

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT

FILED
DISTRICT COURT
SAN JUAN COUNTY,
NM

Nov 3 2 19 PM '95

W. WATSON LAFORCE, JR., RALPH A. BARD JR., TRUSTEE,
for RALPH A. BARD, JR. TRUST, RALPH A. BARD, JR.,
GEORGE M. BARD and TIMOTHY BARD JOHNSON
TRUSTEES for BARD FAMILY TRUST, NANCY C.
BARD, SHARON BARD WAILES, TRAVIS BARD and MARCY BARD,
TRUSTEES for DOUGLAS N. BARD, TRUST, JAMES C. BARD, ROY
E. BARD, JR., BANK OF AMERICA, AGENT ANTHONY BARD
BOARD, GUY R. BRAINARD, JR., and LOLA WARD BRAINARD,
TRUSTEES for GUY R. BRAINARD, JR. TRUST and LOLA WARD
BRAINARD, TRUSTEE for GUY R. BRAINARD, JR. TRUST, DIANE
DERRY, DOROTHY DERRY, JOAN DERRY, ELEANOR ISHAM
DUNNE, CHARLES WELLS FARNHAM, JR., ROBERT B. FARNHAM,
WALTER B. FARNHAM, ELIZABETH B. FARRINGTON, MINNIE
FITTING, NANCY H. GERSON, KAY B. GUNDLACK, INDIANA
UNIVERSITY FOUNDATION, NORMAN L. HAY, JR. TRUSTEE for
the NORMAN L. HAY, JR. GS TRUST, FIRST BANK NATIONAL
ASSOCIATION, TRUSTEE for the JAMES J. HILL, III
REVOCABLE TRUST, FIRST BANK NATIONAL ASSOCIATION as
Personal Representative for LOUIS W. HILL, JR., ALBERT L.
HOPKINS, JR., FIRST NATIONAL BANK OF CHICAGO & HARRIET
STUART SPENCER CO-TRUSTEES U/A/W ROBERT D. STUART,
HARRIET FUND, FIRST NATIONAL BANK OF CHICAGO &
ANNE STUART BATCHELDER CO-TRUSTEES U/A/W ROBERT D.
STUART ANNE FUND, GEORGE S. ISHAM, VIRGINIA W. ISHAM and
FIRST NATIONAL BANK OF CHICAGO, CO-TRUSTEES
for HENRY P. ISHAM, JR. TRUST, ROBERT T. ISHAM,
TRUSTEE FOR THE ROBERT T. ISHAM TRUST,
ROBERT T. ISHAM & GEORGE S. ISHAM, and THE
FIRST NATIONAL BANK OF CHICAGO, TRUSTEES for the
ELIZABETH ISHAM TRUST, VIRGINIA W. ISHAM, JAMES E.
PALMER, SUCCESSOR/TRUSTEE for MARTHA M. LATTNER
TRUST, TEXAS COMMERCE BANK ASSOC., TRUSTEE for KEYES
BABER PROPERTIES, MARY F. LOVE, GEORGE RANNEY,
CAMBRIDGE TRUST COMPANY, TRUSTEE for MARITAL
INCOME TRUST OF EDWARD L. RYERSON, CATHERINE
H. RUML, SABINE ROYALTY TRUST, ARCH W. SHAW TRUSTEE
for ARCH W. SHAW II TRUST, BRUCE P. SHAW, TRUSTEE for
BRUCE P. SHAW TRUST, JOHN I. SHAW, JR. TRUSTEE for JOHN
I. SHAW, JR. TRUST, JUDITH SHAW, TRUSTEE for JUDITH SHAW
TRUST, WILLIAM W. SHAW, TRUSTEE for ROGER D. SHAW, JR.
TRUST, SUSANNE SHAW, TRUSTEE for SUSANNE SHAW TRUST,
ROGER D. SHAW, JR., TRUSTEE for WILLIAM W. SHAW TRUST,
PATRICK J. HERBERT, III, TRUSTEE for WILLIAM SIMPSON
TRUST, PATRICK J. HERBERT, III, TRUSTEE FOR U/A 2/9/79
FBO GWENDOLYN S. CHABRIER, PATRICK J. HERBERT, III,
TRUSTEE for U/A 2/29/79 FBO JAMES F. CURTIS, THE U.S.
TRUST COMPANY OF N.Y. and WILLIAMS SIMPSON, TRUSTEES
for JAMES SIMPSON, JR. RESIDUARY TRUSTS, UNITED STATES

BEFORE EXAMINER CATANACH
OIL CONSERVATION DIVISION

EXHIBIT NO. E
CASE NO. 11808 + 11809

TRUST CO. OF NEW YORK, TRUSTEE FOR THE MICHAEL
SIMPSON TRUST, UNITED STATES TRUST CO. OF NEW YORK,
TRUSTEE OF THE PATRICIA SIMPSON TRUST, HOPE SIMPSON,
REX BATES, TRUSTEE for SIDNEY STEIN JR. SELF DECLARATION
REVOCABLE TRUST, MARGARET STUART HART and THE NORTHERN
TRUST COMPANY, CO-TRUSTEES U/A/W ROBERT D. STUART
for the BENEFIT OF MARGARET STUART HART FUND, ROBERT D.
STUART, JR. and THE NORTHERN TRUST COMPANY, CO-TRUSTEES
U/A/W ROBERT D. STUART, ROBERT D. STUART JR. FUND,
WILLIAM P. SUTTER, FIRST BANK NATIONAL ASSOCIATION
TRUSTEE for F.F. WEBSTER, IV TRUST, FIRST BANK
NATIONAL ASSOCIATION TRUSTEE for FREDERICK F. WEBSTER, JR.,
IV TRUST, KATHERINE I. WHITE, KATHERINE I. WHITE
and MARY S. ZICK

vs.

