

FARMOUT AGREEMENT

This agreement, made and entered into this 27th day of November, A. D. 1951, by and between BROOKHAVEN OIL COMPANY, a Delaware corporation (hereinafter referred to as "Brookhaven"), whose address is First National Bank Building, Albuquerque, New Mexico, and SAN JUAN PRODUCTION COMPANY, a Delaware corporation (hereinafter referred to as "San Juan"), whose address is 1010 Bassett Tower, El Paso, Texas,

W I T N E S S E T H:

WHEREAS, Brookhaven is lessee or assignee of oil and gas leases from the United States of America as lessor, or from the State of New Mexico as lessor, upon certain tracts of land located in San Juan County, New Mexico, which leases and the tracts of land covered thereby are fully described in Exhibit "A", attached hereto, and which are hereinafter referred to as "said acreage"; and,

WHEREAS, the parties desire to provide for the development of said acreage by San Juan, and the assignment of operating rights in said acreage from Brookhaven to San Juan.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between Brookhaven and San Juan as follows:

1. Within fifteen (15) days after the execution of this agreement, Brookhaven shall furnish to San Juan abstracts covering the serial records of New Mexico District Land and Survey Office, Bureau of Land Management, Santa Fe, New Mexico, as to any lease or leases executed by the United States as lessors, and abstracts covering the records of the Office of Commissioner

of Public Lands, Santa Fe, New Mexico, as to any lease or leases executed by the State of New Mexico as lessor, and, as to each character of lease, an abstract covering the records of San Juan County, New Mexico, showing good title vested in Brookhaven in and to the leasehold estate, subject only to the terms and conditions of the original leases, to the regulations under which said leases were issued, and to the overriding royalties specified in Exhibit "A".

2. San Juan shall cause its attorneys to make prompt examination of such abstracts and to point out by written opinion within ten (10) days of receipt of abstracts any defects or objections to the title. Brookhaven shall proceed to cure such defects by use of reasonable diligence. If Brookhaven's title is approved by San Juan's attorneys, the Operating Agreement attached hereto and marked Exhibit "B", which has been executed and delivered by Brookhaven and San Juan, shall become effective immediately. If curative action is required and Brookhaven cures defects in its title within ninety (90) days, or if during such period San Juan's attorneys accept the title tendered, the Operating Agreement (Exhibit "B") shall become effective immediately. If Brookhaven fails to cure any defects on the lease from the United States and San Juan does not accept the title as tendered within ninety (90) days after the date of written opinion, then this agreement shall be terminated and neither party shall be under any liability to the other by reason thereof, but if the title to lease from the United States be accepted and title to leases from the State of New Mexico be rejected, then the Operating Agreement shall become effective as to the lease from the United States. If title to one or more State of New Mexico leases be rejected, then San Juan may refuse all State of New Mexico leases.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto the day and year first above written.

ATTEST:

Gleason B. Scott
Asst. Secretary

BROOKHAVEN OIL COMPANY

By Gleason B. Scott
President

ATTEST:

A.C. Martch
Asst. Secretary

SAN JUAN PRODUCTION COMPANY

By C.L. Perkins
Vice President

STATE OF NEW MEXICO)

COUNTY OF BERNALILLO)

On this the 29th day of November, 1951, before me personally appeared Gleason B. Scott, Inc., to me personally known, who, after being by me duly sworn did say that he is the President of BROOKHAVEN OIL COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Gleason B. Scott, Inc. acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

July 25, 1955

Marion H. Seel
Notary Public, Bernalillo County,
New Mexico

STATE OF TEXAS)

COUNTY OF EL PASO)

On this the 27th day of November, 1951, before me personally appeared C.L. Perkins, to me personally known, who, after being by me duly sworn did say that he is the Vice President of SAN JUAN PRODUCTION COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board

of Directors, and said P. L. Perkins acknowledged
said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

My commission expires:

ROBERT E. HEYSER
Notary Public in and for El Paso County, Texas
My commission expires June 1, 1953

Robert E. Heyser
Notary Public, El Paso County, Texas

EXHIBIT A

LEASES SUBJECT TO FARMOUT AGREEMENT DATED NOVEMBER 27th, 1951.

Federal Lease - Santa Fe Serial No. 078604

Lessee: Brookhaven Oil Company

67037
Description: Lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 3; ✓
E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 4; N $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8; E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 9; ✓
NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 17,
Township 31 North, Range 10 West, N.M.P.M.
and
NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 29; E $\frac{1}{2}$ Sec. 31;
SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 32; SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 33;
E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 34, Township 32 North,
Range 10 West, N.M.P.M., San Juan County,
New Mexico, containing 2441.01 acres, more or less.

