

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

APPLICATION OF NEARBURG EXPLORATION COMPANY, SRO2 LLC AND SRO3 LLC FOR AN ACCOUNTING AND LIMITATION ON RECOVERY OF WELLS COSTS, AND FOR CANCELLATION OF APPLICATION FOR PERMIT TO DRILL, EDDY COUNTY, NEW MEXICO.

CASE NO. 15441

MOTION TO DISMISS APPLICATION AND QUASH SUBPOENA

COG Operating LLC ("COG") moves the Division to dismiss the Application filed in this matter and quash the subsequent Subpoena Duces Tecum issued at the request of Nearburg Exploration Company ("NEX"). Most of the relief sought by NEX is outside the jurisdiction of the Oil Conservation Division and mirrors relief requested under a Complaint contemporaneously filed in the First Judicial District Court under a case styled *Nearburg Exploration Company, L.L.C., SRO2 LLC, and SRO3 LLC v. COG Operating LLC*, CV-2015-02541. See Exhibit 1.¹ Since NEX ratified a Joint Operating Agreement governing the subject property in 2009, and confirmed that Joint Operating Agreement by executing in May of 2015 two communitization agreements recognizing COG as operator of the subject property, no basis exists to suggest COG violated any division rules by permitting, drilling and completing the disputed wells. See Exhibits 2, 4 and 5. Accordingly, the Application should be dismissed and the subpoena quashed since the discovery sought serves no discernable purpose to any issue lawfully before the Division.

¹ The voluminous exhibits to the district court complaint (over 200 pages) are not included in Exhibit 1.

BACKGROUND FACTS AND CHRONOLOGY OF EVENTS

Division records and the attached exhibits reflect the following with respect to the wells referenced in NEX's Application.

1. NEX is the lessee of record for State of New Mexico Oil and Gas Lease V-7540, covering the W/2 of Section 20, Township 26 South, Range 28 East, NMPM, containing 320 acres. *See Exhibit 2, last two pages.*

2. In July of 2009, Marbob Energy, COG's predecessor in interest, provided to the New Mexico State Land Office a "Ratification And Joinder Of Unit Agreement And Unit Operating Agreement" signed by NEX committing NEX's working interest in the W/2 of Section 20 to the SRO State Exploratory Unit. *See Exhibit 2.*

3. Marbob Energy's 2009 transmission letter confirms that under the signed Ratifications "Chesapeake and Nearburg have both subscribed to the *Unit Operating Agreement* and will pay their proportionate share of the expenses associated with drilling the SRO State Unit #1H well." *Id.* at p. 2.

4. Marbob Energy's 2009 transmission letter and the State Land Office's acceptance letter reflect that NEX's "subsequent joinder" of its acreage was pursuant to Section 22 of the SRO State Exploratory Unit Agreement. *Id.* This provision of the Unit Agreement states:

22. SUBSEQUENT JOINDER: Any oil or gas interest in lands within the unit.....may be committed hereto by the owner or owners of such rights.....and *if such owner is also a working interest owner, by subscribing to the operating agreement* providing for the allocation of costs of exploration, development and operation. [emphasis added]

*See Exhibit 3.*²

² A full copy of the Unit Agreement is attached as Exhibit C to the NEX's Complaint filed with the district court.

5. In March of 2011, COG as successor to Marbob Energy commenced drilling and eventually completed the SRO State Unit No. 16H (30-015-38071) in the Hay Hollow; Bone Spring Pool (Code 30215) underlying the W/2 W/2 of Section 20.³

6. In August and October of 2014, COG commenced drilling and eventually completed in a deeper zone of the Hay Hollow; Bone Spring Pool the SRO State Com 43H (30-015-41141) in the W/2 W/2 of Sections 17 and 20, and the SRO State Com 44H (30-015-41142) in the E/2 W/2 of Sections 17 and 20. Both of these wells were drilled pursuant to applications to drill approved by the Division on February 26, 2013.

7. On May 11, 2015, the Division approved COG's application to drill the SRO State Com 69H (30-015-43093) in a deeper zone of the Hay Hollow; Bone Spring Pool underlying the E/2 W/2 of Sections 17 and 20. That well has not yet been drilled by COG.

8. On May 20, 2015, NEX signed two communitization agreements for the 2nd Bone Spring interval of the Bone Spring formation covering the W/2 W/2 and the E/2 W/2 of Sections 17 and 20. Both of these communitization agreements contain the following bolded provision:

COG Operating LLC shall be the Operator of said communitized area and all matters of operation shall be determined and performed by COG Operating LLC.

See Exhibits 4 and 5 at ¶8.⁴

³ Division records reflect that COG changed the orientation of the well from a laydown horizontal well in the S/2 S/2 of Section 20 to a stand-up horizontal well in the W/2 W/2 of Section 20.

⁴ As reflected in NEX's application, COG mistakenly filed with the New Mexico State Land Office an incorrect page 1 for each of these communitization agreements. The correct pages have now been provided to the State Land Office.

ARGUMENT

I. The Division Does Not Have Jurisdiction Or Statutory Authority To Grant The Declaratory, Contractual And Tort Relief Sought Under The Application.

On November 24, 2015, NEX filed its Application asking the Division to grant the following relief with respect to the wells and acreage in the W/2 of Sections 17 and 20:

- A. To declare that COG “did not have the right to drill” the SRO State Com 43H and 44H wells (Application at paragraph A);
- B. To declare that the SRO State Com 43H and 44H wells are “in trespass” (Application at paragraph A);
- C. To determine that COG violated Division rules when it filed the C-101s and C-102s for the SRO State Com 43H and 44H wells (Application at paragraph B);
- D. To declare that “COG is required to account and pay to NEX the amount to which it is entitled in the absence of pooling and that COG is prohibited from recovering well costs or expenses from the time of first production” for the SRO State Com 43H and 44H wells (Application at paragraph C);
- E. To cancel the drilling permit for the SRO State Com 069H well (Application at paragraph D); and
- F. To provide “appropriate relief regarding SRO State 016H well,” which Nearburg contends “may include designating Nearburg Producing Company as operator of the well” (Application at paragraph E).

With the exception of the relief sought under paragraphs C and E above, these requests mirror the relief sought under the Complaint NEX contemporaneously filed in the First Judicial District Court. *See* Exhibit 1 (Complaint) at Page 11 (Count 1, trespass alleging no right to drill); Page 13, at ¶ 65 (Count Two, seeking an accounting without credit for any costs of development or production); Page 14 (Count Four, seeking an accounting); Page 14 at ¶ 77 (seeking a declaration COG “was no longer entitled to drill the Wells” and that NEX is “not subject to the Operating Agreement” governing the subject area). The Division does not have authority or jurisdiction to address these duplicative claims in its administrative forum.

The Division "is a creature of statute, expressly defined, limited and empowered by the laws creating it." *Continental Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 318, 373 P.2d 809, 814 (1962). The Oil and Gas Act limits the Division's jurisdiction, powers and duties to the conservation of oil and gas, the prevention of waste and the protection of correlative rights. *See* 70-2-6 and 70-2-11. *See also Marbob v. N.M. Oil Conservation Division*, 2009-NMSC-013, 206 P.3d 135. To this end the Act authorizes the Division to conduct hearings and issue rules, regulations and orders for the purpose of carrying out these primary duties and to address the specific subject matters listed in Section 70-2-12 of the Act. The Division is directed and staffed with individuals that possess the "expertise, technical competence, and specialized knowledge of engineering and geology" necessary to carry out these limited legislative directives. *Santa Fe Exploration v. Oil Conservation Division*, 1992-NMSC-044, ¶ 37, 835 P.2d 819.

Any application filed with the Division must therefore not only seek relief falling under the legislative directive to prevent waste and to protect correlative rights, but also must implicate the special expertise of the Division. *See Continental Oil*, 373 P.2d at 816 (holding the Division lacked authority to issue a finding that did not stem from or was necessary to prevent waste or protect correlative rights). As *Continental Oil* observed, since the Division serves an administrative capacity in carrying out the limited, legislative directives in the Oil and Gas Act, "grave constitutional problems would arise" if the Division undertook efforts to determine property rights or other similar judicial functions. *Id.* at 818. The Division itself has held, for example, that it "does not have jurisdiction concerning the content of lease agreements..." *See* Order No. R-13789 at ¶ (16).

The Division is without authority to grant the declaratory relief, address "trespass" allegations, or provide contractual and common-law remedies such as the "accounting" sought

by NEX. Instead, these matters must be pursued by NEX under its district court Complaint. The relief identified in paragraphs A, B, D and F above must be dismissed.

II. Since A Ratified Operating Agreement Governs The Subject Acreage, No Basis Exists To Contend COG Violated Division Rules In Procuring The Applications To Drill The SRO 43H, 44H, And 69H Wells.

The only relief sought in the Application that is properly before the Division is (a) whether COG violated Division rules when it filed the C-101s and C-102s for the SRO State Com 43H and 44H wells, and (b) whether grounds exist to cancel the drilling permit for the SRO State Com 069H well. Both of these issues arise out of NEX's allegation that no agreement exists governing development of its acreage in the W/2 of Section 20. *See* Application at paragraphs B and D.

Conveniently, NEX fails to inform the Division of pertinent facts provided in its contemporaneously filed Complaint with the district court: Namely that NEX ratified an Operating Agreement in 2009 covering its acreage in the W/2 of Section 20 and subsequently confirmed that agreement as late as May of 2015 by recognizing COG as the operator under two communitization agreements covering this acreage. *See* Exhibits 2, 4 and 5.⁵ Further, NEX has asked the district court to declare, for undisclosed reasons, "that Plaintiffs are not subject to the Operating Agreement" NEX ratified in 2009. *See* Exhibit 1 (Complaint) at p. 14, ¶ 77.⁶ In the event NEX fails in its bid to set aside its 2009 ratification of the Operating Agreement, NEX has asked the district court to award damages for an alleged breach of the Operating Agreement, claiming COG failed "to properly account for (NEX's) working interest in all of the wells in the SRO Unit subject to the Operating Agreement." *Id.* at p. 17, ¶ 97.

⁵ These documents are attached as Exhibits F and I to NEX's Complaint filed with the district court.

⁶ Despite the fact that the signed ratification of the Operating Agreement is attached as Exhibit F to the district court Complaint, NEX incredulously maintains that it "never ratified" the Operating Agreement. *See* Exhibit 1 at ¶ 11, 45, 95, 101, 106 and 108.

