

HINKLE, COX, EATON, COFFIELD & HENSLEY DIVISION

ATTORNEYS AT LAW

RECEIVED

500 MARQUETTE N.W., SUITE 800

ALBUQUERQUE, NEW MEXICO 87502

(505) 768-1500

FAX (505) 768-1529

OF COUNSEL
O. M. CALHOUN*
MACK EASLEY
JOE W. WOOD
RICHARD S. MORRIS

CLARENCE E. HINKLE (1904-1985)
W. E. BONDURANT, JR. (1913-1973)
ROY C. SNODGRASS, JR. (1914-1987)

September 9, 1991

m.s.

700 UNITED BANK PLAZA

POST OFFICE BOX 10

ROSWELL, NEW MEXICO 88202

(505) 622-6510

FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING

POST OFFICE BOX 3580

MIDLAND, TEXAS 79702

(915) 683-4691

FAX (915) 683-6518

1700 TEAM BANK BUILDING

POST OFFICE BOX 9238

AMARILLO, TEXAS 79105

(806) 372-5569

FAX (806) 372-9761

218 MONTEZUMA

POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504

(505) 982-4554

FAX (505) 982-8623

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY, JR.
MARSHALL G. MARTIN
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
JOHN J. KELLY
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD R. WILFONG*
THOMAS J. MCBRIDE
STEVEN D. ARNOLD
JAMES J. WECHSLER
NANCY S. CUSACK
JEFFREY L. FORNACIARI
JEFFREY D. HEWETT
JAMES BRUCE
JERRY F. SHACKELFORD*
JEFFREY W. HELLBERG*
ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
GARY D. COMPTON*
MICHAEL A. GROSS

THOMAS D. HAINES, JR.
FRANKLIN H. MCCALLUM*
GREGORY J. NIBERT
DAVID T. MARKETTE*
MARK C. DOW
KAREN M. RICHARDSON*
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*
PATRICIA A. MORRIS
MACDONNELL GORDON
REBECCA NICHOLS JOHNSON
WILLIAM P. JOHNSON

STANLEY K. KOTOVSKY, JR.
BETTY H. LITTLE*
RUTH S. MUSGRAVE
HOWARD R. THOMAS
ELLEN S. CASEY
S. BARRY PAISNER
MARGARET CARTER LUDEWIG
MARTIN MEYERS
GREGORY S. WHEELER
ANDREW J. CLOUTIER
JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULSETH, JR.
LISA K. SMITH*
JAMES K. SCHUSTER*

*NOT LICENSED IN NEW MEXICO

Mr. Michael E. Stogner
New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

Re: Case Nos. 10,345 and 10,346

Dear Mr. Stogner:

As you requested, I checked with my client to verify the overhead rates in the above cases. The drilling rate is \$3,300.00 per month and the producing rate \$350.00 per month.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &
HENSLEY

By: James Bruce

JB:le
Enclosures

CERTIFIED MAIL

OIL CONSERVATION DIVISION
RECEIVED

'91 OCT 3 AM 8 50

September 30, 1991

5847 San Felipe Suite 3600
Houston, Texas 77057
Telephone: (713) 780-5000
FAX (713) 780-5273
Telex 9108813603



Mrs. Louise Y. Locke
c/o Mr. Don Locke
139 1/2 2nd
Rifle, Colorado 81650

Gallegos Canyon Unit Wells #390 and #391
Gallegos Canyon Unit
San Juan, Colorado

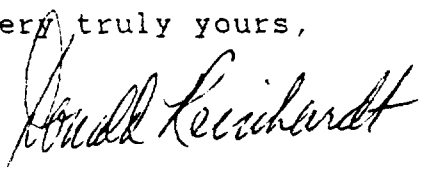
Dear Mrs. Locke:

The New Mexico Energy, Minerals and Natural Resources Department Oil Conservation Division in Order Nos. R-9581 (Case No. 10345) and R-9584 (Case No. 10346) effectively forced pooled all mineral interests underlying the W/2 Section 23 and the E/2 Section 23-T29N, R13W, respectively. The W/2 Section 23 is the approved gas spacing unit and proration unit for the Gallegos Canyon Unit #390 well. The E/2 Section 23 is the approved gas spacing unit and proration unit for the Gallegos Canyon Unit #391 well.

The orders provide in part that you, as an uncommitted working interest owner in each spacing and proration unit, shall have a period of thirty days from your receipt of this letter in which to pay to the operator (BHP), your share of the estimated well costs for each well in which you wish to participate as a working interest owner in lieu of paying your share of reasonable well costs (as defined in the order) out of production. Enclosed are two copies each of BHP's estimated well costs for each of the #390 and #391 wells. If you wish to participate as a working interest owner in either or both wells, please advise BHP of your election and provide BHP, within thirty days of your receipt of this letter, certified funds totaling \$66,065.00 for your 50% share of the costs associated with the #390 well and/or \$63,622.50 for your 50% share of the costs associated with the #391 well. Should you elect to participate in both wells, your 50% share of the estimated costs for both wells will be \$129,687.50.

Please advise if BHP can be of any additional assistance.

Very truly yours,


Donald Reinhardt
Senior Landman

Mrs. Louise Y. Locke
Page two
September 30, 1991

cc: State of New Mexico
Energy, Minerals and Natural Resources Department
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

Mr. Richard T. C. Tully
P. O. Box 268
Farmington, New Mexico 87499-0268

Mr. James Bruce
Hinkle, Cox, Eaton, Coffield & Hensley
500 Marquette N. W., Suite 800
Albuquerque, New Mexico 87102-2121

Mr. Jon Bowden - BHP

AUTHORITY FOR EXPENDITURE
Inland Business Unit
 (Drilling, Workovers, Recomp.'s, Etc.)

 Operator BHP PETROLEUM (AMERICAS) INC. AFE No. 910120

 Contract/Agreement No. _____ Land Lease No. _____ Budget Year 1991

Project must be commenced by: Date _____

| | | |
|--|---|---|
| Lease Name & Well No. Gallegos Canyon Unit No.390 | Prospect Name _____ Prospect No. _____ | Activity No. <u>NM003000390</u> Focal Area <u>FA106</u> |
| Field or Area Basin Fruitland Field | Location SE/SW Section 23 T29N - R13W | County and State San Juan, New Mexico |
| Type of AFE Drill, Complete, Equip | Development (X) Exploratory () AAPG Class: _____ Others _____ | Formation & Depth Fruitland Coal - ±1470' Well TD - 1640' |
| Last Well on Lease Yes () No () | Expected Production Gas - (X) Oil - () | |
| Project Description: (To Include Special Provisions and Remarks) Drill, complete, and equip a 1640 foot Fruitland Coal well at the referenced location. | | BHP Interest BPO W.I. <u>100.00</u> NRI <u>76.75</u> APO W.I. _____ NRI _____ |

ESTIMATED COSTS

| COMPANY | WORKING INTEREST OR ALLOCATION % | | DRILLING WELLS | | OTHER Total Cost |
|----------------------------|-------------------------------------|---------------|----------------|-----------|---------------------|
| | To Csg. Pt. | Aft. Csg. Pt. | Dry Hole | Producer | |
| BHP Petroleum | | 100 | 43,655 | 132,130 | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Total | | 100 | 43,655 | 132,130 | |
| Less: Contributions | | | (- 0 -) | (- 0 -) | () |
| Net Costs | | | 43,655 | 132,130 | |

