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May 12, 1999

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\*NOT LICENSED IN NEW MEXICO

IN RE: LIMITED OPINION OF TITLE TO:

State of New Mexico Oil and Gas Lease E-9659,  
insofar as it covers the following land located  
in Lea County, New Mexico:

Township 21 South, Range 34 East, N.M.P.M.  
Section 34: S $\frac{1}{2}$

for all depths from the surface down to the top of the  
Silurian formation, containing 320 acres, more or less.

Llano 34 State No. 1 Well

No. 30,259

BEFORE THE OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
Case No. 12622 Exhibit No. 12  
Submitted by:  
NEARBURG EXPLORATION COMPANY, L.L.C.  
Special Commission Hearing: September 10,  
2002

Roca Resources Company, Inc.  
Post Office Box 1981  
Midland, Texas 79702-1981

Gentlemen:

In connection with the title to the oil and gas mineral estate of the captioned land and oil and gas lease covering the same, we have examined the materials and instruments listed on Exhibit "A".

Based solely upon such examination, we now report the status of title to the oil and gas mineral estate of the captioned lands, and to the oil and gas lease covering the same, limited to the interests of Redrock Operating Ltd., Co., as of May 3, 1999, at 8:00 a.m. as to the State records, and as of April 12, 1999, at 7:00 a.m. as to the County records, as follows:

**I. TITLE TO OIL AND GAS IN AND UNDER THE CAPTIONED LANDS, SUBJECT TO STATE OF NEW MEXICO OIL AND GAS LEASE E-9659 (or Title to 12.5% Royalty):**

State of New Mexico ..... All

POST OFFICE BOX 3580  
MIDLAND, TEXAS 79702  
(915) 683-4691  
FAX (915) 683-6518

POST OFFICE BOX 9238  
AMARILLO, TEXAS 79105  
(806) 372-5569  
FAX (806) 372-9761

POST OFFICE BOX 2068  
SANTA FE, NEW MEXICO 87504  
(505) 982-4554  
FAX (505) 982-8623

POST OFFICE BOX 2043  
ALBUQUERQUE, NEW MEXICO 87103  
(505) 768-1500  
FAX (505) 768-1529

1801 LAVACA, SUITE 115-B  
AUSTIN, TEXAS 78701  
(512) 476-7137  
FAX (512) 457-0507

**II. RECORD TITLE TO LEASE K-9659:**

Not Reported as it is held by a third party, apparently Chevron U.S.A. Inc.

**III. TITLE TO OPERATING RIGHTS IN LEASE E-9659 AND TITLE TO OIL AND GAS PRODUCED, LIMITED TO THE INTERESTS OF REDROCK OPERATING LTD., CO. IN THE CAPTIONED LAND AND DEPTHS\*:**

	<u>Operating Rights</u>	<u>Net Interest in Production</u>
Redrock Operating Ltd., Co.	100%	.8750000 WI

\* With respect to the SW¼, Redrock does not own any interest in the Morrow formation in the depths from 12,722 feet to 13,208 feet subsurface as determined in the Gamma Ray Log in the Shell State GRA No. 1 Well as Llano, NMESCO, and Minerals never conveyed these depths to Hadson. This is the gas storage interval. See Section IV, paragraph 2 (b).

**Comment:** We are not calculating the Operating Interests and Net Interests in Production in the Grama Ridge - Morrow Unit. The storage unit may be contracted, although the contraction does not appear of record. The Tract Participation Factors in the Gas Storage Agreement are inaccurate if the Unit has been contracted. See Exception to Title No. 7 below.

**IV. OIL AND GAS LEASE - RENTALS AND ROYALTIES - ASSIGNMENTS - OVERRIDING ROYALTY INTEREST - GAS STORAGE AGREEMENT:**

**1. Oil and Gas Lease - Rentals and Royalties:** The principal features of Lease E-9659 are as follows:

Form:	45 (Amended to conform to 1957 law which makes the lease a "commence" form lease).
Original Lessee:	Gulf Oil Corporation
Date:	December 20, 1955
Lands:	S½ Section 34, T21S, R34E
Royalty:	12.5%
Rentals:	Rentals in the amount of \$640 per year (50¢ per acre) have been paid through December 19, 1999.