Date of Issue - May 1, 1948

Termination Date - May 1, 1958

Overriding Royalty Interest - 1/2 of 1% to Joseph C. Mc Clafferty

State Leases - Lessee for all of the following is Brookhaven Oil Company

1003
Our Lease No. L-153

State Lease No. B-11318-21

Description: NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico,
containing 40 acres, more or less

Date of Issue: June 26, 1944

Termination Date: June 26, 1954

Overriding Royalty Interest - 3% to H. Rummel Anderson

Our Lease No. L-154

State Lease No. B-10405-40

67004
Description: SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico
containing 40 acres, more or less.

Date of Issue: June 24, 1943

Termination Date: June 24, 1953

Overriding Royalty Interest - 3% to Sam Swift and Vivian Swift

Our Lease No. L-156

State Lease No. B-11124-18

67007
Description: SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico
containing 40 acres, more or less.

Date of Issue: March 21, 1944

Termination Date: March 21, 1954

Overriding Royalty Interest - 3% to Stanley Pencoske and
Genevieve Pencoske

EXHIBIT A

LEASES SUBJECT TO FARMOUT AGREEMENT DATED NOVEMBER 27th, 1951.
Page 2.

State Leases (Continued)

Our Lease No. L-157

State Lease No. B-10405-42

Description: SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico
containing 40 acres, more or less.

Date of Issue: June 24, 1943

Termination Date: June 24, 1953

Overriding Royalty Interest - 3% to George B. Radeackar and
Margaret Radeackar

Our Lease No. L-159

State Lease No. E-70-14

Description: SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico,
containing 40 acres, more or less.

Date of Issue: February 1, 1945

Termination Date: February 1, 1955

Overriding Royalty Interest - 3% to Herman F. Schrage

Our Lease No. L-161

State Lease No. E-286-13

Description: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico
containing 40 acres, more or less.

Date of Issue: April 26, 1945

Termination Date: April 26, 1955

Overriding Royalty Interest - 3% to Oliver Griffin

Our Lease No. L-180

State Lease No. E-286-14

Description: NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 31 North, Range
10 West, N.M.P.M., San Juan County, New Mexico
containing 40 acres, more or less.

Date of Issue: April 26, 1945

Termination Date: April 26, 1955

Overriding Royalty Interest - 3% to Estate of Lewis Samuel
Ulmer, deceased

EXHIBIT "B"

OPERATING AGREEMENT

This agreement, made and entered into this 27th day of November, A. D. 1951, by and between BROOKHAVEN OIL COMPANY, a Delaware corporation (hereinafter referred to as "Brookhaven") whose address is First National Bank Building, Albuquerque, New Mexico, and SAN JUAN PRODUCTION COMPANY, a Delaware corporation (hereinafter referred to as "San Juan"), whose address is 1010 Bassett Tower, El Paso, Texas,

W I T N E S S E T H:

WHEREAS, Brookhaven is lessee or assignee of oil and gas leases from the United States of America as lessor or from the State of New Mexico as lessor upon certain tracts of land located in San Juan County, New Mexico, which leases and the tracts of land covered thereby are fully described in Exhibit "A" attached hereto, and which are hereinafter referred to as "said acreage"; and,

WHEREAS, Brookhaven desires to assign operating rights upon said acreage to San Juan and to make provision for division of oil, gas and minerals produced pursuant to the provisions hereof, and to provide for exploration and development of said acreage by San Juan.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between Brookhaven and San Juan as follows:

1. Assignment of Operating Rights. Brookhaven hereby transfers and assigns to San Juan operating rights on and designates San Juan as Operator of said acreage.

2. Additional Assignments.

a. Upon the written request of San Juan, Brookhaven shall execute and deliver such appropriate requests, bonds or other agreements as may be required by the Bureau of Land Management, to enable San Juan to proceed with drilling operations hereunder as to any part of said acreage covered by lease from the United States of America. Until Brookhaven shall have been relieved from the liability of such bond, San Juan shall save, hold and protect Brookhaven harmless on account of all liability arising from or growing out of such bond or from liability on said bond for carrying on exploration and development operations thereunder, and San Juan shall initially pay all premiums in connection therewith and furnish an Indemnity Agreement to the Bonding Company. The liability of San Juan under the Indemnity Agreement specified in this paragraph shall include court costs, expenses and attorneys' fees incurred by Brookhaven in defending any action under the bond or in enforcing the Indemnity Agreement against San Juan.

b. Brookhaven shall execute, deliver, file and request approval of assignments to San Juan and Brookhaven jointly as lessees as to any part of said acreage covered by lease from the State of New Mexico. A copy of this Operating Agreement shall be filed in the Office of the Commissioner of Public Lands of the State of New Mexico to evidence the respective interests owned by the assignee in said leases.

c. In the event, pursuant to the terms of this agreement, San Juan is required to reassign any of said acreage covered by lease from the State of New Mexico, San Juan shall execute, deliver and make request for approval of all instruments required to revest title to the reassigned acreage in Brookhaven.

d. Insofar as the Federal lease is concerned, this agreement shall not be construed as an assignment of the lease, but only as an operating agreement and contract.

3. Operator's Obligations to Lessors. San Juan agrees to perform all terms and conditions required to be performed by the lessee under the terms of each of said leases and to pay before delinquency (to be included in operating costs) all rentals required to be paid to the lessor under the terms of each of said leases, and to comply with all applicable and lawful requirements of the lessors or of governmental agencies having jurisdiction of operations conducted upon said acreage; provided that San Juan may relieve itself of further obligations under this section as to any part of said acreage by executing and delivering to Brookhaven a reassignment or relinquishment of all San Juan's right, title or interest in or to such part of said acreage prior to any default or delinquency and at least ninety (90) days prior to termination of the primary term of any lease.

