

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

IN THE MATTER OF THE APPLICATION OF AGUA SUCIA ,  
LLC TO REINSTATE ADMINISTRATIVE ORDER SWD-559  
FOR A SALT WATER DISPOSAL WELL, LEA COUNTY, NEW  
MEXICO.

RECEIVED OGD  
2010 JAN 11 P 4: 2  
CASE NO. 14411

MOTION TO ENFORCE SUBPOENA

ARMSTRONG ENERGY CORPORATION ("Armstrong"), through its undersigned attorneys, applies to the New Mexico Oil Conservation Division for an order enforcing the Subpoena Duces Tecum issued by the Division to Agua Sucia, LLC. Armstrong requests that the Division (i) enter its order continuing indefinitely the application of Agua Sucia until the documents sought by subpoena have been produced and Armstrong has had a reasonable time to prepare its presentation following receipt of the subpoenaed information; (ii) move the District Court to order Agua Sucia, LLC to respond to the subpoena; or (iii) if Agua Sucia continues to ignore the Division, Armstrong requests that Agua Sucia's refusal to participate in the regulatory process be treated as a waiver of its rights in Case 14411, and that its application be dismissed. As grounds for this motion, Armstrong states the following:

1. The Government "E" Well No. 1 (API No. 30-025-23708) located 610 feet from the South line and 1880 feet from the West line (Unit N) of Section 25, Township 19 South, Range 34 East NMPM, Lea County, New Mexico ("Government "E" Well") was drilled by the Superior Oil Company in 1971 and completed in the Bone Spring formation. Thereafter, operations were assigned to Mobil Producing Texas and New Mexico Inc. In 1993 Armstrong Energy Corporation became operator of the well.

2. By Assignment dated May 31, 1994, (Recorded in Book 587, Page 774 of the Records of Lea County, New Mexico) the well and wellbore were assigned by Armstrong to Subsurface Water

Disposal, Inc. This Assignment excluded and reserved to Armstrong all mineral rights under the subject acreage. (A copy of this assignment is attached hereto as Exhibit A.) Armstrong remains the mineral owner under the tract upon which this well is located pursuant to an Assignment of Operating Rights and Bill of Sale from Mobil Producing Texas and New Mexico Inc. dated March 31, 1988 and effective April 1, 1988 (Recorded in Book 494, Page 734 of the Records of Lea County, New Mexico).

3. By Division Administrative Order No. SWD-559, dated May 19, 1994, Subsurface Water Disposal, Inc. obtained approval to convert this well to salt water disposal.

4. Louray Oil Company assumed operations of by change of operator forms filed by Subsurface Water Disposal, Inc. on October 1, 2001 and approved by the Division on March 21, 2002.

5. Injection in this well was discontinued on January 28, 2008 to allow the well to bleed down remaining pressure on the wellbore so repairs could be made as the well was leaking in close proximity to the Queen formation and the injection authority granted by Order SWD-559 terminated due to the lack of injection in the well for more than one year.

6. By Application for Authorization to Inject (Form C-108) dated April 14, 2009, Louray Oil Company LLC sought authority to again use this well for salt water disposal. The application was filed by SOS Consulting, LLC, as agent for Louray Oil Company, and a copy of the application was provided to Armstrong Energy Corporation, an offset operator, pursuant to the Rules of the Division.

7. Because of problems it has experienced with injection into the Bone Spring Formation, Armstrong objected to the application by letter to the Division dated April 20, 2009, and requested that it be set for hearing pursuant to Division Rule 19.15.26.8 NMAC.

8. Prior to obtaining Division approval to once again use this well for injection, Louray conducted remedial work on the well.

9. Louray filed an application for a hearing to Reinstate Administrative Order No. SWD-559 for salt water disposal in the Government "E" Well and provided a copy of this application to Armstrong by letter dated July 2, 2009.

10. On July 20, 2009, operations of the Government "E" Well were transferred to Aqua Sucia LLC.

11. Thereafter Louray sought dismissal of its application to reinstate Order SWD-559 and by Order No. R-13170, dated September 18, 2009, the Division granted this application.