NO. CV-92-645-1

EL PASO NATURAL GAS COMPANY, a
corporation, and MERIDIAN OIL
INC., a corporation,

Defendants.

**AMENDED COMPLAINT FOR BREACH OF CONTRACT
AND TORTIOUS CONDUCT**

The plaintiffs seek relief in the form of damages for breaches of contract and
tortious conduct by the defendants and for their claims state:

JURISDICTION AND VENUE

1. Each of the defendants Meridian Oil Inc. and El Paso Natural Gas Company
(collectively "defendants"), is now and at the material times transacted business within New
Mexico and has an agent who resides within New Mexico.

2. The statutory agent designated for service of process by each of the
defendant corporations is C. T. Corporation System, 217 W. Manhattan, Santa Fe, in Santa Fe
County, New Mexico. Venue in San Juan County is appropriate in accordance with N.M.S.A.
1978, Section 38-3-1D.(1).

IDENTIFICATION OF PARTIES

3. Each of the plaintiffs is a partial successor-in-interest or the trustee for a trust which is a partial successor-in-interest to the Lucerne Corporation ("Lucerne") under the Gas Rights Sale Agreement of March 31, 1953, as amended, between Lucerne Corporation and El Paso Natural Gas Company (hereinafter referred to as "GLA-66" covering certain oil and gas properties located in the San Juan Basin in New Mexico. Plaintiffs are residents of various states, including Texas.

4. The overriding royalty interest of each plaintiffs which exists pursuant to GLA-66 and payment on which is the subject of dispute herein is respectively owned by the plaintiffs in the fractional amounts shown on Attachment "J" hereto and incorporated by reference.

5. Defendant, Meridian Oil Inc. ("Meridian"), is a Delaware corporation with its principal place of business in Houston, Texas. Meridian explores for, develops and produces oil and natural gas with a major portion of this activity taking place in the San Juan Basin of New Mexico. Meridian is a subsidiary of Meridian Oil Holding, Inc., a wholly owned subsidiary of Burlington Resources, Inc. The business of Meridian includes the actual management and operation of oil and gas properties in the San Juan Basin of New Mexico, including the subject properties under GLA-66, and the marketing of gas produced from those properties. Meridian's wholly owned subsidiary Meridian Oil Gathering Inc. owns and operates a field transportation system in the San Juan Basin (known as the MOGI Val Verde System) by which some gas subject to GLA-66 and produced from the Fruitland Formation is transported from the wells to the Val Verde treatment plant.

6. Defendant, El Paso Natural Gas Company ("El Paso"), is a Delaware corporation with its principal place of business in El Paso, Texas. El Paso owns and operates natural gas pipeline systems in interstate commerce in New Mexico and other states. During

times relevant, El Paso or its wholly owned subsidiary El Paso Production Company also has owned, developed and operated gas producing properties, a major portion of which are in the San Juan Basin of New Mexico. El Paso owns and operates the field transportation system in the San Juan Basin (known as GBLANCO) by which gas subject to GLA 66 is transported from the wells to the liquids processing plant.

7. Until June 30, 1992, El Paso was, at all pertinent times, a wholly-owned subsidiary of Burlington Resources, Inc. and a corporate affiliate of Meridian. In March 1992, Burlington Resources, Inc. caused El Paso to make an offering of about 15% of El Paso's outstanding common stock to the public. On June 30, 1992, Burlington Resources, Inc. distributed the remaining approximately 85% of the outstanding El Paso common stock to the holders of Burlington Resources, Inc.'s common stock. Prior to this time, Burlington Resources, Inc. caused El Paso to convey its oil and gas properties, including its interest in the subject GLA-66 properties, to Meridian or to Meridian's corporate affiliates.

FACTS COMMON TO ALL CLAIMS

8. El Paso primarily obtains gas supplies in the southwest United States and delivers them via its natural gas pipeline system to California and to Texas, Nevada, Arizona and New Mexico. In the early 1950's there was a growing demand for gas consumption in California. To answer that demand El Paso set out to make agreements with holders of oil and gas leases in the San Juan Basin of New Mexico. These efforts resulted in the negotiation and execution of various Gas Lease Sale Agreements (so-called "GLAs") whereby leaseholders sold their interests to El Paso. In many cases, in consideration for the sale of leasehold interests, El Paso agreed to develop the properties, to take required volumes of gas produced from the properties, and to pay the lessees an overriding royalty on gas and liquids produced from the assigned leases.