Needless to say, this blossoming dispute between COG and NEX did not exist when COG applied for and received the disputed applications to drill from the Division. Indeed, NEX's suggestion that no agreement exists governing the development of its acreage is surprising given that as late as May of 2015, NEX executed communitization agreements for its acreage that – in bolded type – stated: **“COG Operating LLC shall be the Operator of said communitized area and all matters of operation shall be determined and performed by COG Operating LLC.”** See Exhibits 4 and 5 at ¶ 8. Clearly when NEX executed these agreements it recognized COG's status as operator of the W/2 of Section 20 under the Operating Agreement NEX ratified in 2009.

Accordingly, there is no basis to suggest COG engaged in filing “false C-101s and C-102s” with respect to the disputed wells. See Application at p. 2. Nor can it be said that COG did not at least appear to have the “consent” of NEX to develop the W/2 of Section 20 when it filed the applications to drill with the Division. See NMRA 19.15.16.15. To the contrary, the undisputed existence of the Operating Agreement NEX ratified in 2009 and the Communitization Agreements NEX executed in May of 2015 grant COG every right to continue as operator of the disputed wells and the subject acreage in the W/2 of Section 20.

III. The Subpoena Must Be Quashed Until NEX Demonstrates Relevancy To An Issue Lawfully Before The Division.

The subpoena issued at the request of NEX suffers from the same defects as the underlying Application. None of the six paragraphs in the subpoena relate to any issue involving the prevention of waste, the protection of correlative rights or any of the enumerated powers in Section 70-2-12 of the Oil and Gas Act. None of the six paragraphs relate to any discernable issue lawfully before the Division. Instead, the six enumerated paragraphs appear to be an effort

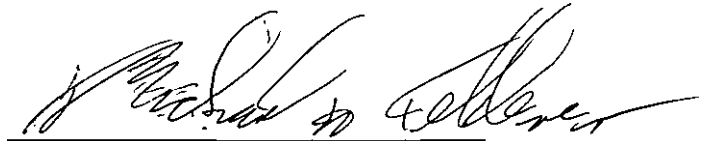
to improperly obtain discovery geared towards NEX's contractual and tort claims before the district court.

The Division's subpoena power is not a means of discovery for claims filed in district court, nor is that power to be used as a vehicle to avoid the procedural requirements that apply in district court. Until NEX identifies a discernable and proper issue that will be lawfully addressed by the Division, and demonstrates relevancy to that issue, the subpoena is improper and must be quashed. *See* Section 70-2-8 (a subpoena must be "pertinent to some question lawfully before" the Division).

WHEREFORE, COG requests that the Application be dismissed and that the accompanying subpoena issued at the request of NEX be quashed.

Respectfully submitted,

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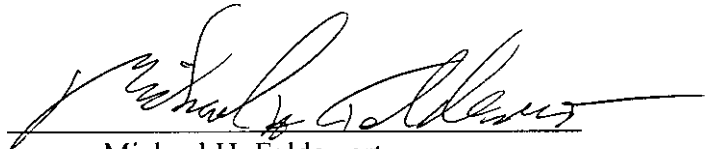
CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2016, I served a copy of the foregoing document to the following counsel of record via electronic mail:

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STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

NEARBURG EXPLORATION
COMPANY, L.L.C., SRO2 LLC, and SRO3
LLC,

Plaintiffs,

v.

NO. D-101-CV-2015-02541

COG OPERATING LLC,

Defendant.

COMPLAINT

Plaintiffs Nearburg Exploration Company, L.L.C. ("NEX"), SRO2 LLC ("SRO2"), and SRO3 LLC ("SRO3") (collectively "Plaintiffs") bring this action against Defendant COG Operating, LLC ("COG") and allege as follows:

SUMMARY OF DISPUTE

NEX, an independent oil and gas exploration and development company, has been operating in New Mexico for decades. Over that time, NEX has weathered significant downturns in the oil and gas industry by making informed, reasoned decisions on when and how to drill, produce, and sell its oil and gas. However, as to NEX's minerals at issue in this dispute, COG, one of the largest operators in the Permian Basin, unilaterally chose to take NEX's oil and gas for its own purposes and, without permission, deprived NEX of its right to decide the "how, when, and where."

After COG voluntarily terminated its rights to drill and produce oil and gas from a NEX lease with the State of New Mexico, COG filed false documents with the State to obtain permission to drill and complete two new horizontal wells in the 2nd Bone Spring formation of

that same NEX-leased interest. Then, without any authorization from NEX, COG proceeded to drill those two wells through NEX's mineral estate and started taking NEX's oil and gas.

Drilling the wells during a time when oil and gas service costs were at extreme highs and then completing the wells when oil and gas commodity prices were at extreme lows was fiscally irresponsible and was not a decision NEX would have made. Nevertheless, COG continues to produce the wells and is selling oil and gas owned by the State of New Mexico and NEX at collapsed prices. COG has not only robbed NEX of its oil and gas, but also of its ability to make decisions that are best for NEX's long-term strategies and goals. NEX brings this action to recover the damages it has incurred as a result of COG's unlawful conduct.

I. PARTIES

1. NEX is a Texas limited liability company with its principal place of business in Dallas, Texas.
2. SRO2 is a Texas limited liability company with its principal place of business in Dallas, Texas.
3. SRO3 is a Texas limited liability company with its principal place of business in Dallas, Texas.
4. COG is a Delaware limited liability company with its principal place of business in Midland, Texas. COG may be served with process through its registered agent, CT Corporation System, 123 East Marcy Street, Santa Fe, New Mexico, 87501.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over the Defendant because it transacts business in this district. NMSA 1978, § 38-1-16 (1971).

6. Venue is proper in this Court, pursuant to NMSA 1978, § 38-3-1(A), (E), AND (F) (1988).

III. FACTUAL BACKGROUND

A. *The Lease*

7. On July 1, 2005, the State of New Mexico issued New Mexico State Oil and Gas Lease No. V-7450-0001 (the "Lease") to Doug J. Schutz. A true and correct copy of the Lease is attached hereto as Exhibit "A."

8. On July 8, 2005, Doug J. Schutz assigned (the "Assignment") the Lease to NEX. A true and correct copy of the Assignment is attached hereto as Exhibit "B." The Lease covers approximately 320 acres in the west half of Section 20, Township 26 South, Range 28 East, N.M.P.M., in Eddy County, New Mexico. On July 1, 2015, NEX assigned its interests in the 2nd Bone Spring and 3rd Bone Spring intervals under the Lease to SRO2 and SRO3 respectively, with all claims and benefits appurtenant to the Lease accruing to the assignee on or after March 1, 2014.

B. *The Unit*

9. On June 11, 2009, COG's predecessor in interest, Marbob Energy Corporation ("Marbob") requested that the New Mexico Oil Conservation Division (the "OCD") approve the SRO State Exploratory Unit Agreement (the "Unit Agreement") for all oil and gas in all formations from the surface to the base of the Bone Spring formation underlying approximately 8,320 acres in Eddy County, New Mexico.¹

¹ COG acquired Marbob's interests in the SRO Unit on approximately July 19, 2010 and succeeded Marbob as Unit Operator on October 22, 2010.

10. On June 12, 2009, the OCD approved the Unit Agreement, effective as of the date of approval by the Commissioner of Public Lands.² The Commissioner of Public Lands approved the Unit Agreement effective August 1, 2009. A true and correct copy of the Unit Agreement is attached hereto as Exhibit "C."

11. On June 26, 2009, NEX ratified the Unit Agreement (the "Ratification"). A true and correct copy of the Ratification is attached hereto as Exhibit "D." NEX never ratified the SRO Unit Operating Agreement (the "Operating Agreement").

C. The Term Assignment

12. Effective July 1, 2009, NEX assigned its interest in the Lease from the surface down to the base of the Bone Spring formation to Marbob (the "Term Assignment"). The Term Assignment was in effect only as long as the Lease remained subject to the Unit Agreement. A true and correct copy of the Term Assignment is attached hereto as Exhibit "E." Marbob contributed its interest in NEX's acreage to the SRO State Exploratory Unit (the "SRO Unit").

13. NEX reserved an overriding royalty interest equal to the difference between 25% of 8/8 of production and the aggregate burdens existing against the assigned interest, subject to proportionate reduction if the Term Assignment conveyed "to Assignee less than the full and undivided oil and gas working interest leasehold" in the lands that are subject to the Lease.

14. Pursuant to the Term Assignment, Marbob agreed to provide NEX with SRO Unit well information as set forth in Exhibit A to the Term Assignment ("Well Information Requirements") including, but not limited to: (1) drilling and mudlogging reports, (2) well data, (3) notification of spudding, logging, open hole testing, coring, or plugging, (4) access to

² Order No. R-13136, Case No. 14328, *Application of Marbob Energy Corporation for Approval of a Unit Agreement*, Order ¶¶ 1, 5 (June 12, 2009).

locations, (5) well completion prognoses, and (6) copies of survey plats, permits to drill, and other regulatory forms and letters filed with any government agencies.

15. While the Unit Agreement was in effect, Marbob and then COG drilled and completed fourteen wells in the Avalon member of the Bone Spring formation and drilled one well in the Delaware formation. COG also drilled nine wells in the 2nd Bone Spring formation (the "2nd Bone Spring Wells"), seven of which were completed while the Unit Agreement was in effect.

16. COG provided NEX with some limited information about a single 2nd Bone Spring well—061H. NEX never received any completion information about this well. In addition, COG did not provide NEX with the Well Information Requirements or any notification regarding the *eight* other 2nd Bone Spring Wells.

17. The Unit Agreement was voluntarily terminated effective March 1, 2014. A true and correct copy of the Request for Voluntary Termination is attached hereto as Exhibit "F." As a result, the Term Assignment terminated as of March 1, 2014.

18. Upon termination of the Term Assignment, all of COG's rights, title and interest in and to the Lease ceased and reverted to NEX.

D. The Wells

19. Although after termination of the Term Assignment COG was not entitled to drill on the lands covered by the Lease, COG drilled and completed two wells, SRO State Com 043H ("043H") and SRO State Com 044H ("044H"), utilizing lands covered by the Lease (the "Wells").³

³ 043H is located in the W/2 W/2 of Sections 17 and 20 and 044H is located in the E/2 W/2 of Sections 17 and 20. Both wells were drilled to and completed in the 2nd Bone Spring Sand, Hay Hollow Bone Spring Pool (30215).

