked him if he
- 20 was familiar with it and he said that he knew the
- 21 form.
- 22 Q And you never got any response from any of your
- 23 proposals from Mr. Scott?
- 24 A That is correct.
- 25 Q And to your knowledge, nobody else obtained any

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1 commitments or agreements from him?

2 A We did attempt to bridge this gap with Mr. Scott, I  
 3 called Mr. J. Mac Barnes, who represented Mr. Scott  
 4 in several matters and who was brought to our attention  
 5 by Mr. Scott, and asked Mr. Barnes if he thought any  
 6 agreement might be reached between ourselves and Mr.  
 7 Scott.

8 He said --

9 MR. KELLY: I am going to object to any testimony  
 10 concerning what Mr. Barnes said about Mr. Scott. It has  
 11 never been established that Mr. Barnes had any authority  
 12 to speak for Mr. Scott as his agent. That is the problem  
 13 with everything at this hearing with only one side being  
 14 present.

15 THE WITNESS: If you would let me proceed, I will  
 16 tell you exactly what he said.

17 MR. KELLY: The witness's testimony is hearsay  
 18 as to what Mr. Barnes said.

19 MR. KELLAHIN: If the Examiner please, Mr. Hutson  
 20 testified that Mr. Scott told him to contact Mr. Barnes  
 21 as his agent in connection with the same proposition and  
 22 at which time Mr. Hutson was acting as an agent for V-F  
 23 Petroleum.

24 MR. KELLY: That does not remove the hearsay  
 25 element of the testimony, it is testimony coming from

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1 people other than the principal, Mr. Scott.

2 MR. STAMETS: Would you repeat the question to  
 3 the witness and have him repeat his answer so I can get  
 4 it clear in my mind?

5 MR. KELLAHIN: I had not asked him a question.

6 Q (By Mr. Kellahin) Mr. Fullinwider, you were testifying  
 7 in regard to your further attempts to work out some  
 8 agreement with Mr. Scott and you made some reference  
 9 to Mr. Barnes, would you repeat it up to the point  
 10 where Mr. Kelly made his objection, if you can recall  
 11 it?

12 A I called Mr. Barnes and, you might say, introduced  
 13 myself, we knew one another and I told him of our  
 14 interest in this, which he knew about, and I told him  
 15 that we understood he had done some things for Mr.  
 16 Scott and he said that he had represented him and had  
 17 talked to Mr. Hutson earlier.

18 I told him that I was calling him to see if  
 19 anything could be worked out with Mr. Scott and that  
 20 he knew Mr. Scott better than I did, to which he  
 21 replied --

22 MR. KELLY: Here is my objection.

23 MR. STAMETS: Barnes said to you that he knew  
 24 Mr. Scott better than you knew him?

25 THE WITNESS: No, I said to Mr. Barnes that he



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1 had known Mr. Scott for some years, he knew him  
 2 better than I did and that I contacted him and could  
 3 not get anything out of him; did he know of anything  
 4 we could do, any common ground we might reach in  
 5 putting the deal together.

6 Since he knew him so well, maybe he could put  
 7 some oil on the troubled waters, to which he replied --

8 MR. HATCH: Can you establish whether or not Mr.  
 9 Barnes was speaking for Mr. Scott?

10 MR. KELLAHIN: Well, I think the answer that Mr.  
 11 Barnes gave to Mr. Fullinwider will answer that question.

12 MR. HATCH: I think we should hear his answer  
 13 and then decide.

14 A (Continuing) to which he replied: "I am in the middle  
 15 on this deal and I have no interest in it except  
 16 trying to do a favor, you know, for an old friend,  
 17 Mr. Scott. He is a very big man and I guess you know  
 18 who he is with Tenneco."

19 I said that I did know who he was and he replied:  
 20 "He makes up his own mind on these deals and I would  
 21 never presume to suggest anything he might or might  
 22 not do. But I will call him for you and see if there  
 23 is any opening, I will be glad to do that. I may  
 24 want to call you back and suggest you call him again."

25 I told him that we would appreciate it and that

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1 we would like to work something out with him.

2 Q Did you ever hear anything further from Mr. Barnes?

3 A I did. He called me back and he said that he had  
 4 gotten Mr. Scott and that he thought I could call  
 5 him and talk to him. He didn't think there was  
 6 anything that could be done, but he said: "Why don't  
 7 you call him?"

8 Q Did you call him?

9 A I called him.

10 Q When was that?

11 A This was on the 29th of February.

12 Q This is the call about which you have already testified?

13 A No, I didn't testify to the last call -- I don't think  
 14 I did.

15 MR. KELLY: Just a minute.

16 MR. HATCH: The reason for the call was to negotiate  
 17 with Mr. Barnes and not to negotiate with Mr. Scott.

18 MR. KELLAHIN: We didn't pretend it was.

19 MR. HATCH: I think it could be accepted for  
 20 some other purpose, not for the purpose of any negotiations  
 21 with Mr. Scott.

22 MR. STAMETS: In this case, Mr. Kelly, your  
 23 objection will be overruled.

24 Q (By Mr. Kellahin) Did you make more than one call  
 25 on February 29th to Mr. Scott?

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1 A No.

2 Q But you have already testified, I believe, on the  
 3 call on February 29th; in case you did not, would  
 4 you briefly outline what occurred then?

5 A I don't believe I testified as to the call, but if  
 6 I did, I will do it again if you want me to.

7 Q Just briefly?

8 A I called him and told him: "Of course you know about  
 9 the forced pool hearing?" He said that he did and I  
 10 said that it was too bad we couldn't work something  
 11 out, that it was not our intention to put anyone in  
 12 an embarrassing situation, but that we knew he was a  
 13 professional and certainly he ought to be able to come  
 14 up with some reasonable method of participation.

15 I reminded him of the proposals that we had made  
 16 to him in our letter and he said, just prior to my  
 17 reminding him of that, he said: "Well, I have never  
 18 been offered anything but one-sixteenth and one-quarter."

19 I told him that he got one-quarter royalties  
 20 the first go-round, and he said: "That's right." I  
 21 said that it wasn't one-sixteenth and he told me that  
 22 that was right, that it wasn't. I told him that I  
 23 had talked to him on February 8th and offered him the  
 24 propositions that I have previously mentioned and he  
 25 admitted that I had.

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1 And I told him that wasn't one-sixteenth and  
2 he said: "Well, that's right, it wasn't." I asked  
3 him about our various offers on these propositions  
4 and told him that he had never answered our letter.  
5 I told him that we knew he understood the oil business  
6 and if he wanted to make some kind of deal, if he  
7 thought he could come up with a proposition, even a  
8 wild one, I told him to try something out on us and  
9 we would see and he said: "Well, I think you probably  
10 just better go ahead with forced pooling on this thing."

11 And I said: "I think we should too. And that's  
12 what we intend to do tomorrow."

13 I told him that if he agreed to make a deal on  
14 the phone right then, that we could not do it because  
15 we might cancel the hearing and then two weeks later  
16 he might change his mind in making the agreement and  
17 we needed the forced pooling in order to protect our  
18 acreage.

19 I discussed with him the options on the acreage  
20 to the south and offered to pay him back the money  
21 that those options cost and to allow him to participate  
22 in this. I said: "Why don't we get together and  
23 develop this in an orderly fashion. I know that  
24 Tenneco doesn't like rapid unchecked developments in  
25 their projects and I would like to see a checked

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1 orderly business-like development of this prospect.  
 2 We will pay you the money back and give you some  
 3 kind of carrying interest, but just let's get  
 4 together."

5 He said: "Let's go ahead with the forced pooling  
 6 and see what happens."

7 I said: "Thank you, Mr. Scott." And I hung up.

8 Q That was your contact with Mr. Scott?

9 A Yes.

10 Q In connection with your application, you have applied  
 11 for the right to recover the cost of drilling; is that  
 12 correct?

13 A Yes.

14 Q And you also seek a charge for the risk involved in  
 15 the drilling of the well?

16 A Yes, we do.

17 Q What risks are involved in this particular location?

18 A Well, it is strictly an opinion, Mr. Kellahin, but  
 19 it is our professional opinion that taking into  
 20 consideration all of the geological and economic  
 21 factors about this particular prospect, that if we  
 22 drilled five prospects exactly like this, we would  
 23 probably make one discovery.

24 Q On that basis, what risk factor do you feel the  
 25 Commission should assign to a non-participating owner?

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1 A Well, just from my standpoint, and I have been in  
 2 several like this in New Mexico and Texas and on the  
 3 Gulf Coast and other areas, from a business standpoint  
 4 when we make a deal to come back in after you recover  
 5 your money and in a prospect of this nature it is  
 6 usually two or three hundred percent before they come  
 7 back in.

8 I think from a business standpoint that is what  
 9 it ought to be, but I understand from a legal standpoint  
 10 that the procedure in the State of New Mexico makes it  
 11 impossible to get such a recovery.

12 So, we might have to live with the statutory  
 13 limit.

14 Q You are aware that the statutory limit is fifty  
 15 percent over?

16 A Yes, you told me.

17 Q Do you recommend a fifty percent risk factor?

18 A Yes, sir.

19 Q You also asked for a provision for the allocation of  
 20 actual operating costs to be recovered out of the  
 21 share of each owner's interests?

22 A Yes, sir.

23 Q And the establishment of charges for supervision of  
 24 the well?

25 A Yes, sir.

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1 Q What charge for supervision would you propose?

2 A We have proposed \$150 per month for all wells that  
 3 might be drilled under this?

4 Q And we are talking about one well here?

5 A To a depth of 11,000 feet.

6 MR. KELLAHIN: At this time I would like to offer  
 7 in evidence Exhibits 1 through 10, inclusive.

8 MR. KELLY: Well, I think some of those exhibits  
 9 have already been ruled out, the exhibits concerning Section  
 10 12; I will renew my objection to those.

11 MR. KELLAHIN: The exhibits were not ruled out,  
 12 I am offering them at this time as exhibits. I believe  
 13 Mr. Kelly is referring to exhibits 7 and 8.

14 MR. KELLY: I object to exhibits 7 and 8 on the  
 15 grounds that they have nothing to do with this hearing  
 16 and I believe the testimony was ruled out, so they would  
 17 have to be ruled out.

18 THE WITNESS: They are part of my recent offer  
 19 to Mr. Scott.

20 MR. KELLY: I can make my objection without  
 21 testimony.

22 THE WITNESS: I thought you were through.

23 MR. HATCH: Exhibits 7 and 8 are those having  
 24 to do with Section 12.

25 MR. KELLAHIN: In connection with that, Mr.

1 Fullinwider has testified that they were included in his  
2 last offer to Mr. Scott, he offered to reimburse him, to  
3 pay him for those options.

4 MR. STAMETS: Exhibits 7 and Exhibit 8 will not  
5 be admitted. What were your other exhibits through 10?

6 MR. KELLAHIN: Ten, yes.

7 MR. KELLY: As to Exhibits 1 through 5, again  
8 subject to the right to put our side of the testimony in,  
9 I have no objection. I would object to Exhibit 10 on the  
10 grounds that no proper foundation has been laid to show  
11 any expertise in this area.

12 MR. KELLAHIN: We can offer that if you believe  
13 it is necessary. Mr. Fullinwider has appeared before the  
14 Commission many times and his qualifications have been  
15 accepted.

16 However, if you wish, I will go into them.

17 MR. KELLY: You didn't ask him that.

18 Q (By Mr. Kellahin) Mr. Fullinwider, what experience  
19 have you had in estimating well costs particularly  
20 in the area involved in this litigation?

21 A Well, I have been in the oil business since 1951 and  
22 I have prepared, I suspect, maybe two or three hundred  
23 of these for both other companies and my own company.  
24 We have drilled a number of wells in Lea County and  
25 we have participated in a number of wells over a ten

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1 or eleven year period.

2 We are operating over 100 wells in three different  
 3 states at the present time and our firm, me, together  
 4 with my partner, prepared this exhibit.

5 Q Did you get actual bids on drilling costs?

6 A Yes, sir, we have actual bids on drilling costs plus  
 7 we checked numerous supply costs to come up with this  
 8 estimate.

9 Q Are these current charges?

10 A Yes, sir, they are.

11 MR. KELLAHIN: I offer this as Exhibit 10.

12 MR. KELLY: No objection.

13 MR. STAMETS: Applicant's Exhibits 1 through 6  
 14 and 9 and 10 will be admitted into evidence in this case.

15 MR. KELLAHIN: I have no further questions.

16 MR. STAMETS: Mr. Fullinwider, -- did you care  
 17 to question the witness, Mr. Kelly?

18 MR. KELLY: I will follow the Examiner if you  
 19 prefer.

20 MR. STAMETS: Go ahead, you may cover some of  
 21 the ground I would like to hit on.

22  
 23  
 24  
 25

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CROSS-EXAMINATION

BY MR. KELLY

Q Mr. Fullinwider, as I understand it, you contacted Mr. Scott by phone call on February 8th where you orally conveyed the offer contained in the letter of February 9th; was that your first contact with Mr. Scott? Answer yes or no for the time being.

A I have to answer no if that is all you will allow me, yes or no.

Q What was your first contact with Mr. Scott in this matter, was it the phone call of February 8th, 1972?

MR. KELLAHIN: If the Examiner please, he has already said no.

Q (By Mr. Kelly) That was not your first contact with Mr. Scott?

A In my opinion, it was not, sir.

Q Would you tell me what your first contact with Mr. Scott was then on this matter?

A Maybe it would help to say that that was my first personal conversation with Mr. Scott.

Q Well, I will have to ask you then what other conversations are you contemplating other than personal conversations; I don't understand what you mean?

A I will be glad to explain, sir. Over a year ago I was working with Tipperary to get a well drilled in

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- 1 here, my company wanted to drill one, and Tipperary
- 2 was in touch with Mr. Scott and I knew all about it
- 3 and what was said.
- 4 Q I didn't ask you that, I am asking you about your
- 5 first contact with Mr. Scott being the phone conversation
- 6 that you described on February 8th, 1972?
- 7 A I just said, sir, my personal talking with him was
- 8 at that time, yes.
- 9 Q And at that time you informed him that V-F Petroleum
- 10 had an interest in this property?
- 11 A Yes, sir.
- 12 Q And that was the first time he was aware of that;
- 13 wasn't it?
- 14 A It was the first time I told him.
- 15 Q And at that time, you also told him that you had
- 16 already instituted forced pooling against him?
- 17 A Yes.
- 18 Q And at that time you conveyed to him the offer
- 19 contained in the letter of February 9th, 1972?
- 20 A Yes.
- 21 Q Were you then notified shortly thereafter by your
- 22 attorney that a motion for continuance had been filed?
- 23 A Yes, I don't remember exactly when, but thereafter.
- 24 Q And the next contact you had with Mr. Scott was
- 25 yesterday?

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1 A Yes.

2 Q And at that time, you testified that you offered him  
 3 participation in Section 12 also?

4 MR. STAMETS: What was the question, Mr. Kelly?

5 Q (By Mr. Kelly) You offered him participation in  
 6 Section 12 also?

7 A Yes, that is what I said.

8 Q Did you describe a carrot offer?

9 A What kind of offer?

10 Q A carrot offer?

11 A I don't know what a carrot offer is.

12 Q I thought you used that word. I didn't understand  
 13 what a carrot offer was and I thought it was an  
 14 expression you used?

15 A I may have said that we tried to work out a way to  
 16 pay him back his option money in Section 12 and tried  
 17 to work out some participation for him and the acreage  
 18 in Section 12; but a carrot offer, I am not sure what  
 19 you mean.

20 Q I'm sorry, I thought that was a phrase you used,  
 21 excuse me. Now, as I understand it, you are taking  
 22 the position that this will be a rank wildcat; is that  
 23 correct?

24 A That's what I said.

25 Q What is the closest well that produces from your site?

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1 A The closest well that I know of, sir, that has  
 2 penetrated and produced commercially is located  
 3 approximately -- I would guess it would be about three  
 4 to four miles southwest of the location in question.

5 Now, the Allan well is approximately a half a mile  
 6 from the proposed location.

7 Q Now, if you were to drill in Section 12 -- strike  
 8 that. Isn't it true that it takes about three weeks  
 9 from the commencement of drilling operations to complete  
 10 and test a well at that depth?

11 A No. We have talked to several drilling contractors  
 12 about the area and we have been informed that it  
 13 would take from thirty to thirty-two days to get the  
 14 total depth and the completion of testing at this  
 15 time could take another ten to fourteen days, just  
 16 depending on how it went.

17 You might do it in less time, but normally a well  
 18 at this site would take from ten to fourteen days to  
 19 have it tested.

20 Q Have you commenced operations at the proposed forced  
 21 pool well?

22 A No, sir.

23 Q Are you prepared to begin immediately?

24 A No.

25 Q You informed Mr. Scott in your letter of February 9th

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1 that you planned to begin around March 1.

2 A I think if you check the letter you will see that  
 3 we said that we would like to begin around March 1st.  
 4 Hopefully we could get him to cooperate, but since  
 5 he is not cooperating, we will not begin on March 1st.

6 Q So, you are not all geared up and ready to go on the  
 7 well?

8 A Not until we get Mr. Scott settled.

9 Q So you could go ahead and drill Section 12 as well as  
 10 Section 1, there is no delay as far as being geared  
 11 up for one Section rather than the other?

12 A We have already covered that we don't have the right  
 13 to drill on Section 12 at this time.

14 Q Because of your particular agreement with Tipperary?

15 A That is correct.

16 Q However it is possible that that could be changed;  
 17 isn't it?

18 A Most anything is possible, Mr. Scott might even join  
 19 us, who knows.

20 Q If you did get a producer in Section 12, you would  
 21 certainly revise your estimate of 150 percent risk  
 22 factor?

23 A We are not drilling Section 12.

24 Q I am asking you if you did get a producer in Section  
 25 12?

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1 A I object to that kind of question.

2 MR. KELLAHIN: The question is objectionable  
3 because it does call for speculation.

4 MR. KELLY: I think it is a fair question.

5 MR. KELLAHIN: He has testified that he is not  
6 going to drill in Section 12.

7 MR. KELLY: I think his answer is obvious.

8 MR. STAMETS: You are withdrawing the question,  
9 Mr. Kelly?

10 MR. KELLY: Yes.

11 Q (By Mr. Kelly) Did you record the conversations you  
12 had yesterday with Mr. Scott?

13 A Yes.

14 Q You didn't tell him that; did you?

15 A No, sir.

16 Q Is that an example of the kind of fair dealing you  
17 have been describing?

18 MR. KELLAHIN: If the Examiner please, there is  
19 nothing unfair or improper about recording your own telephone  
20 conversations, we have plenty of authority on that if it  
21 is needed.

22 MR. STAMETS: You have not made any attempt to  
23 submit the telephone conversation.

24 MR. KELLAHIN: No, sir, but we will play it for  
25 Mr. Kelly if he would like to hear it.

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1 THE WITNESS: It is right here and we also have  
 2 Mr. Barnes' conversation too.

3 Q (By Mr. Kelly) Do you make it a practice to record  
 4 telephone conversations without telling the other  
 5 people you are recording them? I think this is the  
 6 one-sided type of unfair dealing and that is why  
 7 we have to hear Mr. Scott's side of this.

8 MR. KELLY: That is all I have.

9 CROSS-EXAMINATION

10 BY MR. STAMETS:

11 Q Mr. Fullinwider, what date did you receive the farm-out  
 12 of the acreage in Section 1 from Tipperary?

13 A I might say there are two dates, sir, first of all  
 14 the negotiations commenced last fall and word came  
 15 from Tipperary that they would agree to such a farm-out  
 16 it seems like the first week in January, it may have  
 17 been the last couple of weeks in December, but it  
 18 was approximately in that time period.

19 We requested that Tipperary go ahead and prepare  
 20 the formal farm-out agreement letter and put it in  
 21 the mail, but their attorneys were working on it,  
 22 you know how attorneys do, and we didn't get the formal  
 23 letter until some weeks later and it was dated February  
 24 17th.