9. GLA-66 is one of many similar agreements pertaining to leasehold interests in the San Juan Basin of New Mexico entered into by El Paso in the early 1950's. GLA-66 was executed on March 31, 1953, between El Paso and Lucerne Corporation, the then lessee of a certain United States oil and gas lease. GLA-66 is Attachment "A" to plaintiffs' original complaint and is adopted by reference.

10. Under the terms of Article II, Section 2 of GLA-66, El Paso agreed to acquire from Lucerne the entire working interest in the lease subject to GLA-66, insofar as such interests pertains to the right to explore for and produce gas from any zones and/or formations down to and including the base of the Mesaverde formation, which is inclusive of the Basin Fruitland coal seam gas formation ("Fruitland Formation").

11. Subject to the rights reserved and retained under GLA-66, Lucerne conveyed to El Paso a United States oil and gas lease, Serial Number SF 078389, dated March 1, 1951, covering the following described lands in San Juan County, New Mexico:

Township 31 North, Range 10 West, N.M.P.M.

Section 3:	S/2
Section 4:	SE/4
Section 9:	E/2, SW/4
Section 10:	N/2
Section 11:	All
Section 12:	W/2, NE/4, W/2 SE/4

Containing 2,480. acres more or less.

12. The acreage in GLA-66 Sections 11 and 12 is included within San Juan Unit 32-9 (the "Unit"), which was created by the interest owners of the included acreage and is governed by a Unit Agreement For The Development And Operation Of The San Juan 32-9 Unit Area, County of San Juan, State of New Mexico (hereinafter the "Unit Agreement") dated February 10, 1953. The operation and management of the exploration, development and production from acreage in the Unit is subject to the Unit Agreement, as amended, and also to the Unit Operating Agreement, as amended, also made on February 10, 1953, between El Paso

as operator of the San Juan 32-9 Unit and the non-operating interest owners. The Unit Agreement and Unit Operating Agreement are Attachments "B" and "C" to plaintiffs' original Complaint and are adopted by reference.

13. Of the remaining lands covered by GLA-66, the acreage in Sections 3, 4, 9 and 10 is included within the area covered by the Blanco Development Contract No. 2, dated October 1, 1952, as amended and supplemented. By that agreement, the United States Secretary of the Interior contracted with El Paso for the orderly development and ratable production of the applicable leases.

14. The lands covered by GLA-66 and the boundaries of San Juan Unit 32-9 are portrayed on Attachment "D" to the plaintiffs' original Complaint which are adopted by reference. Also shown on Attachment "D" are the drilling locations and proposed drilling locations of wells proposed by Meridian to recover gas from the Fruitland Formation.

15. Under the terms of Article III, Section 2, Subsections (a)-(c) of GLA-66, Lucerne retained unto itself, its successors, assigns and designees an overriding royalty on Lucerne's interest in all gas produced and saved from the lease and the subject lands or on gas produced and saved from an approved unit area and allocated to the subject lands and leases. The overriding royalty rate on gas was specified in GLA-66 as a certain amount per thousand cubic feet (Mcf) on all such gas produced and saved, with specified upward adjustments of the amount over a defined initial term of years. At the conclusion of that initial term, the Agreement provided that the parties would attempt to agree upon the overriding royalty to be paid for the next specified period and if they could not agree the royalty amount would be determined by a board of arbitrators based upon the then value of the gas at the wellhead.

16. In 1973, El Paso and Sun Oil Company (an overriding royalty owner under another GLA) were unable to come to terms on the overriding royalty rate to be payable by El Paso. Accordingly, a board of arbitrators was convened to hear the matter. The board of

arbitrators determined the amount of overriding royalty to be paid should be increased from ten (10¢) cents per Mcf to forty (40¢) per Mcf based on the then wellhead value of gas.

17. Following the board of arbitrators' ruling with respect to Sun Oil Company, other GLA owners sought to avail themselves of the benefits of the arbitration ruling under the favored nations clauses contained in their respective GLA's.

18. On October 19, 1974, plaintiffs and other royalty owners entered into a compromise settlement with El Paso (hereinafter the "1974 Settlement Agreement"), which modified the amount of overriding royalty on gas payable under GLA-66, while the parties continued to engage in extensive litigation for many years thereafter.

19. On information and belief, on July 16, 1986, El Paso executed a conveyance purportedly transferring its rights and duties under various agreements, including GLA-66, and the 1974 Settlement Agreement, to its affiliate, El Paso Production Company. On information and belief, such conveyance was taken as a preliminary action to an anticipated subsequent conveyance of the subject properties under GLA-66 from El Paso to Meridian or to an affiliate of Meridian.

20. At times relevant to this action Meridian has exercised certain of the responsibility for administering El Paso's rights and duties under GLA-66, as amended, and in developing and operating the properties subject to GLA-66.

21. The plaintiffs' overriding royalty remained advantageous to them and onerous to El Paso as the litigation between them drag on. In 1986 El Paso and Meridian sought from plaintiffs an agreement to relieve the burden of the then existing special overriding royalty.

