

A.A.P.L. FORM 610-1982

**MODEL FORM OPERATING AGREEMENT**

**McCroden C #1**

OPERATING AGREEMENT

DATED

March 1, , 2006 ,  
Year

OPERATOR Energen Resources Corporation

CONTRACT AREA Township 25 North - Range 3 West, N.M.P.M.

Section 2: Lots 3,4,S/2NW/4,SW/4(W/2)

COUNTY OR PARISH OF Rio Arriba

STATE OF New Mexico

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AMERICAN ASSOCIATION OF PETROLEUM LANDMEN,  
4100 FOSSIL CREEK BLVD., FORT WORTH, TEXAS,  
76137-2791, APPROVED FORM. A.A.P.L. NO. 610 - 1982  
REVISED

NMOCD CASE #13957  
ENERGEN RESOURCES  
EXHIBIT

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EXHIBIT "E"

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Attached to and made a part of that certain Operating Agreement dated March 1, 2006, by and between Energen Resources Corporation, as Operator and Joseph A. Sommer, et al, as Non-Operator

GAS BALANCING AGREEMENT

1. Definitions.

(a) For the purpose of this Gas Balancing Agreement (the "Agreement"), the terms not otherwise defined herein shall have the same meaning as in the above-described Operating Agreement (the "Operating Agreement").

(b) "Balance" (or "Balanced") is the condition occurring when a Party has utilized or sold the same percentage of the cumulative gas production as such Party's Percentage Ownership therein.

(c) "Entitlement Share" is a share of total gas production from a Well or Lease which is proportionately equal to a working interest owner or owner's Percentage Ownership in such Well or Lease.

(d) "Overproduced" (or "Overproduction") is the condition occurring when a Party has utilized or sold a greater quantity of gas at any time (individually or through its gas purchaser) than if such Party was in Balance.

(e) "Underproduced" (or "Underproduction") is the condition occurring when a Party has utilized or sold a lesser quantity of gas at any given time (individually or through its gas purchaser) than if such Party was in Balance.

(f) "Party" (or "Parties") are the signatory Operator and Non-Operators to the Operating Agreement.

(g) "Percentage Ownership" is the working interest in the oil and gas rights underlying the area covered by the Operating Agreement in accordance with the percentage of participation as determined under the Operating Agreement.

(h) "Reservoir" shall mean a stratum of earth containing or thought to contain a common accumulation of oil and gas separately producible from any other common accumulation of oil and gas.

(i) "BTU" means a British Thermal Unit.

(j) "Mcf" means one thousand cubic feet.

(k) "Effective Date" is April 15, 2004

2. Right to Produce and Market Gas. In accordance with the terms of the Operating Agreement, each Party has specific rights relating to the taking and disposition of gas produced, including the right to take in kind its share of gas produced and to market or otherwise dispose of same. In the event any Party is not, at any time, taking or marketing its share of gas for any reason, then the terms of this Agreement shall automatically become effective.

### 3. Overproduction.

(a) Subject to the other provisions hereof, during any period when a Party is not marketing or otherwise disposing of or utilizing its full Percentage Ownership of gas produced, such gas, if any, not so marketed or disposed of shall be deemed to remain unproduced and stored within its Reservoir(s) for such Party, and the other Parties shall be allowed to produce a quantity of gas which would otherwise exceed their own Percentage Ownership of gas production, equaling the portion of gas production which such Party is not marketing or otherwise disposing of, and shall be allowed to take such gas production and require Operator to deliver the same to its or their purchaser(s).

The Party not marketing, or otherwise disposing of or utilizing its Percentage Ownership of gas produced shall be Underproduced by a quantity of gas equal to its Percentage Ownership of gas produced, less the quantity of gas taken by such Party or on behalf of such Party, and less such Party's share of gas vented or gas lost or used in Lease operations on the lease premises. Those Parties which elect to take the share of gas attributable to the Underproduced Party shall each take shares of gas attributable to each Underproduced Party, in the absence of any other agreement between them, in the direct proportion that each producing Party's Percentage Ownership bears to the total Percentage Ownership of all Parties taking an Underproduced Party's share, and each such Party so taking shall be considered Overproduced in the amount of such additional production attributed to it. Each Overproduced Party shall, subject to the terms of this Agreement, own all gas delivered to its purchaser(s) or taken for its own use.