25 I think Mr. Hutson testified to the first few days



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1 in January or something.

2 Q So, prior to January of this year, you actually had  
3 no right to drill in Section 1?

4 A That is correct.

5 Q Why did you delay in contacting Mr. Scott after  
6 receiving the farm-out agreement from Tipperary?

7 A I mentioned earlier that I was very, very much involved  
8 in very delicate negotiations for our firm at the time  
9 having to do with another matter and I asked Mr. Hutson  
10 if he would proceed on this thing and try to put it  
11 together.

12 He said he was going to try and contact Mr. Scott  
13 and he was going to make an offer and he discussed the  
14 offer of one-sixteenth and one-quarter back, and I  
15 said that that was fine and for him to please do so.  
16 Exactly when this conversation took place, I can't  
17 say, but I would guess that it was probably in the  
18 second week or maybe around the middle of January.

19 Q Were you aware that Spencer and Hutson did not utilize  
20 your name in their dealings with Mr. Scott?

21 A Well, at that exact time, I was not aware of it. We  
22 had many deals with Mr. Hutson and Mr. Spencer and we  
23 were officing together. We had many deals and,  
24 incidentally, some leases were taken in the name of  
25 Mr. Hutson and some were taken under the name of

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1 Spencer and Hutson and some were taken in my personal  
2 name and some in the name of V-F Petroleum.

3 It depended on who was working on the deal and  
4 who had a few moments that day to sign the papers.  
5 It was not particularly unusual that he either would  
6 or would not use the name of Spencer and Hutson or  
7 V-F Petroleum, so it didn't occur to me to ask him  
8 and find out what name he used.

9 Q In Section 1, you have a farm-out in the south half  
10 and the northeast quarter from Tipperary; is that  
11 right?

12 A Yes, sir.

13 Q And this same acreage is held one-third by Mrs. Scott;  
14 is that correct?

15 A Yes, sir.

16 Q Do you feel that the offer that you have made to Mrs.  
17 Scott through Mr. Scott, do you feel that that is a  
18 better offer than the offers that were previously  
19 made that you knew about?

20 A The ones I know about, yes sir.

21 Q Now, I take it from your previous testimony that you  
22 have been involved in the oil business for quite some  
23 time and have participated in putting together many  
24 of these deals, both from being on one side and on the  
25 other side?

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1 A Yes, we have taken deals and we have given them;  
 2 we have farmed-out and we have taken farm-outs.

3 Q If you were interested in making a deal on some  
 4 acreage which you had, how long would you take to  
 5 make a counter offer?

6 A If I wanted to make a deal, I usually make them on  
 7 the telephone when I am talking to the people because  
 8 I haven't got time to be tied up on the phone all the  
 9 time and I like to get things over with, but that's  
 10 my style.

11 Sometimes, I need to take the matter up with  
 12 my partner and if he is unavailable, I will tell the  
 13 party that I will talk to my partner and try to get  
 14 back to them within a reasonable time. I think that  
 15 if someone is after you for a deal, you ought to try  
 16 to get back to them in two or three days or a week  
 17 at most -- ten days at most if you have some other  
 18 problems like you are out of town or something.

19 But someone who can't make up his mind about a  
 20 simple lease deal like this within a week or three  
 21 days or something, there is something wrong.

22 Q Is it your testimony that in your conversations with  
 23 Mr. Scott, you never received any inkling that he  
 24 wished to participate with you in the drilling of  
 25 this well in any manner?

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1 A I want to be very fair to Mr. Scott because he is  
2 not here today and I have no malice toward the man  
3 at all, so I want to be very careful on how I present  
4 this.

5 The first time I talked to Mr. Scott, I have  
6 told you generally what happened but there was a  
7 comment he made that I think is germane to your  
8 question. He said that he would not be interested  
9 under any circumstances of paying his way into this  
10 well, that's out. Those were his exact words: "That's  
11 out."

12 Q How long would it take you to start a well from the  
13 date you knew you had the authority to do so?

14 A Well, under normal procedures, it would probably take  
15 a week to two weeks to do the usual things like filling  
16 out forms and checking titles and doing last minute  
17 things that you do before you move a rig out there.

18 Q Does the farm-out on Section 1 expire on April 26th?

19 A The lease expires either on the 26th or the 27th.  
20 The farm-out calls for us to commence this well on  
21 or before April 1st or we will lose our rights under  
22 the farm-out.

23 Q Is the expiration predicated on the completing of the  
24 well?

25 A No, sir, just the drilling of the well.

1 Q Just the drilling of the well?

2 A Yes, sir, that is true of all leases in that area.

3 MR. STAMETS: Are there any additional questions  
4 of this witness?

5 MR. KELLY: Yes.

6 CROSS-EXAMINATION

7 BY MR. KELLY

8 Q Those leases do not require the actual drilling of  
9 the well, but just commencement of operations; isn't  
10 that correct?

11 A That probably can be construed under New Mexico Law,  
12 of course I understand there have been some interesting  
13 court cases as to what constitutes commencing  
14 operations.

15 Q You were aware of all of these deadlines when you  
16 agreed to the farm-out agreement; isn't that correct?

17 A Yes.

18 MR. KELLY: That's all I have.

19 MR. STAMETS: Do you have anything further, Mr.  
20 Kellahin.

21 MR. KELLAHIN: That is all I have.

22 (Witness excused.)

23  
24 MR. KELLY: I would like to make some closing  
25 remarks.

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1 MR. STAMETS: Certainly, you may. I presume  
2 there is some sort of motion as well.

3 MR. KELLY: I would like to renew my motion for  
4 a continuance to allow Mr. Scott to present his side of  
5 this case. I think what it boils down to is that these  
6 people got together and worked out a deal sometime early  
7 in January and decided that there wasn't any real point in  
8 negotiating with this man and that they would just go ahead  
9 and force pool him and make him an offer.

10 Through all of the conversations, and the  
11 only negotiations that are important are those made by my  
12 client and those started about ten days after the forced  
13 pool application was filed when a new agreement, totally  
14 new and completely different from the one of January 28th  
15 was submitted.

16 I think this goes back to my point that the  
17 Commission always required evidence that an effort was  
18 made to secure consent prior to the filing. We are still  
19 left with the situation that they have until April 26th  
20 to drill this well and to commence operations on this well.

21 The fact that they have problems on Section  
22 12 is up to them to decide which acreage they want to start  
23 drilling on. They can drill on Section 12 now. I ask the  
24 Commission to at least let my client come back to the next  
25 hearing and give Mr. Scott an opportunity to come back and

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1 present his side if they haven't been able to work out  
2 anything in the meantime and not enter any order until at  
3 least he has had that opportunity.

4 And I certainly would not foreclose us from  
5 negotiating in the areas contained in the letter. Give us  
6 to the middle of the month if we cannot have the whole  
7 thirty days so we can either present our side of the case  
8 or work something out with these people and I think that  
9 would be the least the Commission could do for us and  
10 certainly there is no jeopardy involved there.

11 MR. KELLAHIN: As I understand it, Mr. Kelly has  
12 modified his request from thirty days to the next hearing  
13 which would be March 15th. We would still have the waiting  
14 period subsequent to that hearing before any order was  
15 entered by the Commission and we would be up to thirty  
16 days practically anyway.

17 In any event, as Mr. Fullinwider has testified,  
18 if we cannot get the authority before thirty days, we just  
19 might as well forget the well and not drill the well.

20 Now, as far as these negotiations are  
21 concerned, I might point out several things which obviously  
22 Mr. Kelly doesn't agree with. I have the utmost respect  
23 for Mr. Morris' discussion of the forced pooling statute  
24 that was referred to by Mr. Kelly, however, the rules of  
25 the Commission do not make any requirements whatsoever

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1 that any effort be made prior to the filing of the  
2 application for the Commission. The statute reads: "Where  
3 however such owners have not agreed to pool their interests,"  
4 and that is all it says and certainly we have not agreed  
5 on anything.

6 Now, to say we need some more time for Mr.  
7 Scott to negotiate is ridiculous. In view of the testimony  
8 that we have offered here today, efforts go back to 1970  
9 in attempts to arrive at some agreement with Mr. Scott.  
10 Mr. Hutson testified he has attempted both verbally and in  
11 writing to work out some kind of agreement with Mr. Scott  
12 and this was long prior to the filing of the forced pooling  
13 action and Mr. Hutson did this as an agent for V-F Petroleum.

14 Now, Mr. Kelly would have you believe that  
15 the only offer was the offer made to Mr. Scott and the  
16 offer made on February 9th after the forced pooling action  
17 had been already filed, this is just not the case and Mr.  
18 Hutson testified, as did Mr. Fullinwider, that efforts  
19 were made to arrange some kind of agreement with Mr. Scott  
20 long before that.

21 Certainly Mr. Fullinwider was aware of the  
22 fact that his agent, Mr. Hutson was unable to make any  
23 agreements and in order to protect himself, he had to file  
24 the forced pooling action. But, he then continued to  
25 attempt to negotiate with Mr. Scott, handling the



1 negotiations himself rather than through his agent. On  
2 that basis we submit that the acreage should be force  
3 pooled now.

4 To say that Mr. Scott should be given an  
5 opportunity to appear, under the laws of the State of New  
6 Mexico, the notice of filing must be published in the  
7 County where the land is situated and I am sure the  
8 Commission's Records will show such publication was made.

9 In addition, Mr. Fullinwider informed Mr.  
10 Scott of the forced pooling action and he had time to be  
11 here or to have someone here on his behalf as a witness  
12 who could testify as to what his side of the story was.

13 He obviously did not wish to do that. He  
14 is represented by counsel here and I think that is all  
15 that he is entitled to.

16 MR. STAMETS: Mr. Kelly, the Examiner feels that  
17 the applicant's reasons here offered for a continuance are  
18 not sufficient and the case will be taken under advisement.

19 MR. KELLY: We will not have an opportunity to  
20 submit any evidence at the March 15 hearing?

21 MR. STAMETS: No, sir. I am sure you are fully  
22 aware of the options open to your client at this time.

23 MR. KELLY: Can you give us some time before you  
24 enter the order?

25 MR. STAMETS: I am sure there will be a certain

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1 amount of delay between today and the date the order will  
2 be issued. There will be no undue amount of time, but it  
3 will be at least normal.

4 MR. KELLY: I would like to offer as Scott's  
5 Exhibit 1 in this case the affidavit of Mr. Scott.

6 MR. KELLAHIN: We will object for the reason that  
7 it is not subject to cross-examination, Mr. Scott should  
8 be here to testify.

9 MR. HATCH: It is part of the record here and  
10 the Commission is not going to question the truth of the  
11 matter and is not going to allow you to question the truth  
12 of the affidavit.

13 MR. KELLAHIN: That is why I am objecting to it,  
14 I have no opportunity to question the truth of it; that is  
15 the main reason for my objection.

16 MR. HATCH: I suggest you do not accept it as an  
17 exhibit, but make it part of the record for whatever it is  
18 worth.

19 MR. STAMETS: It will be part of the record, but  
20 not an exhibit.

21 Is there anything further?

22 (No response.)  
23  
24  
25

1 STATE OF NEW MEXICO )  
 ) ss  
2 COUNTY OF BERNALILLO )

3 I, RICHARD E. McCORMICK, a Certified Shorthand Reporter,  
4 in and for the County of Bernalillo, State of New Mexico do  
5 hereby certify that the foregoing and attached Transcript of  
6 Hearing before the New Mexico Oil Conservation Commission was  
7 reported by me; and that the same is a true and correct record  
8 of the said proceedings to the best of my knowledge, skill  
9 and ability.

Richard E. McCormick  
CERTIFIED SHORTHAND REPORTER

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of case No. 4671, heard by me on March 1, 1972.  
Richard E. Hamer, Examiner  
New Mexico Oil Conservation Commission

## I N D E X

WITNESS

DEAN STOLZ

Direct Examination by Mr. Kellahin 17

Cross-Examination by Mr. Kelly 24

OSLER C. HUTTON

Direct Examination by Mr. Kellahin 32

Cross-Examination by Mr. Kelly 37

Redirect Examination by Mr. Kellahin 41

J. M. FULLENWIDER

Direct Examination by Mr. Kellahin 43

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Direct Examination by Mr. Kellahin -

Continued 55

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Cross-Examination by Mr. Kelly 81

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1	E X H I B I T S		
	2 <u>APPLICANT'S</u>	<u>ADMITTED</u>	<u>OFFERED</u>
3	Exhibit Number 1	24	69
4	Exhibit Number 2	26	69
5	Exhibit Number 3	27	69
6	Exhibit Number	36	69
7	Exhibit Number 6	51	69
8	Exhibit Number 9	51	69
9	Exhibit Number 7	53	
10	Exhibit Number 8	53	
11	Exhibit Number 10	67	69
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V-F PETROLEUM  
1212 VAUGHN BUILDING  
MIDLAND, TEXAS 79701  
915 683-3344

V. F. VASICEK

March 27, 1972

J. M. FULLINWIDER

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Oil Conservation Commission  
State of New Mexico  
P. O. Box 2088  
Santa Fe, New Mexico 87501

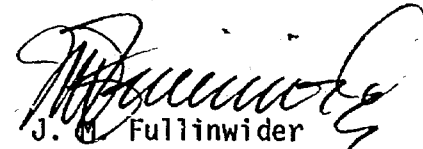
Mr. Wilton E. Scott and  
Loradean Allen Scott  
P. O. Box 2511  
Houston, Texas 77001

Case No. 4671  
Order No. R-4270  
SE/4 SW/4 Section 1  
T-15-S, R-36-E  
Lea County, New Mexico

Gentlemen:

Pursuant to the requirements of NMOCC Order No. R-4270, we are enclosing two (2) copies of an itemized schedule of estimated well costs pertaining to our No. 1 Ida Allen, an 11,000 foot Lower Wolfcamp test well to be drilled on subject location.

Yours very truly,

  
J. M. Fullinwider

JMF:jw  
Encl.

cc - Jason W. Kellahin

## WELL COST ESTIMATE

## Drilling &amp; Testing

Operator V-F Petroleum Well Name Ida Allen No. 1Area E. Caudill Prospect County Lea State New MexicoProjected Depth 11,000' Objective L. Wolfcamp Expl. X Devel. W.O.

	ESTIMATED	ACTUAL
<b>INTANGIBLE DRILLING COSTS</b>		
Location: Survey & Stake	\$ 140	
Roads, Pad & Clearing	2,500	
Surface Damages	450	
Drilling: Footage <u>11,000</u> ' @ \$ <u>6.50</u> /ft	71,500	
Day Work W/Pipe <u>2</u> Days @ \$ <u>1400</u> /day	2,800	
Day Work W/O Pipe <u>1</u> Days @ \$ <u>1300</u> /day	1,300	
Cement: Surface Casing	2,000	
Intermediate Casing	2,500	
Cementing Services:		
Surface Casing	400	
Intermediate Casing	500	
Mud and Chemicals including water	12,000	
Coring		
Testing <u>2</u> DST's	1,900	
Logging: Mud Log from _____ ' to _____ '		
Electrical Surveys	1,800	
	2,800	
	200	
Geological <u>8</u> Days @ \$ <u>125</u> /day (plus expenses)	1,000	
Engineering <u>8</u> Days @ \$ <u>125</u> /day (plus expenses)	1,000	
Equipment Rental	500	
Hauling	500	
Miscellaneous	2,000	
TOTAL INTANGIBLE DRILLING COSTS	\$107,790	
<b>TANGIBLE DRILLING COSTS</b>		
Surface Casing <u>400</u> ' of <u>12-3/4</u> " @ \$ <u>4.40</u> /ft	\$ 1,760	
* Intermediate Casing <u>4900</u> ' of <u>8-5/8</u> " @ \$ _____ /ft	19,500	
Well Head	2,000	
Miscellaneous		
*Engineered String		
TOTAL TANGIBLE DRILLING COSTS	\$ 23,260	
TOTAL DRILLING COSTS	\$131,050	
<b>INTANGIBLE ABANDONMENT COSTS</b>		
Cement for Plugging <u>200</u>	\$ 550	
Cementing Service	900	
Location Clean-Up and Fence Work	400	
TOTAL INTANGIBLE ABANDONMENT COSTS	\$ 1,850	
TOTAL DRY-HOLE COST	\$132,900	

## APPROVED:

COMPANY V-F Petroleum COMPANY \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Date February 9, 1972 Date \_\_\_\_\_

## Completion & Equipment

		ESTIMATED	ACTUAL
<u>INTANGIBLE COMPLETION COSTS</u>			
Rotary Day Work	_____ days @ \$ _____/day		
Pulling Unit Day Work	8 days @ \$ 500 /day	\$ 4,000	
Cement		2,500	
Cementing Services		900	
Electrical Surveys		900	
Perforating		500	
Formation Treatment: Acid		2,000	
Frac			
Testing			
Hauling		400	
Engineering	8 days @ \$ 125 /day (plus expenses)	1,000	
Miscellaneous		2,000	
TOTAL INTANGIBLE COMPLETION COSTS		\$14,200	
<u>TANGIBLE COMPLETION COSTS</u>			
*Production Casing	11,000 ' of 5-1/2" @ \$ _____/ft	\$ 30,000	
Production Casing	_____ ' of _____ " @ \$ _____/ft		
Liner	_____ ' of _____ " @ \$ _____/ft		
Tubing	11,000 ' of 2-3/8" @ \$ 1.20 /ft	13,200	
Sucker Rods	_____ ' of _____ " @ \$ _____/ft		
Xmas Tree		1,500	
Pumping Unit	Kobe Installation Complete	25,000	
Engine/Motor & Controls			
Separator			
Heater/Treater		3,200	
Flow Lines		400	
Tank Battery		5,000	
Installation Labor		1,600	
Miscellaneous		3,000	
* Engineered String			
TOTAL TANGIBLE COMPLETION COSTS		\$ 97,100	
TOTAL COMPLETION COSTS		\$111,300	
TOTAL COMPLETED WELL COSTS		\$242,350	

COMPANY V-F Petroleum COMPANY \_\_\_\_\_  
By \_\_\_\_\_ By \_\_\_\_\_  
Date February 9, 1972 Date \_\_\_\_\_





## OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO  
P. O. BOX 2088 - SANTA FE  
87501

GOVERNOR  
BRUCE KING  
CHAIRMAN

LAND COMMISSIONER  
ALEX J. ARMIJO  
MEMBER

STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY - DIRECTOR

March 15, 1972

Mr. Jason Kellahin  
Kellahin & Fox  
Attorneys at Law  
Post Office Box 1769  
Santa Fe, New Mexico

Re: Case No. 4671  
Order No. R-4270  
Applicant: V-F Petroleum

Dear Sir:

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

Very truly yours,

A. L. PORTER, Jr.  
Secretary-Director

ALP/ir

Copy of order also sent to:

Hobbs OCC X

Artesia OCC       

Aztec OCC       

Other Mr. Booker Kelly

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE No. 4671  
Order No. R-4270

APPLICATION OF V. F. VASICEK AND  
J. M. FULLINWIDER, dba V-F PETROLEUM  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on March 1, 1972,  
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this 15th day of March, 1972, the Commission, a  
quorum being present, having considered the testimony, the record,  
and the recommendations of the Examiner, and being fully advised  
in the premises,

FINDS:

- (1) That due public notice having been given as required by  
law, the Commission has jurisdiction of this cause and the subject  
matter thereof.
- (2) That the applicants, V. F. Vasicek and J. M. Fullinwider,  
dba V-F Petroleum, seek an order pooling all mineral interests  
in the Lower Wolfcamp formation underlying the SE/4 SW/4 of Sec-  
tion 1, Township 15 South, Range 36 East, NMPM, Lea County, New  
Mexico.
- (3) That the applicants have the right to drill and propose  
to drill a well in the SE/4 SW/4 of said Section 1 to form a  
standard oil proration unit.
- (4) That there are interest owners in the proposed spacing  
and proration unit who have not agreed to pool their interests.
- (5) That to avoid the drilling of unnecessary wells, to  
protect correlative rights, and to afford to the owner of each

-2-

CASE No. 4671

Order No. R-4270

interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil in said formation, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicants should be designated the operators of the subject well and unit.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operators in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 50% thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that said actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operators any amount that reasonable well costs exceed estimated well costs and should receive from the operators any amount that paid estimated well costs exceed reasonable well costs.