4. Operator's Drilling Obligations.

a. San Juan shall select a drilling site upon said acreage and shall commence and prosecute diligently drilling operations thereon for a Mesa Verde well, as hereinafter defined, within sixty (60) days from the effective date hereof (which well is hereinafter termed "first well").

b. San Juan shall complete drilling a minimum of four (4) Mesa Verde wells (including the first well) during the first twelve (12) months' period beginning with the effective date of this Operating Agreement, and, thereafter, San Juan shall complete drilling a minimum of four (4) Mesa Verde wells in each twelve (12) months' period until all drilling sites have been drilled. Any well completed as a producing well in a formation lying above or below the Mesa Verde formation shall be deemed a

well complying with the provisions of Subsection 4a and of this Subsection 4b. If San Juan obtains production in a formation lying above or below the Mesa Verde formation which San Juan desires to develop, San Juan may postpone drilling to the Mesa Verde formation as long as San Juan shall complete drilling a minimum of four (4) wells to the other formation in each twelve (12) months' period. After San Juan has drilled all available drilling sites which it deems desirable to the other formation, then San Juan shall resume drilling of any wells or deepening or plugging back existing wells to test the Mesa Verde formation, and shall complete drilling four (4) wells to the Mesa Verde formation in each twelve (12) months' period until a total of eighteen (18) Mesa Verde wells have been drilled, or shall reassign or relinquish the undrilled locations or the rights to all formations undrilled or non-producing on those locations. A well drilled upon a communitized tract to which a part of said acreage has been committed shall be deemed to be drilled upon said acreage whether actually located upon said acreage or upon other tracts committed to the communitization agreement. The drilling obligations specified in this Subsection 4b shall not be suspended or excused by San Juan's inability to obtain casing and other drilling and producing equipment.

c. If no drilling site is available, and, after using good faith efforts, San Juan is unable to obtain execution of a communitization agreement by adjoining leasehold owners in order to provide a drilling site, then San Juan's obligation to drill as specified in Subsection 4b shall be suspended for such time as no drilling site is available, and the period of such suspension shall be added to the twelve (12) months' period for drilling a minimum of four (4) wells.

d. In addition to the drilling obligation provided in Subsection 4b, San Juan agrees to commence the actual drilling of an offset well (as soon as a communitization agreement can be obtained when communitization is necessary to provide a drilling site) within 90 days after a producing well is completed upon a drilling site which adjoins such undrilled drilling site on said acreage. This obligation to drill offset wells in excess of 4 wells required by Subsection 4b is further subject to San Juan's obtaining sufficient allocation of casing to drill the wells required by this Subsection 4d. Any well drilled as an offset well shall be included and credited as a well drilled pursuant to the provisions of Subsection 4b.

e. Any wells drilled in excess of four (4) in any twelve (12) months' period shall be credited to San Juan on its obligations under Subsections 4b and 4d in any subsequent twelve (12) months' period.

f. In the event San Juan fails to drill any well required by this Section 4, and the drilling of which is not excused as provided herein, then San Juan shall reassign or relinquish to Brookhaven all of said acreage except the rights in and to the formation on each drilling site upon which San Juan has commenced or completed drilling operations. The drilling site in the formation drilled upon which a producing well has been completed shall be retained unless abandoned as herein provided. In the event Brookhaven be entitled to reassignment or relinquishment of any tract or tracts hereunder, Brookhaven shall notify San Juan in writing specifying the tract or tracts and the formations, upon which Brookhaven claims San Juan is in default. If San Juan has failed to comply with the drilling obligations of this Operating Agreement, then San Juan shall execute and deliver to Brookhaven a release of this Operating Agreement as

to such tract or tracts and formations, which shall constitute a reassignment thereof, and shall reassign to Brookhaven any lease which Brookhaven has assigned to San Juan covering such tract or tracts and formations. San Juan shall notify Brookhaven of its intention not to drill an offset and reassign or relinquish as above provided within forty-five (45) days after completion of a producing well requiring an offset.

g. If, as a result of the failure of San Juan to drill an offset well or wells, the Federal or State governments shall require the payment of compensatory royalty, it shall be paid by San Juan for its own account.

5. Ownership of Production and Apportionment of Costs.

a. All oil, gas and/or other hydrocarbon substances produced, saved and marketed from said acreage shall be owned by Brookhaven and San Juan in equal shares. The royalties due lessors, the overriding royalties to which the leases are subject as shown in Exhibit "A", and all taxes upon the production or severance shall be paid by San Juan as Operator and apportioned one-half (1/2) to each party. Brookhaven shall reimburse San Juan for Brookhaven's share thereof. The production remaining after payment of royalties, overriding royalties and taxes is hereinafter termed "net working interest".

b. San Juan shall furnish rig, labor, equipment and materials necessary for drilling operations conducted hereunder and, as Operator, shall have authority to determine the location, depth, manner and methods of drilling, completing and equipping each well. Brookhaven shall have access to the derrick floor of any well drilled by San Juan for the purpose of observing drilling operations and shall be furnished promptly with copies of all well logs, tests and reports including production reports obtained by San Juan on each well.