12. A new application to reinstate Order No. R-599 was filed. This application is similar to the application filed by Louray and, like the original application, was filed by SOS Consulting LLC

13. Pursuant to NMSA 1978, § 70-2-8, and 19.15.14.1214 NMAC of the New Mexico Oil Conservation Division's Rules of Procedure, at the request of Armstrong, the Division issued a subpoena duces tecum to Aqua Sucia on or about September 22, 2009 and on that date Armstrong served the subpoena. (A copy of this subpoena is attached hereto as Exhibit B.) The subpoena duces tecum ordered Agua Sucia to produce on October 1, 2009, documents, files, and exhibits necessary for Armstrong to present its case in Division Case 14411. Thereafter, at the request of Agua Sucia, the parties agreed that prior to the production of data, the parties would meet to discuss the subpoena and the documents sought therein. No meeting has occurred.

14. On October 21, 2009, Armstrong wrote the Division to advised of its continued objection to this application and the use of this well for salt water disposal. It emphasized its "concerns about prior operations of the well and the impact of these actions on its offsetting properties." Armstrong further advised the Division that it intended to present these concerns to the Division when the application goes to hearing and that it believes that it should be allowed to participate in any discussions and decisions made concerning prior operations on the well that impact its rights in the subject properties.

15. Although Agua Sucia has continued the hearing on its application and has represented to Armstrong's legal counsel that it will produce some information, to date, Agua Sucia has not responded to the subpoena nor has it produced the subpoenaed information.

16. Agua Sucia's failure to obey the Division's subpoena or otherwise respond is defective, procedurally and substantively.

17. NMRA 1-045(C) provides the procedure by which a party may move to quash a subpoena. Agua Sucia has not followed that procedure. For this failure to obey the subpoena immediate compliance should be ordered.

18. Substantively, there is absolutely no basis for Agua Sucia's refusal to obey the lawfully issued subpoena. The information ordered to be produced by the subpoena is necessary to the presentation of Armstrong's case before the Division. This is the very type of information contemplated by the purpose and spirit of the discovery rules, and procedures employed at the Division.

19. The Division, in fulfilling its statutory duties, cannot endorse such a blatant disregard of its Orders. This agency's regulatory scheme provides for the orderly and timely presentation of cases, and obviation of that process cannot be permitted by Agua Sucia or any other party.

20. Alternatively, Armstrong requests that the Division enforce its subpoena through its statutorily enumerated powers found at NMSA 1978, § 70-2-9. Armstrong requests that the Division, move the district court to issue an attachment ordering Agua Sucia to comply with the subpoena. Armstrong also requests that the Division move the district court to find that Agua Sucia is in contempt of a lawfully issued subpoena and that Agua Sucia be punished accordingly.

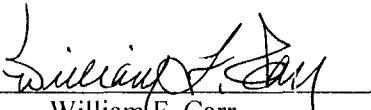
### **Conclusion**

Agua Sucia LLC has chosen to disregard the subpoena issued by the Division. The Division should not condone this type of behavior. The Division should instruct Agua Sucia to respond to the subpoena forthwith or pursue its statutory powers in the District Courts. If Agua Sucia continues to

ignore the Division, Armstrong requests that Agua Sucia's refusal to participate in the regulatory process be treated as a waiver of its rights in Case 14411, and that its application be dismissed.