**Comment:** Rentals on State of New Mexico oil and gas leases are payable throughout the life of the leases regardless of their producing status. See paragraph 3 of this Section IV below regarding two adjacent leases canceled by the Commissioner for failure to pay annual rentals.

**REQUIREMENT A:** Satisfy yourself that Lease E-9659 has been maintained in full force and effect to the current date and that the lease is currently in good standing.

2. **Assignments - Overriding Royalty Interests:** The materials examined reflect that previously the operating rights in the captioned leases insofar as they cover the captioned lands and depths were owned 2/3 by NMESCO Fuels, Inc. and 1/3 by Llano, Inc. We will limit our analysis to those assignments filed of record after the operating rights were acquired by Llano, Inc. and NMESCO Fuels, Inc. in the above stated proportions.

(a) **Llano & NMESCO - Minerals:** By Assignment of Operating Rights dated October 25, 1979, recorded on January 4, 1980 in Book 365, page 486, Llano, Inc. and NMESCO Fuels, Inc. assigned 100% of the operating rights in State Leases E-9659, embracing SE $\frac{1}{4}$  Section 34, and K-3592, embracing NE $\frac{1}{4}$  Section 34, for all depths from the surface down to 13,380 feet subsurface, to Minerals, Inc. This assignment reserves to assignors a 6.25% overriding royalty interest with a 30 day option to convert the same to a 25% leasehold interest after payout. In this connection, the materials examined reflect an Assignment of Operating Rights dated December 8, 1980, but effective November 1, 1980, recorded on December 15, 1980 in Book 382, page 87, wherein Minerals, Inc. reassigned to NMESCO Fuels, Inc. (2/3) and Llano, Inc. (1/3) an undivided 25% leasehold interest in said state leases embracing said lands and depth. This instrument specifies that the overriding royalty interest terminated. The October 25, 1979 Assignment of Operating Rights in favor of Minerals, Inc. also reserves to Llano and NMESCO a 30-day reassignment privilege and the right to purchase oil and gas produced. We also note for your information that by Communitization Agreement dated May 1, 1979, recorded on June 26, 1979 in Book 360, page 259, and approved by the Commissioner of Public Lands, the E $\frac{1}{2}$  Section 34, was communitized as to gas and associated liquid hydrocarbons producible from the Morrow formation, but terminated March 31, 1991.

(b) **NMESCO, Minerals, Llano - Hadson:** By Assignment of Operating Rights dated June 30, 1987, recorded in Miscellaneous Records Book 485, page 437, NMESCO Fuels, Inc., Minerals, Inc., and Llano, Inc. assigned all their right, title and interest in the operating rights in and to the N $\frac{1}{2}$  and S $\frac{1}{2}$  Section 34, Township 21 South, Range 34 East, and the N $\frac{1}{2}$  Section 3, Township 22 South, Range 34 East, which are held by assignors under State of New Mexico Oil and Gas Leases E-9141, E-9659, and K-3592. The assignors excepted all right, title and interest in and to the Morrow formation between the depths of 12,722 feet and 13,208 feet as determined in the Gamma Ray Log in the Shell State GRA No. 1 Well. This assignment contains a reassignment provision and is subject to a Farmout Agreement dated May 1, 1979, between Minerals, Llano, and NMESCO. Thereafter, by Assignment of Operating Rights dated March 1, 1988, but effective June 30, 1997, recorded in Miscellaneous Records Book 495, page 108, NMESCO Fuels, Inc., Minerals, Inc., and Llano, Inc., conveyed all their remaining right, title, and interest in the above described leases insofar as they cover the E $\frac{1}{2}$  Section 34 and the NE $\frac{1}{4}$  Section 3 to Hadson Petroleum (USA), Inc. specifically conveying all their interest in such lands in the Morrow formation for the depths from 12,722 feet down to 13,208 feet. (They did not convey these depths in the SW $\frac{1}{4}$  as these are

new  
land  
added

the depths of the Morrow gas storage reservoir. While we doubt that Redrock intended to acquire the storage interval in the SW $\frac{1}{4}$  and that you do not desire to acquire such interval, we have a requirement on point below. This assignment also contains a reassignment provision.