c. Each of the parties reserves the right to receive in kind its respective share of oil, gas and/or other hydrocarbon substances, produced from said acreage, together with right, individually, to sell or direct the sale thereof for its benefit, and, in the event all parties hereto sell or dispose of their respective share of production to the same purchaser, each party hereto shall be entitled to receive directly from the purchaser thereof its respective share of the proceeds of sale of such production; subject, however, to repayment of drilling costs as provided herein. Any oil and/or gas used in drilling, operating or reworking wells on said acreage shall be considered as furnished equally by the parties hereto.

d. Out of the proceeds of sale of the net working interest production from each well, Brookhaven shall pay to San Juan one-half (1/2) of Brookhaven's share of such production (25% of net working interest) until Brookhaven has repaid to San Juan one-half (1/2) of the actual drilling costs of each such well, but production from one well shall not be used to repay drilling costs of another well. Brookhaven's share is further defined as follows:

1. Brookhaven's obligations to pay drilling costs upon a Mesa Verde well out of production shall not exceed Twenty-two Thousand Five Hundred Dollars (\$22,500.00), or one-half (1/2) the estimated cost of Forty-five Thousand Dollars (\$45,000.00) per Mesa Verde well. The drilling costs of each well shall include drilling, installation of casing, shooting or acidizing, installation of field separator, pipe line connections and separator, lease tanks on oil, tubing, production head, lease production lines,

pumping equipment, if necessary, and all other equipment and labor necessary for a completed well ready to produce; but shall not include casing, which shall be furnished by San Juan without reimbursement from Brookhaven. The attached Exhibit "C" governs the accounting procedures to be followed by the parties in accounting for drilling and operating costs.

2. In the event any well be drilled upon said acreage to a greater or lesser depth than a Mesa Verde well, the drilling costs (except casing to be furnished by San Juan) to be paid out of production by Brookhaven shall be determined proportionately with the parties agreeing upon a maximum cost comparable to the maximum cost of a Mesa Verde well, as defined in Section 5dl above.

e. San Juan agrees to maintain any producing well so as to obtain maximum production therefrom in accordance with the best recognized procedure in the industry. All costs of operating and reworking wells shall be paid equally by the parties; provided that San Juan shall consult with and obtain consent of Brookhaven before incurring any job expenditure in excess of Five Hundred Dollars (\$500.00).

f. Except as herein expressly provided, San Juan shall pay all of the costs of drilling and equipping said wells without any liability or responsibility on the part of Brookhaven.

6. Abandonment of Wells. In the event San Juan desires to abandon any drilling or producing well, San Juan shall notify Brookhaven of such desire, and Brookhaven shall thereafter have a period of ten (10) days in which to take over said well and pay San Juan the salvage value

of any casing in the well and the salvage value of any other equipment present on the drilling site required for production of said well if it has produced, and thereby acquire the complete interest in all such equipment, development, and production from said well. If Brookhaven takes over said well and has reimbursed San Juan for any portion of the drilling costs of said well, Brookhaven's payment shall be reduced by the proportionate fraction of such total drilling costs hereof, as defined and limited by Subsection 5dl for which Brookhaven has reimbursed San Juan. San Juan shall also execute a release of this Operating Agreement or reassignment of any leasehold interest assigned to San Juan. If Brookhaven does not desire to acquire San Juan's interest in said well, then San Juan, as Operator, shall plug said well, complying with all applicable regulations. If said well has not produced, then the expense of plugging shall be borne by San Juan and San Juan shall have complete ownership in all of the casing, equipment and materials thereof. If said well has produced, then Brookhaven shall bear that proportionate part of the cost of plugging that Brookhaven's reimbursement to San Juan for drilling costs bears to the total drilling costs, as defined and limited by Subsection 5dl, and the casing, equipment and materials recovered shall be divided in the same proportions.

7. San Juan shall carry the following insurance in favor of both parties to cover operations on the lease area and the equipment used in connection therewith:

a. Workmen's Compensation Insurance and Employer's Liability Insurance as required by the laws of the State of New Mexico.

b. Public Liability Insurance in not less than the amount of \$100,000.00 for injuries to one person and not less than the amount of \$500,000.00 for injuries in one accident, and \$50,000.00 for property damage.

c. Automotive Public Liability Insurance, for each automotive vehicle used in connection herewith, in not less than the amount of \$100,000.00 for injuries to one person and not less than the amount of \$500,000.00 for injuries in one accident, and not less than the amount of \$50,000.00 for property damage.

All of such insurance so carried shall be at the original expense of San Juan, who shall keep all such insurance in force and effect at all times while operations are conducted on the lease area. San Juan will furnish Brookhaven with certificates of all such insurance so carried. In addition to the above, San Juan shall require contractors to carry additional insurance as described in a, b and c above, and will require such contractors to furnish certificates thereof to it of all such insurance so carried.

8. Fair Employment Practices. As to any Federal leases upon said acreage, San Juan shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin and shall require that an identical provision be included in all sub-contracts.

