

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2285

SANTA FE, NEW MEXICO 87504-2285

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

December 1, 1998

VIA FACSIMILE AND HAND DELIVERY

Mr. Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: **MOTION TO CONTINUE**
NMOCD Case 12008
Gaucha Unit Well No. 2 and Gaucha Unit Well No. 2-Y
Application of Robert E. Landreth for determination of reasonable
well costs pursuant to Order R-10764, Lea County, New Mexico

Dear Mr. Stogner:

On behalf of Santa Fe Energy Resources, Inc., please find enclosed
our Motion to Continue the referenced case which is currently set for
hearing on the December 3, 1998 Examiner's docket.

Very truly yours,



W. Thomas Kellahin

hand delivered:

Rand Carroll, Esq.
Attorney for Division
William F. Carr, Esq.
Attorney for Robert E. Landreth

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

**IN THE MATTER OF THE APPLICATION OF
ROBERT E. LANDRETH FOR A DETERMINATION
OF REASONABLE WELL COSTS
LEA COUNTY, NEW MEXICO**

CASE NO. 12008

**SANTA FE ENERGY RESOURCES, INC.
MOTION TO CONTINUE**

Comes now Santa Fe Energy Resources, Inc. ("Santa Fe"), by its attorneys, Kellahin and Kellahin and moves the Division to continue the hearing on the merit currently scheduled for December 3, 1998 until such time as the Division rules on Santa Fe Energy's Motion to Dismiss and to allow time for Santa Fe to reply to Landreth's response to Santa Fe's motion to dismiss and in support thereof states:

SUMMARY

This case can be decided by documentary evidence. Landreth is attempting to object to the costs of Santa Fe's Gaucho Unit Well No. 2 by seeking a determination from the Division of the reasonable costs associated with the Gaucho Unit Wells No 2 and 2-Y. He wants to rely upon Division Order R-10764, issued on February 14, 1997 in Case 11715, which compulsory pooled his 37.5% interest in a spacing unit consisting of the S/2 of Section 29, T22S, R34E, Lea County, New Mexico.

On November 25, 1998, Santa Fe filed its Motion to Dismiss contending that this order no longer has any effect on his interest because subsequent to the entry of this order, Landreth signed a voluntary agreement with Santa Fe which superseded this order.

NMOCD Case 12008

Santa Fe Energy Resources, Inc.'s Motion to Continue

Page -2-

On Tuesday, December 1, 1998, just one and one-half days prior to the scheduled evidentiary hearing, Landreth's counsel advised that he would file his response to the motion to dismiss which would included a title opinion rendered by Randy Turner, an attorney, which Landreth contends resolves this dispute in favor of Landreth.

ISSUES

These are the issues and the sequence in which those issues should be addressed by the Division. Ultimately does the Division have jurisdiction to interpret the intent of the parties in making this contract or should this matter be stayed by the Division and resolved by the courts?

If the Division asserts jurisdiction, then the Division can decide based if Santa Fe's Joint Operating Agreement ("JOA"), including revised Exhibit A, is clear and unambiguous? If so, then the Division must grant Santa Fe's Motion to Dismiss because on April 30, 1997, after the date of the compulsory pooling order, Landreth signed and accepted Santa Fe's JOA **including** the final Revised Exhibit "A" and in doing so agreed to the redrilling of this well and agreed that he was participating for 25% of his interest (9.375% WI) and going "non-consent" as to the remaining 75% of his interest (28.125% WI) as to both the Gaucho Unit Wells No. 2 and 2-Y. Revised Exhibit "A" is clear and unambiguous. When the language of a contract can be fairly and reasonably construed in only one way, the contract is not ambiguous and the court cannot rely upon parol or extrinsic evidence to determine the intent of the parties.