 Prepared by Paul C. Bertoglio *PCB* Date May 14, 1990

 Recommended:
 Operations

| | | | | | | |
|------------------|---------------|-------|-----------|-------|------------|----------------|
| Date | Land | Date | Marketing | Date | Technology | Date |
| _____ | _____ | _____ | _____ | _____ | <i>RCM</i> | <u>5/29/90</u> |
| <i>Tom Blane</i> | <u>6-4-90</u> | _____ | _____ | _____ | _____ | _____ |

 Approved *JM Edgerton* 6/5/90
 Date



DETAILED COST ESTIMATE
DRILLING, RECOMPLETIONS AND WORKOVERS

Lease Name & Well No. Gallegos Canyon Unit No. 390

AFE No. 9101208

Location SE/SW Section 23 T29N - R13W

County and State San Juan, New Mexico

INTANGIBLE DRILLING COSTS

| <u>CODE 4527-20</u> | <u>Gross Cost</u> | <u>To Csq Pt.</u> |
|----------------------------------|-------------------|-------------------|
| 01 Rotary Footage | | |
| <u>1,640 ft. @ \$ 9.00</u> | | <u>\$ 14,760</u> |
| 02 Rotary Daywork | | |
| <u>2 days WDP @ \$ 4,000 day</u> | <u>8,000</u> | |
| <u> days WOPD @ \$ day</u> | | |
| 03 Drillsite Camp Expense | | |
| 05 Rotary Turnkey | | |
| 06 Drilling Deals (W.I.) | | |
| 07 Rental Tools/Equipment | | <u>1,500</u> |
| 08 Rig Move | | |
| 09 Inspection Services | | |
| 10 Trucking/Boats | | <u>2,000</u> |
| 11 Personnel Transportation | | |
| 12 Power/Fuel | | |
| 13 Drlg Mud & Additives | | <u>2,000</u> |
| 14 Drill Bits/Reamers | | |
| 16 Water | | <u>1,200</u> |
| 17 Mud Logging | | |
| 18 Open Hole Logs | | <u>4,000</u> |
| 20 DST's/Surveys | | |
| 22 Cement & Cementing | | <u>2,000</u> |
| 24 Cores | | |
| 29 Directional Drilling | | |
| 30 Engineering & Consulting | | |
| 31 Location Dirtwork/Cln Up | | <u>2,500</u> |
| 32 Geological | | |
| 34 Drlg Permits/Bonds | | |
| 35 Drlg Title Opinion | | |
| 36 Stake/Survey Location | | <u>500</u> |
| 37 Right of Way/Damages | | <u>2,000</u> |
| 38 Well Control Insurance | | |
| 40 Overhead - Drlg | | |
| 41 Material & Supplies | | |
| 42 Co. Labor/Supervision | | <u>1,200</u> |
| 43 Contract Labor | | |
| 44 Other Drilling Costs | | |
| Supplemental | | |
| Total TCP | <u>\$ 41,660</u> | |
| BHP Net | <u>\$ 41,660</u> | |

TANGIBLE DRILLING COSTS

| <u>CODE 4515-10</u> | <u>X-on</u> | <u>TCP</u> |
|---------------------------|------------------|---------------|
| | <u>Hand</u> | |
| 01 Installation Cost | | <u>\$ 250</u> |
| 06 Casinghead | | <u>500</u> |
| 07 Cond./Surface Csg | | |
| <u>120 ft 7" 23# K-55</u> | | |
| <u>@ \$ 10.37 ft</u> | | <u>1,245</u> |
| 10 Inter./Liner Csg | | |
| <u> ft</u> | | |
| <u>@ \$ ft</u> | | |
| <u> ft</u> | | |
| <u>@ \$ ft</u> | | |
| Supplemental | | |
| Total Tangible TCP | <u>\$ 1,995</u> | |
| BHP Net | <u>\$ 1,995</u> | |
| Total Drilling Cost TCP | <u>\$ 43,655</u> | |
| BHP Net Cost TCP | <u>\$ 43,655</u> | |

| <u>CODE 4527-30</u> | <u>Gross</u> | <u>Completion Costs</u> |
|------------------------------|------------------|-------------------------|
| 01 Completion Rig | | <u>\$ 7,500</u> |
| 03 Camp Expense | | |
| 04 Wireline Services | | |
| 07 Rental Tools/Equipment | | <u>1,000</u> |
| 09 Inspection Services | | |
| 10 Trucking/Boats | | <u>2,000</u> |
| 11 Personnel Transportation | | |
| 12 Power/Fuel | | |
| 14 Drill Bits/Reamers | | |
| 15 Completion Fluids | | |
| 16 Water | | <u>1,000</u> |
| 18 Cased Hole Logs | | |
| 19 Perforate | | <u>1,500</u> |
| 20 Well Surveys & Testing | | |
| 21 Acidize & Frac | | <u>17,500</u> |
| 22 Cement & Cementing | | <u>5,000</u> |
| 23 Squeeze Jobs | | |
| 30 Engr. & Consulting | | |
| 31 Location Dirtwork/Cln. Up | | <u>1,500</u> |
| 37 ROW/Damages | | |
| 40 Overhead - Completion | | |
| 41 Material & Supplies | | <u>2,000</u> |
| 42 Co. Labor/Supervision | | <u>1,500</u> |
| 43 Contract Labor | | |
| 45 Other Completion Costs | | |
| Supplemental | | |
| Total Comp. Costs | <u>\$ 40,500</u> | |
| BHP Net | <u>\$ 40,500</u> | |

| <u>CODE 4515-20</u> | <u>X-on</u> | <u>Comp. Costs</u> |
|-----------------------------------|-------------|--------------------|
| | <u>Hd</u> | |
| 01 Installation Costs | | <u>\$ 1,500</u> |
| 02 Sucker Rods | | <u>1,500</u> |
| 03 Btm Hole Pump | | <u>1,200</u> |
| 04 Pumping Unit | | <u>5,000</u> |
| 05 Prime Mover | | <u>7,500</u> |
| 06 Wellhead/Tree | | <u>2,500</u> |
| 07 Casing: | | |
| <u>1,640 ft 4 1/2" 10.5# J-55</u> | | |
| <u>@ \$ 5.00 ft</u> | | |
| <u> ft</u> | | |
| <u>@ \$ ft</u> | | |
| <u> ft</u> | | |
| <u>@ \$ ft</u> | | <u>8,200</u> |
| 08 Tubing: | | |
| <u>1,525 ft 2 3/8" 4.7# J-55</u> | | |
| <u>@ \$ 3.00 ft</u> | | <u>4,575</u> |
| 09 Hyd. & Other Pmp Equip. | | |
| 20 Packers | | |
| 23 Other Well Equipment | | |

| <u>CODE 4515-21</u> | | |
|------------------------|------------------|-----------------|
| 01 Installation Costs | | <u>\$ 5,000</u> |
| 11 Tanks | | <u>1,500</u> |
| 12 Buildings | | |
| 13 Compressors | | |
| 14 Elec Line & Equip. | | |
| 15 Sepr. & Treaters | | <u>2,500</u> |
| 16 Line Pipe | | <u>5,000</u> |
| 17 Dehy. Equipment | | |
| 18 Other Lse Equipment | | |
| 19 Misc Valves & Ftg. | | <u>2,000</u> |
| Supplemental | | |
| Total Tang Comp. Cost | <u>\$ 47,975</u> | |
| BHP NET | <u>\$ 47,975</u> | |

TOTAL WELL COSTS GROSS \$ 132,130
BHP NET \$ 132,130

PREPARED BY: Paul C. Bertoglio



AUTHORITY FOR EXPENDITURE
Inland Business Unit
(Drilling, Workovers, Recomp.'s, Etc.)