9. Communitization. Brookhaven shall cooperate with San Juan in obtaining consent of owners of leasehold interest on adjoining tracts of land for the purpose of complying with spacing regulations. If San Juan so requests, Brookhaven shall assign to San Juan, and, if required, to other community participants an undivided interest in the state leasehold interests, which assignment shall be subject to the terms of this Operating Agreement and shall not be assigned by San Juan and the others, except as necessary to communitization unless Brookhaven's consent be obtained. As to Federal leasehold interests, Brookhaven shall take whatever steps are necessary subject to the terms of this Operating Agreement, to effect such communitization.

10. Non-partnership Provision. This agreement shall not create a partnership between the parties, and San Juan, as Operator, shall comply

with all applicable laws and regulations of the State of New Mexico and of the United States in operating said leases. As to Brookhaven, San Juan shall be an independent contractor hereunder.

11. Approval of Governmental Authority. This agreement is subject to the approval of the Secretary of the Interior, or his duly authorized subordinate, as to any Federal lease. Unless disapproved by final administrative action by either the Federal or State government, and until such disapproval, this agreement shall be binding upon the parties. In the event of any decision disapproving of this agreement or of any provision or any part thereof, the parties agree that the intent of this contract shall prevail so that neither party shall be denied the intended rights described herein, and to that end, they will use their best efforts to agree on the necessary modifications hereof to cure the causes of disapproval.

12. Definitions.

Mesa Verde Well. By "Mesa Verde well" is meant a well drilled to test the deepest horizon of the Mesa Verde formation or a well producing from any horizon of the Mesa Verde formation unless impenetrable substances be encountered which, in the opinion of San Juan, prevent testing the Mesa Verde formation.

Other Formations. Where wells to other formations are provided herein the same standards shall apply.

Drilling Site. "Drilling site" means such quantity of acreage and legal subdivision as may be designated a drilling site by the New Mexico Oil Conservation Commission, for a well to be drilled to a specified formation.

13. Notice. All notices to be given hereunder shall be deemed sufficient when notice is deposited, postage paid, in first class, United States mail, addressed to the parties as follows:

Brookhaven Oil Company
Post Office Box 644
Albuquerque, New Mexico

San Juan Production Company
Post Office Box 1492
El Paso, Texas

Either party may, from time to time, by notice in writing to the other designate another address for the giving of any such notice.

14. Force Majeure. Time shall be of the essence of this agreement. Except as herein otherwise expressly provided, if either party be prevented from performing the obligations of this agreement by causes beyond the control of such party, including but not limited to acts of the elements, fires, floods, earthquakes, war, riots, civil commotion, acts of the public enemy, regulations of governmental authority, embargoes, strikes, labor disputes, weather conditions, and unavoidable casualties, then such party shall not be liable for such failure so long as it results from any one or more of such causes.

15. San Juan may assign this agreement to any of its parent or subsidiary corporations but no such assignment shall relieve San Juan of its obligations hereunder. Otherwise, neither San Juan nor any assignee shall assign this agreement without the prior written consent of Brookhaven. It shall not be considered a breach of this subsection for San Juan to include its interest herein under any mortgage or indenture given by it to secure a bond issue of San Juan or its affiliated company, El Paso Natural Gas Company.

16. This agreement contains the entire contract of the parties. All prior negotiations, understandings, representations and warranties are merged herein. Any modification, amendment or change of this agreement shall be in writing, executed with the same formalities as this instrument.

17. This contract is to be performed in New Mexico. All questions regarding its validity, construction, interpretation, performance and all other questions arising hereunder shall be determined by the law of said state.

18. This agreement may be executed in any number of counterparts, each of which shall be and constitute an original.

IN WITNESS WHEREOF, this instrument is executed the day and year first above written.

BROOKHAVEN OIL COMPANY

By *Harold B. Scott*
President

ATTEST:

Gleanor B. Scott
asst. Secretary

SAN JUAN PRODUCTION COMPANY

By *C. L. Perkins*
Vice President

ATTEST:

A. C. Martch
asst. Secretary

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

On this the 29th day of November, 1951, before me personally appeared Chas. B. Scott, Jr. to me personally known, who, after being by me duly sworn did say that he is the President of BROOKHAVEN OIL COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Chas. B. Scott, Jr. acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

Margaret H. Seef
Notary Public, Bernalillo County,
New Mexico

July 25, 1955

STATE OF TEXAS)
) ss
COUNTY OF EL PASO)

On this the 27th day of November, 1951, before me personally appeared C. L. Perkins to me personally known, who, after being by me duly sworn did say that he is the Vice President of SAN JUAN PRODUCTION COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said C. L. Perkins acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

Robert E. Heyser
Notary Public, El Paso County, Texas

ROBERT E. HEYSER
Notary Public in and for El Paso County, Texas
My commission expires June 1, 1953

San Juan is a wholly owned subsidiary of El Paso Natural Gas Company, a Delaware corporation. As a part of the consideration hereof and for the purpose of inducing Brookhaven to execute this agreement, the undersigned hereby unconditionally guarantees the performance of each and every term, covenant and condition hereof by SAN JUAN PRODUCTION COMPANY.