20. On March 6, 2014, COG filed a C-102 Amended Well Location and Acreage Dedication Plat for 043H. COG left the consolidation code blank. COG falsely certified on the C-102 Well Location and Acreage Dedication Plat that it had the right to drill on the lands where the well was located. There was no agreement whatsoever with NEX that would allow COG to drill on or under land covered by the Lease. COG did not provide NEX with a copy of the C-102 Amended Well Location and Acreage Dedication Plat for 043H.

21. The OCD approved COG's permit to drill 043H.

22. Armed with its fraudulently-obtained approval, COG began work on 043H. The 043H was spud on August 2, 2014 and subsequently completed on February 25, 2015. COG never notified NEX that it would drill the 043H into and through NEX's mineral estate.

23. On March 9, 2015, COG filed an Amended C-102 Well Location and Acreage Dedication Plat to indicate where 043H had been drilled. COG again left the consolidation code blank and certified that "this organization either owns a working interest or unleased mineral interest in the land *including the proposed bottom hole location* or has a right to drill this well at this location." COG's statement was patently false when it was made. COG did not provide NEX with a copy of the Amended C-102 Well Location and Acreage Dedication Plat for 043H.

24. COG's actions related to 044H mirror those it took for 043H. On March 6, 2014, COG filed a C-102 Well Location and Acreage Dedication Plat for 044H. COG falsely certified on the C-102 Well Location and Acreage Dedication Plat that it had the right to drill on the lands where the well was located. There was no agreement whatsoever with NEX that would allow COG to drill on or under land covered by the Lease. COG did not provide NEX with a copy of the C-102 Well Location and Acreage Dedication Plat for 044H.

25. The OCD approved COG's permit to drill 044H.

26. The 044H was spud on October 10, 2014, and subsequently completed on March 4, 2015. Again, COG never notified NEX that it would be drilling the 044H through NEX's mineral estate.

27. On March 12, 2015, COG filed an Amended C-102 Well Location and Acreage Dedication Plat to indicate where 044H had been drilled. COG again left the consolidation code blank and certified that "this organization either owns a working interest or unleased mineral interest in the land *including the proposed bottom hole location* or has a right to drill this well at this location." COG's statement was patently false when it was made. COG did not provide NEX with a copy of the Amended C-102 Well Location and Acreage Dedication Plat for 044H.

28. On May 5, 2015, COG filed its C-101 Application for Permit to Drill and C-102 Well Location and Acreage Dedication Plat for 069H (API 30-015-43093) to be drilled to the 3rd Bone Spring formation in the E/2 W/2 of Sections 17 and 20, T-26-S, R-28-E. Contrary to COG's certification, the spacing unit for the well was not consolidated by voluntary agreement or compulsory pooling order. There is no agreement whatsoever with NEX, or any of the Plaintiffs, that would allow COG to drill on or under land covered by the Lease. Prior to making its certifications to the OCD, COG did not notify any of the Plaintiffs that it planned to drill 069H.

E. The Communitization Agreements

29. On July 10, 2014, NEX received a communitization agreement from COG for 043H. That same day, NEX advised COG that it had no plans to execute the communitization agreement because the Term Assignment had terminated on March 1, 2014.

30. COG and NEX began discussions in December 2014/January 2015 regarding their relationship. NEX sent documents to COG including spreadsheets that reflected NEX's

understanding of "current wells" located on lands in the SRO Unit. Notably, although both 043H and 044H had been drilled to their total depth, cased, and made ready for completion, at the time, neither was listed on NEX's spreadsheets, as NEX did not know the Wells existed and COG did not advise otherwise.

31. In April 2015, COG contacted NEX regarding the need to communitize the lands within the W/2 W/2 and E/2 W/2 of Sections 17 and 20. COG represented to NEX that the State Land Office had threatened to cancel the oil and gas leases on these lands, unless NEX and COG agreed to execute communitization agreements. These discussions were NEX's first notice that COG had drilled, completed, and was producing 043H and 044H without NEX's consent.

32. Concerned with COG's drilling activities on lands subject to its Lease, NEX sent a letter dated May 28, 2015 (the "May 28, 2015 Letter") to COG, requesting that COG provide it with information "as to the source of COG's authority to drill the Wells utilizing the acreage covered by the Lease." A true and correct copy of the May 28, 2015 Letter is attached hereto as Exhibit "G." In addition, relying on COG's representations that the State of New Mexico was threatening to cancel the Lease, NEX informed COG that to avoid cancellation of the Lease, NEX would consider executing some form of the communitization agreements. However, NEX noted its execution of the communization agreements would not extend the Term Assignment and that NEX was specifically reserving all rights related to the situation created by COG's improper conduct.

33. The May 28, 2015 Letter rejected COG's proposed communitization agreements, which included the entire "Bone Spring formation." Instead, NEX proposed, subject to NEX reserving all rights, that the formation be changed to the "2nd Bone Spring interval of the Bone Spring formation." COG agreed.

34. On June 10, 2015, NEX hand-delivered a letter agreement (the "June 10, 2015 Letter Agreement") and the executed communitization agreements limited to the 2nd Bone Spring (the "2nd Bone Spring Communitization Agreements") to COG. A true and correct copy of the June 10, 2015 Letter Agreement and the executed 2nd Bone Spring Communitization Agreements are attached hereto as Exhibits "H" and "I" respectively.

35. Pursuant to the terms of the June 10, 2015 Letter Agreement, COG agreed that the communitization agreements applied only to the 2nd Bone Spring interval. COG also agreed to provide NEX with the recorded copies of the 2nd Bone Spring Communitization Agreements.

36. COG specifically acknowledged that NEX was not waiving any rights held by it as owner and holder of the Lease by executing the 2nd Bone Spring Communitization Agreements. Moreover, COG agreed that NEX was specifically reserving all rights relating to the situation created by COG when it, among other things, drilled the Wells through NEX's mineral estate without authority.

37. Further, COG agreed to provide NEX with complete well information for 043H and 044H, including:

- Daily production (including any FTP or FCP pressure data that is available) through the date NEX and COG resolve ownership of the Wells;
- Daily reports, when applicable, for any well repairs, workovers, etc. through the date NEX and COG resolve ownership of the Wells;
- A detailed accounting of the actual costs to drill, complete and equip the Wells;
- Actual lease operating expenses billed through monthly joint interests billings;
- Actual revenues received through April 2015;
- Itemized revenue deductions for any transportation, taxes, or other deductions; and
- Going forward, COG agreed to furnish monthly lease operating expenses and monthly production and revenues/itemized revenue deductions received at the same time this information is provided to other working interest owners.

38. While COG has provided some information to NEX, it has not provided NEX with complete well information for 043H or 044H.

39. COG filed communitization agreements covering 043H and 044H with the State Land Office. The State Land Office approved the agreements and COG recorded them.

40. COG never sent NEX copies of the filed and recorded communitization agreements. Acting on its own, NEX obtained copies of the recorded communitization agreements.

41. It was then that NEX first learned that COG did not file or record the agreed upon, 2nd Bone Spring Communitization Agreements.

42. Instead, COG filed and recorded communitization agreements that included the *entire "Bone Spring Formation"*—the interval NEX had previously refused (the "Altered Communitization Agreements"). True and correct copies of the Altered Communitization Agreements are attached hereto as Exhibit "J,"

43. NEX is concurrently seeking separate relief from the State Land Office and the OCD regarding the Altered Communitization Agreements.

44. COG continues to produce the Wells without authority in violation of Plaintiffs' correlative rights.

F. The Unit Operating Agreement

45. During the course of this dispute, COG asserted that NEX's interest in the Lease is subject to the Operating Agreement. A true and correct copy of correspondence from COG's lawyer is attached hereto as Exhibit "K." NEX maintains that it neither signed nor ratified the Operating Agreement and is not subject to that agreement.

46. If COG is correct, however, COG has breached the Operating Agreement.

47. COG, as Operator, agreed to certain terms and provisions.

48. COG agreed to pay NEX its interest in the "share of production of oil and gas from the Contract Area."

49. COG also agreed that it would "conduct all operations in a good and workmanlike manner."

50. COG was required to provide NEX with written notice of a proposal "to drill any well on the Contract Area." COG was also required to provide NEX with Authority for Expenditures ("AFEs") that specified the work to be performed, the location, proposed depth, objective formations, and the estimated cost of the operation.

51. COG failed to provide NEX with notice of proposed operations or AFEs and failed to pay NEX its interests in the share of production from the wells.

IV. CAUSES OF ACTION

Count One: Trespass

52. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

53. On March 1, 2014, the Unit Agreement terminated, the Term Assignment expired, and the Lease automatically reverted to Plaintiffs. Therefore, after March 1, 2014, COG was no longer entitled to drill or develop the lands and depths covered by the Lease.

54. The Lease granted Plaintiffs the exclusive right to develop the subsurface mineral estate in the west half of Section 20, Township 26 South, Range 28 East, N.M.P.M., in Eddy County, New Mexico. The Term Assignment covered these same lands but was depth limited from the surface down to the base of the Bone Spring formation (the "Assignment Area"). After COG was no longer entitled to develop the Assignment Area, COG drilled and completed two

horizontal wells, 043H and 044H, causing both the drill bit and the subsequent hydraulic fractures to enter into the mineral estate exclusively owned by Plaintiffs.

55. The drilling of the Wells, in trespass of Plaintiffs' exclusive right of possession, was physical, intentional, and voluntary.

56. The trespass by COG caused injury to Plaintiffs' right of possession.

57. As a direct and proximate result of the trespass by COG, Plaintiffs have been damaged.

58. COG's actions in drilling and trespassing after Plaintiffs refused to agree to the communitization agreements demonstrates maliciously intentional, fraudulent, and oppressive conduct and was committed recklessly, in bad faith, or with a wanton disregard of Plaintiffs' rights. Plaintiffs are entitled to recover punitive damages for COG's actions.

Count Two: Conversion

59. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

60. When the Term Assignment expired, COG's interest in the Lease automatically reverted back to Plaintiffs and Plaintiffs then had the exclusive right to extract oil and gas from the lands covered by the Lease and the right to proceeds from any sale thereof.

61. COG extracted oil and gas from the lands covered by the Lease—after the Term Assignment expired—without right or permission. In addition, after the Term Assignment expired COG produced and/or sold oil and gas from the lands covered by Lease.

62. COG was aware of and understood that because its rights in and to the Lease expired, it had no authority to extract oil and gas from lands covered by the Lease. In fact,

Plaintiffs expressly refused to grant COG that authority in July 2014. Nevertheless, COG proceeded to and continues to extract the oil and gas.