**REQUIREMENT B:** Submit for our examination a copy of the farmout agreement referenced above and we reserve further requirement. In the alternative, satisfy yourself that the farmout agreement is either no longer effective or does not contain any terms and provisions that are adverse to the interests reported herein.

**REQUIREMENT C:** Determine whether the depths from 12,722 feet to 13,208 feet as determined in the Gamma Ray Log in the Shell State GRA No. 1 Well in the Morrow formation in the SW $\frac{1}{4}$  will adversely affect your proposed operations. (These are the depths of the Morrow gas storage reservoir, which explains why they were never conveyed to Hadson.) However, if you intend to acquire such depths, Redrock must secure a quitclaim from NMESCO Fuels, Inc., Minerals, Inc., and Llano, Inc. as to these depths prior to your acquisition or you must arrange to secure a conveyance from these parties directly. *new Redrock*

(c) **Hadson - Hadson Energy:** A Certificate of the Secretary of State for the State of Delaware dated March 10, 1993, recorded in Miscellaneous Records Book 568, page 520, reflects that Hadson Petroleum (USA), Inc. merged into Hadson Energy Resources Corporation on December 21, 1992.

(d) **Hadson Energy - Apache Energy:** By Certificate dated December 22, 1994, recorded in Miscellaneous Records Book 598, page 636, Hadson Energy Resources Corporation changed its name to Apache Energy Resources Corporation effective January 1, 1995.

(e) **Apache Energy - Apache:** In connection with our title opinion on the Government A No. 1 and 2 Wells (HCECH T/O 30,258), we reviewed a decision of the Bureau of Land Management dated October 14, 1998, evidencing that Apache Energy Resources Corporation merged into Apache Corporation effective December 21, 1995. Evidence of this merger does not appear in the County Records and in this regard we refer you to Exception to Title No. 2 below.

(f) **Apache - Redrock:** By Assignment and Bill of Sale dated effective March 1, 1998, recorded in Lea County Records Book 863, page 504, Apache Corporation conveyed to Redrock Operating Ltd., Co., all its interest in Lease E-9659 covering the S $\frac{1}{2}$  Section 34 for all depths from the surface down to the top of the Silurian formation. This assignment was made without warranty covenants.

3. **Gas Storage Agreement:** The captioned lands are embraced in the Unit Agreement for Operation of the Grama Ridge - Morrow Unit Area, dated April 25, 1973, and approved by the Commissioner of Public Lands on August 27, 1973, as amended by Amendment to Unit Agreement dated September 1, 1976, and approved by the Commissioner of Public Lands on January 26, 1977. Floyd Prando with the State Land Office advised us in August, 1988 that the Gas Storage Agreement was renewed September 1, 1986, and is extended to September 1, 1991. The unit files indicate the unit has been further extended and renewed as the BLM records reflect a letter dated March 30, 1998, reflecting that new injection and withdrawal rates shall be in effect for the period from

November 1, 1995, to October 31, 2005. The materials examined further reflect that LG&E Natural Pipeline Company is filing the most recent Plans of Operations and may be the present operator of the gas storage unit. (The materials do not reflect any conveyances or formal appointment of operator documents evidencing that LG&E is the successor operator to Llano, Inc. the original operator.) The record owners of the leases committed to the unit, executed both the Agreement and the amendment thereto.

The Unit Agreement is for secondary recovery and gas storage purposes, and the unitized interval is from 12,722 feet to 13,208 feet, as shown on the Schlumberger Sonic Log Gamma Ray Log of the Shell Oil Company State GRA Well No. 1 located 1980 feet FNL and 660 FWL Section 3 of the unit area. Llano, Inc. was designated as unit operator, and as noted above, LG&E may now be the current operator. Among other things, the unit operator is required to file a plan of operations concurrently with the filing of the Unit Agreement for final approval (which has been done) and thereafter, from time to time, to submit additional plans embracing an additional specified period of operation. You should satisfy yourself that such plans of operation have been timely filed and that the operator has complied with the same with reasonable diligence. In the event of breach of any approved plan of operation, the agreement may be terminated by the Commissioner, upon notice to unit operator and lessees of record in the manner prescribed by Section 19-10-20 N.M.S.A. (1978), which requires notice of intention to cancel and 30 days within which to correct such breach. Exhibit "B" attached to the Amendment to Unit Agreement reflects the existing tract participation for the lands committed to the unit. The tracts and unit participation are described as follows:

<u>Tract Description</u>	<u>Lease No.</u>	<u>Percentage of Participation</u>
S½ Section 3, T22S-R33E (320 acres)	B-158-3	16.60475%
N½ Section 3, T22S-R33E (327.16 acres)	E-9141	16.97627%
S½ Section 34, T21S-R34E (320 acres)	E-9659	16.60475%
N½ Section 34, T21S-R34E (320 acres)	K-3592-1*	16.60475%
S½NW¼, N½NW¼, SE¼NE¼ Section 33, T21S-R34E (600 acres)	E-7574-1*	31.13389%
SW¼NE¼ Section 33, T21S-R34E (40 acres)	N/A (Fee Lease)	<u>2.07559%</u> 100.00000%

\* Leases canceled by the Commissioner of Public Lands.

The material examined reflects that Leases K-3592-3 and E-7574-3 have been canceled by the Commissioner for failure to pay annual rentals thereon. By Notice dated January 13, 1999, addressed to Apache Resources Corp. Lease K-03592-3 is canceled for nonpayment of rentals effective January 13, 1999. Lease K-3592-3 covered the N½ Section 34. By Notice dated March 4, 1999, addressed to Kaiser-Francis Oil Company Lease E-7574-3 is canceled for nonpayment of rentals. Lease E-7574-3 apparently covered all or a portion of Section 33 of the captioned township and range. A letter from Kaiser-Francis to the Commissioner dated February 8, 1999, reflects it

declined to make further rental payments and that it "contacted LG&E, who has a gas storage unit on the property, but have received no response to date." (We have not analyzed the effect of the cancellations upon unit operations. If this matter is important to you, please resubmit the matter for our full review and consideration.)

Section 11 of the Unit Agreement, as amended, provides for certain storage, injection and withdrawal fees. Section 22 of the Unit Agreement, as amended, provides that the injection and withdrawal fees provided in Section 11 shall be effective for a period of five years from September 1, 1976, the effective date of the amendment, and shall be renegotiated every five years thereafter. As noted above, it appears the unit may have been extended to October 31, 2005. Failure by the parties to renegotiate new fees 60 days prior to the expiration of the fourth year of any five year period shall cause the agreement to terminate upon expiration of not more than three years from the preceding five year period. The Unit Agreement, as amended, is to remain in effect so long as unitized substances are being produced from or stored within the unitized formation; however, the agreement may be terminated at any time by not less than 75% on an acreage basis of the owners of the working interest committed to the Unit.

The foregoing is only intended as a very brief discussion of some of the more pertinent terms of the Unit Agreement and Amendment thereto. If you have not already done so, you should examine copies of the Unit Agreement, the amendment thereto and the Letter Agreement dated July 28, 1980, and satisfy yourself as to all the terms and provisions thereof, and compliance with the same by the operator and working interest owners.

Our prior opinion noted the existence of four producing wells located within the boundaries of the federal (Sections 4 and 10, T22S, R34E) and state (the captioned lands) storage unit areas, which apparently are not in communication with the state and federal gas storage units. We do not know the current status of these wells. Mr. Clifton R. Reed, who worked for Llano, Inc., in its Hobbs office, previously furnished us with certain information in August, 1988, including bottom hole pressure tests, which he believed clearly indicated that the storage wells in the state and federal gas storage units are not in communication with the four actively producing wells also within the unit boundaries. This information reflected that the storage wells on or about August 13, 1987, had a pressure of approximately 1978 psig and the producing wells have pressures of 1200 or more psig above that level. Also in this connection, Mr. Reed furnished Order No. R-5995, entered by the New Mexico Oil Conservation Division, Case No. 6496, on May 10, 1979, wherein the Division (which is the New Mexico Conservation Authority) contracted the horizontal limits of the Grama Ridge - Morrow Gas Pool to E½ Section 33, W½ Section 34, Township 21 South, Range 34 East, N.M.P.M. and W½ Section 3, All Section 4, and W½ Section 10, Township 22 South, Range 34 East, N.M.P.M., from the previously existing horizontal boundaries of All Sections 33 and 34, Township 21 South, Range 34 East, N.M.P.M. and All Sections 3, 4 and 10, Township 22 South, Range 34 East, N.M.P.M. The Order was obtained at about the time Minerals, Inc. was promoting the drilling of its No. 1 Llano "3" State Com Well in the E½ Section 3. This Order is evidence that geologic data was presented to the Division sufficient to prove that the Morrow storage formation in fact did not extend onto the E½ of the unit lands (being the E½ Section 34, E½ Section 3, E½ Section 10) because of the existence of "an upthrust fault block bounded on ... the east and a north-south trending fault." The Order is probably not binding on the Commissioner of Public Lands with respect to the state storage unit, and is certainly not binding on the Bureau of Land Management