(11) That \$150.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) for the subject well; that the operators should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operators should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

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CASE No. 4671

Order No. R-4270

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Lower Wolfcamp formation underlying the SE/4 SW/4 of Section 1, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard location in the SE/4 SW/4 of said Section 1.

(2) That V. F. Vasicek and J. M. Fullinwider, dba V-F Petroleum, are hereby designated as the operators of the subject well and unit.

(3) That the operators shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs within 30 days following the date of this order.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operators in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operators shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within 60 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 60-day period, the Commission will determine reasonable well costs after public notice and hearing.

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

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CASE No. 4671  
Order No. R-4270

(7) That the operators are 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 estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (B) As a charge for the risk involved in the drilling of the well, 50% of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) That the operators shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$150.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) for the subject well; that the operators are hereby authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operators are 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.

(10) That any unsevered 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.

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

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner

-5-

CASE No. 4671

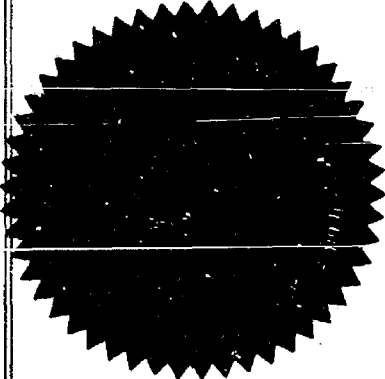
Order No. R-4270

thereof upon demand and proof of ownership; that the operators shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

  
*Bruce King*  
BRUCE KING, Chairman

*Alex J. Armijo*  
ALEX J. ARMIGO, Member

*A. L. Porter, Jr.*  
A. L. PORTER, Jr., Member & Secretary

esr/

CASE 4674: Application of Hanagan Petroleum Corporation for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of an unorthodox gas well location for its Millman Deep Well No. 1 located 660 feet from the North line and 1924 feet from the East line of Section 4, Township 19 South, Range 28 East, undesignated Morrow gas pool, Eddy County, New Mexico, with the E/2 of said Section 4, to be dedicated to the well.

CASE 4670: Application of BTA Oil Producers for a special gas-oil ratio limitation, Lea County, New Mexico. Applicant, in the above-styled cause, seeks as an exception to Rule 506 of the Commission Rules and Regulations, a limiting gas-oil ratio of 10,000 cubic feet of gas per barrel of oil for the Vada-Pennsylvanian Pool, Lea County, New Mexico.

CASE 4671: Application of V. F. Vasicek and J. M. Fullinwider, dba V-F Petroleum for compulsory pooling, Lea County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests from the surface of the ground down to and including the Wolfcamp formation underlying the SE/4 SW/4 of Section 1, Township 15 South, Range 36 East, Lea County, New Mexico, to form a standard oil proration unit to be dedicated to a well to be drilled at a standard location on said unit. Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of actual operating costs, and the establishment of charges for supervision of said well.

CASE 4672: Application of Paul M. Mershon, Jr., and Vincent Shryack for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface of the ground down to and including the Morrow formation underlying the W/2 of Section 15, Township 17 South, Range 29 East, Grayburg-Morrow Gas Pool, Eddy County, New Mexico, to form a standard 320-acre unit for the production of gas to be dedicated to a well to be drilled at a standard location for said unit. Also to be considered will be the costs of drilling said well, a charge for the risk

WILTON E. SCOTT  
P. O. Box 2511  
HOUSTON, TEXAS 77001  
February 28, 1972

Mr. A. L. Porter  
Secretary Director  
Oil Conservation Commission  
P. O. Box 288  
Santa Fe, New Mexico 87501

Dear Pete:

Enclosed herewith is an affidavit setting forth facts supporting our motion for a continuance of the hearing on the forced pooling application filed in Case No. 4671, set for hearing March 1.

We believe that we need an additional thirty days to arrive at an equitable arrangement with V-F Petroleum. We did not have any opportunity to discuss the matter with V-F Petroleum prior to the filing of the application. Since they have until April 26 to commence drilling operations, their interest should not be prejudiced by the granting of such a continuance.

Yours very truly,

  
Wilton E. Scott

ff

Enclosure



OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

February 22, 1972

C  
O  
P  
Y

Mr. Wilton E. Scott  
Post Office Box 2511  
Houston, Texas 77001

Dear Mr. Scott:

With reference to your letter of February 17 and a formal request from your Santa Fe attorney for the continuance of Case No. 4671, I have talked with the attorney for the applicant who advises that his client will oppose any continuance beyond March 1.

Since an agreement for continuance cannot be reached by the interested parties, arguments will be heard by the hearing examiner and a decision on the motion will be made at that time.

Very truly yours,

A. L. PORTER, Jr.  
Secretary-Director

ALP/ir

cc: Mr. Becker Kelly  
Mr. Jason Kellahin

WILTON E. SCOTT  
P. O. Box 2511  
HOUSTON, TEXAS 77001

February 17, 1972

Mr. A. L. Porter  
Secretary Director  
Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Pete:

Several days ago I received a letter from V-F Petroleum of Midland, Texas, making an offer to me on behalf of my wife, to lease, farm out or participate with the V-F Petroleum a one-third mineral interest she owns in Section 1, Township 15 South, Range 36 East, Lea County, New Mexico. In that letter they informed me that they have already filed a forced pooling application with your Commission to be heard on March 1, 1972.

This came as a great surprise as I had been negotiating first with Tipperary Resource Corporation and then as recently as January 28, 1972 with Spencer and Hutson. I certainly had no idea that another party would be involved.

This is a complicated matter that is going to require more time to work out a fair and equitable arrangement. My schedule is not going to allow me to spend much time on this sudden offer, and I hate to negotiate under threat of immediate forced pooling.

These people have until April 26th to commence operations on this tract so they are in no danger of jeopardizing their lease. I urgently request that the March 1 hearing be set off for thirty days so that I can attempt to negotiate a fair settlement with V-F Petroleum.

If there is any problem with this extension I would appreciate the opportunity to talk with you on this matter so I could let you know in more detail what my situation is.

Thanking you for your courtesies in this matter, I am

Sincerely,

  
WILTON E. SCOTT

WHITE,  
KOCH, KELLY  
&  
McCARTHY

RECEIVED  
FEB 22 1972  
OIL CONSERVATION COMM.

February 21, 1972

Mr. A. L. Porter  
Secretary Director  
Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Porter:

Enclosed find Motion for Continuance in case No. 4671 scheduled for March 1, 1972. Mr. Scott has informed me that he has written you directly asking for a continuance. I find it highly unusual that the applicant for forced pooling did not bother to contact Mrs. Scott who owns a one-third undivided interest in this tract until after they had filed a forced pooling application. I feel a thirty day extension is proper in this case to allow us to work out a voluntary agreement or, if necessary, to properly prepare to oppose this application.

Sincerely,

W. B. KELLY

WBK:cc  
enclosure

L.C. White  
Sumner S. Koch  
William Booker Kelly  
John F. McCarthy, Jr.  
Kenneth Bateman  
Benjamin Phillips  
William W. Gilbert (Of Counsel)

Attorneys and Counselors at Law 220 Otero Street, Santa Fe, New Mexico 87501 Box 787 Telephone (505) 982-4374

BEFORE THE  
OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF  
V. F. VASICEK AND J. M. FULLINWIDER  
d/b/a V-F PETROLEUM FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO

No. 4671

MOTION FOR CONTINUANCE

Come now White, Koch, Kelly & McCarthy, Attorneys for Mrs. J. W. Scott, owner of an undivided one-third mineral interest in the SE/4 SW/4 of Section 1, Township 15 South, Range 36 East, N.M.P.M. Lea County, New Mexico, and moves the Commission that this case be continued from its present setting of March 1, 1972 for at least thirty (30) days, and in support thereof shows the Commission:

1. That the Applicant V-F Petroleum made no offer or proposal to Mrs. Scott concerning her undivided one-third interest in the above-described land until February 9, 1972 which is after the application for forced pooling had been filed with this Commission.

2. That prior to February 9, 1972 Wilton Scott, husband of petitioner herein, and her adviser in these matters, had been negotiating with other parties who then owned the other interest in the above-described property. That without notice to the Scotts these other parties conveyed their interest to the applicants.

3. That because of prior commitments of Wilton Scott he will be unable to spend the time necessary prior to the hearing date of March 1st to negotiate or prepare for this hearing.

4. Petitioner is informed that the applicant has until April 26th in which to commence operations on the above-described

property and that an extension of thirty days will in no way harm V-F Petroleum and will give petitioner and her attorney time to negotiate with V-F Petroleum for a voluntary agreement or to properly prepare their case in opposition to forced pooling.

WHITE, KOCH, KELLY & MCCARTHY

By WKB Kelly  
Attorneys for Mrs. J. W. Scott

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing Motion For Continuance was mailed this 21 day of February, 1972 to Kellahin & Fox, P. O. Box 1769, Santa Fe, New Mexico, 87501.

WKB Kelly  
One of the Attorneys for Mrs. J. W. Scott.

December 2, 1970

Mr. Wilton E. Scott  
Post Office Box 2511  
Houston, Texas 77001

RE: P1-06  
East Caudill Prospect  
15-S 36-E, Lea County, N.M.

Dear Mr. Scott:

Enclosed you will find copy of map showing our revised interpretation of the captioned prospect. This map includes our recently drilled dry hole and, as you can see, narrows the Bursum porosity trend considerably. The map also shows our proposed location as the S/2 Sec. 1, 15-S 36-E.

We have reached the point where we now need to show this prospect to interested parties that might be willing to drill in the very near future. We therefore submit for your consideration three possible alternatives that you might take relative to your interest.

- 1) You grant Tipperary an Oil and Gas Lease on the S/2 of Section 1, 15-S 36-E, said lease to be for a term of one year providing for a 1/4 royalty.
- 2) Join with Tipperary in promoting a well by paying your proportionate share of 25% of the total well cost, or 8.333% (1/3 of 25%). After the party taking the prospect, who will pay the 75%, has recovered all of his cost, we would back-in for an additional 25% working interest with your proportionate share being 8.333%. You would, at this point, have a 16.666% working interest. Your 8.333% of the total well cost of \$231,000, which includes well with pumping equipment, is \$19,249.23.
- 3) Participate in the drilling for your proportionate 33-1/3% interest.

Mr. Wilton E. Scott  
December 2, 1970  
Page Two

We would like to present this prospect while the news of our drillstem test is still on many people's minds, and it would be very much appreciated if you would advise us at the earliest possible date as to how you will participate in this venture. We feel that if the prospect is ever to be sold it should be done as soon as possible.

Your consideration will certainly be appreciated and we trust we will hear from you soon. Should you have any alternate suggestions, we of course will be willing to discuss them with you.

Yours very truly,

Ron Holcomb  
Land Manager

RH:mew  
Attach/map

BEFORE EXAMIN  
IL CONSERVATION  
V F EXHIBIT NO. 2  
9671

WE HAVE TO GO  
THURSDAY 2:10

PLEASE SEND THE FOLLOWING TUBES STRAIGHT AIDE AS SOON AS POSSIBLE.

RE: WELL N 10017  
21.5 DEPTH 1115  
PHONE 127-4001  
HOUSTON, TEXAS  
URGENT  
-----

7/27/71 3:30 pm  
File P1-06  
Candell E

RE: CAMELL PROSPECT - LEE COUNTY, NEW MEXICO

HAVE SEVERAL PARTIES INTERESTED IN RIDER ATTEMPTING COMPLETION  
OF NO. 1 WELL ON CRUZ. DRILLING A NEW WELL IN SUBJECT AREA. WILL  
APPRECIATE YOUR IMMEDIATE DECISION AND REPLY AS TO ITEMS ACCER-  
DILL TO YOU, AS WE CANNOT PROCEED WITHOUT YOUR SUPPORT. IT IS  
STILL OF THE OPINION THAT A NEW WELL IS NECESSARY TO TEST THE PROS-  
PECT.

PLEASE ADVISE BY RETURN CARD OR TELEPHONE.

DEAN H. SMITH  
PRESIDENT  
TEMPERARY LAND & EXPLORATION CORP.  
MIDLAND, TEXAS PHONE 915-684-7191

THANK YOU WILL GET IT RIGHT OUT.  
TXN

BEFORE EXAMINER UTZ	
OIL CONSERVATION COMMISSION	
VF	EXHIBIT NO. 3
CASE NO.	4671
Submitted by	
Expiring Date	



February 19, 1971

BEFORE EXAMINER UT2  
OIL CONSERVATION COMMISSION

VF EXHIBIT NO. 4

FILE NO. 4671

Mr. Wilton E. Scott  
Post Office Box 2511  
Houston, Texas 77001

RE: P1-06  
East Caudill Prospect  
15S 36E, Lea County, N.M.

Dear Mr. Scott:

Tipperary Resources Corporation has shown the captioned prospect to a few interested parties and we do have some with definite interest in taking a part of the project, assuming we can work out an equitable trade with you.

The basic terms and conditions we are presenting are as follows:

- 1) The initial test well will be drilled in the SE/4 SW/4 of Sec. 1, 15S 36E, with all cost being shared through completion on a 15%-Tipperary, 85%-Participant basis. After completion of the initial test well the working interest will be Tipperary-25%, Participant-75%.
- 2) Tipperary will further reserve an option to acquire from the participant an additional 25% working interest after the participant has recovered his total cumulative investment. Ownership at that point would be Tipperary-50%, Participant-50%.

The aforementioned proposal has been presented as outlined and we have made no representations as to your interest other than that we would hope you would go along with our proposal or grant a lease providing for a 25% royalty.

Inasmuch as we would like to either proceed on this prospect and get it drilled or abandon the idea, we would very much appreciate a decision as to what type of proposal will be satisfactory.

Your consideration will be sincerely appreciated.

Yours very truly,

RH:mew

Ron Holcomb  
Land Manager

SPENCER & HUTSON

507 West Tennessee  
Midland, Texas 79701

January 28, 1972

Mr. Wilton E. Scott  
Tenneco Oil Company  
P. O. Box 2511  
Houston, Texas 77001

Re: East Caudill Area  
Section 1, T-15-S,  
R-36-E, Lea County,  
New Mexico

Dear Sir:

Mr. J. Mack Barnes, Independent Landman of Midland, Texas, has informed us that you have rejected our offer for the drilling of an 11,000 foot Wolfcamp test on acreage under which you and your wife own a one-third mineral interest.

Our offer to you was a 1/16th overriding royalty with the option to convert to a one-quarter working interest after we recover our drilling and producing cost from the initial well. On the remaining acreage, in Section 1, T-15-S, R-36-E, under which you own a mineral interest, you were to have the option to either join us as a one-quarter working interest partner or farm out to us for a 1/16th overriding royalty interest.

If Mr. Barnes' verbal rejection of our offer does not represent your thoughts, then please accept our offer by telegram or by letter by Wednesday, February 2, 1972.

Thank you.

Very truly yours,

SPENCER & HUTSON

*OH.*  
Osler C. Hutson

OCH:hh

BEFORE EXAMINER UTZ OIL CONSERVATION COMMISSION	EXHIBIT NO. <u>5</u>
CASE NO. <u>4671</u>	Submitted by _____
	Hearing Date _____

V-F PETROLEUM  
1212 VAUGHN BUILDING  
MIDLAND, TEXAS 79701  
915 683-3344

V. F. VASICEK

J. M. FULLINWIDER

February 9, 1972

Mr. Wilton E. Scott, President  
Tenneco Oil Company  
P. O. Box 2511  
Houston, Texas 77001

Loradean A. Scott, M.I.  
NE/4 and S/2 Section 1  
T-15-S, R-36-E  
Lea County, New Mexico

Dear Mr. Scott:

Further to our telephone conversation of yesterday, we are writing to set forth our ideas concerning your wife's mineral interest in this area and possible avenues of her participation with us in the drilling of a test well in search of oil and gas.

The records indicate that Mrs. Scott, (Loradean Allen Scott) owns an unleased 1/3 mineral interest under subject land, which includes our proposed 40-acre drillsite. Repeated efforts by, first, Tipperary Resources Corporation in 1971 and, lately, Spencer & Hutson of Midland, to lease Mrs. Scott's interest have all been rejected by you and Mrs. Scott.

At the instigation of Spencer & Hutson, we have taken a farmout from Tipperary on their lease acreage in the area and we plan to drill our #1 Ida Allen, an 11,000 foot Lower Wolfcamp test well, at a location in the SE/4 of the SW/4 of said Section 1, with operations to commence on or about March 1, 1972.

We propose that Mrs. Scott either lease to us, farmout to us or join us in the drilling of the well on one of the basis outlined below. If you and Mrs. Scott cannot see your way clear to cooperate on some basis, then we shall proceed with compulsory pooling of said interest before the Oil Conservation Commission of New Mexico. We have already filed such action and are advised by counsel that the hearing is to be set for March 1, 1972.

Our proposals are as follows:

1. LEASE - We offer to lease Mrs. Scott's interest in subject land for \$25.00 per acre cash bonus, such lease to be on a standard New Mexico form which would provide for a 3/16 royalty interest, \$1.00 per acre annual delay rentals and a primary term of 3 years.

BEFORE EXAMINER UTZ OIL CONSERVATION COMMISSION V-F EXHIBIT NO. 6 CASE NO. 4671 Submitted by _____ Hearing Date _____
--

February 9, 1972

2. FARMOUT - Mrs. Scott would farmout to us her mineral interest under the 40-acre drillsite (or such other single-well proration unit that may ultimately be approved by NMOCC), retaining a  $1/8 \times 8/8$  royalty interest and a  $1/8 \times 8/8$  overriding royalty interest until such time as we have recovered out of the proceeds of production 100% of the cost and expense of drilling, completing, equipping and operating the initial test well, at which time she would have the right, at her option, to convert her  $1/8$  overriding royalty interest to a  $1/2$  working interest. On the balance of her acreage in Section 1 and as to each subsequent proposed test well, she would at her option either farmout to us on the same basis or join in the drilling thereof, with such election to be made prior to the commencement of each such subsequent well.

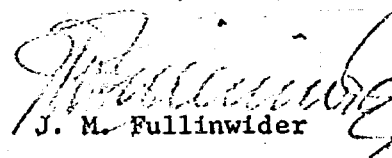
3. JOIN - Mrs. Scott would join us in the drilling of the proposed test well and pay her  $1/3$  pro-rata part thereof. We are enclosing a Well Cost Estimate and Authority For Expenditure which sets forth our best estimate of the cost of this well as a dry hole and as a producing oil well. Also enclosed is a standard form Operating Agreement dated February 10, 1972 which would cover any joint operation that may result from the proposals made herein. If you elect to join, please execute one copy each of the AFE and Operating Agreement in the spaces provided and return to this office at your earliest convenience.

All of the proposals herein are made on the basis of Mrs. Scott owning full mineral interest in subject land and, since she owns an undivided  $1/3$  interest, all the terms offered herein such as cash bonus, royalty, rentals, reversionary working interests, etc., would be subject to proportionate reduction.

Mr. Scott, we sincerely hope you and your wife will find one of these proposals to be acceptable, or, if you would like to adjust the proposed terms somewhat to better suit your situation, we would be pleased to receive a counter-proposal from you. You may call us collect to discuss the matter further.

We shall look forward to hearing from you at your earliest convenience.

Yours very truly,

  
J. M. Fullinwider

JMF:jw  
Encl.

cc - Mr. Jason W. Kellahin w/encl. ✓  
Attorney at Law  
P. O. Box 1769  
Santa Fe, New Mexico 87501

A.A.P.L. FORM 610  
MODEL FORM OPERATING AGREEMENT-1956  
Non-Federal Lands

EAST CAUDILL AREA

OPERATING AGREEMENT

DATED

February 10, 1972,

FOR UNIT AREA IN TOWNSHIP 15 South, RANGE 36 East,

Lea COUNTY, STATE OF New Mexico.