63. Accordingly, COG's wrongful exercise of dominion and control over Plaintiffs' personal property was willful and intentional because COG knew that it had no right to extract oil and gas from the lands covered by the Lease.

64. Plaintiffs have suffered injury as a result of COG's conversion of Plaintiffs' personal property.

65. Because COG's conversion was a willful disregard of Plaintiffs' rights in the mineral estate, COG is required to account for all oil and gas extracted from the lands covered by the Lease without credit for any costs of development or production.

66. COG's actions in converting Plaintiffs' property after Plaintiffs refused to agree to the communitization agreement demonstrates maliciously intentional, fraudulent, and oppressive conduct and was committed recklessly or with a wanton disregard of Plaintiffs' rights. Plaintiffs are entitled to recover punitive damages for COG's actions.

Count Three: Breach of Contract

67. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

68. The Term Assignment was a contract between Plaintiffs and COG.

69. COG breached the Term Assignment by failing to pay Plaintiffs their overriding royalty interest as provided by the Term Assignment.

70. COG further breached the Term Assignment by failing to provide the well information to Plaintiffs as required in Exhibit A of the Term Assignment.

71. COG's breaches of the Term Assignment caused injury to Plaintiffs.

As a result, Plaintiffs seek actual damages.

Count Four: Accounting

72. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

73. Plaintiffs owned an overriding royalty interest in the SRO Unit wells as provided by the Term Assignment. Accordingly, Plaintiffs are entitled to their overriding royalty interest from all SRO Unit wells prior to when the Term Assignment expired, the amount of which can be determined by an accounting.

74. Plaintiffs hereby demand an accounting from COG with respect to their overriding royalty interest in all SRO Unit wells.

Count Five: Declaratory Relief

75. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

76. A dispute exists between Plaintiffs and COG regarding whether COG had authority to drill the Wells under the Term Assignment, Operating Agreement, and/or the communitization agreements and whether Plaintiffs reserved their claims against COG for trespass and conversion.

77. Plaintiffs ask this Court to declare that (1) the Term Assignment provided COG's sole authority to drill the Wells; (2) that when the Unit Agreement terminated on March 1, 2014 the Term Assignment expired and the Lease automatically reverted back to Plaintiffs, and, as a result, COG was no longer entitled to drill the Wells; (3) that Plaintiffs are not subject to the Operating Agreement; (4) that COG filed false communitization agreements; and (5) that

Plaintiffs reserved all of their claims against COG including, but not limited to, trespass and conversion.

CAUSES OF ACTION- PLED IN THE ALTERNATIVE

Count Six: Alternative Claim for Negligence

78. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

79. If the Court finds that Plaintiffs are bound by the communitization agreements, despite reserving all their rights including, but not limited to, claims for trespass and conversion, and that COG is deemed to have the right to drill 043H and 044H, then COG was negligent in drilling the Wells.

80. COG, as the operator of the Wells, owed a duty to Plaintiffs to act as a reasonable operator. COG breached its duty by drilling the Wells while service costs were reaching extreme highs and completing the Wells during a time when oil and gas commodity prices were reaching extreme lows.

81. COG's negligent conduct proximately caused Plaintiffs to suffer significant financial losses and damages.

Count Seven: Alternative Claim for Breach of Fiduciary Duty

82. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

83. If the Court finds that Plaintiffs are bound by the communitization agreements, despite reserving all their rights including, but not limited to, claims for trespass and conversion, and that COG is deemed to have the right to drill 043H and 044H, then COG, as unit operator, breached its fiduciary duty to Plaintiffs.

84. COG, as unit operator, owed a fiduciary duty to Plaintiffs.

85. COG breached its fiduciary duty to Plaintiffs by drilling the Wells while service costs were reaching extreme highs and completing the Wells during a time when oil and gas commodity prices were reaching extreme lows and by failing to properly report, account for, and distribute oil and gas proceeds to Plaintiffs for their proportionate royalty share of oil and gas production from the Wells.

86. COG's conduct in breaching its fiduciary duties to Plaintiffs was intentional, malicious, or in reckless disregard of Plaintiffs' rights. As a result, COG is liable for punitive damages.

87. As a direct and proximate result of COG's breach of fiduciary duty, Plaintiffs suffered significant financial losses and damages. Plaintiffs are entitled to recover both actual and punitive damages for COG's actions.

Count Eight: Alternative Claim for Violation of the New Mexico Oil and Gas Proceeds Payment Act

88. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

89. If the Court finds that Plaintiffs are bound by the communitization agreements, despite reserving all their rights including, but not limited to, claims for trespass and conversion, and that COG is deemed to have the right to drill 043H and 044H, then COG violated the New Mexico Oil and Gas Proceeds Payment Act ("NMPPA").

90. As operator of the 043H and 044H, COG is a "payor" subject to the NMPPA, NMSA 1973, §§ 70-10-1-10-6.

91. COG did not pay Plaintiffs any of their entitled share of the proceeds derived from Plaintiffs' working interest in 043H and 044H within the time prescribed by NMSA 1978, § 70-10-3.

92. COG is liable to Plaintiffs for the unpaid amount of the payment due under the NMPPA.

93. As a result of COG's unexcused failure to make payment within the statutory period, Plaintiffs are entitled to interest under the NMPPA on all amounts owed but not timely paid by COG at the rate of 18% plus court costs and reasonable attorneys' fees.

Count Nine: Alternative Claim for Breach of Contract

94. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

95. If COG's position is upheld and Plaintiffs, despite not having signed or agreed to the Operating Agreement, are subject to the Operating Agreement, then COG breached the Operating Agreement.

96. COG breached the terms of the Operating Agreement by failing to provide notice or AFEs to Plaintiffs of its proposed drilling operations, including, but not limited to, 043H and 044H.

97. COG also breached the terms of the Operating Agreement by failing to properly account for Plaintiffs' working interest in all of the wells in the SRO Unit subject to the Operating Agreement.

98. COG's breaches of the Operating Agreement caused injury to Plaintiffs.

99. Plaintiffs seek actual damages in an amount and of character within this Court's jurisdiction.

Count Ten: Alternative Claim for Gross Negligence

100. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

101. If COG's position is upheld and Plaintiffs, despite not having signed or agreed to the Operating Agreement are subject to the Operating Agreement, then COG breached the Operating Agreement.

102. COG was grossly negligent, or alternatively engaged in willful misconduct because it drilled the Wells during a time when oil and gas service costs were at extreme highs and completed the Wells when oil and gas commodity prices were at extreme lows.

103. COG's grossly negligent conduct proximately caused Plaintiffs to suffer significant financial losses and damages.

104. COG's grossly negligent actions demonstrate maliciously intentional, fraudulent, and oppressive conduct and were committed recklessly or with a wanton disregard of Plaintiffs' rights. Plaintiffs are entitled to recover punitive damages for COG's actions.

Count Eleven: Alternative Claim for Accounting

105. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

106. If COG's position is upheld and Plaintiffs, despite not having signed or agreed to the Operating Agreement are subject to the Operating Agreement, Plaintiffs demand an accounting from COG with respect to any and all revenues and expenses related to any well within the geographical area subject to the Operating Agreement, including without limitation the interests owned by Plaintiffs.

Count Twelve: Alternative Claim for Violation of the New Mexico Oil and Gas Proceeds

Payment Act

107. Plaintiffs reallege and incorporate herein by reference each of the factual allegations above as though fully set forth herein.

108. If COG's position is upheld and Plaintiffs, despite not having signed or agreed to the Operating Agreement are subject to the Operating Agreement, then COG violated the New Mexico Oil and Gas Proceeds Payment Act ("NMPPA").

109. As operator of the SRO Unit, COG is a "payor" subject to the NMPPA, NMSA 1973, §§ 70-10-1-10-6.

110. COG did not pay Plaintiffs all of their entitled share of the proceeds derived from Plaintiffs' working interest in all of the wells in the SRO Unit subject to the Operating Agreement within the time prescribed by NMSA 1978, § 70-10-3.

111. COG is liable to Plaintiffs for the unpaid amount of the payment due under the NMPPA.

112. As a result of COG's unexcused failure to make payment within the statutory period, Plaintiffs are entitled to interest under the NMPPA on all amounts owed but not timely paid by COG at the rate of 18% plus court costs and reasonable attorneys' fees.

V. PRAYER

For the foregoing reasons, Plaintiffs respectfully requests that upon trial of this cause, the Court award Plaintiffs judgment for:

1. Actual damages;
2. Exemplary or punitive damages;
3. Declaratory relief as requested herein;

4. Ordering an accounting;
5. Prejudgment interest to the extent permitted by law;
6. Postjudgment interest at the maximum rate allowed by law;
7. Costs of suit;
8. Attorney's fees;
9. Other and further relief, both at law and in equity, to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

/s/ J. Scott Hall

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Facsimile: (214) 651-5940

**ATTORNEYS FOR NEARBURG
EXPLORATION COMPANY, L.L.C.,
SRO2 LLC, and SRO3 LLC**



PATRICK H. LYONS
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760

Fax (505) 827-5766

www.nmstateclands.org

July 22, 2009

Marbob Energy Corporation
P. O. Box 227
Artesia, NM 88211-0227

Attn: Mr. Ross Duncan

Re: SRO State Exploratory Unit
Subsequent Joinders Effective 8/1/2009
Tract No. 23, 25 and 26
Eddy, County, New Mexico

Dear Mr. Duncan:

This office has received your letter of July 13, 2009. Also included with your letter are subsequent joinder ratifications from Chesapeake Exploration LP and Nearburg Exploration Company committing their interests to the SRO State Exploratory Unit Agreement.

In accordance with Article 22 of the unit agreement, the Commissioner of Public Lands approves the subsequent joinder ratifications of Chesapeake Exploration LP and Nearburg Exploration Company to the SRO State Exploratory Unit Agreement. Tract Nos. 23, 25 and 26 will be committed to this unit agreement effective August 1, 2009.


Please notify all interested parties of this action.

If you have any questions or if we may be of further help, please contact Pete Martinez at (505) 827-5791.