EL PASO NATURAL GAS COMPANY

ATTEST:

[Signature]
Assistant Secretary

By

[Signature]
Vice President

STATE OF TEXAS)

COUNTY OF EL PASO)

ss

On this the 27th day of November, 1951, before me personally appeared C. C. Cravin, to me personally known, who, after being by me duly sworn did say that he is the Vice President of EL PASO NATURAL GAS COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said C. C. Cravin acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

[Signature]
Notary Public, El Paso County, Texas

ROBERT E. HEYSER
Notary Public, El Paso County, Texas
My commission expires June 1, 1953

EL PASO NATURAL GAS COMPANY

EXHIBIT "C"

Attached to and made a part of Farmout Agreement
dated November 27, 1951, by and between Brookhaven
Oil Company and San Juan Production Company

ACCOUNTING PROCEDURE
(Unit and Joint Lease Operations)

I. GENERAL PROVISIONS

1. DEFINITIONS

The term "joint property" as herein used shall be construed to mean the subject area covered by the agreement to which this "Accounting Procedure" is attached.

The term "Operator" as herein used shall be construed to mean the party designated to conduct the development and operation of the leased premises for the joint account.

The term "Non-Operator" as herein used shall be construed to mean any one or more of the non-operating parties.

2. STATEMENTS AND BILLINGS

Operator shall bill Non-Operator on or before 45 days after the last day of each month for its proportionate share of costs and expenditures during the month. Such bills will be accompanied by statements, reflecting the total costs and charges as set forth under Sub-Paragraph B below:

A. Statement in detail of all charges and credits to the joint account.

B. Statement of all charges and credits to the joint account, summarized by appropriate classifications indicative of the nature thereof.

C. Statements, as follows:

(1) Detailed statement of material ordinarily considered controllable by Operators of oil and gas properties;

(2) Statement of all other charges and credits to the joint account summarized by appropriate classifications indicative of the nature thereof; and

(3) Statement of any other receipts and credits.

3. PAYMENTS BY NON-OPERATOR

Each party shall pay its proportion of all such bills within fifteen (15) days after receipt thereof. If payment is not made within such time, the unpaid balance shall bear interest at the rate of six per cent (6%) per annum until paid.

4. AUDITS

Payment of any such bills shall not prejudice the right of Non-Operator to protest or question the correctness thereof. All statements rendered to Non-Operator by Operator during any calendar year shall be conclusively presumed to be true and correct after eighteen months following the close of any such calendar year, unless within said eighteen months period Non-Operator takes written exception thereto and makes claim on Operator for adjustment. Failure on the part of Non-Operator to make claim on Operator for adjustment within such period shall establish the correctness thereof and preclude the filing of exceptions thereto or the making of claims for adjustment thereon. A Non-Operator, upon notice in writing to Operator and all other Non-Operators, shall have the right to audit Operator's accounts and records relating to the accounting hereunder, within eighteen months next following the close of any calendar year. Non-Operator shall have six months next following the examination of the Operator's records within which to take written exception to and make any and all claims on Operator. The provisions of this paragraph shall not prevent adjustments resulting from the physical inventory of property as provided for in Section VI, Inventories, hereof.

II. DEVELOPMENT AND OPERATING CHARGES

Subject to limitations hereinafter prescribed, Operator shall charge the joint account with the following items:

1. RENTALS AND ROYALTIES

Delay or other rentals, when such rentals are paid by Operator for the joint account; royalties, when not paid direct to royalty owners by the purchaser of the oil, gas, casinghead gas, or other products.

2. LABOR, TRANSPORTATION, AND SERVICES

Labor, transportation, and other services necessary for the development, maintenance, and operation of the joint property.

3. MATERIAL

Material, equipment, and supplies purchased or furnished by Operator, for use of the joint property. So far as it is reasonably practical and consistent with efficient and economical operation, only such material shall be purchased for or transferred to the joint property as required for immediate use, and the accumulation of surplus stocks shall be avoided.

4. MOVING MATERIAL TO JOINT PROPERTY

Moving material to the joint property from Vendor's or from Operator's warehouse in the district or from the other properties of Operator, but in either of the last two events no charge shall be made to the joint account for a distance greater than the distance from the nearest reliable supply store or railway receiving point where such material is available, except by special agreement with Non-Operator.

5. MOVING SURPLUS MATERIAL FROM JOINT PROPERTY

Moving surplus material from the joint property to outside vendees, if sold f.o.b. destination, or minor returns to Operator's warehouse or other storage point. No charge shall be made to the joint account for moving material to other properties belonging to Operator, except by special agreement with Non-Operator.

6. USE OF OPERATOR'S EQUIPMENT AND FACILITIES

Use of and service by Operator's exclusively owned equipment and facilities as provided in Paragraph 4, of Section III, "Basis of Charges to Joint Account."

7. DAMAGES AND LOSSES

Damages or losses incurred by fire, flood, storm, or any other cause not controllable by Operator through the exercise of reasonable diligence. Operator shall furnish Non-Operator written notice of damage or losses incurred by fire, storm, flood, or other natural or accidental causes as soon as practicable after report of the same has been received by Operator.

8. LITIGATION, JUDGMENTS, AND CLAIMS

All costs and expenses of litigation, or legal services otherwise necessary or expedient for the protection of the joint interests, including attorney's fees and expenses as hereinafter provided, together with all judgments obtained against the joint account or the subject matter of this agreement; actual expenses incurred by any party or parties hereto in securing evidence for the purpose of defending against any action or claim prosecuted or urged against the joint account or the subject matter of this agreement.