Respectfully submitted,

HOLLAND & HART, LLP

By:   
William F. Carr  
Post Office Box 2203  
Santa Fe, NM 87504-2208  
505/988-4421 (telephone)

ATTORNEYS FOR ARMSTRONG ENERGY  
CORPORATION

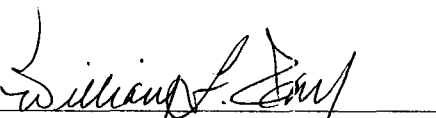
**CERTIFICATE OF SERVICE**

I certify that on January 11, 2010 I served a copy of the foregoing document to the following by

☐  
☐  
☒

U.S. Mail, postage prepaid  
Hand Delivery  
Fax

James Bruce, Esq.  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
Fax: (505) 982-2151

  
William F. Carr

3225201\_1.DOC

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MISC 587 PAGE 774

**ASSIGNMENT**

Reference is made to the following:

1. United States Oil and Gas Lease NM 086 ("the Lease"), dated October 1, 1951, from the United States of America to R. E. Jensen, covering all of Section 25, Township 19 South, Range 34 East, N.M.P.M., Lea County, New Mexico;
2. The Government E-1 Well ("the Well") located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 25, 610' from the south line and 1,880' from the west line of said Section 25.

Subject to the provisions of this Assignment, and for \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Armstrong Energy Corporation, and Thomas K. Scroggin and Donna Scroggin, husband and wife, (collectively "Assignors") grant and assign to Surface Water Disposal, Inc. ("Assignee"), P. O. Box 925, Hobbs, New Mexico 88240, all of Assignors' right, title and interest in and to the Well and the well bore of the Well.

To the extent that Assignors have the right to do so, Assignee shall have the right to use the well bore of the Well solely for the purpose of disposing of salt water into depths or formations from 5,250' subsurface down to the base of the Morrow formation, said base being more particularly described at a depth of 13,500' as found in the West Pearl State No. 1 Well, located 660' from the north line and 560' from the east line of Section 2, Township 20 South, Range 34 East, N.M.P.M., Lea County, New Mexico. Assignee shall not have the right to use the well bore of the Well for any other purpose whatsoever, specifically including, but not limited to, the production of oil, gas or hydrocarbon substances.

Assignee shall also have the right of use to the surface area commonly referred to as the "well pad" which is described as the area surrounding the well bore which has been cleared and established for the purpose of installing equipment necessary for the operation and maintenance of production or disposal procedures.

In addition to the foregoing, Assignors grant to Assignee the casing wellhead and all down hole casing in the well bore of the well. Assignors have no knowledge of any defect or problem with regard to the condition of the casing.

The following rights, titles and interests are hereby excluded from the operation of this Assignment, and are excepted and reserved to Assignors:

- (a) all operating rights and any other interest whatsoever in, to or under the Lease;
- (b) all oil, gas, hydrocarbon substances, and other minerals in and under and that may be produced from said Section 25, together with the right to explore for, produce and market the same;
- (c) all equipment and fixtures located upon, attached to or used in connection with the Well save and except for down hole casing in the well bore of the Well;
- (d) any and all other rights, titles and interests not expressly granted by this Assignment.

Assignors hereby waive any and all rights and title to skim oil which may be contained and marketed by Assignee as a by-product of transported disposal water.

EXHIBIT A

MISC 587 PAGE 775

This Assignment shall be subject to the Lease, and to the provisions of that certain Assignment of Operating Rights and Bill of Sale from Mobil Producing Texas & New Mexico Inc. to Armstrong Energy Corporation, dated March 31, 1988, effective April 1, 1988, recorded in Book 494, page 734 of the records of Lea County, New Mexico (the "Mobil Assignment").

Assignee assumes, and agrees to timely perform and discharge, all duties and obligations of the Assignors under the Lease, the Mobil Assignment, or any applicable agreement, statute, regulation, rule, order, or law, insofar and only insofar as the same pertain or apply to the Well. Such duties and obligations shall include, but shall not be limited to, those pertaining to plugging, abandoning, closure of related pits, restoration of the surface location of the Well, and environmental or pollution clean up or remediation. Assignee shall also timely perform and discharge all duties and obligations under, and comply with, all applicable statutes, regulations, rules, orders, or laws pertaining to the use and operation of the Well for salt water disposal, including, but not limited to, obtaining all necessary permits, consents, authorizations, easements or rights of way. Assignee shall also comply with all applicable statutes, regulations, rules, orders or laws pertaining to environmental matters, including those pertaining to clean up or remediation.