with respect to the federal storage unit. However, it probably could be used as persuasive evidence that those portions of the storage formations in the E½ of the unit are not in communication with the remaining unit lands, and therefore would be good evidence in the event a contraction of the units was sought.

The State Unit Agreement reflects that it is both for storage and secondary recovery purposes, and in fact assigns tract participations with respect to the unitized Morrow formation. Because of the way the State Agreement is structured, the Commissioner of Public Lands could conceivably claim a violation of the agreement and seek to terminate the same if non-storage wells are completed in the storage formation. However, the agreement does provide a 30 day cure provision and in that event, Redrock could prove that there is not any communication between the storage wells in the W½ of Section 34, Township 21 South, Range 34 East, and W½ Section 3, Township 22 South, Range 34 East, and the producing wells in the E½ of said sections, the state unit could always be contracted in the event the Commissioner gives notice of termination. The plans of operation with respect to the state unit from July 1978 to December 1998 do not reflect that the Commissioner has ever given notice that non-storage wells were drilled on portions of the unit premises in the E½ of Section 34 and the E½ of Section 3. While the necessary filings were made with the Oil Conservation Division, it is doubtful that its knowledge could be imputed to the Commissioner. However, the fact that the wells were drilled many years ago would support an argument for contraction of the unit in the event the Commissioner should assert a default under the unit agreement and attempt to terminate the same.

Based on the foregoing, it is our conclusion that you are reasonably safe in permitting the operating rights in the 320 acre proration units for the existing producing wells vested in Redrock Operating Ltd., Co. (You will not be in a position to conduct operations in the storage interval in the SW¼ Section 34 as Redrock owns no interest therein. We refer you to Exception to Title No. 7 and the discussion preceding Requirement C below for a limitation on Redrock's interests in the SW¼.) As noted above, the New Mexico Oil Conservation Division has in effect already made the determination that the storage unit does not geologically include the lands upon which the producing wells are located, with the possible exception of the No. 1A Government Well in the W½ Section 10, Township 22 South, Range 34 East, N.M.P.M. *new lang added* ★

In connection with our prior examination we submitted on August 11, 1988, a certificate to be executed by Llano, Inc., NMESCO Fuels, Inc., Minerals, Inc., and Hadson Petroleum (USA), Inc. regarding the producing wells within the official storage unit boundaries. In this regard we have the following requirement.

**REQUIREMENT D:** If it has not already been done, the certificate which we previously submitted to Llano, Inc. on August 11, 1988, regarding the lack of communication between the active producing wells and the gas storage wells should be executed by appropriate officers of Llano, Inc., NMESCO Fuels, Inc. or their respective successors. In addition, you should review all pressure data and carefully determine that there is no communication between the storage wells and the actively producing wells. Finally, you should satisfy yourself that the Unit Operator is in full compliance with the terms of the Storage Unit Agreement and that the same is in full force and effect.

**REQUIREMENT E:** Determine the effect, if any, of the cancellation of Leases K-3592-3 and E-7574-3 upon your proposed operations. We note that if you are contemplating a 320 acre communitized spacing unit being the E½ or W½ of the Section, the cancellation of Lease K-3592-3 will delay your proposed operations until the State Land Office has reissued a lease covering the N½.