NMOCD Case 12008

Santa Fe Energy Resources, Inc.'s Motion to Continue

Page -3-

However, if the JOA is ambiguous, then parol or extrinsic evidence is admissible, and (i) all of the documentary evidence, including Turner's title opinion will have to be considered by the Division in order to decide if the JOA replaced the compulsory pooling order and if so to what extent and (ii) all of testimony of the parties is admissible to tell the Examiner what thought Landreth was doing when he signed the JOA and approved revised Exhibit "A".

A CONTINUANCE IS REASONABLE

Time is not an issue in this case. This matter has been pending before the Division since Landreth filed his application on June 14, 1998. What is at issue is the fact that Landreth's application only says he "objects to the actual well costs for these wells...." **See Exhibit A attached** Since June, 1998, counsel for Santa Fe has been in almost weekly contact with counsel for Landreth in an effort to have Landreth disclose his theory of the case. **See Exhibits B and C, attached.** Not until Tuesday, November 24, 1998, did Landreth's counsel disclosed to Santa Fe's counsel that Landreth could contend that the compulsory pooling order only covered the Gaucho Unit Well No. 2; that the pooling order expired; that by skidding the rig and redrilling the well Landreth's interest in the Gaucho Unit Well No. 2-Y had not been pooled; that Santa Fe needed a new pooling order and Landreth would then get to elect to come into the well risk free; and that none of Landreth's share of production from the Gaucho Unit Well No. 2-Y can be applied to the costs for the Gaucho Unit Well No. 2.

NMOCD Case 12008

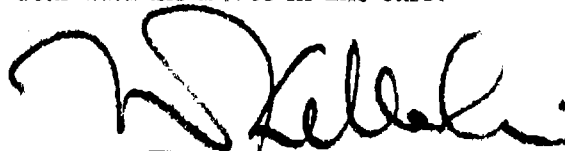
Santa Fe Energy Resources, Inc.'s Motion to Continue

Page -4-

Santa Fe needs additional time to review and reply to Landreth's response which it had not yet received as of 2:30 PM on December 1, 1998. Now that Landreth is about to finally disclosed his theory of the case, Santa Fe needs additional time to prepare including time to review Mr. Turner's opinion, contact Mr. Turner and other potential witnesses.

Santa Fe requests that the hearing on the merits be continued until Examiner's Stogner's next docket; that Landreth be required to file his response not later than December 3, 1998; that Santa Fe be allowed until December 21, 1998 to file its Reply to Landreth's Response; and that the Division rule on the Motion to Dismiss not later than January 7, 1998.

Santa Fe's proposed schedule will allow the Division and the parties additional time to properly and orderly deal with the issues in this case.



W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion was hand delivered to opposing counsel this 1st day of December, 1998.



W. Thomas Kellahin

JUN-10-98 15:01 FROM: SANTA FE ENERGY RESOURCES

9156866714

T-345 P 02 Job-830

SENT BY: Xerox Telecopier 1021 : 6- 4-98 : 16:48 :

5059822151:W 4

**CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS**

MICHAEL B. CAMPBELL
WILLIAM F. CARR
GABRIEL C. BERGE
MARR F. SHERIDAN
MICHAEL M. FELDHERN
ANTHONY P. MERRICK
PAUL H. OWEN
CATHERINE M. ROSS
JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLAZA
SUITE 1100 NORTH GUADALUPE
POST OFFICE BOX 6000
SANTA FE, NEW MEXICO 87500-0000
TELEPHONE: (505) 824-4400
FACSIMILE: (505) 824-0003
E-MAIL: mcamp@campbelllaw.com

June 4, 1998

HAND DELIVERED

Lori Wrotenbery, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Paseo Street
Santa Fe, New Mexico 87505

Re: Case No. 11715 (Order No. R-10764) Application of Santa Fe Energy
Resources, Inc. for compulsory pooling, Lea County, New Mexico.

Dear Ms. Wrotenbery:

*

By Order No. R-10764, the Division granted the application of Santa Fe Energy
Resources, Inc. in Case 11715 thereby compulsory pooling the interest of Robert E.
Landreth in the S/2 of Section 29, Township 22 South, Range 34 East, NMPM, Lea
County, New Mexico.