Assignee acknowledges that it has been cautioned that subsurface formations may contain naturally occurring radioactive material ("NORM"). Assignee further acknowledges that it has been cautioned that previous activities relating to the Well may have resulted in the concentration of certain levels of NORM on facilities, equipment, pipe and casing so that, when brought to the surface, a health hazard may exist in connection with the removal, handling or disposal of such NORM contaminated facilities, equipment, pipe or casing, if proper environmental regulatory or industrial hygiene procedures are not observed. The presence of NORM in or on facilities, equipment, pipe or casing in or on the Well or the well bore of the Well which are owned by or controlled by Assignee on or after the effective date of this Assignment shall be the sole responsibility of Assignee.

For purposes of this paragraph, the term "Claims" shall mean all claims, losses, damages, demands, suits, causes of action, liabilities, fines, penalties, expenses and costs (including attorneys' fees, costs of litigation and/or investigation, and other costs associated therewith). Assignee shall fully protect, indemnify and defend Assignors and their officers, agents, employees, directors and shareholders against, and shall hold Assignors and their officers, agents, employees, directors and shareholders harmless from, any and all Claims which accrue or are asserted on or after the effective date of this Assignment arising out of, related to or in any way connected with, indirectly or directly, in whole or in part, the ownership or operation of the Well, the well bore of the Well, and any facilities, equipment, pipe or casing, or any interest therein, by the Assignee, including, but not limited to, any Claims related to the following:

- (i) all duties and obligations which Assignee has assumed and agreed to perform and discharge to this Assignment;
- (ii) injury to or death of any person;
- (iii) damage to or loss of any property or resource, or any interest therein, including, but not limited to, subsurface strata and formations, and minerals in place;
- (iv) pollution, contamination or environmental damage, liability or violation of any kind, including but not limited to, those relating to the generation, release, discharge, transportation or disposal of any of the following: hazardous, toxic or radioactive materials, substances or wastes, or other pollutants, contaminants or wastes;

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- (v) the presence of any NORM contaminated facilities, equipment, pipe or casing including, but not limited to, such Claims as may relate to the use, resale, removal, handling or disposal of any such NORM contaminated facilities, equipment, pipe or casing.

The indemnities and obligations to defend set forth above shall apply regardless of the cause, and regardless of whether any such Claims arise in whole or in part from any act, omission, negligence or strict liability of Assignee or its officers, agents, employees, directors or shareholders, or any other person or entity, whether imposed by rule of law, statute or regulation.

This Assignment is executed and delivered without warranties or representations of any kind, express or implied, including, but not limited to, warranties of title or condition. All property conveyed or assigned hereby is conveyed "AS IS". Assignee represents and warrants that it has inspected the Well and is satisfied with the condition thereof, "AS IS". Assignors make no warranties or representations of any kind with regard to the suitability of the Well for use as a disposal well, or regarding the legality or propriety of using the Well as a disposal well, or regarding the likelihood of Assignee obtaining necessary permits, consents or authorizations. **ASSIGNORS DISCLAIM ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

Notwithstanding the foregoing disclaimers and limitations, Assignors have executed and delivered this Assignment with full substitution and subrogation of Assignee in and to all warranties, representations and covenants previously made by others with respect to the rights, titles and interests conveyed hereby.

This Assignment shall be effective as of 5-31, 1994.

ARMSTRONG ENERGY CORPORATION

By

Robert G. Armstrong  
Robert G. Armstrong, President

Thomas K. Scroggin  
Thomas K. Scroggin

Donna Scroggin  
Donna Scroggin

SUBSURFACE WATER DISPOSAL, INC.

By

Carol D. Dwyer



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STATE OF NEW MEXICO )  
 )  
 COUNTY OF CHAVES )

This instrument was acknowledged before me on May 19, 1994  
 by Robert G. Armstrong as President of ARMSTRONG ENERGY CORPORATION, a  
 New Mexico corporation, on behalf of said corporation.