AMERICAN ASSOCIATION OF PETROLEUM LANDMEN  
APPROVED FORM. A.A.P.L. NO. 610  
MAY BE ORDERED DIRECTLY FROM THE PUBLISHER  
ROSS-MARTIN COMPANY, BOX 600, TULSA 74101

BEFORE EXAMINER UTZ  
OIL CONSERVATION COMMISSION  
Y-F EXHIBIT NO. 9  
CASE NO. 4 671  
Submitted by  
Hearing Date

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OPERATING AGREEMENT

THIS AGREEMENT, entered into this 10th day of February, 1972, between  
V-F Petroleum

hereafter designated as "Operator", and the signatory parties other than Operator.

WITNESSETH, THAT:

WHEREAS, the parties to this agreement are owners of oil and gas leases covering and, if so indicated, unleased mineral interests in the tracts of land described in Exhibit "A", and all parties have reached an agreement to explore and develop these leases and interests for oil and gas to the extent and as hereinafter provided;

NOW, THEREFORE, it is agreed as follows:

1. DEFINITIONS

As used in this agreement, the following words and terms shall have the meanings here ascribed to them.

- (1) The words "party" and "parties" shall always mean a party, or parties, to this agreement.
- (2) The parties to this agreement shall always be referred to as "it" or "they", whether the parties be corporate bodies, partnerships, associations, or persons real.
- (3) The term "oil and gas" shall include oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons, unless an intent to limit the inclusiveness of this term is specifically stated.
- (4) The term "oil and gas interests" shall mean unleased fee and mineral interests in tracts of land lying within the Unit Area which are owned by parties to this agreement.
- (5) The term "Unit Area" shall refer to and include all of the lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated for oil and gas purposes under this agreement. Such lands, oil and gas leasehold interests and oil and gas interests are described in Exhibit "A".
- (6) The term "drilling unit" shall mean the area fixed for the drilling of one well by order or rule of any state or federal body having authority. If a drilling unit is not fixed by any such rule or order, a drilling unit shall be the drilling unit as established by the pattern of drilling in the Unit Area or as fixed by express agreement of the parties.
- (7) All exhibits attached to this agreement are made a part of the contract as fully as though copied in full in the contract.
- (8) The words "equipment" and "materials" as used here are synonymous and shall mean and include all oil field supplies and personal property acquired for use in the Unit Area.

2. TITLE EXAMINATION, LOSS OF LEASES AND OIL AND GAS INTERESTS

A. Title Examination:

Title shall be examined and approved by Operator's attorney prior to commencement of operations, and the cost thereof shall be charged to the joint account.

~~obligations and of net royalty, oil payments, and other special burdens. A copy of each title opinion, and of each supplemental opinion, and of all final opinions, shall be sent promptly to each party. The opinion of the examining attorney concerning the validity of the title to each oil and gas interest and each lease, and the amount of interest covered thereby shall be binding and conclusive on the parties, but the acceptability of leases as to primary term, royalty provisions, drilling obligations, and special burdens, shall be a matter for approval and acceptance by an authorized representative of each party.~~

All title examinations shall be made, and title reports submitted, within a period of \_\_\_\_\_ days after the submission of abstracts and title papers. Each party shall, in good faith, try to satisfy the requirements of the examining attorneys concerning its leases and interests, and each shall have a period of \_\_\_\_\_ days from receipt of title report for this purpose. If the title to any lease, or oil and gas interest, is finally rejected by the examining attorney, all parties shall then be asked to state in writing whether they will waive the title defects and accept the leases or interests, or whether they will stand on the attorney's opinion. If one or more parties refuse to waive title defects, this agreement shall, in that case, be terminated and abandoned, and all abstracts and title papers shall be returned to their senders. If all titles are approved by the examining attorneys, or are accepted by all parties, and if all leases are accepted as to primary terms, royalty provisions, drilling obligations and special burdens, all subsequent provisions of this agreement shall become operative immediately, and the parties shall proceed to their performance as they are hereinafter stated.

**B. Failure of Title:**

After all titles are approved or accepted, any defects of title that may develop shall be the joint responsibility of all parties and, if a title loss occurs, it shall be the loss of all parties, with each bearing its proportionate part of the loss and of any liabilities incurred in the loss. If such a loss occurs, there shall be no change in, or adjustment of, the interests of the parties in the remaining portion of the Unit Area.

**C. Loss of Leases For Other Than Title Failure:**

If any lease or interest subject to this agreement be lost through failure to develop or because express or implied covenants have not been performed, or if any lease be permitted to expire at the end of its primary term and not be renewed or extended, the loss shall not be considered a failure of title and all such losses shall be joint losses and shall be borne by all parties in proportion to their interests and there shall be no readjustment of interests in the remaining portion of the Unit Area.

**3. UNLEASED OIL AND GAS INTERESTS**

If any party owns an unleased oil and gas interest in the Unit Area, that interest shall be treated for the purpose of this agreement as if it were a leased interest under the form of oil and gas lease attached as Exhibit "B" and for the primary term therein stated. As to such interests, the owner shall receive royalty on production as prescribed in the form of oil and gas lease attached hereto as Exhibit "B". Such party shall, however, be subject to all of the provisions of this agreement relating to lessees, to the extent that it owns the lessee interest.

**4. INTERESTS OF PARTIES**

Exhibit "A" lists all of the parties, and their respective percentage or fractional interests under this agreement. Unless changed by other provisions, all costs and liabilities incurred in operations under this contract shall be borne and paid, and all equipment and material acquired in operations on the Unit Area shall be owned, by the parties as their interests are given in Exhibit "A". All production of oil and gas from the Unit Area, subject to the payment of lessor's royalties, shall also be owned by the parties in the same manner.



If the interest of any party in any oil and gas lease covered by this agreement is subject to an overriding royalty, production payment, or other charge over and above the usual one-eighth ( $\frac{1}{8}$ ) royalty, such party shall assume and alone bear all such excess obligations and shall account for them to the owners thereof out of its share of the working interest production of the Unit Area.

#### 5. OPERATOR OF UNIT

V-F Petroleum shall be the Operator of the Unit Area, and shall conduct and direct and have full control of all operations on the Unit Area as permitted and required by, and within the limits of, this agreement. It shall conduct all such operations in a good and workmanlike manner, but it shall have no liability as Operator to the other parties for losses sustained, or liabilities incurred, except such as may result from gross negligence or from breach of the provisions of this agreement.

#### 6. EMPLOYEES

The number of employees and their selection, and the hours of labor and the compensation for services performed, shall be determined by Operator. All employees shall be the employees of Operator.

#### 7. TEST WELL

On or before the 1st day of March, 1972, Operator shall commence the drilling of a well for oil and gas in the following location:

in SE/4 SW/4 Section 1, T-15-S, R-36-E, NMPM,  
Lea County, New Mexico.

and shall thereafter continue the drilling of the well with due diligence to the approximate subsurface depth of 11,000 feet or to a depth sufficient to test the Lower Wolfcamp formation.

unless granite or other practically impenetrable substance is encountered at a lesser depth or unless all parties agree to complete the well at a lesser depth.

Operator shall make reasonable tests of all formations encountered during drilling which give indication of containing oil and gas in quantities sufficient to test, unless this agreement shall be limited in its application to a specific formation or formations, in which event Operator shall be required to test only the formation or formations to which this agreement may apply.

If in Operator's judgment the well will not produce oil or gas in paying quantities, and it wishes to plug and abandon the test as a dry hole, it shall first secure the consent of all parties to the plugging, and the well shall then be plugged and abandoned as promptly as possible.

#### 8. COSTS AND EXPENSES

Except as herein otherwise specifically provided, Operator shall promptly pay and discharge all costs and expenses incurred in the development and operation of the Unit Area pursuant to this agreement and shall charge each of the parties hereto with their respective proportionate shares upon the cost and expense basis provided in the Accounting Procedure attached hereto and marked Exhibit "C". If any provision of Exhibit "C" should be inconsistent with any provision contained in the body of this agreement, the provisions in the body of this agreement shall prevail.

Operator, at its election, shall have the right from time to time to demand and receive from the other parties payment in advance of their respective shares of the estimated amount of the costs to be incurred in operations hereunder during the next succeeding month, which right may be exercised only by submission to each such party of an itemized statement of such estimated costs, together with an invoice for its share thereof. Each such statement and invoice for the payment in advance of estimated costs shall be submitted on or before the 20th day of the next preceding month. Each party shall pay to Operator its proportionate share of such estimate within fifteen (15) days after such estimate and invoice is received. If any party fails to pay its share of said estimate within said time, the amount due shall bear interest at the rate of six percent (6%) per annum until paid. Proper adjustment shall be made monthly between advances and actual cost, to the end that each party shall bear and pay its proportionate share of actual costs incurred, and no more.

**9. OPERATOR'S LIEN**

Operator is given a first and preferred lien on the interest of each party covered by this contract, and in each party's interest in oil and gas produced and the proceeds thereof, and upon each party's interest in material and equipment, to secure the payment of all sums due from each such party to Operator.

In the event any party fails to pay any amount owing by it to Operator as its share of such costs and expense or such advance estimate within the time limited for payment thereof, Operator, without prejudice to other existing remedies, is authorized, at its election, to collect from the purchaser or purchasers of oil or gas, the proceeds accruing to the working interest or interests in the Unit Area of the delinquent party up to the amount owing by such party, and each purchaser of oil or gas is authorized to rely upon Operator's statement as to the amount owing by such party.

In the event of the neglect or failure of any non-operating party to promptly pay its proportionate part of the cost and expense of development and operation when due, the other non-operating parties and Operator, within thirty (30) days after the rendition of statements therefor by Operator, shall proportionately contribute to the payment of such delinquent indebtedness and the non-operating parties so contributing shall be entitled to the same lien rights as are granted to Operator in this section. Upon the payment by such delinquent or defaulting party to Operator of any amount or amounts on such delinquent indebtedness, or upon any recovery on behalf of the non-operating parties under the lien conferred above, the amount or amounts so paid or recovered shall be distributed and paid by Operator to the other non-operating parties and Operator proportionately in accordance with the contributions theretofore made by them.

**10. TERM OF AGREEMENT**

This agreement shall remain in full force and effect for as long as any of the oil and gas leases subjected to this agreement remain or are continued in force as to any part of the Unit Area, whether by production, extension, renewal or otherwise; provided, however, that in the event the first well drilled hereunder results in a dry hole and no other well is producing oil or gas in paying quantities from the Unit Area, then at the end of ninety (90) days after abandonment of the first test well, this agreement shall terminate unless one or more of the parties are then engaged in drilling a well or wells pursuant to Section 12 hereof, or all parties have agreed to drill an additional well or wells under this agreement, in which event this agreement shall continue in force until such well or wells shall have been drilled and completed. If production results therefrom this agreement shall continue in force thereafter as if said first test well had been productive in paying quantities, but if production in paying quantities does not result therefrom this agreement shall terminate at the end of ninety (90) days after abandonment of such well or wells. It is agreed, however, that the termination of this agreement shall not relieve any party hereto from any liability which has accrued or attached prior to the date of such termination.

**11. LIMITATION ON EXPENDITURES**

Without the consent of all parties: (a) No well shall be drilled on the Unit Area except any well expressly provided for in this agreement and except any well drilled pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the drilling of a well shall include consent to all necessary expenditures in the drilling, testing, completing, and equipping of the well, including necessary tankage; (b) No well shall be reworked, plugged back or deepened except a well reworked, plugged back or deepened pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the reworking, plugging back or deepening of a well shall include consent to all necessary expenditures in conducting such operations and completing and equipping of said well to produce, including necessary tankage; (c) Operator shall not undertake any single project reasonably estimated to require an expenditure in excess of Five Thousand ----- Dollars (\$ 5,000.00 ) except in connection with a well the drilling, reworking, deepening, or plugging back of which has been previously authorized by or pursuant to this agreement; provided, however, that in case of explosion, fire, flood, or other sudden emergency, whether of the same or different nature, Operator may take such steps and incur such expenses as in its opinion are required to deal with the emergency and to safeguard life and property, but Operator shall, as promptly as possible, report the emergency to the other parties. Operator shall, upon request, furnish copies of its "Authority for Expenditures" for any single project costing in excess of \$ 5,000.00 .

## 12. OPERATIONS BY LESS THAN ALL PARTIES

If all the parties cannot mutually agree upon the drilling of any well on the Unit Area other than the test well provided for in Section 7, or upon the reworking, deepening or plugging back of a dry hole drilled at the joint expense of all parties or a well jointly owned by all the parties and not then producing in paying quantities on the Unit Area, any party or parties wishing to drill, rework, deepen or plug back such a well may give the other parties written notice of the proposed operation, specifying the work to be performed, the location, proposed depth, objective formation and the estimated cost of the operation. The parties receiving such a notice shall have thirty (30) days (except as to reworking, plugging back or drilling deeper, where a drilling rig is on location, the period shall be limited to forty-eight (48) hours exclusive of Saturday or Sunday) after receipt of the notice within which to notify the parties wishing to do the work whether they elect to participate in the cost of the proposed operation. Failure of a party receiving such a notice to so reply to it within the period above fixed shall constitute an election by that party not to participate in the cost of the proposed operation.

If any party receiving such a notice elects not to participate in the proposed operation (such party or parties being hereafter referred to as "Non-Consenting Party"), then in order to be entitled to the benefits of this section, the party or parties giving the notice and such other parties as shall elect to participate in the operation (all such parties being hereafter referred to as the "Consenting Parties") shall, within thirty (30) days after the expiration of the notice period of thirty (30) days (or as promptly as possible after the expiration of the 48-hour period where the drilling rig is on location, as the case may be) actually commence work on the proposed operation and complete it with due diligence.

The entire cost and risk of conducting such operations shall be borne by the Consenting Parties in the proportions that their respective interests as shown in Exhibit "A" bear to the total interests of all Consenting Parties. Consenting Parties shall keep the leasehold estates involved in such operations free and clear of all liens and encumbrances of every kind created by or arising from the operations of the Consenting Parties. If such an operation results in a dry hole, the Consenting Parties shall plug and abandon the well at their sole cost, risk and expense. If any well drilled, reworked, deepened or plugged back under the provisions of this section results in a producer of oil and/or gas in paying quantities, the Consenting Parties shall complete and equip the well to produce at their sole cost and risk, and the well shall then be turned over to Operator and shall be operated by it at the expense and for the account of the Consenting Parties. Upon commencement of operations for the drilling, reworking, deepening or plugging back of any such well by Consenting Parties in accordance with the provisions of this section, each Non-Consenting Party shall be deemed to have relinquished to Consenting Parties, and the Consenting Parties shall own and be entitled to receive, in proportion to their respective interests, all of such Non-Consenting Party's interest in the well, its leasehold operating rights, and share of production therefrom until the proceeds or market value thereof (after deducting production taxes, royalty, overriding royalty and other interests payable out of or measured by the production from such well accruing with respect to such interest until it reverts) shall equal the total of the following:

- (A) 100% of each such Non-Consenting Party's share of the cost of any newly acquired surface equipment beyond the wellhead connections (including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping), plus 100% of each such Non-Consenting Party's share of the cost of operation of the well commencing with first production and continuing until each such Non-Consenting Party's relinquished interest shall revert to it under other provisions of this section, it being agreed that each Non-Consenting Party's share of such costs and equipment will be that interest which would have been chargeable to each Non-Consenting Party had it participated in the well from the beginning of the operation; and
- (B) 200% of that portion of the costs and expenses of drilling, reworking, deepening or plugging back, testing and completing, after deducting any cash contributions received under Section 25, and 200% of that portion of the cost of newly acquired equipment in the well (to and including the wellhead connections), which would have been chargeable to such Non-Consenting Party if it had participated therein.

In the case of any reworking, plugging back or deeper drilling operation, the Consenting Parties shall be permitted to use, free of cost, all casing, tubing and other equipment in the well, but the ownership of all such equipment shall remain unchanged; and upon abandonment of a well after such reworking, plugging back or deeper drilling, the Consenting Parties shall account for all such equipment to the owners thereof, with each party receiving its proportionate part in kind or in value.

Within sixty (60) days after the completion of any operation under this section, the party conducting the operations for the Consenting Parties shall furnish each Non-Consenting Party with an inventory of the equipment in and connected to the well, and an itemized statement of the cost of drilling, deepening, plugging back, testing, completing, and equipping the well for production; or, at its option, the operating party, in lieu of an itemized statement of such costs of operation, may submit a detailed statement of monthly billings. Each month thereafter, during the time the Consenting Parties are being reimbursed as provided above, the Consenting Parties shall furnish the Non-Consenting Parties with an itemized statement of all costs and liabilities incurred in the operation of the well, together with a statement of the quantity of oil and gas produced from it and the amount of proceeds realized from the sale of the well's working interest production during the preceding month. Any amount realized from the sale or other disposition of equipment newly acquired in connection with any such operation which would have been owned by a Non-Consenting Party had it participated therein shall be credited against the total unreturned costs of the work done and of the equipment purchased, in determining when the interest of such Non-Consenting Party shall revert to it as above provided; if there is a credit balance it shall be paid to such Non-Consenting Party.

If and when the Consenting Parties recover from a Non-Consenting Party's relinquished interest the amounts provided for above, the relinquished interests of such Non-Consenting Party shall automatically revert to it and from and after such reversion such Non-Consenting Party shall own the same interest in such well, the operating rights and working interest therein, the material and equipment in or pertaining thereto, and the production therefrom as such Non-Consenting Party would have owned had it participated in the drilling, reworking, deepening or plugging back of said well. Thereafter, such Non-Consenting Party shall be charged with and shall pay its proportionate part of the further costs of the operation of said well in accordance with the terms of this agreement and the accounting procedure schedule, Exhibit "C", attached hereto.

Notwithstanding the provisions of this Section 12, it is agreed that without the mutual consent of all parties, no wells shall be completed in or produced from a source of supply from which a well located elsewhere on the Unit Area is producing, unless such well conforms to the then-existing well spacing pattern for such source of supply.

The provisions of this section shall have no application whatsoever to the drilling of the initial test well on the Unit Area, but shall apply to the reworking, deepening, or plugging back of the initial test well after it has been drilled to the depth specified in Section 7, if it is, or thereafter shall prove to be, a dry hole or non-commercial well, and to all other wells drilled, reworked, deepened, or plugged back, or proposed to be drilled, reworked, deepened, or plugged back, upon the Unit Area subsequent to the drilling of the initial test well.

### 13. RIGHT TO TAKE PRODUCTION IN KIND

Each party shall take in kind or separately dispose of its proportionate share of all oil and gas produced from the Unit Area, exclusive of production which may be used in development and producing operations and in preparing and treating oil for marketing purposes and production unavoidably lost. Each party shall pay or deliver, or cause to be paid or delivered, all royalties, overriding royalties, or other payments due on its share of such production, and shall hold the other parties free from any liability therefor. Any extra expenditure incurred in the taking in kind or separate disposition by any party of its proportionate share of the production shall be borne by such party.

Each party shall execute all division orders and contracts of sale pertaining to its interest in production from the Unit Area, and shall be entitled to receive payment direct from the purchaser or purchasers thereof for its share of all production.

In the event any party shall fail to make the arrangements necessary to take in kind or separately dispose of its proportionate share of the oil and gas produced from the Unit Area, Operator shall have the right, subject to revocation at will by the party owning it, but not the obligation, to purchase such oil and gas or sell it to others for the time being, at not less than the market price prevailing in the area, which shall in no event be less than the price which Operator receives for its portion of the oil and gas produced from the Unit Area. Any such purchase or sale by Operator shall be subject always to the right of the owner of the production to exercise at any time its right to take in kind, or separately dispose of, its share of all oil and gas not previously delivered to a purchaser. Notwithstanding the foregoing, Operator shall not make a sale into interstate commerce of any other party's share of gas production without first giving such other party sixty (60) days notice of such intended sale.