22. By Settlement Agreement made effective as of October 16, 1986, by and between El Paso, El Paso Production Company, Meridian and plaintiffs ("1986 Settlement Agreement"), GLA-66 and the 1974 Settlement Agreement were amended in certain relevant respects. The 1986 Settlement Agreement provides in part as follows:

1. Effective as of September 1, 1986, GLA-66 as heretofore amended and the 1974 Settlement Agreement shall be further amended by execution of all the parties of an instrument titled "Amendment" in the exact form as that attached hereto as Appendix I, herein referred to as the "1986 Amendment."
2. Effective as of September 1, 1986, LaForce et al shall convey to El Paso/Meridian one-third (1/3rd) of the overriding royalty interest owned by LaForce et al which was created by GLA-66, as heretofore amended, including the 1974 Settlement Agreement and as further amended by the 1986 Amendment.

* * *

3. El Paso/Meridian shall pay LaForce et al Four and One-Half Million Dollars (\$4.5 Million) as of December 31, 1986.
4. The overriding royalty payable by El Paso/Meridian under GLA-66, as amended, shall be paid monthly on or before the last day of the next calendar month following the month for which such overriding royalties are payable, except as provided below:
 - a. For the period September 1, 1986, through August 31, 1987, El Paso/Meridian shall not make any overriding royalty payments, unless the total overriding royalties payable for this period exceeds Four and One-Half Million Dollars (\$4.5 Million), in which event LaForce et al shall be entitled to overriding royalties over \$4.5 Million, which shall be paid on or before October 31, 1987.
 - b. For the period September 1, 1987 through August 31, 1988 and for like annual periods for three (3) additional years ending August 31, 1991, LaForce et al's overriding royalty payments shall not be less than Three Million Eight Hundred Seventy-Five Thousand Dollars (\$3.875 Million). On or before October 31, 1988, 1989, 1990 and 1991, El Paso/Meridian shall compute the full overriding royalty paid to LaForce et al for the respective preceding annual period ending August 31, and if such amount is less than Three Million Eight Hundred Seventy-Five Thousand Dollars (\$3.875 Million), shall tender payment for this difference to LaForce et al.

The 1986 Settlement Agreement is Attachment "F" to the plaintiffs' original Complaint and is adopted by reference.

23. The "1986 Amendment" referred to by Paragraph 1 of the 1986 Settlement Agreement provides in part as follows:

Amendment to GLA-66
and 1974 Settlement Agreement

1. Effective September 1, 1986 the overriding royalty interest on gas payable by El Paso/Meridian to LaForce et al shall be Eighty-Two and One-Half Percent (82.5%) of the proceeds received by El Paso/Meridian for sale and delivery of gas at the well under a gas sales agreement negotiated in good faith between Buyer and Seller which among other provisions, obligates the purchaser
 - i) to reimburse Seller for all production and severance taxes, and ad valorem taxes; provided, however, if the Purchaser refuses to obligate itself to reimburse Seller for any or all of such taxes, LaForce et al's overriding royalty interest shall bear its proportionate part of any such taxes not reimbursed to Seller;
 - (ii) to adjust the purchase price per MCF of gas for BTU content in the usual and customary manner on the basis of 1000 BTU per cubic foot, it being understood that the overriding royalty interest owners will not receive any proceeds for the sale or value of natural gas liquids removed from the gas other than at the well, nor will such owners be charged any transportation or processing charges.
2. Effective as of September 1, 1986, the overriding royalty interest on liquid hydrocarbons, including condensate and distillate, produced with the gas and separated on the lease from which the gas is produced, shall be eighty-two and one-half percent (82.5%) of the [net] proceeds received by El Paso/Meridian for the sale of such liquid hydrocarbons; provided, however, LaForce et al shall have the option to take-in-kind and market on their own behalf such liquid hydrocarbons attributable to their overriding royalty interest at any time and from time to time.
3. A. The foregoing paragraphs number 1 and 2 of this agreement shall be in lieu of and a substitute for Article III, Section 2 of GLA-66, and in lieu of and a substitute for paragraphs numbered 1, 2 and 3 of the 1974 Settlement Agreement. Further, Article IV, Section 2, Article V, Section 1, all of Article VI, all of

Article VIII, and all of Article X of GLA-66 shall be deleted from GLA-66 and shall no longer be of force and effect; and, further, paragraphs numbered 4, 5, and 6 of the 1974 Settlement Agreement shall be deleted from the 1974 Settlement Agreement and shall no longer be of force and effect.

The word "net" in the fifth line of Paragraph 2. was intended to be deleted; it was in some of the 1986 Amendments but inadvertently not in others. The "1986 Amendment" is attached to the 1986 Settlement Agreement at Attachment "F" to the original Complaint.

24. In negotiating the terms of the 1986 Amendment the defendants, by their agents, represented and assured to the plaintiffs that regarding the sale of gas under that amendment El Paso and Meridian "will act prudently to obtain the highest possible price for the sale of gas at the wellhead consistent with governmental regulations, market conditions, and production considerations. . .".

25. Due to the guaranteed maximum annual royalty payments for the years 1987, 1988, 1990 and 1991 as specified by the 1936 Settlement Agreement (Paragraph 21 above) the plaintiffs knew nothing concerning the sale of the subject gas other than they were informed each year by defendants that the royalties calculated under the formula of the 1986 Agreement did not amount to a total greater than the specified minimum annual royalty amount.