Operator BHP PETROLEUM (AMERICAS) INC. AFE No. 9101209Contract/Agreement No. C-EXRM02634
C-EXRM02709 Land Lease No. _____ Budget Year 1991Project must be commenced by: Date December 31, 1990

| | | | | | |
|---|--|---|--|---|--|
| Lease Name & Well No. Gallegos Canyon Unit No.391 | | Prospect Name <u>Gallegos Canyon</u> Prospect No. <u>PR350028</u> | | Activity No. <u>NM003100391</u> Focal Area <u>FA 202</u> | |
| Field or Area Basin Fruitland Field | | Location NE/NE Section 23 T29N - R13W | | County and State San Juan, New Mexico | |
| Type of AFE Drill, Complete, Equip | | Development (X) Exploratory () AAPG Class: _____ Others _____ | | Formation & Depth Fruitland Coal - ±1170' Well TD - 1350' | |
| Expected Production Gas - (X) Oil - () | | Last Well on Lease Yes () No () | | | |
| Project Description: (To Include Special Provisions and Remarks) Drill, complete, and equip a 1350 foot Fruitland Coal well at the referenced location. *Interest subject to partner elections. | | | | | |
| BHP Interest BPO * W.I. <u>62.50</u> NRI <u>48.75</u> APO W.I. _____ NRI _____ | | | | | |

ESTIMATED COSTS

| COMPANY | WORKING INTEREST OR ALLOCATION % | | DRILLING WELLS | | OTHER Total Cost |
|-------------------------------|-------------------------------------|---------------|----------------|-----------|-------------------------|
| | To Csg. Pt. | Aft. Csg. Pt. | Dry Hole | Producer | |
| BHP Petroleum | 62.50 | | 25,653 | 79,528 | |
| Meridian Oil Production, Inc. | 37.50 | | 15,392 | 47,717 | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Total | 100.00 | | 41,045 | 127,245 | |
| Less: Contributions | | | (- 0 -) | (- 0 -) | () |
| Net Costs | | | 41,045 | 127,245 | |

Prepared by Paul C. Bertoglio *PCB* Date May 14, 1990

Recommended:

| | | | | | | | |
|-----------------|---------------|------|------|-----------|------|--------------------------|----------------|
| Operations | Date | Land | Date | Marketing | Date | Technology | Date |
| | | | | | | <i>W.C. G. M. B. Ray</i> | <u>5/29/90</u> |
| <i>JAM Dean</i> | <u>6-4-90</u> | | | | | | |

Approved

*JM Edgington*6/5/90
Date



DETAILED COST ESTIMATE
DRILLING, RECOMPLETIONS AND WORKOVERS

Lease Name & Well No. Gallegos Canyon Unit No. 391

AFE No. 9101209

Location NE/NE Section 23 T29N - R13W

County and State San Juan, New Mexico

INTANGIBLE DRILLING COSTS

| CODE 4527-20 | Gross Cost To Csg Pt. |
|--|--------------------------|
| 01 Rotary Footage <u>1,350</u> ft. @ \$ <u>9.00</u> | \$ <u>12,150</u> |
| 02 Rotary Daywork <u>2</u> days WDP @ \$ <u>4,000</u> day _____ days WOPD @ \$ _____ day | <u>8,000</u> |
| 03 Drillsite Camp Expense | _____ |
| 05 Rotary Turnkey | _____ |
| 06 Drilling Deals (W.I.) | _____ |
| 07 Rental Tools/Equipment | <u>1,500</u> |
| 08 Rig Move | _____ |
| 09 Inspection Services | _____ |
| 10 Trucking/Boats | <u>2,000</u> |
| 11 Personnel Transportation | _____ |
| 12 Power/Fuel | _____ |
| 13 Drlg Mud & Additives | <u>2,000</u> |
| 14 Drill Bits/Reamers | _____ |
| 16 Water | <u>1,200</u> |
| 17 Mud Logging | _____ |
| 18 Open Hole Logs | <u>4,000</u> |
| 20 DST's/Surveys | _____ |
| 22 Cement & Cementing | <u>2,000</u> |
| 24 Cores | _____ |
| 29 Directional Drilling | _____ |
| 30 Engineering & Consulting | _____ |
| 31 Location Dirtwork/Cln Up | <u>2,500</u> |
| 32 Geological | _____ |
| 34 Drlg Permits/Bonds | _____ |
| 35 Drlg Title Opinion | _____ |
| 36 Stake/Survey Location | <u>500</u> |
| 37 Right of Way/Damages | <u>2,000</u> |
| 38 Well Control Insurance | _____ |
| 40 Overhead - Drlg | _____ |
| 41 Material & Supplies | _____ |
| 42 Co. Labor/Supervision | <u>1,200</u> |
| 43 Contract Labor | _____ |
| 44 Other Drilling Costs | _____ |
| Supplemental | _____ |
| Total TCP | \$ <u>39,050</u> |
| BHP Net | \$ <u>24,406</u> |

TANGIBLE DRILLING COSTS

| CODE 4515-10 | X-on Hand | TCP |
|---|--------------|------------------|
| 01 Installation Cost | | \$ <u>250</u> |
| 06 Casinghead | — | <u>500</u> |
| 07 Cond./Surface Csg <u>120</u> ft 7" 23# K-55 @\$ <u>10.37</u> ft | — | <u>1,245</u> |
| 10 Inter./Liner Csg _____ ft @\$ _____ ft _____ ft @\$ _____ ft | — | _____ |
| Supplemental | | _____ |
| Total Tangible TCP | | \$ <u>1,995</u> |
| BHP Net | | \$ <u>1,247</u> |
| Total Drilling Cost TCP | | \$ <u>41,045</u> |
| BHP Net Cost TCP | | \$ <u>25,653</u> |