My Commission Expires:

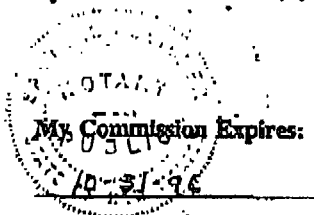


Robert G. Armstrong  
 Notary Public

STATE OF NEW MEXICO )  
 )  
 COUNTY OF EDDY )

This instrument was acknowledged before me on May 23, 1994  
 by THOMAS K. SCROGGIN and DONNA SCROGGIN.

My Commission Expires:

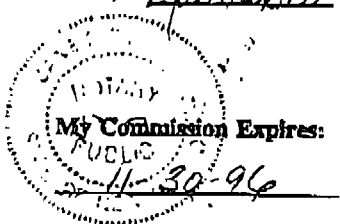


Thomas K. Scroggin  
 Notary Public

STATE OF NEW MEXICO )  
 )  
 COUNTY OF )

This instrument was acknowledged before me on May 31, 1994  
 by Raymond Bump as President of SUBSURFACE WATER DISPOSAL,  
 INC., a New Mexico corporation, on behalf of said corporation.

My Commission Expires:



Raymond Bump  
 Notary Public

STATE OF NEW MEXICO  
 COUNTY OF LEA  
 FILED

MAY 31 1994

at 2:42 o'clock P  
 and recorded in Book \_\_\_\_\_  
 Page \_\_\_\_\_  
 Pat Chappell, Lea County Clerk  
 By Pat Deputy



Return to: Subsurface Disposal  
 Box 1002  
 Hobbs, N.M. 88240

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

RECEIVED OCD  
2009 SEP 22 P 3:33

APPLICATION AGUA SUCIA, LLC TO REINSTATE A PERMIT FOR SALTWATER DISPOSAL FOR ITS GOVERNMENT 'E' WELL NO. 1 LOCATED IN UNIT 'N', SECTION 25, TOWNSHIP 19 SOUTH, RANGE 34 EAST, LEA COUNTY, NEW MEXICO.

CASE NO. \_\_\_\_\_

SUBPOENA DUCES TECUM

TO: Agua Sucia, LLC  
c/o James Bruce, Esq.  
Post Office Box 1056  
Santa Fe, New Mexico 87504

Pursuant to Section 70-2-8, NMSA (1978) and 19.15.4.16.A. NMAC of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to appear at 9:00 a.m., October 1, 2009, at the offices of the Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505 and to produce the documents and items specified in attached Exhibit A and to make available to Armstrong Energy Corporation, and their attorney, William F. Carr, for copying, all of said documents.

This subpoena is issued on application of Armstrong Energy Corporation, through their attorneys, Holland & Hart, LLP., Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 22<sup>nd</sup> day of September, 2009.

NEW MEXICO OIL CONSERVATION DIVISION

BY:   
\_\_\_\_\_  
MARK E. FESMIRE, DIRECTOR





**EXHIBIT "A"**  
**TO SUBPOENA DUCES TECUM**  
**TO AGUA SUCIA, LLC**  
**IN NEW MEXICO OIL CONSERVATION DIVISION**  
**CASE \_\_\_\_\_**

**PURPOSE:** The purpose of this subpoena is to provide all of the information necessary for Armstrong Energy Corporation to be able to prepare its opposition to Aqua Sucia, LLC or successor operator seeking authorization to inject in the Government E Well No. 1, located 610 feet from the South line and 1880 feet from the West Line of Section 25, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico:

**PRODUCE THE FOLLOWING DOCUMENTS:**

For the Government E Well No. 1, located 610 feet from the South line and 1880 feet from the West Line of Section 25, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico:

**Documents:**

- ✓ 1. All articles of incorporation or other documents that show the nature of your business organization, your qualifications to do business in New Mexico and the partners and officers of your business.
2. All documents between Louray Oil Company and Agua Sucia LLC, or any other entity, concerning or related to the sale or other conveyance of an ownership interest in the subject well or the land dedicated thereto.
3. log data 
4. All completion data 
5. All water analysis 
6. All fluid data 
7. All information on any fluids previously injected in this well
8. All reservoir performance data
9. All well performance data
10. All pressure data
11. All geologic data including
  - a. Permeability data