26. It was not until October 1991 that plaintiffs began to receive royalty payments supposedly calculated under the 1986 Amendment formula; months thereafter they began to be aware that the formula was being dishonored and that the representation and promise that defendants would act prudently to obtain the highest possible gas sales price was not being observed.

27. Beginning in 1989, if not earlier, and continuing to the present, Meridian has disposed of the gas produced from the GLA-66 wells by the mechanism of a sham "sale" to its wholly owned subsidiary Meridian Oil Trading, Inc. ("MOTI"). The intra corporate transfer between those affiliated corporations is not a market transaction of the character as intended by the letter

and spirit of the 1986 Amendment in calling for the "sale and delivery of gas at the well under a gas sale agreement negotiated in good faith between Buyer and Seller. . .".

28. MOTI is a mere instrumentality of Meridian and is completely dominated and controlled by Meridian, so that functionally and in terms of economic reality they are one and the same.

FIRST CLAIM FOR RELIEF
BREACH OF CONTRACT — PAYMENT OF ROYALTY

29. The plaintiffs reallege by adoption Paragraphs 1 through 28 above.

30. At all times relevant to the instant Amended Complaint, El Paso and Meridian have been obligated to make overriding royalty payments on the true quantity of gas and liquid hydrocarbons subject to GLA-66, as amended, pursuant to the terms of the 1986 Amendment adopted by the 1986 Settlement Agreement. Any and all conditions precedent to El Paso and Meridian's obligations to do so have been satisfied or waived.

31. Since about October 1991 (for production month August 1991) and continuing to the present time, El Paso and Meridian have breached their contractual obligations to pay the overriding royalty rate payable for gas and for liquid hydrocarbons under GLA-66, as amended by Paragraphs 1 and 2 of the 1986 Amendment. These breaches of contract include, without limitation, the following:

a. Failure to make payment to plaintiffs based on proceeds actually received by El Paso/Meridian under gas sales agreements negotiated in good faith between Buyer and Seller and conforming in other respects to the requirements of the 1986 Amendment. Defendants have not made royalty payments on the basis of actual proceeds to El Paso/Meridian as determined by arm's-length sales of gas by El Paso/Meridian to unaffiliated third parties, but instead have made understated royalty payments based upon the so-called "MOTI Pool Price" which is an arbitrary accounting transfer with their affiliate MOTI.

b. Arriving at the MOTI Pool Price by a "net-back" to the wellhead methodology which deducts both money and gas volumes for the transportation and processing of the gas.

c. Failure to accurately and fully account to the plaintiffs on the actual amounts of gas and hydrocarbons which have been produced by the wells on the GLA 66 acreage or allocable to those wells due to federal unit participation.

d. Failure to make payment to plaintiffs based on the proceeds received by El Paso/Meridian for the sale of liquid hydrocarbons produced with the gas and separated on the lease from which the gas is produced.

e. Failure to negotiate in good faith an agreement for purchase and sale of gas on fair terms available in the market, including failure to seek terms that all taxes on the gas sales would be reimbursed by the buyer.

32. As a proximate result of the defendants' breach of contract, the plaintiffs have not been paid the amount of royalty to which they are entitled and have suffered other damages in an amount to be proven at trial.

33. El Paso/Meridians' conduct has been intentional, malicious, fraudulent, oppressive and undertaken with a wanton disregard of plaintiffs' rights under GLA-66 and the 1986 Amendment.

WHEREFORE, the plaintiffs pray judgment against the defendants El Paso Natural Gas Company and Meridian Oil Inc. for compensatory damages as proved at trial; for punitive damages; for pre-judgment interest; and for such further relief as appears proper.

SECOND CLAIM FOR RELIEF
BREACH OF CONTRACT -- FAILURE TO
DEVELOP AND FAILURE TO PROTECT THE LEASEHOLD

34. The plaintiffs reallege by adoption Paragraphs 1 through 28.

35. On information and belief, during all times relevant to this action Meridian has had the responsibility for or has exercised control over performance of the defendants' obligations under GLA-66 to develop the subject properties and to protect the hydrocarbon reserves underlying these properties from waste and drainage. In addition, Meridian is the unit operator for the San Juan 32-9 Unit and is responsible for performance of the duties and obligations of the Unit Operator for the discovery, development and production of oil and gas in any and all formations of unitized land, including lands subject to GLA-66 lying inside the San Juan 32-9 Unit area, pursuant to the Unit Agreement. Any and all conditions precedent to Meridian's obligations to so act have been satisfied or waived.

36. No wells were commenced by defendants for developing the Fruitland Formation coal seam gas reserves underlying properties subject to GLA-66 until December 1992. The delay on the part of defendants to drill such wells has caused significant economic harm to plaintiffs. Defendants' delay in drilling wells on acreage subject to GLA-66 in the Fruitland Formation was a breach of defendants' obligation to develop the acreage subject to GLA-66.