Very truly yours,

PATRICK H. LYONS
COMMISSIONER OF PUBLIC LANDS

BY:


JAMI BAILEY, Director
Oil, Gas and Minerals Division
(505) 827-5744

PL/JB/pm

cc: OCD-Santa Fe, Attention: Mr. Ed Martin

EXHIBIT 2

-State Land Office Beneficiaries -

Carrie Tingley Hospital • Charitable Penal & Reform • Common Schools • Eastern NM University • Rio Grande Improvement • Miners' Hospital of NM • NM Boys School • NM Highlands University • NM Institute of Mining & Technology • New Mexico Military Institute • NM School for the Deaf • NM School for the Visually Handicapped • NM State Hospital • New Mexico State University • Northern NM Community College • Penitentiary of New Mexico • Public Buildings at Capital •



13 July 2009

Pete Martinez
New Mexico State Land Office
310 Old Santa Fe Trail
Santa Fe, NM 87501-2708

RE: SRO State Exploratory Unit
Eddy County, New Mexico

Dear Mr. Martinez:

Pursuant to Section 22 of the SRO State Exploratory Unit Agreement, I respectfully request approval of subsequent joinder, effective August 1, 2009, for the interest of Chesapeake Exploration LP and Nearburg Exploration Company. Attached please find Chesapeake and Nearburg's executed Ratification and Joinder of Unit Agreement and Unit Operating Agreement. Also enclosed is a revised Exhibit "B" to the Unit Agreement showing committed and uncommitted tracts.

Chesapeake and Nearburg have both subscribed to the Unit Operating Agreement and will pay their proportionate share of the expenses associated with drilling the SRO State Unit #1H well. Since said well has not been drilled, there has been no production to date, and therefore, there will be no retroactive adjustments of revenue.

If you have any questions, please feel free to call me at (575) 748-3303.

Sincerely,



Ross Duncan
Sr. Landman

Enclosures as stated.

CC: NMOCD

RATIFICATION AND JOINDER OF UNIT AGREEMENT
AND
UNIT OPERATING AGREEMENT

In consideration of the execution of the Unit Agreement for the Development and Operation of the SRO State Exploratory UNIT AREA, County of Eddy, State of New Mexico, dated May 8th, 2009, in form approved on behalf of the Commissioner of Public Lands, and in consideration of the execution or ratification by other working interest owners of the contemporary Unit Operating Agreement which relates to said Unit Agreement the undersigned hereby expressly ratifies, approves and adopts said Unit Agreement as fully as though the undersigned had executed the original agreement.

This Ratification and Joinder shall be effective as to the undersigned's interests in any lands and leases, or interests therein, and royalties presently held or which may arise under existing option agreements or other interests in untitled substances, covering the lands within the Unit Area in which the undersigned may be found to have an oil and gas interest.

This Ratification and Joinder of Unit Agreement shall be binding upon the undersigned, his, or her or its heirs, devisees, executors, assigns or successors in interest.

EXECUTED this 10th day of July, 2009

Chesapeake Exploration, L.L.C.
P.O. Box 18496
Oklahoma City, OK 73154-0496

TRACT (S) See Attached Exhibit "B"

Chesapeake Exploration, L.L.C.,
An Oklahoma limited liability company

By: [Signature]
Henry J. Hood, Senior Vice President -
Land and Legal & General Counsel

STATE OF Oklahoma

COUNTY OF Oklahoma

) ss.

Acknowledgment in an Individual Capacity

This instrument was acknowledged before me on July 10, 2009 Date
by Gina Peterson
Name(s) of Person(s)

(Notary Seal)



GINA PETERSON

Notary Public
State of Oklahoma

Commission # 08008510 Expires 08/28/12

[Signature]
SIGNATURE OF NOTARIAL OFFICER

MY COMMISSION EXPIRES: 8/28/2012

Acknowledgment in a Representative Capacity

This instrument was acknowledged before me on _____ Date
by _____

as _____ of _____
Type of authority; e.g., officer, trustee, etc. Name of party on behalf of whom instrument was executed

(Notary Seal)

SIGNATURE OF NOTARIAL OFFICER

MY COMMISSION EXPIRES: _____

RATIFICATION AND JOINDER OF UNIT AGREEMENT
AND
UNIT OPERATING AGREEMENT

In consideration of the execution of the Unit Agreement for the Development and Operation of the SRO State Exploratory UNIT AREA, County of Eddy, State of New Mexico, dated May 8th, 2009, in form approved on behalf of the Commissioner of Public Lands, and in consideration of the execution or ratification by other working interest owners of the contemporary Unit Operating Agreement which relates to said Unit Agreement the undersigned hereby expressly ratifies, approves and adopts said Unit Agreement as fully as though the undersigned had executed the original agreement.

This Ratification and Joinder shall be effective as to the undersigned's interests in any lands and leases, or interests therein, and royalties presently held or which may arise under existing option agreements or other interests in unitized substances, covering the lands within the Unit Area in which the undersigned may be found to have an oil and gas interest.

This Ratification and Joinder of Unit Agreement shall be binding upon the undersigned, his, or her or its heirs, devisees, executors, assigns or successors in interest.

EXECUTED this 26th day of June, 2009

SIGNATURE OF OFFICER

Terry Gant, Midland Manager
TRACT (S) See Attached Exhibit "B"

Nearburg Exploration Company, L.L.C.
BUSINESS ENTITY

Address: P. O. Box 823085
Dallas, Texas 75382-3085

STATE OF TEXAS)

COUNTY OF MIDLAND)

) ss.

Acknowledgment in an Individual Capacity

This instrument was acknowledged before me on _____ Date

by _____
Name(s) of Person(s)

(Notary Seal)

SIGNATURE OF NOTARIAL OFFICER

MY COMMISSION EXPIRES: _____

Acknowledgment in a Representative Capacity

This instrument was acknowledged before me on June 26, 2009 Date

by Terry Gant

as Midland Manager of Nearburg Exploration Company, L.L.C., a

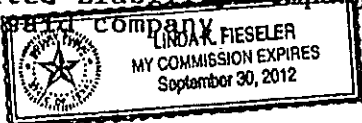
Type of authority; e.g., officer, trustee, etc

Name of party on behalf of whom instrument was executed

Texas Limited Liability Company, on

behalf of said company

(Notary Seal)



Linda K. Fieseler
SIGNATURE OF NOTARIAL OFFICER

MY COMMISSION EXPIRES: 9-30-2012

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

TRACT NUMBER	DESCRIPTION OF LANDS	ACRES	SERIAL NUMBER	EXPIRATION DATE	BASIC ROYALTY AND PERCENTAGE	LESSEE OF RECORD	WORKING INTEREST OWNERS	WI Decimal	Net Acres
1	<u>TOWNSHIP 25 SOUTH, RANGE 28 EAST</u> Section 32: E/2E/2	160	VB-0575	8/1/2009	0.1875	YATES PETROLEUM CORPORATION	Yates Petroleum Corp.	0.18322480	29.315968
							ABO Petroleum Corp.	0.04257430	6.811888
							Yates Drilling Company	0.04257430	6.811888
							MYCO Industries, Inc.	0.04257430	6.811888
							Marbob Energy Corp	0.11959360	19.134976
							Pitch Energy Corp	0.11959360	19.134976
							Legend Natural Gas	0.21045550	33.67288
							Devon Energy Production Company LP	0.23940960	38.305536
2	Section 33: N/2	320	VB-0576	8/1/2009	0.1875	YATES PETROLEUM CORPORATION	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072
3	Section 33: S/2	320	VB-0569	8/1/2009	0.1875	YATES PETROLEUM CORPORATION	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

4	Section 34: S/2	320	V-7085	7/1/2009 - Prod	0.16667	MARBOB ENERGY CORPORATION	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
<u>TOWNSHIP 26 SOUTH, RANGE 28 EAST</u>									
5	Section 2: W/2	320	VB-0694	7/1/2010	0.1875	YATES PETROLEUM CORPORATION	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
6	Section 3: E/2	320	V-7438	7/1/2010	0.16667	The Allar Company	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

7	Section 3: W/2	320	V-7461	7/1/2010	0.16667	Yates Petroleum Corporation	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
8	Section 4: E/2	320	V-7439	7/1/2010	0.16667	The Allar Company	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
9	Section 4: W/2	320	V-7462	7/1/2010	0.16667	Yates Petroleum Corporation	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

10 UNCOMMITTED	Section 5: E/2	320	V-7440	7/1/2010	0.16667	Legend Natural Gas III LP	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072
11 .	Section 5: W/2	320	V-7463	7/1/2010	0.16667	Yates Petroleum Corporation	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072
12 UNCOMMITTED	Section 6: E/2	320	V-7441	7/1/2010	0.16667	Legend Natural Gas III LP	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072

EXHIBIT "8"
SCHEDULE OF OWNERSHIP

13	Section 7: E/2	320	V-7465	7/1/2010	0.16667	Yates Petroleum Corporation	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072
14 UNCOMMITTED	Section 8: W/2	320	V-7443	7/1/2010	0.16667	Legend Natural Gas III LP	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072
15	Section 8: E/2	320	V-7466	7/1/2010	0.16667	Marbob Energy Corporation	Yates Petroleum Corp.	0.18322480	58.631936
							ABO Petroleum Corp	0.04257430	13.623776
							Yates Drilling Company	0.04257430	13.623776
							MYCO Industries, Inc.	0.04257430	13.623776
							Marbob Energy Corp	0.11959360	38.269952
							Pitch Energy Corp	0.11959360	38.269952
							Legend Natural Gas	0.21045550	67.34576
							Devon Energy Production Company LP	0.23940960	76.611072

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

16	Section 9: W/2	320	V-7444	7/1/2010- Prod	0.16667	The Allar Company	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
17	Section 9: E/2	320	V-7467	7/1/2010 - Prod	0.16667	Yates Petroleum Corporation	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
18	Section 10: W/2	320	VB-0677	7/1/2010	0.1875	The Allar Company	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

19	Section 10: E/2	320	VB-0695	7/1/2010	0.1875	Yates Petroleum Corporation	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
20	Section 15: E/2	320	V-7445	7/1/2010	0.16667	The Allar Company	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504
21	Section 15: W/2	320	V-7468	7/1/2010	0.16667	Yates Petroleum Corporation	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