4. Lease Liquids. All Parties shall share in and own liquid hydrocarbons recovered from all gas by primary separation equipment prior to processing in a gas plant in accordance with their respective Percentage Ownership in the Reservoir from which such gas was produced, whether or not such Parties are actually producing and marketing their Percentage Ownership in the gas produced.

5. Accounting of Balances. Each Party not taking or marketing its full share of the gas produced shall be credited with gas in the Reservoir equal to its full share of the gas produced under this Agreement, less its share of gas vented, or gas lost or used in Lease operations on the lease premises, and less that portion such Party took or delivered to its purchaser. The Operator will maintain a current account of the gas balance between the Parties and will furnish all Parties monthly statements within ninety (90) days after the end of the production month showing the Entitled Share of sales production of each Party, the quantity of gas delivered to pipeline purchaser(s) for the account of each Party, and the current month and cumulative over and under account of each Party. Balancing will be accounted for in Mcf's using a standard pressure base of 14.73 pounds per square inch and a standard temperature base of sixty degrees (60°) Fahrenheit. All statements and accounts with respect to gas quantities shall be made and maintained separately by Reservoir.

6. Right of Underproduced Party to Make Up Production. After written notice to the Operator at least thirty (30) days prior to the beginning of a calendar month, any Underproduced Party at any time shall be entitled to take additional quantities of gas, but limited to (i) fifty percent (50%) of such Party's Percentage Ownership of current gas production for gas produced during the months of April through September and (ii) twenty-five percent (25%) of such Party's Percentage Ownership of current gas production for gas produced during the months of October through March, until it has balanced the gas account to its Percentage Ownership with respect to a particular Reservoir, and provided that the right to take such additional quantities shall be in the proportion that its Percentage Ownership bears to the Percentage Ownership of all Underproduced Parties desiring to take more than their Percentage Ownership of gas produced. Each Overproduced Party shall reduce its respective share of production therein in the proportion that such Overproduced Party's Percentage Ownership bears to the total Percentage Ownership of all Overproduced Parties; provided, however, that no Overproduced Party shall be required to reduce its respective share of production by more than (i) fifty percent (50%) of its Percentage Ownership of current gas production during the months of April through September and (ii) twenty-five percent (25%) of its Percentage Ownership of current gas production during the months of October through March.

## 7. Settlement When Production Is Permanently Discontinued.

(a) If gas production from a particular Reservoir ceases and no attempt is made to restore production (or substitute therefor) within ninety (90) days, Operator shall distribute, within one hundred twenty (120) days of the date the Reservoir last produced, a statement of net unrecouped Underproduction and Overproduction ("final accounting").

(b) Within sixty (60) days of receipt of such final accounting, each Overproduced Party shall remit to Operator for disbursement to the Underproduced Parties, a sum of money (which sum shall not include interest) equal to the amount actually received or constructively received under subparagraph (e) below, by such Overproduced Party. Such remittance shall be based on the number of Mcf's of Overproduction and shall be accompanied by a statement showing volumes and prices for each month with accrued unrecouped Overproduction. In calculating the amount due, the Overproduced Party will begin with the most recent month in which production was taken and calculate the amount due. Progressing backward in time, each month's value of production will be calculated until the production imbalance is zero. In the event the overproduced Party processed the gas at a gas processing plant for the extraction of liquid hydrocarbons, the values used for calculating cash settlement shall include proceeds received from the sale of liquids less actual transportation, processing and fractionation costs.