37. Under current federal tax law, 26 U.S.C. § 29, gas produced from wells drilled into coal seam formations prior to January 1, 1993, will generate tax credits for each Mcf of gas sold to unrelated parties through the year 2002. Unless Fruitland Formation wells are producing gas the correlative tax credit value is lost. Defendants did not place the Fruitland Formation wells in which plaintiffs were interested on production until two wells in August 1993 and two remaining wells in October, 1993.

38. On information and belief, Meridian has embarked upon a plan of development intended to maximize the financial benefit of developing the Fruitland Formation to itself, while minimizing such benefits to plaintiffs.

39. Meridian's 1990 Plan Of Development for the San Juan 32-9 Unit included four wells located on the 1200 acres subject to GLA-66, as amended. However, by letter dated

February 26, 1991, Meridian informed the governmental agencies that ten (10) Fruitland wells included in the 1990 Plan Of Development had not been drilled and should be cancelled from the Plan Of Development. Among the wells listed to be cancelled were each of the four wells located on acreage subject to GLA-66. Meridian's February 28, 1990 and February 26, 1991 letters concerning the 1990 Plan Of Development for the San Juan 32-9 Unit are Attachments "G" and "H" to the plaintiffs' original complaint and are adopted by reference.

40. Were the obligations of development owed to plaintiffs by the defendants performed as required, Meridian would have drilled and put on production by at least in 1991 four wells on the GLA-66 acreage within the San Juan 32-9 Unit.

41. Meridian recognized the geological and economical appropriateness of drilling on GLA-66 acreage as evidenced by the initial inclusion of such wells on the 1990 Plan Of Development and by Meridian's commencement of a Fruitland Formation well ("Lucerne A-200") on GLA-66 acreage in the NE 1/4 of Section 10, Township 31 North, Range 10 West. On information and belief, Meridian plugged and abandoned the well prior to reaching the objective Fruitland Formation when the fact of its location on acreage subject to GLA-66 was recognized by Meridian. Meridian also staked several additional Fruitland Formation well locations on GLA-66 acreage inside and outside the San Juan 32-9 Unit but subsequently abandoned those locations prior to drilling.

42. The action of plugging and abandoning the Fruitland Formation well spudded on GLA-66 acreage, canceling GLA-66 wells from the 1990 Plan Of Development for the San Juan 32-9 Unit and abandoning locations already staked in order to avoid payments of royalties under GLA-66, as amended, demonstrates the intentional, willful, malicious and oppressive nature of the breach of Meridian's contractual obligations and obligations owed at law to plaintiffs.

43. Meridian's March 12, 1990, letter to the "Lucerne Group" states that if the October 1986 Settlement Agreement were modified to be, from Meridian's perspective, economical and to "allow for possible future development," Meridian would have amended the 1990 Plan Of Development and added the wells proposed by plaintiffs. On information and belief, defendants earlier refused to drill Fruitland Formation wells on acreage subject to GLA-66 in an unlawful effort to coerce plaintiffs to give up their existing rights under GLA-66, including their rights to have the GLA-66 acreage developed and protected from drainage by defendants.

44. By the failure and refusal to drill Fruitland Formation wells on lands subject to GLA-66, except upon conditions that go beyond the existing terms of GLA-66, as amended, and except after unjustified delay, Meridian intentionally breached its obligations to timely develop the GLA-66 acreage to the benefit of plaintiffs and to protect such properties from drainage.

WHEREFORE, the plaintiffs pray judgment against the defendants El Paso Natural Gas Company and Meridian Oil Inc. for compensatory damages as proved at trial and likewise for punitive damages; for pre-judgment interest and for such further relief as appears proper.

THIRD CLAIM FOR RELIEF
BREACH OF IMPLIED COVENANT OF
GOOD FAITH AND FAIR DEALING

45. The plaintiffs reallege by adoption Paragraphs 1 through 28.

46. The contractual relationship and the circumstances authorizing and placing reliance on defendants for the sale of the subject gas under an agreement negotiated in good faith between buyer and seller, give rise to a covenant implied in law of good faith and fair dealing.

47. As alleged herein, the defendants have purposely disregarded the terms of the 1986 Amendment, have circumvented their contractual obligations by a self-dealing concoction which elevates form over substance, and have thereby breached that covenant of good faith and duty of fair dealing.

48. As a proximate result of that breach plaintiffs have suffered actual and consequential damages in an amount to be proven at trial.

49. The described acts and omissions of defendants were done intentionally, willfully and maliciously entitling plaintiffs to the recovery of punitive damages in the amount adjudged by the jury.

WHEREFORE the plaintiffs prays judgment against the defendants El Paso Natural Gas Company and Meridian Oil Inc. for compensatory damages in the amount proven at trial and likewise for punitive damages; for pre-judgment and post-judgment interest at the maximum lawful rates, for costs of suit and such other relief as proper.

FOURTH CLAIM FOR RELIEF
BREACH OF EXPRESS COVENANT

50. The plaintiffs reallege by adoption Paragraphs 1 through 28.

51. Coincident with and as a consideration for entering into the 1986 Settlement Agreement and 1986 Amendment the plaintiffs, through their representatives and attorneys sought and received certain express assurances and covenants from the defendants.