#### 14. ACCESS TO UNIT AREA

Each party shall have access to the Unit Area at all reasonable times, at its sole risk, to inspect or observe operations, and shall have access at reasonable times to information pertaining to the development or operation thereof, including Operator's books and records relating thereto. Operator shall, upon request, furnish each of the other parties with copies of all drilling reports, well logs, tank tables, daily gauge and run tickets and reports of stock on hand at the first of each month, and shall make available samples of any cores or cuttings taken from any well drilled on the Unit Area.

#### 15. DRILLING CONTRACTS

All wells drilled on the Unit Area shall be drilled on a competitive contract basis at the usual rates prevailing in the area. Operator, if it so desires, may employ its own tools and equipment in the drilling of wells, but its charges therefor shall not exceed the prevailing rates in the field, and the rate of such charges shall be agreed upon by the parties in writing before drilling operations are commenced, and such work shall be performed by Operator under the same terms and conditions as shall be customary and usual in the field in contracts of independent contractors who are doing work of a similar nature.

#### 16. ABANDONMENT OF WELLS

No well, other than any well which has been drilled or reworked pursuant to Section 12 hereof for which the Consenting Parties have not been fully reimbursed as therein provided, which has been completed as a producer shall be plugged and abandoned without the consent of all parties; provided, however, if all parties do not agree to the abandonment of any well, those wishing to continue its operation shall tender to each of the other parties its proportionate share of the value of the well's salvable material and equipment, determined in accordance with the provisions of Exhibit "C", less the estimated cost of salvaging and the estimated cost of plugging and abandoning. Each abandoning party shall then assign to the non-abandoning parties, without warranty, express or implied, as to title or as to quantity, quality, or fitness for use of the equipment and material, all of its interest in the well and its equipment, together with its interest in the leasehold estate as to, but only as to, the interval or intervals of the formation or formations then open to production. The assignments so limited shall encompass the "drilling unit" upon which the well is located. The payments by, and the assignments to, the assignees shall be in a ratio based upon the relationship of their respective percentages of participation in the Unit Area to the aggregate of the percentages of participation in the Unit Area of all assignees. There shall be no readjustment of interest in the remaining portion of the Unit Area.

After the assignment, the assignors shall have no further responsibility, liability, or interest in the operation of or production from the well in the interval or intervals then open. Upon request of the assignees, Operator shall continue to operate the assigned well for the account of the non-abandoning parties at the rates and charges contemplated by this agreement, plus any additional cost and charges which may arise as the result of the separate ownership of the assigned well.

## 17. DELAY RENTALS AND SHUT-IN WELL PAYMENTS

Each party shall pay all delay rentals and shut-in well payments which may be required under the terms of its lease or leases and submit evidence of each payment to the other parties at least ten (10) days prior to the payment date. The paying party shall be reimbursed by Operator for 100% of any such delay rental payment and 100% of any such shut-in well payment. The amount of such reimbursement shall be charged by Operator to the joint account of the parties and treated in all respects the same as costs incurred in the development and operation of the Unit Area. Each party responsible for such payments shall diligently attempt to make proper payment, but shall not be held liable to the other parties in damages for the loss of any lease or interest therein if, through mistake or oversight, any rental or shut-in well payment is not paid or is erroneously paid. The loss of any lease or interest therein which results from a failure to pay or an erroneous payment of rental or shut-in well payment shall be a joint loss and there shall be no readjustment of interests in the remaining portion of the Unit Area. If any party secures a new lease covering the terminated interest, such acquisition shall be subject to the provisions of Section 23 of this agreement.

Operator shall promptly notify each other party hereto of the date on which any gas well located on the Unit Area is shut in and the reason therefor.

~~18. PREFERENTIAL RIGHT TO PURCHASE~~

~~Should any party decide to sell all or any part of its interests under this contract, or its rights and interests in the Unit Area, it shall promptly give written notice to the other parties, with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and, if this optional right is exercised, the purchasing parties shall share the purchased interest in the proportions that the interest of each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all of its assets, or a sale or transfer of its interests to a subsidiary or parent company, or subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.~~

## 19. SELECTION OF NEW OPERATOR

Should a sale be made by Operator of its rights and interests, the other parties shall have the right within sixty (60) days after the date of such sale, by majority vote in interest, to select a new Operator. If a new Operator is not so selected, the transferee of the present Operator shall assume the duties of and act as Operator. In either case, the retiring Operator shall continue to serve as Operator, and discharge its duties in that capacity under this agreement, until its successor Operator is selected and begins to function, but the present Operator shall not be obligated to continue the performance of its duties for more than 120 days after the sale of its rights and interests has been completed.

## 20. MAINTENANCE OF UNIT OWNERSHIP

For the purpose of maintaining uniformity of ownership in the oil and gas leasehold interests covered by this contract, and notwithstanding any other provisions to the contrary, no party shall sell, encumber, transfer or make other disposition of its interest in the leases embraced within the Unit Area and in wells, equipment and production unless such disposition covers either:

- (1) the entire interest of the party in all leases and equipment and production; or
- (2) an equal undivided interest in all leases and equipment and production in the Unit Area.

Every such sale, encumbrance, transfer or other disposition made by any party shall be made expressly subject to this agreement, and shall be made without prejudice to the rights of the other parties.

If at any time the interest of any party is divided among and owned by four or more co-owners, Operator may, at its discretion, require such co-owners to appoint a single trustee or agent with full authority to receive notices, approve expenditures, receive billings for and approve and pay such party's share of the joint expenses, and to deal generally with, and with power to bind, the co-owners of such party's interests within the scope of the operations embraced in this contract; however, all such co-owners shall enter into and execute all contracts or agreements for the disposition of their respective shares of the oil and gas produced from the Unit Area and they shall have the right to receive, separately, payment of the sale proceeds thereof.

## 21. RESIGNATION OF OPERATOR

Operator may resign from its duties and obligations as Operator at any time upon written notice of not less than ninety (90) days given to all other parties. In this case, all parties to this contract shall select by majority vote in interest, not in numbers, a new Operator who shall assume the responsibilities and duties, and have the rights, prescribed for Operator by this agreement. The retiring Operator shall deliver to its successor all records and information necessary to the discharge by the new Operator of its duties and obligations.

## 22. LIABILITY OF PARTIES

The liability of the parties shall be several, not joint or collective. Each party shall be responsible only for its obligations, and shall be liable only for its proportionate share of the costs of developing and operating the Unit Area. Accordingly, the lien granted by each party to Operator in Section 9 is given to secure only the debts of each severally. It is not the intention of the parties to create, nor shall this agreement be construed as creating, a mining or other partnership or association, or to render them liable as partners.

## 23. RENEWAL OR EXTENSION OF LEASES

If any party secures a renewal of any oil and gas lease subject to this contract, each and all of the other parties shall be notified promptly, and shall have the right to participate in the ownership of the renewal lease by paying to the party who acquired it their several proper proportionate shares of the acquisition cost, which shall be in proportion to the interests held at that time by the parties in the Unit Area.

If some, but less than all, of the parties elect to participate in the purchase of a renewal lease, it shall be owned by the parties who elect to participate therein, in a ratio based upon the relationship of their respective percentage of participation in the unit area to the aggregate of the percentages of participation in the unit area of all parties participating in the purchase of such renewal lease. Any renewal lease in which less than all the parties elect to participate shall not be subject to this agreement.

Each party who participates in the purchase of a renewal lease shall be given an assignment of its proportionate interest therein by the acquiring party.

The provisions of this section shall apply to renewal leases whether they are for the entire interest covered by the expiring lease or cover only a portion of its area or an interest therein. Any renewal lease taken before the expiration of its predecessor lease, or taken or contracted for within six (6) months after the expiration of the existing lease shall be subject to this provision; but any lease taken or contracted for more than six (6) months after the expiration of an existing lease shall not be deemed a renewal lease and shall not be subject to the provisions of this section.

The provisions in this section shall apply also and in like manner to extensions of oil and gas leases.

#### 24. SURRENDER OF LEASES

The leases covered by this agreement, in so far as they embrace acreage in the Unit Area, shall not be surrendered in whole or in part unless all parties consent.

However, should any party desire to surrender its interest in any lease or in any portion thereof, and other parties not agree or consent, the party desiring to surrender shall assign, without express or implied warranty of title, all of its interest in such lease, or portion thereof, and any well, material and equipment which may be located thereon and any rights in production thereafter secured, to the parties not desiring to surrender it. Upon such assignment, the assigning party shall be relieved from all obligations thereafter accruing, but not theretofore accrued, with respect to the acreage assigned and the operation of any well thereon, and the assigning party shall have no further interest in the lease assigned and its equipment and production. The parties assignee shall pay to the party assignor the reasonable salvage value of the latter's interest in any wells and equipment on the assigned acreage, determined in accordance with the provisions of Exhibit "C", less the estimated cost of salvaging and the estimated cost of plugging and abandoning. If the assignment is in favor of more than one party, the assigned interest shall be shared by the parties assignee in the proportions that the interest of each bears to the interest of all parties assignee.

Any assignment or surrender made under this provision shall not reduce or change the assignors' or surrendering parties' interest, as it was immediately before the assignment, in the balance of the Unit Area; and the acreage assigned or surrendered, and subsequent operations thereon, shall not thereafter be subject to the terms and provisions of this agreement.

#### 25. ACREAGE OR CASH CONTRIBUTIONS

If any party receives while this agreement is in force a contribution of cash toward the drilling of a well or any other operation on the Unit Area, such contribution shall be paid to the party who conducted the drilling or other operation and shall be applied by it against the cost of such drilling or other operation. If the contribution be in the form of acreage, the party to whom the contribution is made shall promptly execute an assignment of the acreage, without warranty of title, to all parties to this agreement in proportion to their interests in the Unit Area at that time, and such acreage shall become a part of the Unit Area and be governed by all the provisions of this contract. Each party shall promptly notify all other parties of all acreage or money contributions it may obtain in support of any well or any other operation on the Unit Area.

#### 26. PROVISION CONCERNING TAXATION

Each of the parties hereto elects, under the authority of Section 761(a) of the Internal Revenue Code of 1954, to be excluded from the application of all of the provisions of Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954. If the income tax laws of the state or states in which the property covered hereby is located contain, or may hereafter contain, provisions similar to those contained in the Subchapter of the Internal Revenue Code of 1954 above referred to under which a similar election is permitted, each of the parties agrees that such election shall be exercised. Each party authorizes and directs the Operator to execute such an election or elections on its behalf and to file the election with the proper governmental office or agency. If requested by the Operator so to do, each party agrees to execute and join in such an election.

Operator shall render for ad valorem taxation all property subject to this agreement which by law should be rendered for such taxes, and it shall pay all such taxes assessed thereon before they become delinquent. Operator shall bill all other parties for their proportionate share of all tax payments in the manner provided in Exhibit "C".

If any tax assessment is considered unreasonable by Operator, it may at its discretion protest such valuation within the time and manner prescribed by law, and prosecute the protest to a final determination, unless all parties agree to abandon the protest prior to final determination. When any such protested valuation shall have been finally determined, Operator shall pay the assessment for the joint account, together with interest and penalty accrued, and the total cost shall then be assessed against the parties, and be paid by them, as provided in Exhibit "C".



## 27. INSURANCE

At all times while operations are conducted hereunder, Operator shall comply with the Workmen's Compensation Law of the State where the operations are being conducted. Operator shall also carry or provide insurance for the benefit of the joint account of the parties as may be outlined in Exhibit "D" attached to and made a part hereof. Operator shall require all contractors engaged in work on or for the Unit Area to comply with the Workmen's Compensation Law of the State where the operations are being conducted and to maintain such other insurance as Operator may require.

In the event Automobile Public Liability Insurance is specified in said Exhibit "D", or subsequently receives the approval of the parties, no direct charge shall be made by Operator for premiums paid for such insurance for operator's fully owned automotive equipment.

## 28. CLAIMS AND LAWSUITS

If any party to this contract is sued on an alleged cause of action arising out of operations on the Unit Area, or on an alleged cause of action involving title to any lease or oil and gas interest subjected to this contract, it shall give prompt written notice of the suit to the Operator and all other parties.

The defense of lawsuits shall be under the general direction of a committee of lawyers representing the parties, with Operator's attorney as Chairman. Suits may be settled during litigation only with the joint consent of all parties. No charge shall be made for services performed by the staff attorneys for any of the parties, but otherwise all expenses incurred in the defense of suits, together with the amount paid to discharge any final judgment, shall be considered costs of operation and shall be charged to and paid by all parties in proportion to their then interests in the Unit Area. Attorneys, other than staff attorneys for the parties, shall be employed in lawsuits involving Unit Area operations only with the consent of all parties; if outside counsel is employed, their fees and expenses shall be considered Unit Area expense and shall be paid by Operator and charged to all of the parties in proportion to their then interests in the Unit Area. The provisions of this paragraph shall not be applied in any instance where the loss which may result from the suit is treated as an individual loss rather than a joint loss under prior provisions of this agreement, and all such suits shall be handled by and be the sole responsibility of the party or parties concerned.

Damage claims caused by and arising out of operations on the Unit Area, conducted for the joint account of all parties, shall be handled by Operator and its attorneys, the settlement of claims of this kind shall be within the discretion of Operator so long as the amount paid in settlement of any one claim does not exceed one thousand (\$1000.00) dollars and, if settled, the sums paid in settlement shall be charged as expense to and be paid by all parties in proportion to their then interests in the Unit Area.

## 29. FORCE MAJEURE

If any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this agreement, other than the obligation to make money payments, that party shall give to all other parties prompt written notice of the force majeure with reasonably full particulars concerning it; thereupon, the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected party shall use all possible diligence to remove the force majeure as quickly as possible.

The requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts, or other labor difficulty by the party involved, contrary to its wishes; how all such difficulties shall be handled shall be entirely within the discretion of the party concerned.

The term "force majeure" as here employed shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood, explosion, governmental restraint, unavailability of equipment, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the party claiming suspension.

## 30. NOTICES

All notices authorized or required between the parties, and required by any of the provisions of this agreement, shall, unless otherwise specifically provided, be given in writing by United States mail or Western Union Telegram, postage or charges prepaid, and addressed to the party to whom the notice is given at the

addresses listed on Exhibit "A". The originating notice to be given under any provision hereof shall be deemed given only when received by the party to whom such notice is directed and the time for such party to give any notice in response thereto shall run from the date the originating notice is received. The second or any responsive notice shall be deemed given when deposited in the United States mail or with the Western Union Telegraph Company, with postage or charges prepaid. Each party shall have the right to change its address at any time, and from time to time, by giving written notice thereof to all other parties.

31. OTHER CONDITIONS, IF ANY, ARE:

A. Notwithstanding any provision to the contrary appearing in Paragraph 11 hereof, consent to the drilling of a well shall not be deemed as consent to the setting of casing and a completion attempt. After any well drilled pursuant to this agreement has reached its authorized depth, Operator shall give immediate notice to Non-Operators. The parties receiving such notice shall have twenty-four (24) hours in which to elect whether or not they desire to set casing and to participate in a completion attempt. Failure of a party receiving such notice so to reply within the period above fixed shall constitute an election by that party not to participate in the cost of a completion attempt. If all of the parties elect to plug and abandon the well, Operator shall plug and abandon same at the expense of all of the parties. If one or more, but less than all, of the parties elect to set pipe and to attempt a completion, the provisions of Paragraph 12 shall apply to the operations thereafter conducted by less than all parties.

B. If any party hereto hereafter should create any overriding royalty, production payment, or other burden against its working interest production and if any other party or parties should conduct non-consent operations pursuant to any provision of this agreement, and, as a result, become entitled to receive the working interest production otherwise belonging to the non-participating party, the party or parties entitled to receive the working interest production of the non-participating party shall receive such production free and clear of burdens against such production which may have been created subsequent to this agreement and the non-participating party creating such subsequent burdens shall save the participating party or parties harmless with respect to the receipt of such working interest production.

This agreement may be signed in counterpart, and shall be binding upon the parties and upon their heirs, successors, representatives and assigns.

\_\_\_\_\_  
V. F. Vasicek and

~~ATTEST:~~

\_\_\_\_\_  
J. M. Fullinwider  
dba V-F PETROLEUM

OPERATOR

~~ATTEST:~~

\_\_\_\_\_  
Loradean Allen Scott

~~ATTEST:~~

\_\_\_\_\_  
Wilton E. Scott

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS,

County of Midland

appeared V. F. Vasicek

Before me, the undersigned authority, on this day personally

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office on this, the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_

(SEAL)

Notary Public in and for \_\_\_\_\_ County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS,

County of Midland

appeared J. M. Fullinwider

Before me, the undersigned authority, on this day personally

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office on this, the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_

(SEAL)

Notary Public in and for \_\_\_\_\_ County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS,

County of Harris

appeared Loradean Allen Scott and husband, Wilton E. Scott

Before me, the undersigned authority, on this day personally

known to me to be the person whose name s are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this, the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_

(SEAL)

Notary Public in and for \_\_\_\_\_ County, Texas

EXHIBIT "A"

Attached to and made a part of Operating Agreement dated February 10, 1972, by and between V-F Petroleum, Operator and Loradean Allen Scott, et vir Non-Operator covering certain lands in Lea County, New Mexico.

UNIT AREA

40 acres of land, more or less, described as the SE/4 of the SW/4 of Section 1, T-15-S, R-36-E, NMPM, Lea County, New Mexico.

INTERESTS OF PARTIES

V-F Petroleum  
1212 Vaughn Building  
Midland, Texas

2/3

Loradean Allen Scott  
P. O. Box 2511  
Houston, Texas 77001

1/3

EXHIBIT "B"  
OIL & GAS LEASE

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_  
(Post Office Address)

herein called lessor (whether one or more) and \_\_\_\_\_, lessee:

1. Lessor, in consideration of TEN AND OTHER DOLLARS in hand paid, receipt of which is here acknowledged, and of the royalties herein provided and of the agreements of the lessee herein contained, hereby grants, leases and lets exclusively unto lessee for the purpose of investigating, exploring, prospecting, drilling, and operating for and producing oil and gas, injecting gas, waters, other fluids, and air into subsurface strata, laying pipe lines, storing oil, building tanks, roadways, telephone lines, and other structures and things thereon to produce, save, take care of, treat, process, store and transport said minerals, the

following described land in \_\_\_\_\_ County, \_\_\_\_\_ to-wit:

For the purpose of calculating the rental payments hereinafter provided for, said land is estimated to comprise \_\_\_\_\_ acres, whether it actually comprises more or less.

2. Subject to the other provisions herein contained, this lease shall remain in force for a term of \_\_\_\_\_ years from this date (called "primary term"), and as long thereafter as oil or gas, is produced from said land or land with which said land is pooled.

3. The royalties to be paid by lessee are: (a) on oil, and on other liquid hydrocarbons saved at the well, one-eighth of that produced and saved from said land, same to be delivered at the wells or to the credit of lessor in the pipe line to which the wells may be connected; (b) on gas, including casinghead gas and all gaseous substances, produced from said land and sold or used off the premises or in the manufacture of gasoline or other product therefrom, the market value at the mouth of the well of one-eighth of the gas so sold or used, provided that on gas sold at the wells the royalty shall be one-eighth of the amount realized from such sale; (c) and at any time when this lease is not validated by other provisions hereof and there is a gas and/or condensate well on said land, or land pooled therewith, but gas and/or condensate is not being so sold or used and such well is shut in, either before or after production therefrom, then on or before 90 days after said well is shut in, and thereafter at annual intervals, lessee may pay or tender an advance annual shut-in royalty equal to the amount of delay rentals provided for in this lease for the acreage then held under this lease by the party making such payment or tender, and so long as said shut-in royalty is paid or tendered this lease shall not terminate and it will be considered under all clauses hereof that gas is being produced from the leased premises in paying quantities. Each such payment shall be paid or tendered to the party or parties who at the time of such payment would be entitled to receive the royalties which would be paid under this lease if the well were in fact producing, or be paid or tendered to the credit of such party or parties in the depository bank and in the manner hereinafter provided for the payment of rentals.