| CODE 4527-30 | Gross Completion Cost |
|------------------------------|--------------------------|
| 01 Completion Rig | \$ <u>7,500</u> |
| 03 Camp Expense | _____ |
| 04 Wireline Services | _____ |
| 07 Rental Tools/Equipment | <u>1,000</u> |
| 09 Inspection Services | _____ |
| 10 Trucking/Boats | <u>2,000</u> |
| 11 Personnel Transportation | _____ |
| 12 Power/Fuel | _____ |
| 14 Drill Bits/Reamers | _____ |
| 15 Completion Fluids | _____ |
| 16 Water | <u>1,000</u> |
| 18 Cased Hole Logs | _____ |
| 19 Perforate | <u>1,500</u> |
| 20 Well Surveys & Testing | _____ |
| 21 Acidize & Frac | <u>17,500</u> |
| 22 Cement & Cementing | <u>5,000</u> |
| 23 Squeeze Jobs | _____ |
| 30 Engr. & Consulting | _____ |
| 31 Location Dirtwork/Cln. Up | <u>1,500</u> |
| 37 ROW/Damages | _____ |
| 40 Overhead - Completion | _____ |
| 41 Material & Supplies | <u>2,000</u> |
| 42 Co. Labor/Supervision | <u>1,500</u> |
| 43 Contract Labor | _____ |
| 45 Other Completion Costs | _____ |
| Supplemental | _____ |
| Total Comp. Costs | \$ <u>40,500</u> |
| BHP Net | \$ <u>25,312</u> |

| CODE 4515-20 | X-on Hd | Comp. Costs |
|---|------------|-----------------|
| 01 Installation Costs | | \$ <u>1,500</u> |
| 02 Sucker Rods | — | <u>1,500</u> |
| 03 Btm Hole Pump | — | <u>1,200</u> |
| 04 Pumping Unit | — | <u>5,000</u> |
| 05 Prime Mover | — | <u>7,500</u> |
| 06 Wellhead/Tree | — | <u>2,500</u> |
| 07 Casing: <u>1,350</u> ft 4 1/2" 10.5# J-55 @\$ <u>5.00</u> ft _____ ft @\$ _____ ft _____ ft @\$ _____ ft | — | <u>6,750</u> |
| 08 Tubing: <u>1,250</u> ft 2 3/8" 4.7# J-55 @\$ <u>3.00</u> ft | — | <u>3,750</u> |
| 09 Hyd. & Other Pmp Equip. | — | _____ |
| 20 Packers | — | _____ |
| 23 Other Well Equipment | — | _____ |

| CODE 4515-21 | | |
|------------------------|---|------------------|
| 01 Installation Costs | | \$ <u>5,000</u> |
| 11 Tanks | — | <u>1,500</u> |
| 12 Buildings | — | _____ |
| 13 Compressors | — | _____ |
| 14 Elec Line & Equip. | — | _____ |
| 15 Sepr. & Treaters | — | <u>2,500</u> |
| 16 Line Pipe | — | <u>5,000</u> |
| 17 Dehy. Equipment | — | _____ |
| 18 Other Lse Equipment | — | _____ |
| 19 Misc Valves & Fgts. | — | <u>2,000</u> |
| Supplemental | | _____ |
| Total Tang Comp. Cost | | \$ <u>45,700</u> |
| BHP NET | | \$ <u>28,563</u> |

TOTAL WELL COSTS GROSS \$ 127,245
BHP NET \$ 79,528

PREPARED BY: Paul C. Bertoglio

11/11/91
11/11/91
11/11/91

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

500 MARQUETTE N.W., SUITE 800
ALBUQUERQUE, NEW MEXICO 87102-2121

(505) 768-1500

FAX (505) 768-1529

OF COUNSEL

O. M. CALHOUN*

MACK EASLEY

JOE W. WOOD

RICHARD S. MORRIS

CLARENCE E. HINKLE (19CH985)

W. E. BONDURANT, JR. (1913-1973)

ROY C. SNODGRASS, JR. (1914-1987)

August 1, 1991

700 UNITED BANK PLAZA

POST OFFICE BOX 10

ROSWELL, NEW MEXICO 88202

(505) 622-6510

FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING

POST OFFICE BOX 3580

MIDLAND, TEXAS 79702

(915) 683-4691

FAX (915) 683-6518

1700 TEAM BANK BUILDING

POST OFFICE BOX 9238

AMARILLO, TEXAS 79105

(806) 372-5569

FAX (806) 372-9761

218 MONTEZUMA

POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504

(505) 982-4554

FAX (505) 982-8623

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY, JR.
MARSHALL G. MARTIN
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
JOHN J. KELLY
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD R. WILFONG*
THOMAS J. MCBRIDE
STEVEN D. ARNOLD
JAMES J. WECHSLER
NANCY S. CUSACK
JEFFREY L. FORNACIARI
JEFFREY D. HEWETT
JAMES BRUCE
JERRY F. SHACKELFORD*
JEFFREY W. HELLBERG*
ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
GARY D. COMPTON*
MICHAEL A. GROSS

THOMAS D. HAINES, JR.
FRANKLIN H. MCCALLUM*
GREGORY J. NIBERT
DAVID T. MARKETTE*
MARK C. DOW
KAREN M. RICHARDSON*
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*
PATRICIA A. MORRIS
MACDONNELL GORDON
REBECCA NICHOLS JOHNSON
WILLIAM P. JOHNSON

STANLEY K. KOTOVSKY, JR.
BETTY H. LITTLE*
RUTH S. MUSGRAVE
HOWARD R. THOMAS
ELLEN S. CASEY
S. BARRY PAISNER
MARGARET CARTER LUDEWIG
MARTIN MEYERS
GREGORY S. WHEELER
ANDREW J. CLOUTIER
JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULSETH, JR.
LISA K. SMITH*
JAMES K. SCHUSTER*

*NOT LICENSED IN NEW MEXICO

Mr. Robert Stovall
New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, NM 87504

RE: Case Nos. 10345 and 10346; Applications of BHP Petroleum
(Americas) Inc. for Compulsory Pooling, San Juan County, New
Mexico.

Dear Mr. Stovall:

During my closing argument, I cited several legal principles. Because of their importance to these cases, I am providing the following factual outline and citation to authority.

I. FACTS.

Louise Y. Locke owns the working interest in the N $\frac{1}{2}$ of Section 23-29 North-13 West from the surface to the base of the Pictured Cliffs formation. BHP is either the working interest owner or the operator of the S $\frac{1}{2}$ of Section 23 from the surface to the base of the Pictured Cliffs formation.

The S $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 23 are committed (both working and royalty interests) to the Gallegos Canyon Unit ("GCU"). In addition, the working interest of the lease covering the E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and 13 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23 is committed to the GCU.¹ (See BHP Exhibit Nos. 2 and 3.) BHP is sub-operator of the GCU for depths from the surface to the base of the Pictured Cliffs formation. As a result, BHP had the right to

¹ The GCU was approved by Oil Conservation Commission Order No. R-68.

Mr. Robert Stovall
August 1, 1991
Page 2

drill the GCU No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23. (See BHP Exhibit Nos. 3 and 4.)

II. AUTHORITY.

A. A Lessee Does Not Need a Lessor's Permission to Unitize The Lease Working Interest.

A Lessee can voluntarily pool or unitize the working interest of a lease without the lessor's permission.² Bruce v. Ohio Oil Co., 169 F. 2d 709 (10th Cir. 1948), cert. denied 336 U.S. 913 (1949); B. Kramer & P. Martin, The Law of Pooling and Unitization, §23.01 (3d ed.). Kramer & Martin stated that where a state conservation agency has approved a voluntary unitization agreement, non-consenting interest owners are not allowed to interfere with the unit operator acting pursuant to the unit agreement and agency order. Id. at pp. 23-10 and 23-11. Accord, Tide Water Associated Oil Co. v. Stott, 159 F. 2d 174 (5th Cir. 1946), cert. denied 331 U.S. 817 (1947); Syverson v. North Dakota State Industrial Com'n, 111 N.W. 2d 128 (N.D. 1961). Thus, the working interest of the lease covering the drillsite of the No. 391 Well was validly committed to the GCU, and BHP (as unit suboperator) has the right to drill the No. 391 Well in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23.