A. If a majority of the interests hereunder shall so agree, actions or claims affecting the joint interests hereunder may be handled by the legal staff of one or more of the parties hereto, and a charge commensurate with the services rendered may be made against the joint account, but no such charge shall be made until approved by the legal department of or attorneys for the respective parties hereto.

B. Fees and expenses of outside attorneys shall not be charged to the joint account unless authorized by the majority of the interests hereunder.

9. TAXES

All taxes of every kind and nature assessed upon or in connection with the properties which are the subject of this agreement, the production therefrom or the operation thereof, and which taxes have been paid by the Operator for the benefit of the parties hereto.

10. INSURANCE

Premiums paid for insurance carried for the benefit of the joint account, together with all expenditures incurred and paid in settlement of any and all losses, claims, damages, judgments, and other expenses, including legal services, not recovered from insurance carrier.

11. DISTRICT AND CAMP EXPENSE

A proportionate share of the salaries and expenses of Operator's District Superintendent and other general district or field employees serving the joint property, whose time is not allocated direct to the joint property, and a proportionate share of maintaining and operating a district office and all necessary camps, including housing facilities for employees if necessary, in conducting the operations on the joint property and other leases owned and operated by Operator in the same locality. Such charges shall be apportioned to all leases served on some equitable basis consistent with Operator's accounting practice.

12. OVERHEAD

Overhead charges, which shall be in lieu of any charges for any part of the compensation or salaries paid to managing officers and employees of Operator, including the division superintendent, the entire staff and expenses of the division office located at Farmington, New Mexico, and any portion of the office expense of the principal business office located at El Paso, Texas, but which are not in lieu of district or field office expenses incurred in operating any such properties, or any other expenses of Operator incurred in the development and operation of said properties; and Operator shall have the right to assess against the joint property covered hereby the following overhead charges:

- A. During the period of drilling, pluggingback or deepening such amounts as may be allocated to each well from "Overheads during Construction" as recorded on the books of the Operator.
- B. \$ 25.00 per well per month for the first five (5) producing wells.
- C. \$ 20.00 per well per month for the second five (5) producing wells.
- D. \$ 15.00 per well per month for all producing wells over ten (10).
- E. In connection with overhead charges, the status of wells shall be as follows:
 - (1) In-put or key wells shall be included in overhead schedule the same as producing gas wells.
 - (2) Producing oil wells shall be included in overhead schedule the same as producing gas wells.
 - (3) Wells permanently shut down but on which plugging operations are deferred, shall be dropped from overhead schedule at the time the shut-down is effected. When such wells are plugged, overhead shall be charged at the producing well rate during the time required for the plugging operation.
 - (4) Various wells may be shut down temporarily and later replaced on production. If and when a well is shut down (other than for proration) and not produced or worked upon for a period of a full calendar month, it shall not be included in the overhead schedule for such month.
 - (5) Salt water disposal wells shall not be included in overhead schedule.
- F. The above overhead schedule on producing wells shall be applied to individual leases; provided that, whenever leases covered by this agreement are operated as a unitized project in the interest of economic development, the schedule shall be applied to the total number of wells, irrespective of individual leases.
- G. The above specific overhead rates may be amended from time to time by agreement between Operator and Non-Operator if, in practice, they are found to be insufficient or excessive.

13. WAREHOUSE HANDLING CHARGES

A warehouse handling charge not to exceed eight per cent (8%) of cost of materials. This charge shall apply only to materials issued from Operator's warehouses and/or storerooms.

14. OTHER EXPENDITURES

Any other expenditure incurred by Operator for the necessary and proper development, maintenance, and operation of the joint property.

III. BASIS OF CHARGES TO JOINT ACCOUNT

1. PURCHASES

Material and equipment purchased and service procured shall be charged at price paid by Operator, after deduction of all discounts actually received.

2. MATERIAL FURNISHED BY OPERATOR

Material required for operations shall be purchased for direct charge to joint account whenever practicable, except that Operator may furnish such material from Operator's stocks under the following conditions:

A. New Material

- (1) New material transferred from Operator's warehouse shall be priced f.o.b. the issuing warehouse. This will include material such as tanks, rigs, pumps, sucker rods, boilers, engines and tubular goods.
- (2) Material transferred from other properties of the Operator shall be priced at original cost as recorded on books of the Operator.

B. Used Material

- (1) Material which is in sound and serviceable condition and is suitable for reuse without reconditioning shall be priced as under A(2) above.
- (2) Material which after reconditioning will be in sound and serviceable condition and suitable for reuse shall be priced at original cost of such material as recorded on books of the Operator but shall not include any cost of reconditioning.
- (3) Tanks, derricks, buildings, and other equipment involving erection costs shall be charged at original cost as recorded on books of Operator but shall not include erection costs not applicable to joint account.

3. WARRANTY OF MATERIAL FURNISHED BY OPERATOR

Operator does not warrant the material furnished beyond or back of the dealer's or manufacturer's guaranty; and, in case of defective material, credit shall not be passed until adjustment has been received by Operator from the manufacturers or their agents.