(c) Within thirty (30) days of receipt of any such remittance by Operator from an Overproduced Party, Operator shall disburse such funds to the Underproduced Party(ies) in accordance with the final accounting. The Operator shall calculate the overproduced value in total per Mcf and distribute to the underproduced parties on a weighted average dollar per Mcf basis. Operator assumes no liability with respect to any such payment other than remitting the funds received from the Overproduced Parties (unless such payment is attributable to Operator's Overproduction). It being the intent of the Parties that each Overproduced Party shall be solely responsible for reimbursing each Underproduced Party for such Underproduced Party's respective share of Overproduction taken by such Overproduced Party in accordance with the provisions herein contained. If any Party fails to pay any sum due under the terms hereof after demand therefor by Operator, Operator may turn responsibility for the collection of such sum to the Party or Parties to whom it is owed, and Operator shall have no further responsibility for collection.

(d) In determining the amount of Overproduction for which settlement is due, production taken during any month by an Underproduced Party in excess of such Underproduced Party's share shall be treated as make-up and shall be applied to reduce prior deficits.

(e) An Overproduced Party that took gas in kind for its own use, sold gas to an affiliate, or otherwise disposed of gas in other than a cash sale shall pay for such gas at market value using the methodology set forth in paragraph 7(b), even if the Overproduced Party sold such gas to an affiliate at a price less than market value.

(f) If refunds are later required by any governmental authority, each Party shall be accountable for its respective share of such refunds as finally balanced hereunder. In the event an Underproduced Party has not received a cash settlement at the time a refund is required by a governmental authority, the Overproduced Parties who sold the gas which is the basis for the refund shall be liable for and pay such refund and hold the Underproduced Party harmless from same.

8. Payment of Royalty. At all times while Gas is produced, each Party marketing gas hereunder will make settlement for the royalties based upon their takes. Each Party hereto agrees to hold each other Party harmless from any and all claims for royalty payments asserted by royalty owners to whom each Party is accountable.

9. Production Taxes. Each Party taking gas shall pay any and all production tax due on such gas.

10. Operating Expenses. The operating expenses are to be borne as provided in the Operating Agreement, regardless of whether all Parties are selling or using gas or whether the sales and use of each are in proportion of their respective Percentage Ownership interests in such gas.

11. Audits. Notwithstanding any provision to the contrary in this or any other agreement, for a period of three (3) years after the date that a gas balance statement is provided by Operator hereunder, any Underproduced Party shall have the right to audit an Overproduced Party's and Operator's records as to quantities and, in the event of cash balancing, prices received for gas produced. Any Overproduced Party shall have the right to audit both the Underproduced Party's and Operator's records as to quantities of gas produced. All such audits shall be at the sole cost and expense of the auditing Party.

12. Scope, Effective Date and Term. The provisions of this Agreement shall separately apply to each Reservoir. This Agreement shall become effective for all purposes as of the Effective Date and shall remain in force and effect as long as the Operating Agreement is in effect and thereafter until all accounts between/among the Parties maintained pursuant to this Agreement are settled in full. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

13. Deliverability Tests. Nothing herein contained shall be construed as denying Operator the right, from time to time, to conduct deliverability tests required by governmental authority, or as denying any Party the right, from time to time, with at least fifteen (15) days written notice to Operator, to produce and take or deliver to its purchaser its full share of the allowable gas production to meet deliverability tests required by its gas purchaser or governmental authority.

14. Nominations. On or before the 10th day of each month prior to the month of production, each Party shall give Operator sufficient data either to nominate such Party's respective share of gas to the transporting pipeline(s) or, if Operator is not nominating such Party's gas, to inform Operator of the manner in which to dispatch such Party's gas. Except as and to the extent caused by Operator's negligence or willful misconduct, Operator shall not be responsible for any fees and/or penalties associated with imbalances charged by any pipeline to any Underproduced or Overproduced Party(ies) other than Operator's proportionate share of such fees and/or penalties.

15. Conflicts with Operating Agreement. To the extent the provisions of this Agreement conflict with provisions of the Operating Agreement, the provisions of this Agreement shall control.

16. Balancing Area. If this Agreement covers more than one well or Reservoir (the "Balancing Area"), it shall be applied as if each Balancing Area were covered by separate but identical agreements.