4. If operations for drilling are not commenced on said land or on land pooled therewith on or before one (1) year from this date, this lease shall terminate

as to both parties, unless on or before one (1) year from this date lessee shall pay or tender to the lessor a rental of \$ \_\_\_\_\_ which shall cover the privilege of deferring commencement of such operations for a period of twelve (12) months. In like manner and upon like payments or tenders, annually, the commencement of said operations may be further deferred for successive periods of twelve (12) months each during the primary term. Payment

or tender may be made to the lessor or to the credit of the lessor in the \_\_\_\_\_ Bank

at \_\_\_\_\_, which bank, or any successor thereof, shall continue to be the agent for the lessor and lessor's heirs and assigns. If such bank for any successor bank) shall fail, liquidate, or be succeeded by another bank, or for any reason shall fail or refuse to accept rental, lessee shall not be held in default until thirty (30) days after lessor shall deliver to lessee a recordable instrument making provision for another acceptable method of payment or tender, and any depository charge is a liability of the lessor. The payment or tender of rental may be made by check or draft of lessee, mailed or delivered to said bank or lessor, or any lessor if more than one, on or before the rental paying date. Any timely payment or tender of rental or shut-in royalty which is made in a bona fide attempt to make proper payment, but which is erroneous in whole or in part as to parties, amounts, or depositories shall nevertheless be sufficient to prevent termination of this lease in the same manner as though a proper payment had been made; provided, however, lessee shall correct such error within thirty (30) days after lessee has received written notice thereof by certified mail from lessor together with such instruments as are necessary to enable lessee to make proper payment.

5. Lessee is hereby granted the right and power, from time to time, to pool or combine this lease, the land covered by it or any part or horizon thereof with any other land, lease, leases, mineral estates or parts thereof for the production of oil or gas. Units pooled hereunder shall not exceed the standard production unit fixed by law or by the \_\_\_\_\_ or by other lawful authority for the pool or area in which said land is situated, plus a tolerance of 10%. Lessee shall file written unit designations in the county in which the premises are located and such units may be designated from time to time and either before or after the completion of wells. Drilling operations on or production from any part of any such unit shall be considered for all purposes, except the payment of royalty, as operations conducted upon or production from the land described in this lease. There shall be allocated to the land covered by this lease included in any such unit that portion of the total production of pooled minerals from wells in the unit, after deducting any used in lease or unit operations, which the number of surface acres in the land covered by this lease included in the unit bears to the total number of surface acres in the unit. The production so allocated shall be considered for all purposes, including the payment or delivery of royalty, to be the entire production of pooled minerals from the portion of said land covered hereby and included in said unit in the same manner as though produced from said land under the terms of this lease. Any pooled unit designated by lessee, as provided herein, may be dissolved by lessee by recording an appropriate instrument in the County where the land is situated at any time after the completion of a dry hole or the cessation of production on said unit.

6. If prior to the discovery of oil or gas hereunder, lessee should drill and abandon a dry hole or holes hereunder, or if after discovery of oil or gas the production thereof should cease for any cause, this lease shall not terminate if lessee commences reworking or additional drilling operations within 60 days thereafter and diligently prosecutes the same, or (if it be within the primary term) commences or resumes the payment or tender of rentals or commences operations for drilling or reworking on or before the rental paying date next ensuing after the expiration of three months from date of abandonment of said dry hole or holes or the cessation of production. If at the expiration of the primary term oil or gas is not being produced but lessee is then engaged in operations for drilling or reworking of any well, this lease shall remain in force so long as such operations are diligently prosecuted with no cessation of more than 60 consecutive days. If during the drilling or reworking of any well under this paragraph, lessee loses or junks the hole or well and after diligent efforts in good faith is unable to complete said operations then within 30 days after the abandonment of said operations lessee may commence another well and drill the same with due diligence. If any drilling, additional drilling, or reworking operations hereunder result in production, then this lease shall remain in full force so long thereafter as oil or gas is produced hereunder.

7. Lessee shall have free use of oil, gas and water from said land, except water from lessor's wells and tanks, for all operations hereunder, and the royalty shall be computed after deducting any so used. Lessee shall have the right at any time during or after the expiration of this lease to remove all property and fixtures placed by lessee on said land, including the right to draw and remove all casing. When required by lessor, lessee will bury all pipe lines on cultivated lands below ordinary plow depth, and no well shall be drilled within two hundred feet (200 ft.) of any residence or barn now on said land without lessor's consent. Lessor shall have the privilege, at his risk and expense, of using gas from any gas well on said land for stoves and inside lights in the principal dwelling thereon, out of any surplus gas not needed for operations hereunder.

8. The rights of either party hereunder may be assigned in whole or in part and the provisions hereof shall extend to the heirs, executors, administrators, successors and assigns; but no change or division in the ownership of the land, or in the ownership of or right to receive rentals, royalties or payments, however accomplished shall operate to enlarge the obligations or diminish the rights of lessee; and no such change or division shall be binding upon lessee for any purpose until 30 days after lessee has been furnished by certified mail at lessee's principal place of business with acceptable instruments or certified copies thereof constituting the chain of title from the original lessor. If any such change in ownership occurs through the death of the owner, lessee may pay or tender any rentals, royalties or payments to the credit of the deceased or his estate in the depository bank until such time as lessee has been furnished with evidence satisfactory to lessee as to the persons entitled to such sums. In the event of an assignment of this lease as to a segregated portion of said land, the rentals payable hereunder shall be apportioned as between the several leasehold owners ratably according to the surface area of each, and default in rental payment by one shall not affect the rights of other leasehold owners hereunder. An assignment of this lease, in whole or in part, shall, to the extent of such assignment, relieve and discharge lessee of any obligations hereunder, and, if lessee or assignee of part or parts hereof shall fail or make default in the payment of the proportionate part of the rentals due from such lessee or assignee or fail to comply with any other provision of the lease, such default shall not affect this lease in so far as it covers a part of said lands upon which lessee or any assignee thereof shall so comply or make such payments. Rentals as used in this paragraph shall also include shut-in royalty.

9. Should lessee be prevented from complying with any express or implied covenant of this lease, or from conducting drilling or reworking operations hereunder, or from producing oil or gas hereunder by reason of scarcity or inability to obtain or use equipment or material, or by operation of force majeure, or by any Federal or state law or any order, rule or regulation of governmental authority, then while so prevented, lessee's duty shall be suspended, and lessee shall not be liable for failure to comply therewith; and this lease shall be extended while and so long as lessee is prevented by any such cause from conducting drilling or reworking operations on or from producing oil or gas hereunder; and the time while lessee is so prevented shall not be counted against lessee, anything in this lease to the contrary notwithstanding.

10. Lessor hereby warrants and agrees to defend the title to said land, and agrees that lessee, at its option, may discharge any tax, mortgage, or other lien upon said land, and in the event lessee does so, it shall be subrogated to such lien with the right to enforce same and apply rentals and royalties accruing hereunder toward satisfying same. Without impairment of lessee's rights under the warranty, if this lease covers a less interest in the oil or gas in all or any part of said land than the entire and undivided fee simple estate (whether lessor's interest is herein specified or not) then the royalties, shut-in royalty, rental, and other payments, if any, accruing from any part as to which this lease covers less than such full interest, shall be paid only in the proportion which the interest therein, if any, covered by this lease, bears to the whole and undivided fee simple estate therein. Should any one or more of the parties named above as lessors fail to execute this lease, it shall nevertheless be binding upon the party or parties executing the same.

11. Lessee, its/heir successors, heirs and assigns, shall have the right at any time to surrender this lease, in whole or in part, to lessor or his heirs, successors, and assigns by delivering or mailing a release thereof to the lessor, or by placing a release thereof of record in the county in which said land is situated; thereupon lessee shall be relieved from all obligations, expressed or implied, of this agreement as to acreage so surrendered, and thereafter the rentals and shut-in royalty payable hereunder shall be reduced in the proportion that the acreage covered hereby is reduced by said release or releases.

Executed the day and year first above written.

EXHIBIT " C "

Attached to and made a part of Operating Agreement dated February 10, 1972, by and between V-F Petroleum Operator, and Loradean Allen Scott, et vir, Non-Operator, covering certain lands situated in Lea County, New Mexico.

## ACCOUNTING PROCEDURE JOINT OPERATIONS

### I. GENERAL PROVISIONS

#### 1. Definitions

"Joint Account" shall mean the account showing the charges and credits accruing because of the Joint Operations and which are to be shared by the Parties.

"Joint Property" shall mean the real and personal property subject to the agreement to which this Accounting Procedure is attached.

"Joint Operations" shall mean all operations necessary or proper for the development, operation, protection and maintenance of the Joint Property.

"Operator" shall mean the party designated to conduct the Joint Operations.

"Non-Operators" shall mean the parties to this agreement other than the Operator.

"Parties" shall mean Operator and Non-Operators.

"Material" shall mean personal property, equipment or supplies acquired or held for use on the Joint Property.

"Controllable Material" shall be defined as set forth under the subparagraph selected below:

- A. ☐ Material which at the time is so classified in the Material Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies of North America.
- B. ☒ Material which is ordinarily so classified and controlled by Operator in the conduct of its operations. List shall be furnished Non-Operators upon request.

#### 2. Statements and Billings

Operator shall bill Non-Operators on or before the last day of each month for their proportionate share of costs and expenses for the preceding month. Such bills will be accompanied by statements reflecting the total charges and credits as set forth under the subparagraph selected below:

- A. ☐ Statement in detail of all charges and credits to the Joint Account.
- B. ☒ Statement of all charges and credits to the Joint Account, summarized by appropriate classifications indicative of the nature thereof.
- C. ☐ Statement of all charges and credits to the Joint Account, summarized by appropriate classification indicative of the nature thereof, except that items of Controllable Material and unusual charges and credits shall be detailed.

#### 3. Advances and Payments by Non-Operators

Unless otherwise provided for in the agreement, the Operator may require the Non-Operators to advance their share of estimated cash outlay for the succeeding month's operation. Operator shall adjust each monthly billing to reflect advances received from the Non-Operators.

Each Non-Operator shall pay its proportion of all bills within fifteen (15) days after receipt. If payment is not made within such time, the unpaid balance shall bear interest monthly at the rate of ten per cent (10%) per annum or the maximum contract rate permitted by the applicable usury laws in the state in which the Joint Property is located, whichever is the lesser.

#### 4. Adjustments

Payment of any such bills shall not prejudice the right of any Non-Operator to protest or question the correctness thereof; provided however, all bills and statements rendered to Non-Operators by Operator during any calendar year shall conclusively be presumed to be true and correct after twenty-four (24) months following the end of any such calendar year, unless within the said twenty-four (24) month period a Non-Operator takes written exception thereto and makes claim on Operator for adjustment. No adjustment favorable to Operator shall be made unless it is made within the same prescribed period. The provisions of this paragraph shall not prevent adjustments resulting from a physical inventory of the Joint Property as provided for in Section VII.

#### 5. Audits

A Non-Operator, upon notice in writing to Operator and all other Non-Operators, shall have the right to audit Operator's accounts and records relating to the accounting hereunder for any calendar year within the twenty-four (24) month period following the end of such calendar year; provided however, the making of an audit shall not extend the time for the taking of written exception to and the adjustments of accounts as provided for in Paragraph 4 of this Section I. Where there are two or more Non-Operators, the Non-Operators shall make every reasonable effort to conduct joint or simultaneous audits in a manner which will result in a minimum of inconvenience to the Operator. Operator shall bear no portion of the Non-Operators' audit cost incurred under this paragraph unless agreed to by the Operator.

#### 6. Approval by Non-Operators

Where an approval or other agreement of Non-Operators is expressly required under Paragraphs 5A, 5B, 6A and 8 of Section II, Section III, Section V, Section VI, and Paragraph 4 of Section VII, of this Accounting Procedure and if the agreement to which this Accounting Procedure is attached contains no contrary provisions in regard thereto, the Operator shall notify all Non-Operators and the agreement or approval of a majority in interest of the Non-Operators shall be controlling on all Non-Operators.

## II. DIRECT CHARGES

Operator shall charge the Joint Account with the following items:

### 1. Rentals and Royalties

Lease rentals and royalties paid by Operator for the Joint Operations.

### 2. Labor

- A. (1) Salaries and wages of Operator's employees directly employed on the Joint Property in the conduct of Joint Operations.
- (2) Salaries of first-level supervisors in the field if such charges are excluded from overhead rates in Option A of Section III.
- (3) Salaries and wages of technical employees temporarily assigned to and directly employed on the Joint Property if such charges are excluded from overhead rates in Option B of Section III.
- (4) Salaries and wages of technical employees either temporarily or permanently assigned to and directly employed in the operation of the Joint Property if such charges are excluded from overhead rates in Option C of Section III.
- B. Operator's cost of holiday, vacation, sickness and disability benefits and other customary allowances paid to the employees whose salaries and wages are chargeable to the Joint Account under Paragraph 2A of this Section II and Paragraph 1A of Section III; except that in the case of those employees only a pro rata portion of whose salaries and wages are chargeable to the Joint Account under Paragraph 1A of Section III, not more than the same pro rata portion of the benefits and allowances herein provided for shall be charged to the Joint Account. Cost under this Paragraph 2B may be charged on a "when and as paid basis" or by "percentage assessment" on the amount of salaries and wages chargeable to the Joint Account under Paragraph 2A of this Section II and Paragraph 1A of Section III. If percentage assessment is used, the rate shall be based on the Operator's cost experience.
- C. Expenditures or contributions made pursuant to assessments imposed by governmental authority which are applicable to Operator's labor cost of salaries and wages chargeable to the Joint Account under Paragraphs 2A and 2B of this Section II and Paragraph 1A of Section III.
- D. Reasonable personal expenses of those employees whose salaries and wages are chargeable to the Joint Account under Paragraph 2A of this Section II and for which expenses the employees are reimbursed under Operator's usual practice.

### 3. Employee Benefits

Operator's current cost of established plans for employees' group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonus, and other benefit plans of a like nature, applicable to Operator's labor cost chargeable to the Joint Account under Paragraphs 2A and 2B of this Section II and Paragraph 1A of Section III shall be chargeable as indicated in the subparagraph selected below: Not applicable.

A. ☐ Operator's actual cost.

B. ☐ Operator's actual cost not to exceed fifteen per cent (15%).

### 4. Material

Material purchased or furnished by Operator for use on the Joint Property as provided under Section IV. So far as it is reasonably practical and consistent with efficient and economical operation, only such Material shall be purchased for or transferred to the Joint Property as may be required for immediate use; and the accumulation of surplus stocks shall be avoided.

### 5. Transportation

Transportation of employees and Material necessary for the Joint Operations but subject to the following limitations:

- A. If Material is moved to the Joint Property from the Operator's warehouse or other properties, no charge shall be made to the Joint Account for a distance greater than the distance from the nearest reliable supply store, recognized barge terminal, or railway receiving point where like material is normally available, unless agreed to by Operator and Non-Operators.
- B. If surplus Material is moved to Operator's warehouse or other storage point, no charge shall be made to the Joint Account for a distance greater than the distance to the nearest reliable supply store, recognized barge terminal, or railway receiving point unless agreed to by Operators and Non-Operators. No charge shall be made to the Joint Account for moving Material to other properties belonging to Operator, unless agreed to by Operator and Non-Operators.
- C. In the application of Subparagraphs A and B above, there shall be no equalization of actual gross trucking costs of \$100 or less.

### 6. Services

- A. The cost of contract services and utilities procured from outside sources other than services covered by Paragraph 8 of this Section II and Paragraph 1B of Section III. The cost of professional consultant services shall not be charged to the Joint Account unless agreed to by Operator and Non-Operators.
- B. Use and service of equipment and facilities furnished by Operator as provided in Paragraph 5 of Section IV.

### 7. Damages and Losses to Joint Property

All costs or expenses necessary for the repair or replacement of Joint Property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other cause, except to the extent that the damage or loss could have been avoided through the exercise of reasonable diligence on the part of Operator. Operator shall furnish Non-Operators written notice of damages or losses incurred as soon as practicable after a report thereof has been received by Operator.

### 8. Legal Expense

All costs and expenses of handling, investigating, and settling litigation or claims arising by reason of the Joint Operations or necessary to protect or recover the Joint Property, including, but not limited to, attorney's fees, court costs, cost of investigation or procuring evidence and amounts paid in settlement or satisfaction of any such litigation or claims; provided, (a) no charge shall be made for the services of Operator's legal staff or other regularly employed personnel (such services being considered to be Administrative Overhead under Section III), unless agreed to by Operator and Non-Operators, and (b) no charge shall be made for the fees and expenses of outside attorneys unless the employment of such attorneys is agreed to by Operator and Non-Operators.

### 9. Taxes

All taxes of every kind and nature assessed or levied upon or in connection with the Joint Property, the operation thereof, or the production therefrom, and which taxes have been paid by the Operator for the benefit of the Parties.



**10. Insurance**

Net premiums paid for insurance required to be carried on the Joint Property for the protection of the Parties. In the event Joint Operations are conducted in a state in which Operator may act as self-insurer for Workmen's Compensation and/or Employers Liability under the respective state's laws, Operator may, at its election, include the risk under its self-insurance program and in that event, Operator shall include a charge therefor on the following basis:

Not applicable

**11. Other Expenditures**

Any other expenditure not covered or dealt with in the foregoing provisions of this Section II, or in Section III, and which is incurred by the Operator for the necessary and proper conduct of the Joint Operations.

**III. INDIRECT CHARGES**

Operator may charge the Joint Account for indirect costs either by use of an allocation of district expense items plus the rate for administrative overhead, and plus the warehousing charges, all as provided for in Paragraph 1 of this Section III or by combining all three of said items under the rates provided for in Paragraph 2 or 3 of this Section III, as indicated next below:

**OPERATOR SHALL CHARGE INDIRECT COSTS TO THE JOINT ACCOUNT UNDER THE TERMS OF:**

- ☐ Paragraph 1. (District Expense, Administrative Overhead and Warehousing)
- ☒ Paragraph 2. (Combined Rates - Well Basis)
- ☐ Paragraph 3. (Combined Rates - Percentage Basis)

The cost and expense of services from outside sources in connection with matters of taxation, traffic, accounting or matters before or involving governmental agencies shall be considered as included in the overhead rates provided for in the above selected Paragraph of this Section III unless such cost and expense are agreed to by Operator and Non-Operators as a direct charge to the Joint Account.

**THE OVERHEAD RATES PROVIDED FOR IN ANY OF THE PARAGRAPHS SELECTED ABOVE**

- A. ☐ shall ☒ shall not include salaries and personal expenses of first-level supervisors in the field.
- B. ☐ shall ☒ shall not include salaries, wages and personal expenses of technical employees temporarily assigned to and directly employed on the Joint Property.
- C. ☒ shall ☐ shall not include salaries, wages and personal expenses of technical employees either temporarily or permanently assigned to and directly employed in the operation of the Joint Property.

**1. District Expense, Administrative Overhead and Warehousing**

**A. District Expense**

Operator shall charge the Joint Account with a pro rata portion of the salaries, wages and expenses of Operator's production superintendent and other employees serving the Joint Property and other properties of the Operator in the same operating area, whose time is not allocated directly to the properties, and a pro rata portion of the cost of maintaining and operating a production office known as Operator's

office located at or near (or a comparable office if location changed); and necessary sub-offices (if any), maintained for the convenience of the above-described office, and all necessary camps, including housing facilities for employees if required, used in connection with the operations of the Joint Property and other properties in the same operating area. The expense of, less any revenue from, such facilities may, at the option of Operator, include depreciation of investment or a fair monthly rental in lieu of depreciation. Such charges shall be apportioned to all properties served on some equitable basis consistent with Operator's accounting practice.