B. The OCD Can Authorize the Drilling of a Well on a Non-Operator's Lease.

Even if the drillsite lease had not been committed to the GCU, the Division could authorize drilling the No. 391 Well on Louise Locke's lease.

The operator designated under a pooling order is authorized to drill at the designated well location even though he owns no interest in the tract designated as the well site. Texas Oil & Gas Corp. v. Rein, 534 P.2d 1277 (Okla. 1974) (based upon language in Oklahoma's compulsory pooling statute virtually identical to New Mexico's statute); Nunez v. Wainoco Oil & Gas Company, 488 So.2d 955, 91 O&GR 246 (La. 1986). In Nunez, a well unit was formed pursuant to statewide rules and a well was commenced on the operator's (Wainoco's) lease. A subsequent directional survey determined that the bore hole was bottomed on the Nunez tract, which was in the well unit. Wainoco subsequently obtained approval of the well location from the

² A pooling clause in a lease only affects or restricts the lessee's power to pool the royalty interest. See Jones v. Killingsworth, 403 S.W. 2d 325 (Tex. 1965); 4 H. Williams, Oil and Gas Law, §670.8(9).

Mr. Robert Stovall
August 1, 1991
Page 3

Commissioner of Conservation, but Nunez sued Wainoco for trespass. The court held that the Commissioner had the authority and duty to designate the unit well. Furthermore, the court held that when a unit is created by order of the Commissioner, a legally actionable trespass has not occurred. 91 O&GR at 265.³ Nunez's interest was protected because he received his proportionate share of hydrocarbons produced from the well. Similarly, in the present cases, Louise Locke's entire interest in the N $\frac{1}{2}$ of Section 23 will be committed to two wells, thus protecting her correlative rights.

C. Pooling Can Occur After Drilling.

New Mexico's compulsory pooling statute specifically provides for pooling when an owner "has drilled or proposes to drill" a well. N.M. Stat. Ann. (1987 Repl.) §70-2-17(C). Therefore, pooling after drilling has commenced is proper.⁴ Because New Mexico law expressly provides for pooling after drilling, a pooling order should not be a prerequisite to drilling on a properly designated well unit, even on a non-operator's lease.

D. A Compulsory Pooling Order Supersedes the Locke "Pooling Designation."

There is a "Pooling Designation" covering the N $\frac{1}{2}$ of Section 23, which Louise Locke apparently claims bars the formation of standup units. This is incorrect, for the following reasons:

- (a) BHP, as operator of the all but 27 acres in the E $\frac{1}{2}$ of Section 23, could designate a standup unit because no Fruitland coal well was ever drilled and dedicated to the N $\frac{1}{2}$ of the section; and
- (b) A compulsory pooling order supersedes the Pooling Designation.

The laws in existence at the time of making a contract become part of such contract, as if expressly referred to or incorporated therein. Montoya v. Postal Credit Union, 630 F.2d

³ At 91 O&GR at 257, the Court noted that Louisiana's conservation laws are modeled on "the best features of the New Mexico law."

⁴ The courts have held that pooling can occur after drilling even where statutes do not expressly provide therefor. See 7 H. Williams & C. Meyers, Oil and Gas Law, §945.

Mr. Robert Stovall
August 1, 1991
Page 4

745 (10th Cir. 1980). Oil and gas conservation laws are therefore incorporated into a lease by operation of law. Layton v. Pan American Petroleum Corporation, 383 P.2d 624 (Okla. 1963); Armstrong v. High Crest Oils, Inc., 520 P.2d 1081 (Mont. 1974). Because the New Mexico compulsory pooling statute was enacted in 1935⁵, and the leases owned by Louise Locke were executed in the late 1940's and early 1950's, the statute is part of the leases. Any subsequent instruments executed by the lessors or lessees would also be subject to New Mexico's compulsory pooling statute.

The case law and the treatises on pooling uniformly hold that a compulsory pooling order supersedes an existing voluntary or declared unit, at least to the extent that they are in conflict. 5 E. Kuntz, Oil and Gas Law, §77.3; B. Kramer & P. Martin, The Law of Pooling and Unitization, §13.08 (3d ed.); Arkansas Louisiana Gas Co. v. Southwest Nat. Prod. Co., 221 La. 608, 60 So. 2d (1952); Humble Oil & Refining Co. v. Jones, 157 So. 2d. (La. App.), writ ref'd 245 La. 568, 159 So. 2d 284 (1963); Hladik v. Lee, 541 P.2d 196 (Okla. 1975); American Operating Co. v. Railroad Commission, 744 S.W. 2d 149 (Tex. Civ. App. 1987), writ denied. "[W]here private contractual rights are in conflict with the valid orders of the Commissioner of Conservation, the former must yield and are superseded by the latter." Everett v. Phillips Petroleum Co., 218 La. 835, 51 So. 2d 87, at 91-92 (1950). If a state conservation body could not modify private agreements, it would lead to a common source of supply being spaced and developed by the lessor and lessee, rather than by the proper state body. Landowners, Oil, Gas and Royalty Owners v. Corporation Commission, 420 P.2d 542 (Okla. 1966).

As a result, the Pooling Designation may be superseded by compulsory pooling orders designating standup units. The Pooling Designation remains effective as to other formations, such as the Fruitland Sand and the Pictured Cliffs. However, since no Fruitland coal well was ever drilled in the N½ of Section 23 under the auspices of the Pooling Designation, it does not bar BHP from forming standup units in Section 23.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &
HENSLEY

By:  James Bruce

JB:le

⁵ Laws 1935, ch. 72, §12.

CAMPBELL & BLACK, P.A.
LAWYERS

JACK M. CAMPBELL
BRUCE D. BLACK
MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY
PATRICIA A. MATTHEWS

JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

August 2, 1991

HAND-DELIVERED

RECEIVED

AUG 02 1991

OIL CONSERVATION DIV.
SANTA FE

Mr. Michael E. Stogner
Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
Santa Fe, New Mexico 87501

Re: Division Cases 10345 and 10346:
Applications of BHP Petroleum (Americas) Inc. for Compulsory Pooling, San
Juan County, New Mexico

Dear Mr. Stogner:

Pursuant to your request of July 25, 1991 I enclose for your consideration two proposed Orders for Louise Y. Locke, d/b/a Locke-Taylor Drilling Company. As you will note, the proposed Order in Case 10345 concerning the W/2 of Section 23, Township 29 North, Range 13 West, pools the lands and, since BHP has already drilled the Gallegos Canyon Unit Well No. 390, imposes no risk penalty on Mrs. Locke's interest. The proposed Order in Case No. 10346 concerning the E/2 of said Section 23, denies the application of BHP.

As you are aware, Locke contends that BHP owns no operating rights in the N/2 of Section 23. Since this question is outside the jurisdiction of the Division and can only be decided by the Courts, we believe you should refrain from entering Orders in these cases until the Court rules. However, if you enter Orders in these cases, we request that they not become effective until the question about BHP's operating rights is resolved.