- b. Porosity data
  - c. Reservoir thickness
12. Reservoir pressure data by individual zone (perforation) including, but not limited to, bottom-hole surveys or pressures, surface pressure readings, daily tubing pressure and casing pressures, drill stem tests, build-up tests and interference tests, with relevant information as to shut-in time and production rates prior to shut-in;
13. Chronological reports that include details of all work performed on the well showing, but not limited to, the following:
- a. Perforating and perforation locations;
  - b. Reservoir Stimulation including fluids, volumes, rates, and pressures for each treated interval;
  - c. Swabbing, flowing and/or pumping results for each interval that was perforated and tested include pre-stimulation and post-stimulation results as applicable; and
  - d. Daily drilling and completion reports;
14. All petroleum engineering data used or to be used by you to justify your application for reinstatement of Division Order SWD-559 including all pressure data including, but not limited to, bottom hole pressure surveys, daily tubing pressure and casing pressure surveys, with relevant information as to shut-in time and production rate prior to shut-in;
15. All oil sales from the property including Skim Oil and all volumes oil back flowed from the subject well;
16. All estimates of potential disposal volumes;
17. All reservoir studies including, but not limited to, well interference studies, pressure studies or well communication studies;

18. All geologic data including geologic maps, structure maps, isopach maps, cross-sections, and/or logs being used by you to justify your application for reinstatement of Division Order SWD-559.

**Correspondence/Communications/Accounting/Land Files/ Hearing Exhibits:**

1. All contracts, communitization agreements, joint operating agreements, leases, assignments, correspondence, and farmout agreements that apply to the subject well or the acreage dedicated thereto;
2. All contracts or other documents concerning the sale of the subject well or the acreage dedicated thereto;
3. All land files;
4. All documents between you and the Bureau of Land Management;
5. All documents between you and Oil Conservation Division located in Santa Fe, New Mexico;
6. All documents between you and Oil Conservation Division located in Hobbs, New Mexico;
7. All land exhibits and ownership data and exhibits to be used by you at the hearing on this application;
8. All geologic data and exhibits including geologic maps, structure maps, isopach maps, cross-sections, and/or logs to be used by you at the hearing on this application;
9. All geophysical data/studies and exhibits to be used by you at the hearing on this application; and
10. All petroleum engineering data/studies and exhibits to be used by you at the hearing on this application.

11. If not already included above, all data and documents utilized by you for support of all exhibits you will present at hearing.

**IF NOT ALREADY INCLUDED ABOVE, THE FOLLOWING ADDITIONAL DATA:**

1. All geological and reservoir engineering analyses pertaining to the subject well.
2. All geological and reservoir engineering analyses, Authorizations for Expenditure and any other communications pertaining to the subject well.

**INSTRUCTIONS**

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records, computers documents, employees, former employees, consultants, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When used herein, "you" or "your" refers to the person or entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, consultants, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors in interest.

The term "document" as used herein means every writing and record of every type and description in the possession, custody or control of Louray Oil Company whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to all drafts, papers, books, writings, records, letters, photographs, computer disks, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agenda, bulletins, notices, announcements, plans, specifications, sketches, instructions charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations sound recordings, computer printouts, books of accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notice or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.

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**ASSIGNMENT**

Reference is made to the following:

1. United States Oil and Gas Lease NM 086 ("the Lease"), dated October 1, 1951, from the United States of America to R. E. Jensen, covering all of Section 25, Township 19 South, Range 34 East, N.M.P.M., Lea County, New Mexico;
2. The Government E-1 Well ("the Well") located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 25, 610' from the south line and 1,880' from the west line of said Section 25.

Subject to the provisions of this Assignment, and for \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Armstrong Energy Corporation, and Thomas K. Scroggin and Donna Scroggin, husband and wife, (collectively "Assignors") grant and assign to Surface Water Disposal, Inc. ("Assignee"), P. O. Box 925, Hobbs, New Mexico 88240, all of Assignors' right, title and interest in and to the Well and the well bore of the Well.