By letter dated May 4, 1998, Santa Fe Energy Resources, Inc. provided to Ms. Landreth
an itemized schedule of actual well costs for the drilling of the Gaucho Federal Unit Well
Nos. 2 and 2Y which it has drilled on this pooled unit.



JUN-10-98 15:02 FROM: SANTA FE ENERGY RESOURCES

9156866714

T-246 P 03 Job-830

50598221511# 5

Lori Wootenbury, Director

June 4, 1998

Page 2

Robert E. Landroth hereby objects to the actual well costs for these wells and requests that the Division determine the actual well costs after public notice and hearing as provided in order paragraph 5 of Order No. R-10764.

Very truly yours,



WILLIAM F. CARR

Attorney for Robert E. Landroth

cc: James Bruce Esq.

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2266

SANTA FE, NEW MEXICO 87504-2266

W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4265
TELEFAX (505) 982-2047

June 17, 1998

VIA FACSIMILE

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan
110 North Guadalupe Street
Santa Fe, New Mexico 87501

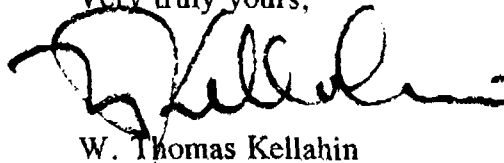
Re: Case No 11715 (Order R-10764)
Application of Santa Fe Energy Resources, Inc.
for compulsory pooling, Lea County, New
Mexico

Dear Mr. Carr:

Our firm represents Santa Fe Energy Resources, Inc. concerning your letter on behalf of Robert E. Landreth to the New Mexico Oil Conservation Division dated June 4, 1998 alleging unspecified objections to the actual well costs for the Gaucho Federal Unit Well No. 2 and 2Y.

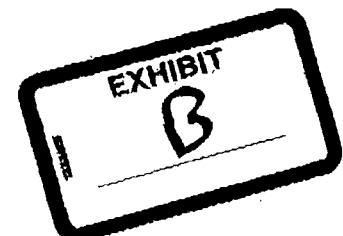
I would appreciate you providing me with a written detailed explanation of Mr. Landreth's objections so that I will be able to respond.

Very truly yours,



W. Thomas Kellahin

cc: Oil Conservation Division
Attn: Lori Wrotenbery, Director
cc: Santa Fe Energy Resources, Inc.
Attn: Steve Smith



KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

August 24, 1998

VIA FACSIMILE

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan
110 North Guadalupe Street
Santa Fe, New Mexico 87501

Re: Case No 11715 (Order R-10764)
Application of Santa Fe Energy Resources, Inc.
for compulsory pooling, Lea County, New
Mexico

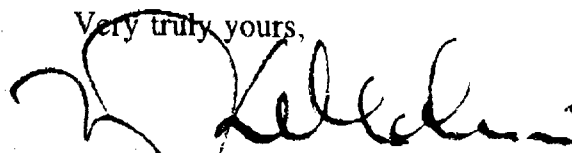
Dear Mr. Carr:

By letter dated June 17, 1998, on behalf of Santa Fe Energy Resources, Inc., I requested that you provide me with a written detailed explanation of Mr. Landreth's objections to the actual well costs for the Gaucho Federal Unit Well Nos. 2 and 2Y so that I will be able to respond.

Unfortunately, you have not responded to my request. Because you still have not disclosed to me the reasons for your client's objection, I will not be able to be prepared for the hearing now set on September 3, 1998.

I would appreciate you calling me so we can discuss this matter.

Very truly yours,



W. Thomas Kellahin

cfx: Oil Conservation Division
Attn: Michael E. Stogner, Examiner
cfx: Santa Fe Energy Resources, Inc.
Attn: Steve Smith