Should you grant BHP's applications and, furthermore, should you impose a risk penalty on Mrs. Locke's interest in these wells, we recommend that the penalty not exceed 23.3% and that each Order include the following findings:

FINDING NO. : BHP requested a standard Fruitland Coal Gas penalty of 156% be imposed on the interest of Locke should she not voluntarily participate in the drilling of the well.

Mr. Michael E. Stogner
Hearing Examiner
August 2, 1991
Page Two

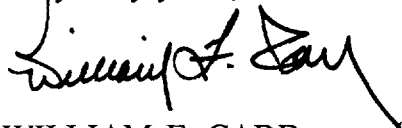
FINDING NO. : The 156% penalty that the Division has applied in Orders force pooling tracts in the Basin-Fruitland Coal Gas Pool is based on a penalty calculation presented by Meridian Oil Inc. in early cases involving the pooling of Fruitland Coal Gas interests. Where, unlike this case, the wells had not already been drilled. (See Case No. 9593, Order No. R-8877).

FINDING NO. : The calculation used to establish the 156% risk penalty in the Meridian cases assessed a 23.3% penalty for risk associated with completion of Basin-Fruitland Coal Gas Wells. (See, Case No. 9593; Exhibit No. 8).

FINDING NO. : The fact that BHP had sufficient opportunity to seek an obtain a force pooling order and establish a risk penalty prior to drilling the subject well, and the fact that BHP drilled the well in one of the thickest portions of the Basin-Fruitland Coal Gas Pool within the Gallegos Canyon Unit, and the fact that BHP had sufficient confidence in the probability of drilling a successful well that it carried Locke's interest at the time the well was drilled, and the fact that completion of the well is the only thing remaining to be done thereon, indicates that the requested risk penalty of 156% is not appropriate in this case, and that a risk penalty of 23.3% should be assessed against the interest of Louise Y. Locke, d/b/a Locke-Taylor Drilling Company in this well.

If you need anything further from Louise Y. Locke, d/b/a Locke-Taylor Drilling Company to proceed with your consideration of these cases, please advise.

Very truly yours,



WILLIAM F. CARR

WFC:mlh

Enc.

cc w.enc.: Richard T.C. Tully, Esq.
James Bruce, Esq.

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

RECEIVED

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

AUG 02 1991

OIL CONSERVATION DIV.
SANTA FE

Case No. 10345
Order No. R-_____

APPLICATION OF BHP PETROLEUM (AMERICAS)
INC. FOR COMPULSORY POOLING,
SAN JUAN COUNTY, NEW MEXICO.

LOUISE Y. LOCKE
d/b/a LOCKE-TAYLOR DRILLING COMPANY'S
PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 25, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this _____ day of August, 1991, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) Division Case Nos. 10345 and 10346 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, BHP Petroleum (Americas) Inc. ("BHP") seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying the W/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for said pool, to be dedicated to its Gallegos Canyon Unit Well No. 390 located at a previously approved unorthodox coal gas well location, 245 feet from the South line and 1530 feet from the West line (Unit N) of said Section 23.

(4) Louise Y. Locke d/b/a Locke-Taylor Drilling Company ("Locke"), the owner of the working interest under the NW/4 of said Section 23 has not agreed to pool her interest and appeared in opposition to the application.

(5) By letter dated October 31, 1990 BHP offered to purchase Locke's interest in the NW/4 of Section 23 (BHP Exhibit No. 2). The evidence established that this was the only effort by BHP to obtain Locke's voluntary joinder in the Gallegos Canyon Well No. 390 prior to drilling the well and Locke was not provided with an AFE for this well until May 29, 1991.

(6) BHP drilled the Gallegos Canyon Unit Well No. 390 in December, 1990.

(7) In June 1991, more than six months after the drilling of the Gallegos Canyon Unit Well No. 390, BHP filed an application with the Division seeking an Order pooling the Locke interest in the NW/4 of Section 23, and asked the Division to impose a 156% penalty on Locke for the risk associated with the drilling of this well (testimony of Torbett).

(8) The evidence established that the Gallegos Canyon Unit Well No. 390 is drilled in one of the thickest portions of the Basin-Fruitland Coal Gas Pool in the Gallegos Canyon Unit. (See BHP Exhibit No. 9; testimony of Torbett).

(9) Although it drilled a number of Fruitland Coal Wells in this unit in 1990, (testimony of Reinhardt) BHP has delayed completion of this well because it failed to obtain joinder of the interest owners in the acreage dedicated to the well prior to drilling (testimony of Torbett).

(10) By drilling the Gallegos Canyon Unit Well No. 390 without having first obtained voluntary joinder of the owners of interest in the acreage to be dedicated to the well, or by first seeking a compulsory pooling order, BHP has assumed the risk of drilling the well and no risk penalty should be imposed on Locke's interest in the W/2 of Section 23.

(11) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense her just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(12) The applicant should be designated the operator of the subject well and unit.

(13) Locke should be afforded the opportunity to pay her share of estimated well costs to the operator in lieu of paying her share of reasonable well costs out of production.

(14) The fact that BHP had sufficient opportunity to seek and obtain a forced pooling order and establish a risk penalty prior to drilling the subject well, and the fact that BHP drilled the well on one of the thickest portions of the Basin-Fruitland Coal Gas Pool, within the Gallegos Canyon Unit, and the fact that BHP had sufficient confidence in the probability of drilling a successful well, that it carried Locke's interest at the time the well was drilled indicates that the requested risk penalty of 156% is not appropriate in this case and that no risk penalty should be assessed against the interest of Louise Y. Locke d/b/a Locke-Taylor Drilling Company in the W/2 of Section 23.

(15) If Locke does not pay her share of estimated well costs, she should have withheld from production her share of the reasonable wells costs.

(16) Locke should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(17) Following determination of reasonable well costs, if Locke has paid her share of estimated costs, she should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(18) \$_____ per month while producing should be fixed as the reasonable charge for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to Locke's working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to Locke's working interest.

(19) Should BHP and Locke reach voluntary agreement for the development of this tract subsequent to entry of this order, this order shall thereafter be of no further effect.

(20) The operator of the well and unit shall notify the Director of the Division, in writing, of any subsequent voluntary agreement of BHP and Locke for the development of the W/2 of Section 23.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interest, whatever they may be, in the Basin-Fruitland Coal Gas Pool, underlying the W/2 of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, are hereby pooled forming a standard 320-acre gas spacing and proration unit for said pool to be dedicated to the applicant's Gallegos Canyon Unit Well No. 390 located at a previously approved unorthodox coal gas well location 245 feet from the South line and 1530 feet from the West line (Unit N) of said Section 23.

(2) BHP Petroleum (Americas) Inc. is hereby designated the operator of the subject well and unit.

(3) Within thirty (30) days of the effective date of this order, the operator shall furnish the Division and Locke an itemized schedule of well costs.

(4) Within thirty (30) days from the date the schedule of well costs is furnished to Locke, she shall have the right to pay her share of well costs to the operator in lieu of paying her share of reasonable well costs out of production, and only remain liable for future operating costs.