**B. Administrative Overhead**

Operator shall charge administrative overhead to the Joint Account at the following rates, which charge shall be in lieu of the cost and expense of all offices of the Operator not covered by Paragraph 1A of this Section III, including salaries, wages and expenses of personnel assigned to such offices. Such charge shall be in addition to the salaries, wages and expenses of employees of Operator authorized to be charged direct as provided in Paragraphs 2 and 8 of Section II. Such charge shall be made on the basis indicated below, either (1) well basis or (2) percentage basis, at the rates shown thereunder.

(1) ☐ Well Basis

**RATE PER WELL PER MONTH**

Well Depth	DRILLING WELL RATE (Use Total Depth)	PRODUCING WELL RATE (Use Current Producing Depth)		
	Each Well	First Five	Next Five	All Wells Over Ten

(2) ☐ Percentage Basis

**PERCENTAGE BASIS**

**Development:**

Percent ( %) of the cost of development of the Joint Property exclusive of costs provided under Paragraph 8 of Section II and all salvage credits.

**Operating:**

Percent ( %) of the cost of operating the Joint Property exclusive of costs provided under Paragraphs 1 and 8 of Section II, all salvage credits, the value of injected substances purchased for secondary recovery and all taxes and assessments which are levied, assessed and paid upon the mineral interest in and to the Joint Property.

10. Insurance

Net premiums paid for insurance required to be carried on the Joint Property for the protection of the Parties. In the event Joint Operations are conducted in a state in which Operator may act as self-insurer for Workmen's Compensation and/or Employers Liability under the respective state's laws, Operator may, at its election, include the risk under its self-insurance program and in that event, Operator shall include a charge therefor on the following basis:

Not applicable

11. Other Expenditures

Any other expenditure not covered or dealt with in the foregoing provisions of this Section II, or in Section III, and which is incurred by the Operator for the necessary and proper conduct of the Joint Operations.

III. INDIRECT CHARGES

Operator may charge the Joint Account for indirect costs either by use of an allocation of district expense items plus the rate for administrative overhead, and plus the warehousing charges, all as provided for in Paragraph 1 of this Section III or by combining all three of said items under the rates provided for in Paragraph 2 or 3 of this Section III, as indicated next below:

OPERATOR SHALL CHARGE INDIRECT COSTS TO THE JOINT ACCOUNT UNDER THE TERMS OF:

- ☐ Paragraph 1. (District Expense, Administrative Overhead and Warehousing)
- ☒ Paragraph 2. (Combined Rates - Well Basis)
- ☐ Paragraph 3. (Combined Rates - Percentage Basis)

The cost and expense of services from outside sources in connection with matters of taxation, traffic, accounting or matters before or involving governmental agencies shall be considered as included in the overhead rates provided for in the above selected Paragraph of this Section III unless such cost and expense are agreed to by Operator and Non-Operators as a direct charge to the Joint Account.

THE OVERHEAD RATES PROVIDED FOR IN ANY OF THE PARAGRAPHS SELECTED ABOVE

- A. ☐ shall ☒ shall not include salaries and personal expenses of first-level supervisors in the field.
- B. ☐ shall ☒ shall not include salaries, wages and personal expenses of technical employees temporarily assigned to and directly employed on the Joint Property.
- C. ☒ shall ☐ shall not include salaries, wages and personal expenses of technical employees either temporarily or permanently assigned to and directly employed in the operation of the Joint Property.

1. District Expense, Administrative Overhead and Warehousing

A. District Expense

Operator shall charge the Joint Account with a pro rata portion of the salaries, wages and expenses of Operator's production superintendent and other employees serving the Joint Property and other properties of the Operator in the same operating area, whose time is not allocated directly to the properties, and a pro rata portion of the cost of maintaining and operating a production office known as Operator's

office located at or near (or a comparable office if location changed); and necessary sub-offices (if any), maintained for the convenience of the above-described office, and all necessary camps, including housing facilities for employees if required, used in connection with the operations of the Joint Property and other properties in the same operating area. The expense of, less any revenue from, such facilities may, at the option of Operator, include depreciation of investment or a fair monthly rental in lieu of depreciation. Such charges shall be apportioned to all properties served on some equitable basis consistent with Operator's accounting practice.

B. Administrative Overhead

Operator shall charge administrative overhead to the Joint Account at the following rates, which charge shall be in lieu of the cost and expense of all offices of the Operator not covered by Paragraph 1A of this Section III, including salaries, wages and expenses of personnel assigned to such offices. Such charge shall be in addition to the salaries, wages and expenses of employees of Operator authorized to be charged direct as provided in Paragraphs 2 and 8 of Section II. Such charge shall be made on the basis indicated below, either (1) well basis or (2) percentage basis, at the rates shown thereunder.

(1) ☐ Well Basis

RATE PER WELL PER MONTH

Well Depth	DRILLING WELL RATE (Use Total Depth)	PRODUCING WELL RATE (Use Current Producing Depth)		
	Each Well	First Five	Next Five	All Wells Over Ten

(2) ☐ Percentage Basis

PERCENTAGE BASIS

Development:

Percent ( %) of the cost of development of the Joint Property exclusive of costs provided under Paragraph 8 of Section II and all salvage credits.

Operating:

Percent ( %) of the cost of operating the Joint Property exclusive of costs provided under Paragraphs 1 and 8 of Section II, all salvage credits, the value of injected substances purchased for secondary recovery and all taxes and assessments which are levied, assessed and paid upon the mineral interest in and to the Joint Property.

## C. Operator's Warehouse Operating and Maintenance Expense

- [ ] Included in district expense  
 [ ] No charge either direct or indirect  
 [ ] Percentage basis (describe fully) .....

## 2. Combined Rates - Well Basis

Operator shall charge the Joint Account for the services covered by Paragraph 1 of this Section III on the basis indicated below:

Well Depth	RATE PER WELL PER MONTH			
	DRILLING WELL RATE (Use Total Depth)	ALL WELLS	PRODUCING WELL RATE (Use Current Producing Depth)	
	Each Well	<del>First Five</del>	Next Five	All Wells Over Ten
0 - 11,000'	\$ 975	\$ 150		
	Flat Rate			

## 3. Combined Rates - Percentage Basis

Operator shall charge the Joint Account for the services covered by Paragraph 1 of this Section III on the basis indicated below:

PERCENTAGE BASIS

## A. Development:

..... Percent ( %) of the cost of development of the Joint Property exclusive of costs provided under Paragraph 8 of Section II and all salvage credits.

## B. Operating:

..... Percent ( %) of the cost of operating the Joint Property exclusive of costs provided under Paragraphs 1 and 8 of Section II, all salvage credits, the value of injected substances purchased for secondary recovery and all taxes and assessments which are levied, assessed and paid upon the mineral interest in and to the Joint Property.

## 4. Application of Administrative Overhead or Combined Rates - Well Basis

The following limitations, instructions and charges shall apply in the application of the rates as provided under either Paragraph 1B (1) or Paragraph 2 of this Section III.

## A. Charges for drilling wells shall begin on the date each well is spudded and terminate on the date the drilling or completion rig is released, whichever is later, except that no charge shall be made during the suspension of drilling operations for fifteen (15) or more consecutive days.

## B. The status of wells shall be as follows:

- (1) Producing gas wells, injection wells for recovery operations, water supply wells utilized for waterflood-ing operations and salt water disposal wells shall be considered the same as producing oil wells.
- (2) Wells permanently shut down but on which plugging operations are deferred shall be dropped from the well schedule at the time the shutdown is effected. Any well being plugged or produced during any portion of the month shall be considered as a producing well for the entire month.
- (3) Wells being plugged back, drilled deeper, converted to a source or input well, or which are undergoing any type of workover that requires the use of a drilling rig or workover rig capable of drilling shall be considered the same as drilling wells.
- (4) Temporarily shut-down wells, which are not produced or worked upon for a period of a full calendar month, shall not be included in the well schedule, provided however, wells shut in by governmental regulatory body shall be included in the well schedule only in the event the allowable production is transferred to some other well or wells on the Joint Property. In the event of a unit allowable, shut-in wells shall be counted in determining the charge hereunder for such month if said wells contribute allow-able production that is actually produced during such month from one or more unit wells as a result of allowable transfer, inclusion in the unit allowable or other circumstances, but the total shut-in well count shall be limited to the minimum number of shut-in wells necessary to provide the contributed allowable actually produced during the month.
- (5) Gas wells shall be included in the well schedule if directly connected to a permanent sales outlet even though temporarily shut in due to overproduction or failure of purchaser to take the allowed production.
- (6) Wells completed in multiple horizons, shall be considered as a producing well for each separately pro-ducing horizon, providing each completion is considered a separate well by governmental or other state-wide regulatory authority.

## C. The well rates for producing wells shall be applied to the individual leases; provided that, whenever leases covered by this agreement are operated as a unitized project, the well rates shall be applied to the total number of producing wells, irrespective of individual leases.

## D. The well rates shall be adjusted as of the first day of April each year following the effective date of the agreement to which this Accounting Procedure is attached. The adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, or the equivalent Canadian Index as published by the Dominion Bureau of Statistics, as applicable. The adjusted rates shall be the rates currently in use, plus or minus the computed adjustment.

## 5. Application of Administrative Overhead or Combined Rates - Percentage Basis

For the purpose of determining charges on a Percentage Basis under Paragraph 1B (2) or Paragraph 3 of this Section III, Development shall include all costs in connection with drilling, redrilling, deepening or any remedial operations on any or all wells involving the use of drilling crew and equipment; also, preliminary expenditures necessary in preparation for drilling and expenditures incurred in abandoning when well is not completed as a producer; and original cost of construction or installation of fixed assets, the expansion of fixed assets and any other project clearly discernible as a fixed asset, except Major Construction as defined in Paragraph 6 of this Section III. All other costs shall be considered as Operating.

## 6. Major Construction Overhead

For the construction of compressor plants, water stations, secondary recovery systems, drilling and production platforms, salt water disposal facilities, and other such projects, as distinguished from the more usual drilling

and producing operations, Operator in addition to the Administrative Overhead or Combined Rates provided for in Paragraph 1, 2 or 3 of this Section III shall either negotiate a rate prior to beginning of construction or shall charge the Joint Account with an additional overhead charge as follows: to be negotiated at later date.

- A. Total cost less than \$25,000, no charge.
- B. Total cost more than \$25,000, but less than \$100,000, .....% of total cost.
- C. Total cost of \$100,000 or more, ..... % of the first \$100,000 plus ..... % of all over \$100,000 of total cost.

Total cost shall mean the total gross cost of any one project. For the purpose of this paragraph the component parts of a single project shall not be treated separately and the cost of drilling wells shall be excluded.

#### 7. Amendment of Rates

The specific rates provided for in this Section III may be amended from time to time by mutual agreement between the Parties hereto if, in practice, the rates are found to be insufficient or excessive.

### IV. BASIS OF CHARGES TO JOINT ACCOUNT

Subject to the further provisions of this Section IV, Operator will procure all Material and services for the Joint Property. At the Operator's option, Non-Operators may supply Material or services for the Joint Property.

#### 1. Purchases

Material purchased and service procured shall be charged at the price paid by Operator after deduction of all discounts actually received.

#### 2. Material furnished from Operator's Warehouse or Other Properties

##### A. New Material (Condition "A")

- (1) Tubular goods, except line pipe, shall be priced on a maximum carload and/or barge load weight basis regardless of quantity transferred and equalized to the lowest prevailing price f.o.b. railway receiving point or recognized barge terminal nearest the Joint Property where such Material is normally available effective at date of transfer.
- (2) Line pipe shall be priced at the current replacement cost effective at date of transfer from a reliable supply store nearest the Joint Property where such Material is normally available if the movement is less than 30,000 pounds. If the movement is 30,000 pounds or more, it shall be priced on the same basis as casing and tubing under Subparagraph (1) of this paragraph.
- (3) When the Operator has equalized actual hauling costs as provided for in Paragraph 5 of Section II, Operator is permitted to include ten cents (10¢) per hundred-weight on all tubular goods furnished from his stocks in lieu of loading and unloading costs sustained.
- (4) Other Material shall be priced at the current replacement cost of the same kind of Material, effective at date of movement and f.o.b. the supply store or railway receiving point nearest the Joint Property where Material of the same kind is normally available.
- (5) The Joint Account shall not be credited with cash discounts applicable to prices provided for in this Paragraph 2 of Section IV.

##### B. Used Material (Condition "B" and "C")

- (1) Material in sound and serviceable condition and suitable for reuse without reconditioning, shall be classified as Condition "B" and priced at seventy-five per cent (75%) of the current price of new Material.
- (2) Material which is not suitable for its original function until after reconditioning shall be furnished to the Joint Account under one of the two methods defined below:
  - (a) Classified as Condition "B" and priced at seventy-five per cent (75%) of the current price of new Material. The cost of reconditioning shall be absorbed by the Operator of the transferring property.
  - (b) Classified as Condition "C" and priced at fifty per cent (50%) of current price of new Material. The cost of reconditioning also shall be charged to the receiving property, provided Condition "C" value, plus cost of reconditioning, does not exceed Condition "B" value.
- (3) Obsolete Material or Material which cannot be classified as Condition "B" or Condition "C" shall be priced at a value commensurate with its use. Material no longer suitable for its original purpose but usable for some other purpose, shall be priced on a basis comparable with that of items normally used for such other purpose.
- (4) Material involving erection costs shall be charged at applicable percentage of the current knocked-down price of new Material.

#### 3. Premium Prices

Whenever Material is not readily obtainable at prices specified in Paragraphs 1 and 2 of this Section IV because of national emergencies, strikes or other unusual causes over which the Operator has no control, the Operator may charge the Joint Account for the required Material at the Operator's actual cost incurred in procuring such Material, in making it suitable for use, and in moving it to the Joint Property, provided, that notice in writing is furnished to Non-Operators of the proposed charge prior to billing Non-Operators for such Material. Each Non-Operator shall have the right, by so electing and notifying Operator within 10 days after receiving notice from Operator, to furnish in kind all or part of his share of such Material suitable for use and acceptable to Operator.

#### 4. Warranty of Material Furnished by Operator

Operator does not warrant the Material furnished. In case of defective Material, credit shall not be passed to the Joint Account until adjustment has been received by Operator from the manufacturers or their agents.

#### 5. Equipment and Facilities Furnished by Operator

- A. Operator shall charge the Joint Account for use of equipment and facilities at rates commensurate with cost of ownership and operation. Such rates shall include cost of maintenance, repairs, other operating expense, insurance, taxes, depreciation, and interest on investment not to exceed six per cent (6%) per annum, provided such rates shall not exceed those currently prevailing in the immediate area within which the Joint Property is located. In lieu of rates based on costs of ownership and operation of equipment, other than automotive, Operator may elect to use commercial rates prevailing in the area of the Joint Property less 20%; for automotive equipment, rates as published by the Petroleum Motor Transport Association may be used. Rates for laboratory services shall not exceed those currently prevailing if performed by

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- outside service laboratories. Rates for trucks, tractors and well service units may include wages and expenses of operator.
- B. Whenever requested, Operator shall inform Non-Operators in advance of the rates it proposes to charge.
- C. Rates shall be revised and adjusted from time to time when found to be either excessive or insufficient.

#### V. DISPOSAL OF MATERIAL

The Operator may purchase, but shall be under no obligation to purchase, interest of Non-Operators in surplus Condition "A" or "B" Material. The disposition of surplus Controllable Material, not purchased by Operator, shall be agreed to by Operator and Non-Operators, provided Operator shall dispose of normal accumulations of junk and scrap Material either by transfer or sale from Joint Property.

**1. Material Purchased by the Operator or Non-Operators.**

Material purchased by either the Operator or Non-Operators shall be credited by the Operator to the Joint Account for the month in which the Material is removed by the purchaser.

**2. Division in Kind**

Division of Material in kind, if made between Operator and Non-Operators, shall be in proportion to the respective interests in such Material. The Parties will thereupon be charged individually with the value of the Material received or receivable. Proper credits shall be made by the Operator to the Joint Account.

**3. Sales to Outsiders**

Sales to outsiders of Material from the Joint Property shall be credited by Operator to the Joint Account at the net amount collected by Operator from vendee. Any claim by vendee related to such sale shall be charged back to the Joint Account if and when paid by Operator.

#### VI. BASIS OF PRICING MATERIAL TRANSFERRED FROM JOINT ACCOUNT

Material purchased by either Operator or Non-Operators or divided in kind, unless agreed to by Operator and Non-Operators shall be priced on the following basis:

**1. New Price Defined**

New price as used in this Section VI shall be the price specified for new Material in Section IV.

**2. New Material**

New Material (Condition "A"), being new Material procured for the Joint Property but never used, at one hundred per cent (100%) of current new price (plus sales tax if any).

**3. Good Used Material**

Good used Material (Condition "B"), being used Material in sound and serviceable condition, suitable for reuse without reconditioning:

- A. At seventy-five per cent (75%) of current new price if Material was charged to Joint Account as new, or
- B. At sixty-five per cent (65%) of current new price if Material was originally charged to the Joint Account as secondhand at seventy-five per cent (75%) of new price.

**4. Other Used Material**

Used Material (Condition "C"), at fifty per cent (50%) of current new price, being used Material which:

- A. Is not in sound and serviceable condition but suitable for reuse after reconditioning, or
- B. Is serviceable for original function but not suitable for reconditioning.

**5. Bad-Order Material**

Material (Condition "D"), no longer suitable for its original purpose without excessive repair cost but usable for some other purpose at a price comparable with that of items normally used for such other purpose.

**6. Junk Material**

Junk Material (Condition "E"), being obsolete and scrap Material, at prevailing prices.

**7. Temporarily Used Material**

When the use of Material is temporary and its service to the Joint Property does not justify the reduction in price as provided for in Paragraph 3B of this Section VI, such Material shall be priced on a basis that will leave a net charge to the Joint Account consistent with the value of the service rendered.

#### VII. INVENTORIES

The Operator shall maintain detailed records of Controllable Material.

**1. Periodic Inventories, Notice and Representation**

At reasonable intervals, inventories shall be taken by Operator of the Joint Account Controllable Material. Written notice of intention to take inventory shall be given by Operator at least thirty (30) days before any inventory is to begin so that Non-Operators may be represented when any inventory is taken. Failure of Non-Operators to be represented at an inventory shall bind Non-Operators to accept the inventory taken by Operator.

**2. Reconciliation and Adjustment of Inventories**

Reconciliation of inventory with the Joint Account shall be made, and a list of overages and shortages shall be furnished to the Non-Operators. Inventory adjustments shall be made by Operator with the Joint Account for overages and shortages, but Operator shall be held accountable to Non-Operators only for shortages due to lack of reasonable diligence.

**3. Special Inventories**

Special Inventories may be taken whenever there is any sale or change of interest in the Joint Property. It shall be the duty of the party selling to notify all other Parties as quickly as possible after the transfer of interest takes place. In such cases, both the seller and the purchaser shall be governed by such inventory.

**4. Expense of Conducting Periodic Inventories**

The expense of conducting periodic inventories shall not be charged to the Joint Account unless agreed to by Operator and Non-Operators.

EXHIBIT 'D'

INSURANCE

Attached to and made a part of Operating Agreement dated February 10, 1972 between V-F Petroleum, Operator, and Loradean Allen Scott, et vir Non-Operator, covering certain lands in Lea County, New Mexico.

Operator shall carry for the benefit and the expense of the joint account insurance with responsible insurance carriers as follows:

- (1) Workman's Compensation and Employer's Liability insurance as may be required by the laws of the State in which the premises are located.
- (2) General Public liability and property damage insurance with limits of not less than \$100,000 covering injury to or death of one person, and not less than \$300,000 covering injury to or death of more than one person by reason of one accident, and not less than \$100,000 covering accidental loss of or damage to property of third persons;
- (3) Automobile public liability and property damage insurance with limits of not less than \$100,000 covering injury to or death of one person, and \$300,000 covering injury to or death of more than one person by reason of one accident, and not less than \$100,000 covering damage to property or third persons.

No other insurance shall be carried at the expense of the joint account except by mutual consent of the parties.