**COMMENT:** It appears that many of the producing wells in this area are no longer producing. If this is the case and there are no producing wells on the captioned lease, then the terms of the Unit Agreement may be the only thing holding the captioned lease and preventing it from terminating. If this is the case, please make sure that you do not allow a missed rental payment to cause the Commissioner of Public Lands to cancel the captioned lease as has occurred with respect to adjoining leases. The Ongard Well Completion data dated May 4, 1999, reflects that the Llano 34 State Com Well located 1,650 feet FSL and 660 feet FEL produced in the months of March and September, 1998, but no other months. We refer you to Requirement A above regarding your satisfying yourself that this lease has been maintained by production or other matters down to a current date.

**V. EXCEPTIONS TO TITLE AND REMARKS:**

1. **Possible Adverse Claim:** Stephen L. Collins executed a Mortgage to New Mexico Bank & Trust Company dated May 14, 1980, recorded on June 17, 1980 in Book 377, page 518, mortgaging his oil and gas leasehold estate committed to the Llano 34 State Comm. No. 1 Well in Section 34, Township 22 South, Range 34 East. In this Mortgage, Mortgagor warranted a .0187234 working interest and a .0152 net revenue interest. The Mortgage secures a promissory note in the principal amount of \$35,000.00. The Mortgage has not been released of record. This Mortgagor owns no leasehold interest of record in Section 34, and this Mortgage has the effect of clouding title to the operating rights owned by Redrock Operating Ltd., Co.

**REQUIREMENT F:** Satisfy yourself, through inquiry of Redrock Operating Ltd., Co. that its predecessor's in title did not assign any operating rights to Stephen L. Collins in Section 34, since date of Llano's, NMESCO's and Hadson's acquisition of operating rights in Section 34. If possible, an affidavit to this effect should be obtained and recorded in the Lea County records. We reserve possible further requirement pending conclusion of your investigation.

2. **Unrecorded Assignment:** The corporate merger from Apache Energy Resources Corporation into Apache Corporation as noted in Section IV, paragraph 2 (e) above is not recorded in the county records. In this regard we have the following requirement.

**REQUIREMENT G:** A Certificate reflecting the merger of Apache Energy Resources Corporation into Apache Corporation should be recorded in the office of the County Clerk in and for Lea County, New Mexico.

3. **Possible Gas Dedication:** This opinion does not cover the question of possible dedication of natural gas deposits under prior contract subject to the jurisdiction of governmental regulatory agencies. Such dedication may survive the expiration of oil and gas leases owned by the party making the dedication. In this connection the oil and gas leases embracing the captioned land



are subject to certain gas purchase contracts in favor of Phillips Petroleum Company, dated June 11, 1964 and December 2, 1965. These gas contracts are briefly analyzed in our prior opinions to Llano, Inc. which were examined in connection with our original limited opinion of title herein. In addition, the materials examined reflect that Llano, Inc., successor in interest to Shell Oil Company, amended the December 2, 1965, Phillips Petroleum Company contract by Contract Amendment dated June 1, 1979, recorded on November 14, 1979 in Book 364, page 305.

4. **Reassignment Obligations:** The assignments analyzed in Section IV, paragraphs 2 (a) and (b) above contain reassignment obligations that should be noted in your lease file. This is advisory.

5. **Typographical Error in Mortgage Release:** Bank of America executed a Release of Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement dated October 15, 1992, recorded in Mortgage Records Book 592, page 337, releasing various mortgage instruments by Hadson Corporation. Two of the instruments referenced in the release contain errors. The first refers to a mortgage recorded in Book 521, page 406, but the correct page is 348. The second is a mortgage recorded in Book 522, page 109, but the correct Book is 552. Since the mortgage lien is completely released as to the captioned land, we make no requirement although we suggest that you secure a release which correctly references all of the mortgage instruments.

6. **Surface:** The surface estate of S½S½ Section 34, Township 21 South, Range 34 East, was owned of record by The Merchant Livestock Company. The surface estate of the balance of the land described in the caption hereof is owned of record by the State of New Mexico, but the same is subject to state grazing lease GT-2533 held by The Merchant Livestock Company, expiring October 1, 2003, and a business lease BL-978 held by GPM Gas Corp, expiring September 25, 1999. The materials under examination also reflect a number of surface rights-of-way crossing portions of the captioned land. Unless requested, we will not list rights of way. This is advisory.