22	Section 16: E/2E/2	160	V-7446	7/1/2010	0.16667	The Allar Company	Marbob Energy Corp.	0.19505495	31.208792
							Pitch Energy Corp	0.19505495	31.208792
							Yates Petroleum Corp.	0.07554945	12.087912
							ABO Petroleum Corp.	0.07554945	12.087912
							Yates Drilling Company	0.07554945	12.087912
							MYCO Industries, Inc.	0.07554945	12.087912
							EG3, Inc.	0.07692308	12.3076928
							The Allar Company	0.23076922	36.9230752
23	Section 17: E/2	320	V-7447	7/1/2010	0.16667	Chesapeake Exploration LP	Chesapeake Exploration Limited Partnership	1.00000000	320
24	Section 17: W/2	320	V-7470	7/1/2010	0.16667	Yates Petroleum Corporation	Yates Petroleum Corp.	0.35000000	112
							ABO Petroleum Corp	0.05000000	16
							Yates Drilling Company	0.05000000	16
							MYCO Industries, Inc.	0.05000000	16
							Marbob Energy Corp	0.50000000	160
25	Section 18: E/2	320	V-7448	7/1/2010	0.16667	Chesapeake Exploration LP	Chesapeake Exploration Limited Partnership	1.00000000	320
26	Section 20: W/2	320	V-7450	7/1/2010	0.16667	Nearburg Exploration Company, LLC	Nearburg Exploration Company, LLC	1.00000000	320
27	Section 20: E/2	320	V-7473	7/1/2010	0.16667	Marbob Energy Corporation	Marbob Energy Corp	0.19505495	62.417584
							Pitch Energy Corp	0.19505495	62.417584
							Yates Petroleum Corp.	0.07554945	24.175824
							ABO Petroleum Corp	0.07554945	24.175824
							Yates Drilling Company	0.07554945	24.175824
							MYCO Industries, Inc.	0.07554945	24.175824
							EG3, Inc.	0.07692308	24.6153856
							The Allar Company	0.23076922	73.8461504

EXHIBIT "B"
SCHEDULE OF OWNERSHIP

RECAPITULATION

Acres of State of New Mexico Lands = 100%

Acres of Fee Lands = 0%

100%

LEASE BASIS

TOTAL COMMITTED ACRES	7360
TOTAL UNCOMMITTED ACRES	960
TOTAL ACRES	8320

Unit Working Interest

Marbob Energy Corp	0.18507511	1188.974488
Pitch Energy Corp	0.16016961	1028.974488
Yates Petroleum Corp.	0.12379680	795.305384
ABO Petroleum Corp	0.06331485	406.752344
Yates Drilling Company	0.06331485	406.752344
MYCO Industries, Inc.	0.06331485	406.752344
EG3, Inc.	0.04789522	307.69232
The Allar Company	0.14368564	923.07688
Chesapeake Exploration LLC	0.09962205	640
Nearburg Exploration Company LLC	0.04981102	320
TOTAL	1.00000000	6424.280592

COPY

211

STATE/FEE EXPLORATORY UNIT

[Revised February 12, 2004]

UNIT AGREEMENT
FOR THE DEVELOPMENT AND OPERATION
OF THE

SRO

UNIT AREA

EDDY

COUNTY, NEW MEXICO

NO.

SFE1

EXHIBIT 3

UNIT AGREEMENT
FOR THE DEVELOPMENT AND OPERATION
OF THEBRO UNIT AREAKUDY COUNTY, NEW MEXICO

NO _____

TABLE OF CONTENTS by Section Numbers

Section

1.	<u>UNIT AREA</u>
2.	<u>UNITIZED SUBSTANCES</u>
3.	<u>UNIT OPERATOR</u>
4.	<u>RESIGNATION OR REMOVAL OF UNIT OPERATOR</u>
5.	<u>SUCCESSOR UNIT OPERATOR</u>
6.	<u>ACCOUNTING PROVISIONS</u>
7.	<u>RIGHTS AND OBLIGATIONS OF UNIT OPERATOR</u>
8.	<u>DRILLING TO DISCOVERY</u>
9.	<u>OBLIGATIONS OF UNIT OPERATOR AFTER DISCOVERY OF UNITIZED SUBSTANCES</u>
10.	<u>PARTICIPATION AFTER DISCOVERY</u>
11.	<u>ALLOCATION OF PRODUCTION</u>
12.	<u>PAYMENT OF RENTALS, ROYALTIES AND OVERRIDING ROYALTIES</u>
13.	<u>LEASES AND CONTRACTS CONFORMED AND EXTENDED INsofar AS THEY APPLY TO LANDS WITHIN THE UNITIZED AREA</u>
14.	<u>CONSERVATION</u>
15.	<u>DRAINAGE</u>
16.	<u>COVENANTS RUN WITH LAND</u>
17.	<u>EFFECTIVE DATE AND TERM</u>
18.	<u>RATE OF PRODUCTION</u>
19.	<u>APPEARANCES</u>
20.	<u>NOTICES</u>
21.	<u>LOSS OF TITLE</u>
22.	<u>SUBSEQUENT RINDER</u>
23.	<u>COUNTERPARTS</u>
	<u>EXHIBIT "A". MAP OF UNIT AREA</u>
	<u>EXHIBIT "B". SCHEDULE OF OWNERSHIP</u>
	<u>EXHIBIT "C". SCHEDULE OF TRACT PARTICIPATION</u>

21. **LOSS OF TITLE:** In the event title to any tract of unitized land or substantial interest therein shall fail, and the true owner cannot be induced to join the unit agreement so that such tract is not committed to this agreement, or the operation thereof hereunder becomes impracticable as a result thereof, such tract may be eliminated from the unitized area, and the interest of the parties readjusted as a result of such tract being eliminated from the unitized area. In the event of a dispute as to the title to any royalty, working, or other interest subject hereto, the unit operator may withhold payment or delivery of the allocated portion of the unitized substances involved on account thereof, without liability for interest until the dispute is finally settled, provided that no payments of funds due the State of New Mexico shall be withheld. Unit Operator, as such, is relieved from any responsibility for any defect or failure of any title hereunder.

22. **SUBSEQUENT JOINDER:** Any oil or gas interest in lands within the unit area not committed hereto, prior to the submission of the agreement for final approval by the Commissioner and the Division, may be committed hereto by the owner or owners of such rights, subscribing or consenting to this agreement, or executing a ratification thereof, and if such owner is also a working interest owner, by subscribing to the operating agreement providing for the allocation of costs of exploration, development, and operation. A subsequent joinder shall be effective as of the first day of the month following the approval by the Commissioner and the filing with the Division of duly executed counterparts of the instrument or instruments committing the interest of such owner to this agreement, but such joining party or parties, before participating in any benefits hereunder, shall be required to assume and pay to unit operator, their proportionate share of the unit expenses incurred prior to such party's or parties joinder in the unit agreement, and the unit operator shall make appropriate adjustments caused by such joinder, without any retroactive adjustment of revenue.

23. **COUNTERPARTS:** This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instrument in writing specifically referring hereto, and shall be binding upon all those parties who have executed such a counterpart, ratification, or consent hereto with the same force and effect as if all such parties had signed the same document, and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above described unit area.

IN WITNESS WHEREOF, the undersigned parties hereto have caused this agreement to be executed as of the respective dates set forth opposite their signatures.

UNIT OPERATOR AND WORKING INTEREST OWNER

Marbob Energy Corporation

By *Dean Chumbley*

Address P.O. Box 227, Artesia, NM 88211-0227

Date of Execution 6.11.2009

STATE OF New Mexico

COUNTY OF Eddy) ss.

Acknowledgment in an Individual Capacity

This instrument was acknowledged before me on 6.11.09 Date

by *Dean Chumbley*

Name(s) of Person(s)

(Seal)



**OFFICIAL SEAL
Nancy T. Agnew
NOTARY PUBLIC STATE OF NEW MEXICO**

My commission expires: 7-5-11

Nancy T. Agnew
Signature of Notarial Officer

My commission expires: 7-5-2011

ONLINE VERSION
NM State Land Office
Oil, Gas, & Minerals Division

STATE/STATE OR
STATE/FEE
Revised March 2007

COMMUNITIZATION AGREEMENT

ONLINE Version

KNOW ALL MEN BY THESE PRESENTS:

STATE OF NEW MEXICO)
COUNTY OF EDDY)^{ss)}

THAT THIS AGREEMENT [which is NOT to be used for carbon dioxide or helium] is entered into as of July 1, 2014, by and between the parties subscribing, ratifying or consenting hereto, such parties hereinafter being referred to as "Parties hereto";

WHEREAS, the Commissioner of Public Lands of the State of New Mexico is authorized by the Legislature, as set forth in Sec. 19-10-53, New Mexico Statutes, Annotated, 1978, in the interest of conservation of oil & gas and the prevention of waste to consent to and approve the development or operation of State lands under agreements made by lessees of oil & gas leases thereon, jointly or severally with other oil & gas lessees of State Lands, or oil and gas lessees or mineral owners of privately owned or fee lands, for the purpose of pooling or communitizing such lands to form a proration unit or portion thereof, or well-spacing unit, pursuant to any order, rule or regulation of the New Mexico Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department where such agreement provides for the allocation of the production of oil or gas from such pools or communitized area on an acreage or other basis found by the Commissioner to be fair and equitable.

WHEREAS, the parties hereto, own working, royalty, or other leasehold interests or operating rights under the oil and gas leases and lands subject to this agreement, which leases are more particularly described in the schedule attached hereto, marked Exhibit "A" and made a part hereof, for all purposes; and

WHEREAS, said leases, insofar as they cover the 2nd Bone Spring Interval of the Bone Spring formation as defined in the SRO State Unit #3H well located in Section 18, T26S, R28E, API 3001537422 as being from 7,548' – 7,998' MD as evidenced in the Dual Laterolog run by Halliburton on January 19, 2010 (hereinafter referred to as "said formation") in and under the land hereinafter described cannot be independently developed and operated in conformity with the well spacing program established for such formation in and under said lands; and

WHEREAS, the parties hereto desire to communitize and pool their respective interests in said leases subject to this agreement for the purpose of developing, operating and producing hydrocarbons in the said formation in and under the land hereinafter described subject to the terms hereof.

NOW THEREFORE, in consideration of the premises and the mutual advantages to the parties hereto, it is mutually covenanted and agreed by and between the undersigned as follows:

1. The lands covered by this agreement (hereinafter referred to as the "communitized area") are described as follows:

Township 26 South, Range 28 East, N.M.P.M.

Section 17: W/2 W/2

Section 20: W/2 W/2

Eddy County, New Mexico

Containing 320.00 acres, more or less. It is the judgment of the parties hereto that the communitization, pooling and consolidation of the aforesaid land into a single unit for the development and production of hydrocarbons from the said formation in and under said land is necessary and advisable in order to properly develop and produce the hydrocarbons in the said formation beneath the said land in accordance with the well spacing rules of the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department, and in order to promote the conservation of the hydrocarbons in and that may be produced from said formation in and under said lands, and would be in the public interest;

AND, for the purposes aforesaid, the parties hereto do hereby communitize for proration or spacing purposes only the leases described in Exhibit "A" hereto insofar as they cover hydrocarbons within and that may be produced from the said formation (hereinafter referred to as "Communitized Substances") beneath the above-described land, into a single communitization, for the development, production, operation and conservation of the hydrocarbons in said formation beneath said lands.