To the extent that Assignors have the right to do so, Assignee shall have the right to use the well bore of the Well solely for the purpose of disposing of salt water into depths or formations from 8,250' subsurface down to the base of the Morrow formation, said base being more particularly described at a depth of 13,500' as found in the West Pearl State No. 1 Well, located 668' from the north line and 960' from the east line of Section 2, Township 20 South, Range 34 East, N.M.P.M., Lea County, New Mexico. Assignee shall not have the right to use the well bore of the Well for any other purpose whatsoever, specifically including, but not limited to, the production of oil, gas or hydrocarbon substances.

Assignee shall also have the right of use to the surface area commonly referred to as the "well pad" which is described as the area surrounding the well bore which has been cleared and established for the purpose of installing equipment necessary for the operation and maintenance of production or disposal procedures.

In addition to the foregoing, Assignors grant to Assignee the casing wellhead and all down hole casing in the well bore of the well. Assignors have no knowledge of any defect or problem with regard to the condition of the casing.

The following rights, titles and interests are hereby excluded from the operation of this Assignment, and are excepted and reserved to Assignors:

- (a) all operating rights and any other interest whatsoever in, to or under the Lease;
- (b) all oil, gas, hydrocarbon substances, and other minerals in and under and that may be produced from said Section 25, together with the right to explore for, produce and market the same;
- (c) all equipment and fixtures located upon, attached to or used in connection with the Well save and except for down hole casing in the well bore of the Well;
- (d) any and all other rights, titles and interests not expressly granted by this Assignment.

Assignors hereby waive any and all rights and title to skin oil which may be contained and marketed by Assignee as a by-product of transported disposal water.

EXHIBIT A

MISC 587 PAGE 775

This Assignment shall be subject to the Lease, and to the provisions of that certain Assignment of Operating Rights and Bbl of Sale from Mobil Producing Texas & New Mexico Inc. to Armstrong Energy Corporation, dated March 31, 1988, effective April 1, 1988, recorded in Book 494, page 734 of the records of Lea County, New Mexico (the "Mobil Assignment").

Assignee assumes, and agrees to timely perform and discharge, all duties and obligations of the Assignors under the Lease, the Mobil Assignment, or any applicable agreement, statute, regulation, rule, order, or law, insofar and only insofar as the same pertain or apply to the Well. Such duties and obligations shall include, but shall not be limited to, those pertaining to plugging, abandoning, closure of related pits, restoration of the surface location of the Well, and environmental or pollution clean up or remediation. Assignee shall also timely perform and discharge all duties and obligations under, and comply with, all applicable statutes, regulations, rules, orders, or laws pertaining to the use and operation of the Well for salt water disposal, including, but not limited to, obtaining all necessary permits, consents, authorizations, easements or rights of way. Assignee shall also comply with all applicable statutes, regulations, rules, orders or laws pertaining to environmental matters, including those pertaining to clean up or remediation.

Assignee acknowledges that it has been cautioned that subsurface formations may contain naturally occurring radioactive material ("NORM"). Assignee further acknowledges that it has been cautioned that previous activities relating to the Well may have resulted in the concentration of certain levels of NORM on facilities, equipment, pipe and casing so that, when brought to the surface, a health hazard may exist in connection with the removal, handling or disposal of such NORM contaminated facilities, equipment, pipe or casing, if proper environmental regulatory or industrial hygiene procedures are not observed. The presence of NORM in or on facilities, equipment, pipe or casing in or on the Well or the well bore of the Well which are owned by or controlled by Assignee on or after the effective date of this Assignment shall be the sole responsibility of Assignee.