52. The defendants, by their attorney Arthur R. Formanek, did on May 8, 1987, before plaintiffs executed the Settlement Agreement and Amendment make to the plaintiffs the following express assurance, promise and covenant:

As you requested, regarding the production and sale of the gas relating to your and your clients' overriding royalty interests under the enclosed Settlement Agreement and Amendment, El Paso/Meridian assure you and your clients that they will act prudently to obtain the highest possible price for the sale of gas at the wellhead consistent with governmental regulations, market conditions, and production considerations, and El Paso/Meridian also grant you the right to audit appropriate records pertaining to the sale of such gas.

53. As previously described, through August 1991, the GLA 66 royalty was established as an annual minimum sum certain so that what the defendants did or did not do in

regard to the performance of such covenant was not transparent, unknown to plaintiffs and, of no effect upon or injury to their legal rights. The first payment of GLA 66 royalty made in violation of the stated covenant issued on or about the first day of October, 1991 and the wrongful manner and basis of payment of the GLA 66 royalty became known thereafter in 1992.

54. The stated express covenants of the defendants have been breached and as a proximate result the plaintiffs have suffered actual and consequential damages in an amount to be proven at trial.

55. The described acts and omissions of defendants were done intentionally, willfully and maliciously entitling plaintiffs to the recovery of punitive damages in the amount adjudged by the jury.

WHEREFORE the plaintiffs prays judgment against the defendants El Paso Natural Gas Company and Meridian Oil Inc. for compensatory damages in the amount proven at trial and likewise for punitive damages; for pre-judgment and post-judgment interest at the maximum lawful rates, for costs of suit and such other relief as proper.

BAKER & BOTTS, L.L.P.

By: Steven R. Hunsicker
STEVEN R. HUNSICKER
The Warner Building
1299 Pennsylvania Avenue, N.W.
Washington, D. C. 20004
(202) 639-7700

GALLEGOS LAW FIRM, P.C.

By: J. E. Gallegos
J. E. GALLEGOS
460 St. Michael's Drive
Suite 300
Santa Fe, New Mexico 87505
(505) 983-6686
ATTORNEYS FOR PLAINTIFFS

Dated: August 3, 1995

CONTINUED JURY DEMAND

Plaintiffs continue their demand for trial by jury, having heretofore made the deposit required by law.


J. E. GALLEGOS

LAFORCE, ET AL V E
LAFORCE, ET AL V EPNG & MOI
92-170
GLA-66 OWNERS
JUNE 19, 1995

OWNERS	OWNER FRI	MOI OWNER DECIMAL	MOI OWNER NO.
Ralph A. Bard, Trustee for Ralph A. Bard, Jr. Trust	.907500	.00908	02851201
Ralph A. Bard Trustee for Bard Family Trust	5.930788	.05931	02851301
Nancy C. Bard, Sharon Bard Wailes, Travis Bard and Marcy Bard, Trustees for Douglas N. Bard, Trust	.121000	.00121	04508701
James C. Bard	.121000	.00121	00356702
Roy E. Bard, Jr.	.121000	.00121	00346502
Bank of America, Agent for Anthony Bard Board	.305168	.00305	05805501
Guy R. Brainard, Jr., and Lola Ward Brainard, Trustees for Guy R. Brainard, Jr. Trust	.184883	.00185	03294701
Diane Derry	.102465	.00102	05805501
Dorothy Derry (Changed name to Jennifer Rose Derry)	.102465	.00102	05805601
Joan Derry	.102465	.00102	05805401
Eleanor Isham Dunne	.819720 .302500	.00820 .00303	00381602
Charles Wells Farnham, Jr.	.075625	.00076	02209402
Robert B. Farnham	.075625	.00076	02201902
Walter B. Farnham	.075625	.00076	00334202
Elizabeth B. Farrington	.121000	.00121	00327402
Minnie Flitting	.687500	.00687	00208601
J. Robert Jones, Robert D. Flitting Co-Trustees of the Ralph U. Flitting, Jr. Estate	2.750000	.02750	03634101
Robert D. Flitting	.687500	.00687	01327402

OWNERS	OWNER MRI	MOI OWNER DECIMAL	MOI OWNER NO.
Nancy H. Gerson	.336104	.00336	00184402
Kay B. Gundlach	.121000	.00121	00380502
Indiana University Foundation	1.620878	.01621	07953201
Norman L. Hay, Jr. Trustee for the Norman L. Hay GS Trust	.612563	.00613	
First Bank National Association, Trustee for the James J. Hill, III Revocable Trust	.302500	.00303	00466701
First Bank National Association as Personal Representative for Louis W. Hill, Jr.	1.815000	.01513	02210302
Albert L. Hopkins, Jr.	.336105	.00336	00379102
First National Bank of Chicago & Harriet Stuart Spencer Co-Trustees for the Harriet Fund	1.139380	.00570	07851301
First National Bank of Chicago & Anne Stuart Batchelder Co-Trustees for the Anne Fund		.00570	07851201
George S. Isham Trust (No File)	.886545	.00887	00368702
Virginia W. Isham & First National Bank of Chicago, Co-Trustees for Henry P. Isham, Jr. Trust	.443273	.00443	00401802
Robert T. Isham	.886545	.00887	00347002
Robert T. Isham, George S. Isham, and The First National Bank of Chicago, Trustees for the Elizabeth Isham Trust	.605000	.00605	04617501
Virginia W. Isham (No File)	.443273	.00443	00381402
J. Robert Jones	1.375000	.01375	02107903
James E. Palmer, Successor/Trustee for Martha M. Lattner Trust	.756250	.00756	00523101
Texas Commerce Bank Assoc., Trustee for Keyes Baber Properties	1.637212	.00817	05843101
V. Watson LaForce Jr.	.817492	.00817	01827102
Mary F. Love	.075625	.00076	00349502