Attached hereto and made a part of this agreement for all purposes, is Exhibit A showing the acreage, and ownership (Lessees of Record) of all leases within the communitized area.

2. The communitized area shall be developed and operated as an entirety with the understanding and agreement between the parties hereto that all communitized substances produced therefrom shall be allocated among the leases described in Exhibit "A" hereto in the proportion that the number of surface acres covered by each of such leases and included within the communitized area bears to the total number of acres contained in the communitized area.

3. Subject to Paragraph 4, the royalties payable on communitized substances allocated to the individual leases and the rentals provided for in said leases shall be determined and paid in the manner and on the basis prescribed in each of said leases. Except as provided for under the terms and provisions of the leases described in Exhibit "A" hereto or as herein provided to the contrary, the payment of rentals under the terms of said leases shall not be affected by this agreement; and except as herein modified and changed or heretofore amended, the oil and gas leases subject to this agreement shall remain in full force and effect as originally issued and amended.

4. The State of New Mexico hereafter is entitled to the right to take in kind its share for the communitized substances allocated to such tract, and Operator shall make deliveries of such royalty share taken in kind in conformity with applicable contracts, laws, and regulations.

5. There shall be no obligation upon the parties hereto to offset any well or wells situated on the tracts of land comprising the communitized area, nor shall the Operator be required to measure separately the communitized substances by reason of the diverse ownership of the separate tracts of land comprising the said communitized area; provided, however, that the parties hereto shall not be released from their obligation to protect the communitized area from drainage of communitized substances by wells which may be drilled within offset distance (as that term is defined) of the communitized area.

6. The commencement, completion, and continued operation or production of a well or wells for communitized substances on the communitized area shall be considered as the commencement, completion, continued operation or production as to each of the leases described in Exhibit "A" hereto.

7. The production of communitized substances and disposal thereof shall be in conformity with the allocations, allotments, and quotas made or fixed by any duly authorized person or regulatory body under applicable Federal or State laws. This agreement shall be subject to all applicable Federal and State laws, executive orders, rules and regulations affecting the performance of the provisions hereof, and no party hereto shall suffer a forfeiture or be liable in damages for failure to comply with any of the provisions of this agreement if compliance is prevented by or if such failure results from compliance with any such laws, orders, rules and regulations.

8. **COG Operating LLC shall be the Operator of said communitized area and all matters of operation shall be determined and performed by COG Operating LLC.**

9. ~~This agreement shall be effective~~ as of the date hereinabove written upon execution by the necessary parties, notwithstanding the date of execution, and upon approval by the Commissioner of Public Lands, shall remain in full force and effect for a period of one year from the date hereof and as long thereafter as communitized substances are produced from the communitized area in paying quantities; provided, that this agreement shall not expire if there is a well capable of producing gas in paying quantities located upon some part of the communitized area, if such a well is shut-in due to the inability of the operator to obtain a pipeline connection or to market the gas therefrom, and if either: (a) a shut-in royalty has been timely and properly paid pursuant to the provisions of one of the State of New Mexico oil and gas leases covering lands subject to this agreement so as to prevent the expiration of such lease; or (b) each of the State of New Mexico oil and gas leases covering lands subject to this agreement is in its primary term (if a five-year lease), or in its primary or secondary term (if a ten-year lease), or is held by production from another well. Provided further, however, that prior to production in paying quantities from the communitized area, and upon fulfillment of all requirements of the Commissioner of Public Lands with respect to any dry hole or abandoned well drilled upon the communitized area, this Agreement may be terminated at any time by mutual agreement of the parties hereto. This agreement shall not terminate upon cessation of production of communitized substances if, within sixty (60) days thereafter, reworking or drilling operations on the communitized area are commenced and are thereafter conducted with reasonable diligence. As to lands owned by the State of New Mexico, written notice of intention to commence such operations shall be filed with the Commissioner within thirty (30) days after the cessation of

such production, and a report of the status of such operations shall be made by the Operator to the Commissioner every thirty (30) days, and the cessation of such operations for more than twenty (20) consecutive days shall be considered as an abandonment of such operations as to any lease from the State of New Mexico included in this agreement.

10. Operator will furnish the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department, and the Commissioner of Public Lands of the State of New Mexico, with any and all reports, statements, notices and well logs and records which may be required under the laws and regulations of the State of New Mexico.

11. It is agreed between the parties hereto that the Commissioner of Public Lands, or his duly authorized representatives, shall have the right of supervision over all operations under the communitized area to the same extent and degree as provided in the oil and gas leases described in Exhibit "A" hereto and in the applicable oil and gas regulations of the State of New Mexico.

12. If any order of the Oil Conservation Division of the New Mexico Energy Minerals and Natural Resources Department, upon which this agreement is predicated or based is in anyway changed or modified, then in such event said agreement is likewise modified to conform thereto.

13. This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments, in writing, specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification or consent hereto with the same force and effect as if all parties had signed the same document.

14. This agreement shall be binding upon the parties hereto and shall extend to and be binding upon their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OPERATOR:

COG Operating LLC

BY: Mona D. Ables
Mona D. Ables
Vice President of Land *u*
ma

LESSEES OF RECORD:

Yates Petroleum Corporation

By:
Its:

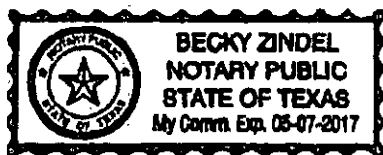
Nearburg Exploration Company, L.L.C.

By: Randy Howard
Its: Randy Howard
Land Manager

ACKNOWLEDGEMENT

STATE OF TEXAS §
 § ss.
COUNTY OF MIDLAND §

This instrument was acknowledged before me on July 3, 2014, by
Mona D. Ables, Vice President of Land, of COG Operating LLC, a Delaware Limited Liability
Company, on behalf of same.



5/7/17
My Commission Expires

Becky Zindel
Notary Public in and for the State of Texas

ACKNOWLEDGEMENT
(Continued)

STATE OF NEW MEXICO §
§ ss.
COUNTY OF EDDY §

This instrument was acknowledged before me on _____, 2014,
by _____, as _____, of Yates Petroleum
Corporation, a New Mexico Corporation, on behalf of same.

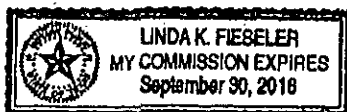
My Commission Expires

Notary Public in and for the State of New Mexico

STATE OF TEXAS §
§ ss.
COUNTY OF MIDLAND §

This instrument was acknowledged before me on May 20, 2014,
by Randy Howard, as Land Manager, of Nearburg Exploration
Company, L.L.C., a Texas limited liability company, on behalf of same.

9-30-16
My Commission Expires



Linda K Fieseler
Notary Public in and for the State of Texas

EXHIBIT "A"

Plat of communitized area covering 320.00 acres in Sections 17 & 20 of T26S - R28E, N.M.P.M.
Eddy County, New Mexico

SRO State Com #43H

Tract 1: ● VO-7470 (Sec 17: W/2 W/2)			
			SEC 17
Tract 2: VO-7450-0001 (Sec. 20: W/2 W/2)			SEC 20
●			

NOTE: Show well location and tract numbers, show lots with acreage.

EXHIBIT "B"

Attached to and made a part of that Communitization Agreement, dated **July 1, 2014**, covering the W/2 W/2 of Section 17 and the W/2 W/2 of Section 20, Township 26 South, Range 28 East, N.M.P.M., Eddy County, New Mexico.

OPERATOR of Communitized Area: COG Operating LLC

DESCRIPTION OF LEASES COMMITTED:

TRACT NO. 1

Serial No. of Lease: V0-7470
Date of Lease: July 1, 2005
Lessor: State of New Mexico acting by and through its Commissioner of Public Lands
Lessee of Record: Yates Petroleum Corporation
Description of Lands Committed: Insofar and only insofar as lease covers
Township 26 South, Range 28 East, N.M.P.M.
Section 17: W/2 W/2
Eddy County, New Mexico
No. of Acres: 160.00

TRACT NO. 2

Serial No. of Lease: V0-7450-0001
Date of Lease: July 1, 2005
Lessor: State of New Mexico acting by and through its Commissioner of Public Lands
Lessee of Record: Nearburg Exploration Company, L.L.C.
Description of Lands Committed: Insofar and only insofar as lease covers
Township 26 South, Range 28 East, N.M.P.M.
Section 20: W/2 W/2
Eddy County, New Mexico
No. of Acres: 160.00

RECAPITULATION

Tract Number	Number of Acres Committed	Percentage of Interest In Communitized Area
No. 1	160.00	50.000000%
No. 2	<u>160.00</u>	<u>50.000000%</u>
	320.00	100.000000%

ONLINE VERSION
NM State Land Office
Oil, Gas, & Minerals Division

STATE/STATE OR
STATE/FEE
Revised March 2007

COMMUNITIZATION AGREEMENT

ONLINE Version

KNOW ALL MEN BY THESE PRESENTS:

STATE OF NEW MEXICO)
COUNTY OF EDDY)^{ss)}

THAT THIS AGREEMENT [which is NOT to be used for carbon dioxide or helium] is entered into as of **October 1, 2014**, by and between the parties subscribing, ratifying or consenting hereto, such parties hereinafter being referred to as "Parties hereto";

WHEREAS, the Commissioner of Public Lands of the State of New Mexico is authorized by the Legislature, as set forth in Sec. 19-10-53, New Mexico Statutes, Annotated, 1978, in the interest of conservation of oil & gas and the prevention of waste to consent to and approve the development or operation of State lands under agreements made by lessees of oil & gas leases thereon, jointly or severally with other oil & gas lessees of State Lands, or oil and gas lessees or mineral owners of privately owned or fee lands, for the purpose of pooling or communitizing such lands to form a proration unit or portion thereof, or well-spacing unit, pursuant to any order, rule or regulation of the New Mexico Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department where such agreement provides for the allocation of the production of oil or gas from such pools or communitized area on an acreage or other basis found by the Commissioner to be fair and equitable.