7. **Proposed Production from the Unitized Formation:** The Unit Agreement for the operation of the Grama Ridge Morrow Unit Area dated April 25, 1973, reflects that the unitized formation is the Morrow sands lying between the depths of 12,722 feet and 13,208 feet as shown on the Schlumberger Sonic Log Gamma Ray Log of the Shell Oil Company State GRA Well No. 1 located 1980 feet FNL and 660 feet FWL Section 3 of the Unit Area. Unitized substances are defined as the oil, gas, gasoline and associated fluid hydrocarbons in the unitized formation and the unit area covers all of Section 34. Apparently the captioned well was drilled and completed within this interval, but was not deemed to be producing from the storage reservoir and that the Morrow Storage formation did not extend into the E½ of Section 34. As a result, it appears that Redrock's predecessors in title operated the captioned well without regard to the Unit Agreement. The materials examined do not reflect any separate agreement under which the parties operated this well and its effect on the unit. While this may have been a satisfactory method of conducting business when the unit and the well were each operated by the same or related entities, it becomes more complicated when separate entities operate the well and the gas storage unit. It would be in your best interest, if it has not already been obtained, to secure an agreement with the Gas Storage Unit operator with respect to how the captioned well will be treated and considered, if at all, for unit purposes. It is quite possible that Redrock has already obtained such an agreement in the conduct of its operations on the captioned well, and you should inquire of the existence of such an agreement.

if it does not have an agreement, you should give some attention and thought as to the terms and

provisions that should be included within an agreement concerning your proposed operations within this "unit area." It would behoove both the unit operator and you to have an agreement in place, particularly if you intend to stimulate production from the unitized formation. In this regard we have the following requirement.

**REQUIREMENT H:** Inquire of Redrock whether it has an agreement with the unit operator concerning operations of the captioned well viz a viz the unit. If such an agreement exists, submit it for our examination and we reserve possible further requirement. If the agreement does not exist, you should secure such an agreement prior to your conduct of any operations on the captioned well insofar as it pertains to the unitized formation. Thereafter, you should conduct your operations accordingly.

8. **Limitation of Opinion:** In addition, our opinion is further limited as follows:

(a) **Unsubmitted Agreements:** This opinion does not deal with any matters not revealed by the materials examined, such as unsubmitted agreements, or spacing and proration unit orders.

(b) **Surface - Rights of Way:** This opinion does not cover such matters as area, boundaries, location on the ground, rights of way or other matters which can be determined only from an actual ground survey.

(c) **Securities and Environmental Laws:** This opinion does not deal with any question of state or federal securities or environmental laws or the possible affect thereon on title to the captioned leases and lands or interest assigned therein, or liability imposed thereby. This includes the interest you acquired by virtue of the above described mortgage.

(d) **Physical Examination:** As noted above, our prior opinion was based in part upon a physical examination of the records of Lea County, New Mexico, as reflected by entries in the Tract Book Records and Miscellaneous Indices of Elliott & Waldron Title & Abstract Company, Inc. in Lovington, New Mexico, and of the records of the Commissioner of Public Lands for the State of New Mexico in Santa Fe, New Mexico. All liability for errors and omissions must be limited to those instruments actually examined by us. We have not reviewed the records of the Secretary of State for the State of New Mexico for any financing statements or other instruments affecting the interest of the parties reported in this opinion.

(e) **Four Corners Doctrine:** The New Mexico Supreme Court has repealed the "Four Corners" Doctrine in New Mexico. It has declared that parties to documents affecting title to real property which are otherwise unambiguous on their face may nevertheless introduce unrecorded and unREFERRED to instruments and oral testimony as evidence to prove that the title document accomplishes a result other than that suggested by a plain reading of the title document and any documents expressly referenced therein. The Supreme Court cases have not directly dealt with the fact situation involving a subsequent bona fide purchaser for value. This opinion does not deal with any ambiguity in a title document not apparent on its face, and the subsequent impact of such ambiguity on title to the affected interest.

provisions that should be included within an agreement concerning your proposed operations within this "unit area." It would behoove both the unit operator and you to have an agreement in place, particularly if you intend to stimulate production from the unitized formation. In this regard we have the following requirement.