4. OPERATOR'S EXCLUSIVELY OWNED FACILITIES

The following rates shall apply to service rendered to the joint account by facilities owned exclusively by Operator:

- A. Water service, fuel gas, power, and compressor service: At rates commensurate with cost of providing and furnishing such service to the joint account as recorded on books of Operator.
- B. Automotive Equipment: Rates commensurate with cost of ownership and operation. Such rates should generally be in line with schedule of rates adopted by the Petroleum Motor Transport Association, or some other recognized organization, as recommended uniform charges against joint account operations and revised from time to time. Automotive rates shall include cost of oil, gas, repairs, insurance, and other operating expense and depreciation; and charges shall be based on use in actual service on, or in connection with, the joint account operations.
- C. A fair rate shall be charged for the use of drilling and cleaning-out tools and any other items of Operator's fully owned machinery or equipment which shall be ample to cover maintenance, repairs, depreciation, and the service furnished the joint property; provided that such charges shall not exceed those currently prevailing in the field where the joint property is located.
- D. Whenever requested, Operator shall inform Non-Operator in advance of the rates it proposes to charge.
- E. Rates shall be revised and adjusted from time to time when found to be either excessive or insufficient.

IV. DISPOSAL OF LEASE EQUIPMENT AND MATERIAL

The Operator shall be under no obligation to purchase interest of Non-Operator in surplus new or secondhand material. Derricks, tanks, buildings, and other major items shall not be removed by Operator from the joint property without the approval of Non-Operator. Operator shall not sell major items of material

to an outside party without giving Non-Operator an opportunity either to purchase same at the price offered or to take Non-Operator's share in kind.

1. MATERIAL PURCHASED BY OPERATOR

Material purchased by Operator shall be credited to the joint account and included in the monthly statement of operations for the month in which the material is removed from the joint property.

2. MATERIAL PURCHASED BY NON-OPERATOR

Material purchased by Non-Operator shall be invoiced by Operator and paid for by Non-Operator to Operator immediately following receipt of invoice. The Operator shall pass credit to the joint account and include the same in the monthly statement of operations.

3. DIVISION IN KIND

Division of material in kind, if made between Operator and Non-Operator, shall be in proportion to their respective interests in such material. Each party will thereupon be charged individually with the value of the material received or receivable by each party and corresponding credits will be made by the Operator to the joint account, and such credits shall appear in the monthly statement of operations.

4. SALES TO OUTSIDERS

Sales to outsiders of material from the joint property shall be credited by Operator to the joint account at the net amount collected by Operator from Vendee. Any claims by Vendee for defective material or otherwise shall be charged back to the joint account, if and when paid by Operator.

V. BASIS OF PRICING MATERIAL TRANSFERRED FROM JOINT ACCOUNT

Material purchased by either Operator or Non-Operator or divided in kind, unless otherwise agreed, shall be valued on the following basis:

1. NEW PRICE DEFINED

New price as used in the following paragraphs shall have the same meaning and application as that used above in Section III, "Basis of Charges to Joint Account."

2. NEW MATERIAL

New material, being new material procured for the joint account but never used thereon, at original cost as recorded on books of Operator.

3. GOOD USED MATERIAL

Good used material, being used material in sound and serviceable condition, suitable for reuse without reconditioning, at original cost as recorded on books of Operator.

4. OTHER USED MATERIAL

Used material, being used material which after reconditioning will be serviceable for original function, at original cost as recorded on books of Operator. Any costs incurred in restoring material to serviceable condition shall be charged to the joint account.

5. JUNK

Junk, being obsolete and scrap material, shall carry no value.

6. TEMPORARILY USED MATERIAL

When the use of material is of a temporary nature and its service to the joint account does not justify the charge to joint account as provided in Paragraph 4 above, such material shall be priced at original cost as recorded on books of Operator.

VI. INVENTORIES

1. PERIODIC INVENTORIES

Periodic inventories shall be taken by Operator of the joint account material, which shall include all such material as is ordinarily considered controllable by operators of oil and gas properties.

2. NOTICE

Notice of intention to take inventory shall be given by Operator at least ten days before any inventory is to begin, so that Non-Operator may be represented when any inventory is taken.

3. FAILURE TO BE REPRESENTED

Failure of Non-Operator to be represented at the physical inventory shall bind Non-Operator to accept the inventory taken by Operator, who shall in that event furnish Non-Operator with a copy thereof.

4. RECONCILIATION OF INVENTORY

Reconciliation of inventory with charges to the joint account shall be made by each party at interest, and a list of overages and shortages shall be jointly determined by Operator and Non-Operator.

5. ADJUSTMENT OF INVENTORY

Inventory adjustments shall be made by Operator with the joint account for overages and shortages, but Operator shall only be held accountable to Non-Operator for shortages due to lack of reasonable diligence.

6. SPECIAL INVENTORIES

Special inventories may be taken, at the expense of the purchaser, wherever there is any sale or change of interest in the joint property, and it shall be the duty of the party selling to notify all other parties hereto as quickly as possible after the transfer of interest takes place. In such cases both the seller and the purchaser shall be represented and shall be governed by the inventory so taken.