WHEREAS, the parties hereto, own working, royalty, or other leasehold interests or operating rights under the oil and gas leases and lands subject to this agreement, which leases are more particularly described in the schedule attached hereto, marked Exhibit "A" and made a part hereof, for all purposes; and

WHEREAS, said leases, insofar as they cover the **2nd Bone Spring Interval of the Bone Spring formation as defined in the SRO State Unit #3H well located in Section 18, T26S, R28E, API 3001537422 as being from 7,548' – 7,998' MD as evidenced in the Dual Laterolog run by Halliburton on January 19, 2010** (hereinafter referred to as "said formation") in and under the land hereinafter described cannot be independently developed and operated in conformity with the well spacing program established for such formation in and under said lands; and

WHEREAS, the parties hereto desire to communitize and pool their respective interests in said leases subject to this agreement for the purpose of developing, operating and producing hydrocarbons in the said formation in and under the land hereinafter described subject to the terms hereof.

NOW THEREFORE, in consideration of the premises and the mutual advantages to the parties hereto, it is mutually covenanted and agreed by and between the undersigned as follows:

1. The lands covered by this agreement (hereinafter referred to as the "communitized area") are described as follows:

Township 26 South, Range 28 East, N.M.P.M.

Section 17: E/2 W/2

Section 20: E/2 W/2

Eddy County, New Mexico

Containing 320.00 acres, more or less. It is the judgment of the parties hereto that the communitization, pooling and consolidation of the aforesaid land into a single unit for the development and production of hydrocarbons from the said formation in and under said land is necessary and advisable in order to properly develop and produce the hydrocarbons in the said formation beneath the said land in accordance with the well spacing rules of the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department, and in order to promote the conservation of the hydrocarbons in and that may be produced from said formation in and under said lands, and would be in the public interest;

AND, for the purposes aforesaid, the parties hereto do hereby communitize for proration or spacing purposes only the leases described in Exhibit "A" hereto insofar as they cover hydrocarbons within and that may be produced from the said formation (hereinafter referred to as "Communitized Substances") beneath the above-described land, into a single communitization, for the development, production, operation and conservation of the hydrocarbons in said formation beneath said lands.

Attached hereto and made a part of this agreement for all purposes, is Exhibit A showing the acreage, and ownership (Lessees of Record) of all leases within the communitized area.

2. The communitized area shall be developed and operated as an entirety with the understanding and agreement between the parties hereto that all communitized substances produced therefrom shall be allocated among the leases described in Exhibit "A" hereto in the proportion that the number of surface acres covered by each of such leases and included within the communitized area bears to the total number of acres contained in the communitized area.
3. Subject to Paragraph 4, the royalties payable on communitized substances allocated to the individual leases and the rentals provided for in said leases shall be determined and paid in the manner and on the basis prescribed in each of said leases. Except as provided for under the terms and provisions of the leases described in Exhibit "A" hereto or as herein provided to the contrary, the payment of rentals under the terms of said leases shall not be affected by this agreement; and except as herein modified and changed or heretofore amended, the oil and gas leases subject to this agreement shall remain in full force and effect as originally issued and amended.
4. The State of New Mexico hereafter is entitled to the right to take in kind its share for the communitized substances allocated to such tract, and Operator shall make deliveries of such royalty share taken in kind in conformity with applicable contracts, laws, and regulations.

5. There shall be no obligation upon the parties hereto to offset any well or wells situated on the tracts of land comprising the communitized area, nor shall the Operator be required to measure separately the communitized substances by reason of the diverse ownership of the separate tracts of land comprising the said communitized area; provided, however, that the parties hereto shall not be released from their obligation to protect the communitized area from drainage of communitized substances by wells which may be drilled within offset distance (as that term is defined) of the communitized area.

6. The commencement, completion, and continued operation or production of a well or wells for communitized substances on the communitized area shall be considered as the commencement, completion, continued operation or production as to each of the leases described in Exhibit "A" hereto.

7. The production of communitized substances and disposal thereof shall be in conformity with the allocations, allotments, and quotas made or fixed by any duly authorized person or regulatory body under applicable Federal or State laws. This agreement shall be subject to all applicable Federal and State laws, executive orders, rules and regulations affecting the performance of the provisions hereof, and no party hereto shall suffer a forfeiture or be liable in damages for failure to comply with any of the provisions of this agreement if compliance is prevented by or if such failure results from compliance with any such laws, orders, rules and regulations.

8. **COG Operating LLC shall be the Operator of said communitized area and all matters of operation shall be determined and performed by COG Operating LLC.**

9. This agreement shall be effective as of the date hereinabove written upon execution by the necessary parties, notwithstanding the date of execution, and upon approval by the Commissioner of Public Lands, shall remain in full force and effect for a period of one year from the date hereof and as long thereafter as communitized substances are produced from the communitized area in paying quantities; provided, that this agreement shall not expire if there is a well capable of producing gas in paying quantities located upon some part of the communitized area, if such a well is shut-in due to the inability of the operator to obtain a pipeline connection or to market the gas therefrom, and if either: (a) a shut-in royalty has been timely and properly paid pursuant to the provisions of one of the State of New Mexico oil and gas leases covering lands subject to this agreement so as to prevent the expiration of such lease; or (b) each of the State of New Mexico oil and gas leases covering lands subject to this agreement is in its primary term (if a five-year lease), or in its primary or secondary term (if a ten-year lease), or is held by production from another well. Provided further, however, that prior to production in paying quantities from the communitized area, and upon fulfillment of all requirements of the Commissioner of Public Lands with respect to any dry hole or abandoned well drilled upon the communitized area, this Agreement may be terminated at any time by mutual agreement of the parties hereto. This agreement shall not terminate upon cessation of production of communitized substances if, within sixty (60) days thereafter, reworking or drilling operations on the communitized area are commenced and are thereafter conducted with reasonable diligence. As to lands owned by the State of New Mexico, written notice of intention to commence such operations shall be filed with the Commissioner within thirty (30) days after the cessation of such production, and a report of the status of such operations shall be made by the Operator to the Commissioner every thirty (30) days, and the cessation of such operations for more than twenty (20) consecutive days shall be considered as an

abandonment of such operations as to any lease from the State of New Mexico included in this agreement.

10. Operator will furnish the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department, and the Commissioner of Public Lands of the State of New Mexico, with any and all reports, statements, notices and well logs and records which may be required under the laws and regulations of the State of New Mexico.

11. It is agreed between the parties hereto that the Commissioner of Public Lands, or his duly authorized representatives, shall have the right of supervision over all operations under the communitized area to the same extent and degree as provided in the oil and gas leases described in Exhibit "A" hereto and in the applicable oil and gas regulations of the State of New Mexico.

12. If any order of the Oil Conservation Division of the New Mexico Energy Minerals and Natural Resources Department, upon which this agreement is predicated or based is in anyway changed or modified, then in such event said agreement is likewise modified to conform thereto.

13. This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments, in writing, specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification or consent hereto with the same force and effect as if all parties had signed the same document.

14. This agreement shall be binding upon the parties hereto and shall extend to and be binding upon their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OPERATOR:

COG Operating LLC

BY: _____

Mona D. Ables
Vice President of Land

Mona D. Ables
H
RDO

ACKNOWLEDGEMENT

STATE OF TEXAS §
 § ss.
COUNTY OF MIDLAND §

This instrument was acknowledged before me on April 21st, 2015, by Mona D. Ables, Vice President of Land, of COG Operating LLC, a Delaware Limited Liability Company, on behalf of same.



9/9/2017
My Commission Expires

Melissa L. Dimit
Notary Public in and for the State of Texas

LESSEES OF RECORD:

Yates Petroleum Corporation

BY:
ITS:

Nearburg Exploration Company, L.L.C.

Randy Howard
BY: Randy Howard
ITS: Land Manager

ACKNOWLEDGEMENT

STATE OF NEW MEXICO §
 § ss.
 COUNTY OF EDDY §

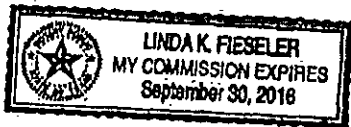
This instrument was acknowledged before me on _____, 2015,
 by _____, as _____, of Yates Petroleum
 Corporation, a New Mexico Corporation, on behalf of same.

 My Commission Expires

 Notary Public in and for the State of New Mexico

STATE OF TEXAS §
 § ss.
 COUNTY OF MIDLAND §

This instrument was acknowledged before me on May 20, 2015,
 by Randy Howard, as Plant Manager, of Nearburg Exploration
 Company, L.L.C., a Texas limited liability company, on behalf of same.



9-30-16
 My Commission Expires

Linda K Fieseler
 Notary Public in and for the State of Texas

EXHIBIT "A"

Plat of communitized area covering 320.00 acres in the E/2 W/2 of Section 17 and the E/2 W/2 of Section 20 of T26S - R28E, N.M.P.M. Eddy County, New Mexico

SRO State Com #44H

	Tract 1: VO-7470 (Sec 17: E/2 W/2)		
			SEC 17
	Tract 2: VO-7450-0001 (Sec. 20: E/2 W/2)		SEC 20

NOTE: Show well location and tract numbers, show lots with acreage.

State/State or
State/Fee Communitization

EXHIBIT "B"

Attached to and made a part of that Communitization Agreement, dated October 1, 2014, covering the E/2 W/2 of Section 17 and the E/2 W/2 of Section 20, Township 26 South, Range 28 East, N.M.P.M., Eddy County, New Mexico

OPERATOR of Communitized Area: COG Operating LLC

DESCRIPTION OF LEASES COMMITTED:**TRACT NO. 1**

Serial No. of Lease: V0-7470
 Date of Lease: July 1, 2005
 Lessor: State of New Mexico acting by and through its Commissioner of Public Lands
 Lessee of Record: Yates Petroleum Corporation
 Description of Lands Committed:
 Insofar and only insofar as lease covers
 Township 26 South, Range 28 East, N.M.P.M.
 Section 17: E/2 W/2
 Eddy County, New Mexico
 No. of Acres: 160.00

TRACT NO. 2

Serial No. of Lease: V0-7450-0001
 Date of Lease: July 1, 2005
 Lessor: State of New Mexico acting by and through its Commissioner of Public Lands
 Lessee of Record: Nearburg Exploration Company, L.L.C.
 Description of Lands Committed:
 Insofar and only insofar as lease covers
 Township 26 South, Range 28 East, N.M.P.M.
 Section 20: E/2 W/2
 Eddy County, New Mexico
 No. of Acres: 160.00

RECAPITULATION

Tract Number	Number of Acres Committed	Percentage of Interest In Communitized Area
No. 1	160.00	50.000000%
No. 2	<u>160.00</u>	<u>50.000000%</u>
	320.00	100.000000%