OWNERS	OWNER FRT	HOI OWNER DECIMAL	HOI OWNER NO.
George Ranney	.383130	.00383	06571501
Cambridge Trust Company, Trustee for Marital Income Trust of Edward L. Ryerson	.383130	.00383	00013102
Catherine H. Ruml	.336104	.00336	00321001
Nations Bank, Trustee for Sabine Royalty Trust	.461092	.004461	03706401
Arch W. Shaw Trustee for Arch W. Shaw II Trust	.796796	.00570	07608301
		.00227	
Bruce P. Shaw, Trustee for Bruce P. Shaw Trust	.796796	.00570	07608401
		.00227	
John I. Shaw, Jr. Trustee for John I. Shaw, Jr. Trust	.796796	.00570	07608101
		.00182	
Judith Shaw, Trustee for Judith Shaw Trust	.751427	.00570	04363601
		.00182	
William W. Shaw, Trustee for Roger D. Shaw, Jr. Trust	.932921	.00570	04620601
		.00363	
Susanne Shaw, Trustee for Susanne Shaw Trust	.796796	.00570	07608201
		.00227	
Roger D. Shaw, Jr., Trustee for William W. Shaw Trust	.932921	.00570	04770301
		.00363	
Patrick J. Herbert, III, Trustee for William Simpson Trust	1.436875	.01437	00401401
Patrick J. Herbert, III, Trustee for U/A 2/9/79 FBO Gwendolyn S. Chabrier	.478958	.00479	00401001
Patrick J. Herbert, III, Trustee for U/A 2/29/79 FBO James F. Curtis	.478958	.00479	00400801
The U.S. Trust Company of N.Y. and William Simpson, Trustees for James Simpson Jr. Residuary Trusts (6 trusts)	2.873750	.02874	00396501
United States Trust Co. of New York, Trustee of the Michael Simpson Trust	2.204248	.02204	00396701

OWNERS	OWNER HRI	NOT OWNER DECIMAL	NOT OWNER NO.
United States Trust Co. of New York, Trustee of the Patricia Simpson Trust	2.204248	.02204	00396901
Hope Simpson	.478959	.00479	00046902
Rex Bates, Trustee for Sidney Stein Jr. Self Declaration Revocable Trust	.605000	.00605	00402101
Margaret Stuart Hart and Northern Trust Company, Co-Trustees for Robert D. Stuart Trust for the benefit of Margaret Stuart Hart Fund	.569690	.00570	07851001
Robert Douglas Stuart, Jr. and Northern Trust Company, Co-Trustees for Robert D. Stuart Trust for the benefit of Robert Douglas Stuart Fund	.569690	.00570	07851101
William P. Sutter	.504185	.00504	00366402
First Bank National Association, Trustee for F.F. Webster, IV Trust	.226875	.00227	07440401
First Bank National Association, Trustee for Frederick F. Webster, Jr., IV Trust	.226875	.00227	07440301
Katherine I. White	.817493	.00817	00326002
Katherine I. White (Interest conveyed in 1994, but records we have do not reflect transfer. See note in file)	.302500	.00303	00326002
Mary S. Zick	.504185	.00504	00333202

TOTAL = 49.653972

There are three parties that as of date have purposely refused to join in the litigation. They are the following:

1. Robert Fitting
2. J. Robert Jones & Robert Fitting
3. Co-Trustees of the Ralph Fitting, Jr. Estate

.687500
2.750000
1.375000

TOTAL = 44.841472

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT

FILED
DISTRICT COURT
SAN JUAN COUNTY,
NM

Nov 3 2 19 PM '95

W. WATSON LaFORCE, JR., et al.,

Plaintiffs,

vs.

NO. CV-92-645-1

EL PASO NATURAL GAS COMPANY, a
corporation, and MERIDIAN OIL
INC., a corporation,

Defendants.

RECEIVED
NOV 6 PM 1 12
GALLEGOS LAW FIRM P.C.

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of Plaintiffs' Amended Complaint
for Breach of Contract and Tortious Conduct to be served on this 1st day of
November, 1995 the following counsel of record, via U. S. Mail, postage prepaid.

John R. Cooney
P. O. Box 2168
Sunwest Building, Suite 900
500 Fourth Street, NW
Albuquerque, NM 87103-2168

GALLEGOS LAW FIRM, P.C.

By:


J.E. GALLEGOS

430 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

ATTORNEYS FOR PLAINTIFFS