## WELL COST ESTIMATE

## Drilling &amp; Testing

Operator V-F Petroleum Well Name Ida Allen No. 1  
 Area E. Caudill Prospect County Lea State New Mexico  
 Projected Depth 11,000' Objective L. Wolfcamp Expl. X Devel. W.O.

	ESTIMATED	ACTUAL
<b>INTANGIBLE DRILLING COSTS</b>		
Location: Survey & Stake	\$ 140	
Roads, Pad & Clearing	2,500	
Surface Damages	450	
Drilling: Footage <u>11,000</u> ' @ \$ <u>6.50</u> /ft	71,500	
Day Work W/Pipe <u>2</u> Days @ \$ <u>1400</u> /day	2,800	
Day Work W/O Pipe <u>1</u> Days @ \$ <u>1300</u> /day	1,300	
Cement: Surface Casing	2,000	
Intermediate Casing	2,500	
Cementing Services:		
Surface Casing	400	
Intermediate Casing	500	
Mud and Chemicals including water	12,000	
Coring		
Testing <u>2</u> DST's	1,900	
Logging: Mud Log from _____ ' to _____ '		
Electrical Surveys	1,800	
	2,800	
	200	
Geological <u>8</u> Days @ \$ <u>125</u> /day (plus expenses)	1,000	
Engineering <u>8</u> Days @ \$ <u>125</u> /day (plus expenses)	1,000	
Equipment Rental	500	
Hauling	500	
Miscellaneous	2,000	
TOTAL INTANGIBLE DRILLING COSTS	\$107,790	
<b>TANGIBLE DRILLING COSTS</b>		
Surface Casing <u>400</u> ' of <u>12-3/4</u> " @ \$ <u>4.40</u> /ft	\$ 1,760	
* Intermediate Casing <u>4900</u> ' of <u>8-5/8</u> " @ \$ _____ /ft	19,500	
Well Head	2,000	
Miscellaneous		
*Engineered String		
TOTAL TANGIBLE DRILLING COSTS	\$ 23,260	
TOTAL DRILLING COSTS	\$131,050	
<b>INTANGIBLE ABANDONMENT COSTS</b>		
Cement for Plugging <u>200</u>	\$ 550	
Cementing Service	900	
Location Clean-Up and Fence Work	400	
TOTAL INTANGIBLE ABANDONMENT COSTS	\$ 1,850	
TOTAL DRY-HOLE COST	\$132,900	

## APPROVED:

COMPANY V-F Petroleum COMPANY \_\_\_\_\_  
 By \_\_\_\_\_ By \_\_\_\_\_  
 Date February 9, 1972 Date \_\_\_\_\_

### WELL COST ESTIMATE

## Completion & Equipment

Operator	V-F Petroleum	Well Name	Ida Allen	No.	1
----------	---------------	-----------	-----------	-----	---

Area	E. Caudill Prospect	County	Lea	State	N.M.
------	---------------------	--------	-----	-------	------

Projected Depth 11,000' Objective L. Wolfcamp Expl. X Devel. W.O.

		ESTIMATED	ACTUAL
<b>INTANGIBLE COMPLETION COSTS</b>			
Rotary Day Work	_____ days @ \$ _____/day		
Pulling Unit Day Work	8 days @ \$ 500 /day	\$ 4,000	
Cement		2,500	
Cementing Services		900	
Electrical Surveys		900	
Perforating		500	
Formation Treatment: Acid		2,000	
Frac			
Testing			
Hauling		400	
Engineering	8 days @ \$ 125 /day (plus expenses)	1,000	
Miscellaneous		2,000	
<b>TOTAL INTANGIBLE COMPLETION COSTS</b>		\$14,200	
<b>TANGIBLE COMPLETION COSTS</b>			
*Production Casing	11,000 ' of 5-1/2" @ \$ _____/ft	\$ 30,000	
Production Casing	_____ ' of _____" @ \$ _____/ft		
Liner	_____ ' of _____" @ \$ _____/ft		
Tubing	11,000 ' of 2-3/8" @ \$ 1.20 /ft	13,200	
Sucker Rods	_____ ' of _____" @ \$ _____/ft		
Xmas Tree		1,500	
Pumping Unit	Kobe Installation Complete	25,000	
Engine/Motor & Controls			
Separator			
Heater/Treater		3,200	
Flow Lines		400	
Tank Battery		5,000	
Installation Labor		1,600	
Miscellaneous		3,000	
* Engineered String			
<b>TOTAL TANGIBLE COMPLETION COSTS</b>		\$ 97,100	
<b>TOTAL COMPLETION COSTS</b>		\$111,300	
<b>TOTAL COMPLETED WELL COSTS</b>		\$242,350	

**APPROVED:**

COMPANY V-F Petroleum COMPANY \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Date February 9, 1972 Date \_\_\_\_\_



THE STATE OF TEXAS    X

COUNTY OF HARRIS   X

BEFORE ME, the undersigned authority, on this 28th day of February, 1972, personally appeared WILTON E. SCOTT, known to me to be a credible person above the age of 21 years, who upon his oath deposes and says:

That there is presently pending before the Oil Conservation Commission of the State of New Mexico under Case No. 4671 an application by V. F. Vasicek and J. M. Fullinwider, d/b/a V-F Petroleum, for the compulsory pooling of the Southeast Quarter of the Southwest Quarter of Section One, Township 15 South, Range 36 East, Lea County, New Mexico, in contemplation of an eleven thousand foot well projected to test the Lower Wolf Camp formation. In the application it is recited that Mrs. J. W. Scott owns an undivided one-third (1/3) mineral interest in the aforesaid Southeast Quarter of the Southwest Quarter of Section One, and that the Applicant has been unable to obtain voluntary agreement for the pooling of Mrs. Scott's unpooled interest.

An undivided one-third (1/3) unpooled interest in the Southeast Quarter of the Southwest Quarter of said Section One is owned by Loradean Allen Scott, wife of Affiant. Attached hereto is a copy of (1) a letter dated January 28, 1972, from Osier C. Hutson (Spencer and Hutson) directed to Affiant setting forth an offer to acquire an oil and gas lease on Mrs. Scott's interest, which offer by its own terms expired February 2, 1972,

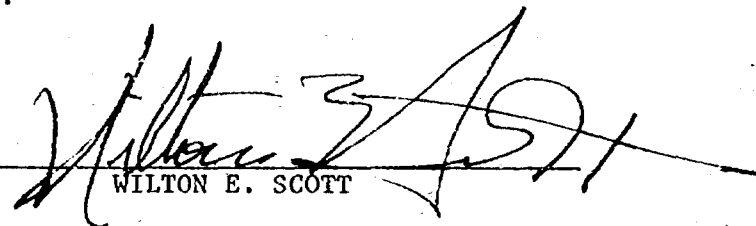
and (2) a copy of a letter dated February 9, 1972, from J. M. Fullinwider (V-F Petroleum) directed to Affiant containing proposals for the acquisition of an oil and gas lease on Mrs. Scott's interest.

The Spencer and Hutson letter of January 28, 1972, was received by Affiant Monday, January 31, 1972, just prior to the time the offer expired by its own terms. The V-F Petroleum letter of February 9, 1972, was received by Affiant on February 14, at a time subsequent to the time the application in Case No. 4671 had been filed and subsequent to the time the hearing on said application had been set for March 1, 1972.

The letters attached hereto represent the only firm proposals which were ever made to Affiant by either Spencer and Hutson or V-F Petroleum. Affiant was not even aware that V-F Petroleum had any interest in acquiring an oil and gas lease on the Southeast Quarter of the Southwest Quarter of said Section One until after the application in Case No. 4671 had been filed. Loradean Allen Scott owns an interest in the entire South Half of Section One, T-15-S, K-36-E, Lea County, New Mexico, as well as interests in the North Half of said Section One. It is apparent from the proposals in the V-F Petroleum letter of February 9, 1972, that neither Affiant nor his wife have had an adequate opportunity to consider and discuss with V-F Petroleum the proposals mentioned therein nor the time or opportunity to negotiate and consummate the complicated contracts which would be required to implement such proposals.

Affiant has had insufficient opportunity to reach an agreement with V-F Petroleum and respectively requests a thirty day extension of the hearing date set in Case No. 4671.

Further Affiant saith not.

  
WILTON E. SCOTT

Sworn to and subscribed before me, this 28th day of February, 1972.



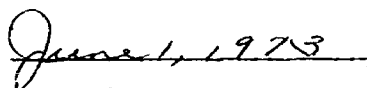
Notary Public in and for  
Harris County, T e x a s

FRANCES C. FOOTE

Notary Public in and for Harris County, Texas

My Commission Expires June 1, 1973.

My commission expires:

  
June 1, 1973

SPENCER & HUTSON

507 West Tennessee  
Midland, Texas 79701

January 28, 1972

Mr. Wilton E. Scott  
Tenneco Oil Company  
P. O. Box 2511  
Houston, Texas 77001

Re: East Caudill Area  
Section 1, T-15-S,  
R-36-E, Lea County,  
New Mexico

Dear Sir:

Mr. J. Mack Barnes, Independent Landman of Midland, Texas, has informed us that you have rejected our offer for the drilling of an 11,000 foot Wolfcamp test on acreage under which you and your wife own a one-third mineral interest.

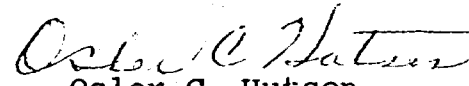
Our offer to you was a 1/16th overriding royalty with the option to convert to a one-quarter working interest after we recover our drilling and producing cost from the initial well. On the remaining acreage, in Section 1, T-15-S, R-36-E, under which you own a mineral interest, you were to have the option to either join us as a one-quarter working interest partner or farm out to us for a 1/16th overriding royalty interest.

If Mr. Barnes' verbal rejection of our offer does not represent your thoughts, then please accept our offer by telegram or by letter by Wednesday, February 2, 1972.

Thank you.

Very truly yours,

SPENCER & HUTSON

  
Osler C. Hutson

OCH:hh

V-F PETROLEUM  
1212 VAUGHN BUILDING  
MIDLAND, TEXAS 79701  
915 683-3344

V. F. VASICEK

J. M. FULLINWIDER

February 9, 1972

Mr. Wilton E. Scott, President  
Tenneco Oil Company  
P. O. Box 2511  
Houston, Texas 77001

Loradean A. Scott, M.I.  
NE/4 and S/2 Section 1  
T-15-S, R-36-E  
Lea County, New Mexico

Dear Mr. Scott:

Further to our telephone conversation of yesterday, we are writing to set forth our ideas concerning your wife's mineral interest in this area and possible avenues of her participation with us in the drilling of a test well in search of oil and gas.

The records indicate that Mrs. Scott, (Loradean Allen Scott) owns an unleased 1/3 mineral interest under subject land, which includes our proposed 40-acre drillsite. Repeated efforts by, first, Tipperary Resources Corporation in 1971 and, lately, Spencer & Hutson of Midland, to lease Mrs. Scott's interest have all been rejected by you and Mrs. Scott.

At the instigation of Spencer & Hutson, we have taken a farmout from Tipperary on their lease acreage in the area and we plan to drill our #1 Ida Allen, an 11,000 foot Lower Wolfcamp test well, at a location in the SE/4 of the SW/4 of said Section 1, with operations to commence on or about March 1, 1972.

We propose that Mrs. Scott either lease to us, farmout to us or join us in the drilling of the well on one of the basis outlined below. If you and Mrs. Scott cannot see your way clear to cooperate on some basis, then we shall proceed with compulsory pooling of said interest before the Oil Conservation Commission of New Mexico. We have already filed such action and are advised by counsel that the hearing is to be set for March 1, 1972.

Our proposals are as follows:

1. LEASE - We offer to lease Mrs. Scott's interest in subject land for \$25.00 per acre cash bonus, such lease to be on a standard New Mexico form which would provide for a 3/16 royalty interest, \$1.00 per acre annual delay rentals and a primary term of 3 years.

February 9, 1972

2. FARMOUT - Mrs. Scott would farmout to us her mineral interest under the 40-acre drillsite (or such other single-well proration unit that may ultimately be approved by NMOCC), retaining a  $1/8 \times 8/8$  royalty interest and a  $1/8 \times 8/8$  overriding royalty interest until such time as we have recovered out of the proceeds of production 100% of the cost and expense of drilling, completing, equipping and operating the initial test well, at which time she would have the right, at her option, to convert her  $1/8$  overriding royalty interest to a  $1/2$  working interest. On the balance of her acreage in Section 1 and as to each subsequent proposed test well, she would at her option either farmout to us on the same basis or join in the drilling thereof, with such election to be made prior to the commencement of each such subsequent well.

3. JOIN - Mrs. Scott would join us in the drilling of the proposed test well and pay her  $1/3$  pro-rata part thereof. We are enclosing a Well Cost Estimate and Authority For Expenditure which sets forth our best estimate of the cost of this well as a dry hole and as a producing oil well. Also enclosed is a standard form Operating Agreement dated February 10, 1972 which would cover any joint operation that may result from the proposals made herein. If you elect to join, please execute one copy each of the AFE and Operating Agreement in the spaces provided and return to this office at your earliest convenience.

All of the proposals herein are made on the basis of Mrs. Scott owning full mineral interest in subject land and, since she owns an undivided  $1/3$  interest, all the terms offered herein such as cash bonus, royalty, rentals, reversionary working interests, etc., would be subject to proportionate reduction.

Mr. Scott, we sincerely hope you and your wife will find one of these proposals to be acceptable, or, if you would like to adjust the proposed terms somewhat to better suit your situation, we would be pleased to receive a counter-proposal from you. You may call us collect to discuss the matter further.

We shall look forward to hearing from you at your earliest convenience.

Yours very truly,

J. M. Fullinwider

JMF:jw  
Encl.

JASON W. KELLAHIN  
ROBERT E. FOX

KELLAHIN AND FOX  
ATTORNEYS AT LAW  
54 1/2 EAST SAN FRANCISCO STREET  
POST OFFICE BOX 1769  
SANTA FE, NEW MEXICO 87501

RECEIVED

FEB-2 1972

OIL CONSERVATION COMMISSION  
SANTA FE PHONE 982-4315  
AREA CODE 505

February 1, 1972

*File 4671*

Oil Conservation Commission  
of New Mexico  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: V. F. Vasicek and J. M. Fullinwider  
d/b/a V-F PETROLEUM

Gentlemen:

Enclosed please find original and two copies of  
application for V. F. Vasicek and J. M. Fullinwider,  
d/b/a V-F Petroleum which is to be set for hearing  
March 1, 1972.

Yours very truly,

*Jason W. Kellahin*

Jason W. Kellahin

JWK:abs

Enclosure: as stated

DOCKET MARKED

Date \_\_\_\_\_

RECEIVED  
FEB-2 1972  
OIL CONSERVATION COMM.  
SANTA FE

BEFORE THE

OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF  
V. F. VASICEK AND J. M. FULLINWIDER  
d/b/a V-F PETROLEUM FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

*Jan 4671*

*2-18-72*

A P P L I C A T I O N

Come now V. F. Vasicek and J. M. Fullinwider, d/b/a  
V-F Petroleum, and as provided by Section 65-3-14, New  
Mexico Statutes 1953, as amended, apply to the Oil  
Conservation Commission of New Mexico for an order pooling  
all of the mineral interests in and under the SE/4 SW/4 of  
Section 1, Township 15 South, Range 35 East, N.M.P.M., Lea  
County, New Mexico and in support thereof would show the  
Commission:

*36E*

*Placed called to  
make the change - 2/8/72*

1. Applicant is the owner of the right to drill,  
and proposes to drill a well to be located on the SE/4  
SW/4 of Section 1, Township 15 South, Range 36 East, and  
dedicate thereto the 40-acre unit consisting of the  
SE/4 SW/4 of said Section.

2. Applicant proposes to drill such a well to a depth  
of approximately 11,000 feet to test the Lower Wolfcamp  
formation.

3. All of the owners of working interests in and  
under the tract have pooled or agreed to pool their interests  
insofar as the Lower Wolfcamp formation is concerned with  
the exception of *Loradean Allen Scott C/o Wilton F. Scott*  
Mrs. J. W. Scott, whose address is:

P. O. Box 2511, Houston, Texas 77001, who owns an undivided  
one-third mineral interest in and under the above-described  
tract.

*2-18-72*



4. Applicant has been unable to obtain voluntary agreement for the pooling of the above unpooled interest, and in order to avoid the drilling of unnecessary wells, to protect correlative rights, and to prevent waste, the Commission should pool all interests in the spacing or proration unit as a unit.

WHEREFORE applicant prays that the Commission set this matter for hearing before the Commission or the Commission's duly appointed examiner, and that after notice and hearing as required by law, the Commission enter its order pooling all interests underlying the SE/4 SW/4 of Section 1, Township 15 South, Range 36 East, Lea County, New Mexico, together with provision for applicant to recover his costs out of the production including a risk factor to be determined by the Commission and with provision for the payment of operating costs and costs of supervision out of production to be allocated among the owners as their interests may appear, and for such further orders as may be proper in the premises.

Respectfully submitted,

V. F. Vasicek and J. M. Fullinwider  
d/b/a V-F PETROLEUM

By Jason W. Kellahin  
Kellahin & Fox  
P. O. Box 1769  
Santa Fe, New Mexico 87501

Attorneys for Applicant

DRAFT

GMH/dr

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE No. 4671

Order No. R-4270

APPLICATION OF V. F. VASICEK AND  
J. M. FULLINWIDER, dba V-F PETROLEUM  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on March 1, 1972,  
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this        day of March, 1972, the Commission, a  
quorum being present, having considered the testimony, the record,  
and the recommendations of the Examiner, and being fully advised  
in the premises,

FINDS:

(1) That due public notice having been given as required by  
law, the Commission has jurisdiction of this cause and the subject  
matter thereof.

(2) That the applicants, V. F. Vasicek and J. M. Fullinwider,

dba V-F Petroleum, seek an order pooling all mineral interests

~~in the Wolfcamp Formation~~  
~~from the surface of the ground down to and including the~~

~~Pool underlying the SE/4 SW/4 of~~  
~~Section 1, Township 15 South, Range 36 East, NMPM, Lea County,~~

~~New Mexico, to form a standard 40-acre oil proration unit to be~~

~~dedicated to a well to be drilled at a standard location on the unit.~~

(3) That the applicant has the right to drill and proposes to drill a well in the SE/4 SW/4 of said Section 1 to form a standard oil proration unit.

(4) That there are interest owners in the proposed spacing and proration unit who have not agreed to pool their interests.

(5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil in said <sup>formation</sup> pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional <sup>50%</sup> ~~30%~~ thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that said actual well costs should be adopted as the reasonable well costs in the absence of such objection.

CASE NO. 4671  
Order No. R-

(10) That following determination of reasonable well costs any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator; any amount that reasonable well costs exceed estimated well costs and should receive from the operator; any amount that paid estimated well costs exceed reasonable well costs.

(11) That <sup>\$150.00</sup>~~\$100.00~~ per month should be fixed as a reasonable charge for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

IT IS THEREFORE ORDERED:

(1) That all mineral interest, whatever they may be, <sup>Lower</sup> from ~~in the Belcher and Belcher~~ the Wolfcamp Formation  
~~A the surface of the ground down to and including the~~

Pool underlying the SE/4 SW/4 of Section 1, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard location in the SE/4 SW/4 of Section 1.

(2) That V. F. Vasicek and J. M. Fullinwider, dba V-F Petroleum, is hereby designated the operator of the subject well and unit.

(3) That the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs <sup>within 30 days following the date of</sup> ~~at least 30 days prior to com-~~ mencing each well.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within <sup>60</sup> ~~135~~ days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said <sup>60</sup> ~~135~~-day period, the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that 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.

(7) That 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 estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, <sup>50%</sup>~~30%~~ of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

<sup>\$150.00</sup>  
(9) That ~~\$110.00~~ per month is hereby fixed as a reasonable charge for supervision (combined fixed rates <sup>for the subject well;</sup> that the operators is hereby authorized to withhold from production the proportionate share of such supervision charge 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.

(10) That any unsevered 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.

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

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year herein-above designated.