For purposes of this paragraph, the term "Claims" shall mean all claims, losses, damages, demands, suits, causes of action, liabilities, fines, penalties, expenses and costs (including attorneys' fees, costs of litigation and/or investigation, and other costs associated therewith). Assignee shall fully protect, indemnify and defend Assignors and their officers, agents, employees, directors and shareholders against, and shall hold Assignors and their officers, agents, employees, directors and shareholders harmless from, any and all Claims which accrue or are asserted on or after the effective date of this Assignment arising out of, related to or in any way connected with, indirectly or directly, in whole or in part, the ownership or operation of the Well, the well bore of the Well, and any facilities, equipment, pipe or casing, or any interest therein, by the Assignee, including, but not limited to, any Claims related to the following:

- (i) all duties and obligations which Assignee has assumed and agreed to perform and discharge to this Assignment;
- (ii) injury to or death of any person;
- (iii) damage to or loss of any property or resource, or any interest therein, including, but not limited to, subsurface strata and formations, and minerals in place;
- (iv) pollution, contamination or environmental damage, liability or violation of any kind, including but not limited to, those relating to the generation, release, discharge, transportation or disposal of any of the following: hazardous, toxic or radioactive materials, substances or wastes, or other pollutants, contaminants or wastes;



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- (v) the presence of any NORM contaminated facilities, equipment, pipe or casing including, but not limited to, such Claims as may relate to the use, resale, removal, handling or disposal of any such NORM contaminated facilities, equipment, pipe or casing.

The indemnities and obligations to defend set forth above shall apply regardless of the cause, and regardless of whether any such Claims arise in whole or in part from any act, omission, negligence or strict liability of Assignee or its officers, agents, employees, directors or shareholders, or any other person or entity, whether imposed by rule of law, statute or regulation.

This Assignment is executed and delivered without warranties or representations of any kind, express or implied, including, but not limited to, warranties of title or condition. All property conveyed or assigned hereby is conveyed "AS IS". Assignee represents and warrants that it has inspected the Well and is satisfied with the condition thereof, "AS IS". Assignors make no warranties or representations of any kind with regard to the suitability of the Well for use as a disposal well, or regarding the legality or propriety of using the Well as a disposal well, or regarding the likelihood of Assignee obtaining necessary permits, consents or authorizations. ASSIGNORS DISCLAIM ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Notwithstanding the foregoing disclaimers and limitations, Assignors have executed and delivered this Assignment with full substitution and subrogation of Assignee in and to all warranties, representations and covenants previously made by others with respect to the rights, titles and interests conveyed hereby.

This Assignment shall be effective as of 5-31, 1994.

ARMSTRONG ENERGY CORPORATION

By

Robert C. Armstrong  
Robert C. Armstrong, President

Thomas K. Scroggin  
Thomas K. Scroggin

Donna Scroggin  
Donna Scroggin

SUBSURFACE WATER DISPOSAL, INC.

By

David D. Dwyer

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STATE OF NEW MEXICO )  
COUNTY OF CHAVES )

This instrument was acknowledged before me on May 18, 1994  
by Robert G. Armstrong as President of ARMSTRONG ENERGY CORPORATION, a  
New Mexico corporation, on behalf of said corporation.

My Commission Expires:

[Signature]  
Notary Public

STATE OF NEW MEXICO )  
COUNTY OF EDDY )

This instrument was acknowledged before me on May 23, 1994  
by THOMAS K. SCROGGIN and DONNA SCROGGIN.

My Commission Expires:

[Signature]  
Notary Public

STATE OF NEW MEXICO )  
COUNTY OF )

This instrument was acknowledged before me on May 31, 1994  
by Raymond Bump as President of SUBSURFACE WATER DISPOSAL,  
INC., a New Mexico corporation, on behalf of said corporation.

My Commission Expires:

[Signature]  
Notary Public

STATE OF NEW MEXICO  
COUNTY OF LEA  
FILED

MAY 31 1994

At 11:22 o'clock PM  
and returned to Book \_\_\_\_\_  
Filed \_\_\_\_\_  
Per Chappela, Lea County Clerk  
By [Signature] Deputy

56383

Return to: Subsurface disposal  
Box 1002  
Hobbs, N.M. 88240