**REQUIREMENT H:** Inquire of Redrock whether it has an agreement with the unit operator concerning operations of the captioned well viz a viz the unit. If such an agreement exists, submit it for our examination and we reserve possible further requirement. If the agreement does not exist, you should secure such an agreement prior to your conduct of any operations on the captioned well insofar as it pertains to the unitized formation. Thereafter, you should conduct your operations accordingly.

8. **Limitation of Opinion:** In addition, our opinion is further limited as follows:

(a) **Unsubmitted Agreements:** This opinion does not deal with any matters not revealed by the materials examined, such as unsubmitted agreements, or spacing and proration unit orders.

(b) **Surface - Rights of Way:** This opinion does not cover such matters as area, boundaries, location on the ground, rights of way or other matters which can be determined only from an actual ground survey.

(c) **Securities and Environmental Laws:** This opinion does not deal with any question of state or federal securities or environmental laws or the possible affect thereon on title to the captioned leases and lands or interest assigned therein, or liability imposed thereby. This includes the interest you acquired by virtue of the above described mortgage.

(d) **Physical Examination:** As noted above, our prior opinion was based in part upon a physical examination of the records of Lea County, New Mexico, as reflected by entries in the Tract Book Records and Miscellaneous Indices of Elliott & Waldron Title & Abstract Company, Inc. in Lovington, New Mexico, and of the records of the Commissioner of Public Lands for the State of New Mexico in Santa Fe, New Mexico. All liability for errors and omissions must be limited to those instruments actually examined by us. We have not reviewed the records of the Secretary of State for the State of New Mexico for any financing statements or other instruments affecting the interest of the parties reported in this opinion.

(e) **Four Corners Doctrine:** The New Mexico Supreme Court has repealed the "Four Corners" Doctrine in New Mexico. It has declared that parties to documents affecting title to real property which are otherwise unambiguous on their face may nevertheless introduce unrecorded and unREFERRED to instruments and oral testimony as evidence to prove that the title document accomplishes a result other than that suggested by a plain reading of the title document and any documents expressly referenced therein. The Supreme Court cases have not directly dealt with the fact situation involving a subsequent bona fide purchaser for value. This opinion does not deal with any ambiguity in a title document not apparent on its face, and the subsequent impact of such ambiguity on title to the affected interest.

(f) **Reliance:** Without our prior written consent, this opinion may be relied upon only by the addressee hereof.

9. **Taxes:** Under the current taxing practices of the New Mexico taxing authorities, severed minerals are not assessed for ad valorem tax purposes, therefore, no ad valorem taxes are due and payable under the current taxing practices. This is advisory.

Respectfully submitted,

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

  
Gregory J. Nibert

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.

## EXHIBIT "A"

(a) Limited Opinion of Title No. 26,644, dated August 16, 1988, and the Limited Cumulative Supplemental thereto dated December 28, 1988, addressed to Bank of America National Trust & Savings Association, which reported title to the lands and interests covered in this opinion based upon prior title opinions of this firm and supplemental physical searches of the State and County Records, collectively covering the time periods from inception of records down to December 15, 1988 at 9:00 a.m. as to the State Records and from inception of records down to December 12, 1988, at 8:00 a.m. as to the County Records.

(b) Federal Abstract Company Abstract of Title No. 49458 purporting to contain all instruments filed in the office of the Commissioner of Public Lands of New Mexico, pertaining to the State Lease and lands described in the caption hereof, which are located in the State Land Office at Santa Fe, New Mexico, for the time period from December 15, 1988 at 9:00 a.m. down to May 3, 1999 at 8:00 a.m.

(c) Elliott & Waldron Title & Abstract Company, Inc. abstract of title No. 99-196 purporting to contain all instruments in the offices of the County Clerk and of the District Court Clerk pertaining to the mineral estate only of the lands described in the caption hereof for the time period from December 12, 1988 at 7:00 a.m. down to April 12, 1999 at 7:00 a.m.

(d) The Unit files maintained by the Bureau of Land Management Roswell Field Office in Roswell, New Mexico with respect to the Unit Agreement for the Operation of the Grama Ridge Morrow Unit Area on May 5, 1999.