(5) The operator shall furnish Locke an itemized schedule of actual costs within ninety (90) days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within forty-five (45) days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said forty-five (45) day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within sixty (60) days following determination of reasonable well costs, if Locke has paid her share of estimated well costs in advance as provided above, she shall pay to the operator her pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator her pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold from production the pro rata share of reasonable well costs attributable to Locke's working interest if she has not paid her share of estimated well costs within thirty (30) days from the date the schedule of well costs is furnished to her.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$_____ per month while producing is hereby fixed as the reasonable charge for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to Locke's working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to Locke's working interest.

(10) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(11) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within thirty (30) days from the date of first deposit with said escrow agent.

(12) Should all parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(13) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

Case No. 10345

Order No. R-_____

Page 6

(7) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LeMAY
Director

S E A L

File Copies
DIVISION
10345

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

500 MARQUETTE N.W., SUITE 800

ALBUQUERQUE, NEW MEXICO 87102-2121

(505) 768-1500

FAX (505) 768-1529

OF COUNSEL
O. M. CALHOUN*
MACK EASLEY
JOE W. WOOD
RICHARD S. MORRIS

CLARENCE E. HINKLE (1904-1985)
W. E. BONDURANT, JR. (1913-1973)
ROY C. SNODGRASS, JR. (1914-1987)

August 1, 1991

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
ERIC D. LANPHERE
C. D. MARTIN
PAUL J. KELLY, JR.
MARSHALL G. MARTIN
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
JOHN J. KELLY
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD R. WILFONG*
THOMAS J. MCBRIDE
STEVEN D. ARNOLD
JAMES J. WECHSLER
NANCY S. CUSACK
JEFFREY L. FORNACIARI
JEFFREY D. HEWETT
JAMES BRUCE
JERRY F. SHACKELFORD*
JEFFREY W. HELLBERG*
ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
GARY D. COMPTON*
MICHAEL A. GROSS

THOMAS D. HAINES, JR.
FRANKLIN H. MCCALLUM*
GREGORY J. NIBERT
DAVID T. MARKETTE*
MARK C. DOW
KAREN M. RICHARDSON*
FRED W. SCHWENDIMANN
JAMES M. HUDSON
JEFFREY S. BAIRD*
PATRICIA A. MORRIS
MACDONNELL GORDON
REBECCA NICHOLS JOHNSON
WILLIAM P. JOHNSON

STANLEY K. KOTOVSKY, JR.
BETTY H. LITTLE*
RUTH S. MUSGRAVE
HOWARD R. THOMAS
ELLEN S. CASEY
S. BARRY PAISNER
MARGARET CARTER LUDEWIG
MARTIN MEYERS
GREGORY S. WHEELER
ANDREW J. CLOUTIER
JAMES A. GILLESPIE
GARY W. LARSON
STEPHANIE LANDRY
JOHN R. KULSETH, JR.
LISA K. SMITH*
JAMES K. SCHUSTER*

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

2800 CLAYDESTA NATIONAL BANK BUILDING
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

1700 TEAM BANK BUILDING
POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

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

*NOT LICENSED IN NEW MEXICO

FEDERAL EXPRESS

Mr. Michael E. Stogner
New Mexico Oil Conservation Division
State Land Office Building
Room 206
Santa Fe, New Mexico 87501

Re: Case Nos. 10,345 and 10,346 (BHP/Louise Locke Compulsory Poolings)

Dear Mr. Stogner:

As you requested, at hearing, enclosed are draft orders in the above cases. BHP is submitting an order for each case.

Also enclosed is a copy of a letter I submitted to the Division's counsel regarding legal issues in the case.

Very truly yours,

HINKLE, COX, EATON, COFFIELD &
HENSLEY


By: James Bruce

JB:le
Enclosures

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

Case No. 10,345
Order No. R-

APPLICATION OF BHP PETROLEUM
(AMERICAS) INC. FOR COMPULSORY
POOLING, SAN JUAN COUNTY, NEW
MEXICO.

ORDER OF THE DIVISION

(Submitted by BHP)

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 25, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this _____ day of _____, 1991, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, BHP Petroleum (Americas) Inc., seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying the W $\frac{1}{2}$ of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, forming a standard 320 acre gas spacing and proration unit for said pool.

(3) The applicant has the right to drill a well at an approved non-standard gas well location in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 23.

(4) There is one working interest owner in the proposed proration unit who has not agreed to pool her interest.

(5) Louise Y. Locke d/b/a Locke-Taylor Drilling Company owns the oil and gas leasehold rights as to the Basin-Fruitland Coal Gas Pool underlying the N $\frac{1}{2}$ of Section 23.

(6) Louise Y. Locke protested this application, claiming that Section 23 should be developed on a laydown unit basis.

(7) Applicant owns the oil and gas leasehold rights as to the Basin-Fruitland Coal Gas Pool underlying the SW $\frac{1}{4}$ of Section 23.

(8) Applicant commenced the drilling of the Gallegos Canyon Unit Well No. 390, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, on December 19, 1990, and drilled said well to a depth sufficient to test the Basin-Fruitland Coal Gas Pool.

(9) Applicant oriented the spacing and proration unit for said well as a W $\frac{1}{2}$ standup unit, which is permitted by Order No. R-8768.

(10) Due to a dispute with Louise Y. Locke over a well in the NE $\frac{1}{4}$ of Section 23, BHP ceased all operations on the No. 390 well, and said well has not yet been completed. (See Case No. 10,346 and Order No. R-_____ regarding the well in the NE $\frac{1}{4}$ of Section 23.)

(11) Louise Y. Locke's correlative rights will be protected by the approval of this application because she will receive her proportionate share of production from the No. 390 well.

(12) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool resulting from this order, the subject application should be approved by pooling all working interests within said unit.

(13) The applicant should be designated the operator of the subject well and unit.

(14) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(15) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 156 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(16) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs,

but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(17) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(18) \$3300.00 per month while drilling and \$350.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(19) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(20) Upon the failure of the operator of said pooled unit to re-commence drilling or completion operations on the well to which said unit is dedicated on or before _____, 1991, the order pooling said unit should become null and void and of no further effect whatsoever.

(21) Should all parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(22) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All working interests in the Basin-Fruitland Coal Gas Pool underlying the W $\frac{1}{2}$ of Section 23, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico, are hereby pooled to form a 320 acre gas spacing and proration unit for said pools.

PROVIDED HOWEVER THAT, the operator of said unit shall commence completion operations on said well on or before the

____ day of _____, 1991, in the Basin-Fruitland Coal Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not complete the well on or before the ____ day of _____, 1991, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be completed or abandoned within 120 days after commencement of completion operations, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) BHP Petroleum (Americas) Inc. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to re-commencing operations on said well, the operator shall furnish the Division and each working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his

pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him; and

(B) As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$3300.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(15) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

**WILLIAM J. LEMAY
Director**

S E A L

RICHARD T.C. TULLY, P.A.

ATTORNEY AT LAW

111 NORTH ORCHARD AVENUE

POST OFFICE BOX 268

FARMINGTON, NEW MEXICO 87499-0268

RICHARD T.C. TULLY
MICHAEL CUNNINGHAM

505-327-3388

June 20, 1991

Robert G. Stovall, Esq.
General Counsel
New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, NM 87504

Frank T. Chavez
Supervisor and Oil & Gas Inspector
New Mexico Oil Conservation Division
1000 Rio Brazos Road
Aztec, NM 87410

Ron Fellows
Area Manager
Bureau of Land Management
1235 La Plata Highway
Farmington, NM 87401

Re: Locke-Taylor Drilling Company
Tycksen #1 Well, Gallegos Canyon Unit #391 Well,
and Gallegos Canyon Unit #390 Well
San Juan County, New Mexico

Gentlemen:

This lawfirm represents Louise Y. Locke who is the owner of the operating rights from the surface to the base of the Pictured Cliffs Formation of the N/2 of Section 23, T-29-N, R-13-W, N.M.P.M., San Juan County, New Mexico. The Howard Tycksen Pooled Unit #1 Well, with a N/2 of Section 23 dedication, is located in the NE/4 of Section 23, and has been producing from the Fruitland Formation since April 19, 1954 (over 37 years). The N/2 of Section 23 from the surface to the base of the Pictured Cliffs Formation and the Howard Tycksen Pooled Unit #1 Well have never been committed to the Gallegos Canyon Unit.

BHP Petroleum (Americas) Inc. has filed Applications for Permit to Drill the Gallegos Canyon Unit #391 and #390 Wells, with both wells to be Fruitland Formation wells.

Robert G. Stovall, Esq.
Frank T. Chavez
Ron Fellows
June 20, 1991
PAGE TWO

BHP has located the Gallegos Canyon Unit #391 Well in the NE/4 of Section 23; the Well has been drilled to total depth, but not completed; and it has an E/2 of Section 23 dedication. The Gallegos Canyon Unit #390 Well has been located in the SW/4 of Section 23; it has a W/2 of Section 23 dedication; but we do not know the status of the drilling of this well.

The wellhead for the Gallegos Canyon Unit #391 Well is located approximately 130 feet from the wellhead of the Howard Tycksen Pooled Unit #1 Well, and approximately 100 feet from the meterhouse of the Howard Tycksen Pooled Unit #1 Well.

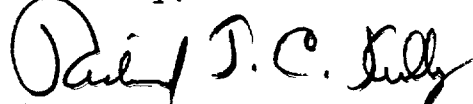
Our client has notified BHP of the trespass in the NE/4 of Section 23, but the attempts to negotiate a settlement have come to a standstill. BHP does recognize the ownership of Louise Y. Locke from the surface to the base of the Pictured Cliffs Formation in the N/2 of Section 23.

The Fruitland Formation ownership of our client in the N/2 of Section 23 brings into question the E/2 and the W/2 dedications of the Gallegos Canyon Unit #391 and #390 Wells because our client owns 100% of the N/2, or 50% in the E/2 and 50% in the W/2 of Section 23.

This letter is to request the NMOCD and the BLM to cease all further operations of BHP for the Gallegos Canyon Unit #391 and #390 Wells until this trespass matter is resolved. In particular, our client is concerned that if BHP completes the Gallegos Canyon #391 Well in the NE/4 that these activities and operations will adversely affect the Howard Tycksen Pooled Unit #1 Well.

Please advise if we can provide further information or assistance in securing the cessation of any further operations of BHP for these two wells until the trespass matter is resolved.

Sincerely,


Richard T. C. Tully

RTCT:sak

cc: Louise Y. Locke
c/o Don Locke
139-1/2 East 2nd Street
Rifle, CO 81650

S155/52532L

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING
GOVERNOR

July 1, 1991

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

Richard T.C. Tully, P.A.
Attorney at Law
P. O. Box 268
Farmington, New Mexico, New Mexico 87499-0268

Re: Louise Locke-BHP Petroleum Inc. Dispute
Gallegos Canyon Unit #391 and #390 Wells

*Cases 10345
and 10346*

Dear Mr. Tully:

I am in receipt of your letter of June 20, 1991, regarding the apparent dispute between Ms. Locke and BHP Petroleum (Americas) Inc. BHP has applied to the Oil Conservation Division for an order force pooling interests in the proration units for these wells. If Ms. Locke owns an interest in those lands, she should receive notice from BHP regarding the hearing, which I understand is docketed for July 11th.

The Division is not presently in a position, based upon the information available, to require the cessation of operations on these wells. It would appear that you would have a legal remedy if in fact BHP is operating illegally and trespassing on Mrs. Locke's lands.

Sincerely,

A handwritten signature in cursive script, reading "Robert G. Stovall".

ROBERT G. STOVALL,
General Counsel

RGS/dr

cc: Frank Chavez - Aztec

Ron Fellows
Area Manager
Bureau of Land Management
1235 La Plata Highway
Farmington, New Mexico 87401

William F. Carr

CAMPBELL & BLACK, P.A.
LAWYERS

JACK M. CAMPBELL
BRUCE D. BLACK
MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY
ANNIE-LAURIE COOGAN

JEFFERSON PLACE 
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

July 5, 1991

HAND-DELIVERED

RECEIVED

JUL 05 1991

OIL CONSERVATION DIV.
SANTA FE

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
Santa Fe, New Mexico 87503

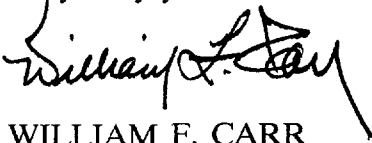
Re: Oil Conservation Division Case Nos. 10345 and 10346
In the Matter of the Applications of BHP (Americas) Inc. for Compulsory
Pooling, San Juan County, New Mexico

Dear Mr. LeMay:

Louise Locke d/b/a Locke-Taylor Drilling Company respectfully requests that the above-captioned cases which are currently set on the Division docket for the July 11, 1991 hearings be continued to the July 25, 1991 Examiner docket. Jim Bruce, attorney for BHP consents to this two week continuance.

Your attention to this matter is appreciated.

Very truly yours,



WILLIAM F. CARR

WFC:mlh

cc: Richard T. C. Tully, Esq.
James Bruce, Esq.

BEFORE THE
OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY AND MINERALS

RECEIVED

IN THE MATTER OF THE APPLICATION
OF BHP PETROLEUM (AMERICAS) INC.
FOR COMPULSORY POOLING,
SAN JUAN COUNTY, NEW MEXICO.

JUL 02 1991

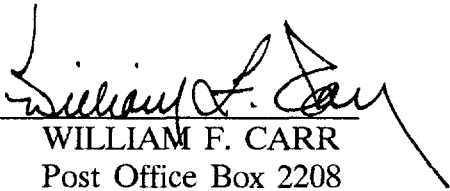
OIL CONSERVATION DIVISION
CASE NO. 10345

ENTRY OF APPEARANCE

COMES NOW CAMPBELL & BLACK, P.A., and hereby enters its appearance in
the above-referenced case on behalf of Louise Y. Locke, d/b/a Locke-Taylor Drilling
Company.

Respectfully submitted,

CAMPBELL & BLACK, P.A.

By: 
WILLIAM F. CARR
Post Office Box 2208
Santa Fe, New Mexico 87504
Telephone: (505) 988-4421

ATTORNEYS FOR LOUISE Y. LOCKE
d/b/a LOCKE-TAYLOR
DRILLING COMPANY