

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

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

JASON KELLAHIN (RETIRED 1991)

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

March 18, 1994

HAND DELIVERED

MAR 18 1994

Mr. Michael E. Stogner  
Chief Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail, Room 219  
P. O. Box 2088  
Santa Fe, New Mexico 87501

10956

Re: Application of Consolidated Oil & Gas, Inc.  
for Compulsory Pooling, San Juan and Rio Arriba  
Counties, New Mexico  
Miller 32-6-11 #1 Well  
NMOCD Case 9894  
Order R-9178

Dear Mr. Stogner:

On behalf of Consolidated Oil & Gas, Inc., please find enclosed our application to amend a previously issued compulsory pooling order which we request be set for hearing on the next available Examiner's docket now scheduled for April 14, 1994.

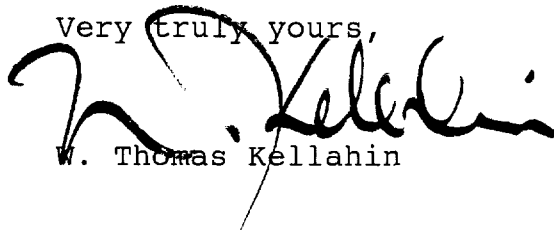
Also enclosed is our proposed notice for this case to be included on the Division's docket.

By copy of this letter, including the application, to all affected parties, we are notifying them by certified mail-return receipt requested, that they have the right to appear at the hearing, to make a statement to the Division, to present evidence and cross-examine witnesses either in support of or in opposition to the application.

Oil Conservation Division  
March 18, 1994  
Page 2.

Pursuant to the Division's Memorandum 2-90, all interested parties are hereby informed that if they appear in this case, then they are requested to file a Pre-Hearing Statement with the Division not later than 4:00 PM on Friday, April 8, 1994, with a copy delivered to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Thomas Kellahin", written over the typed name.

W. Thomas Kellahin

Enclosure

cc: Mr. Philip G. Wood  
Consolidated Oil & Gas, Inc.  
(Denver)

BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED  
All parties listed in Paragraph 8 of the Application

MAR 1 1994

PROPOSED NOTICE

10956

Case\_\_\_\_\_: Application of Consolidated Oil & Gas, Inc. to amend Division Order R-9178, San Juan and Rio Arriba Counties, New Mexico. Applicant seeks to amend Division Order R-9178 which designated Richmond Petroleum Inc. as operator and compulsory pooled the N/2 equivalent of irregular Section 11, T32N, R6W, NMPM for the drilling of the Miller "11" Well No. 1 at an unorthodox location within Unit E of said section in the Basin Fruitland Coal Gas Pool and forming a 232.80 non-standard gas spacing and proration unit. These amendments are to include the substitution of the applicant as operator, to provide a supplemental election to participate, to add additional parties, to revise the various reporting dates in this order and to otherwise reissue and renew the subject order including the recovery of both actual and future costs of drilling and completing the said well including a charge for the risk involved.

Said unit is located approximately at the intersection of the San Juan and Rio Arriba Counties lines with the Colorado-New Mexico border.

**JAMES J. RUBOW**  
**1645 Court Place #324**  
**Denver, Colorado 80202**  
**303-572-3351**

Michael E. Stogner  
Chief Hearing Officer  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, NM 87504

April 13, 1994

Re: Request for Continuance  
Case Nos. 10956 & 10957  
San Juan & Rio Arriba Counties  
New Mexico

Dear Mr. Stogner:

Reference is made to my previous correspondence to you dated April 8th and 11th, 1994.

I again ask that a continuance be granted on the above headed cases until at least April 28, 1994.

As stated in my earlier communications, I am required to be in Denver, Colorado to appear before the Oil and Gas Commission of that state tomorrow, April 14, 1994 at 2:15 PM. The matter before the Colorado Commission is Cause No. 199, Docket No. 4-4 and was filed approximately one month before I received notice from New Mexico of its hearing. A copy of the Colorado Application is included for your information.

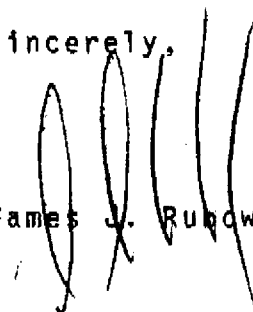
It is impossible for me to be in two places at the same time. I am clearly going to suffer irreparable harm and damages if an unreasonable and impossible demand is made that I attend the New Mexico hearing on April 14th.

Applicant has made no showing that it will suffer irreparable harm by merely having to wait until the next hearing date to present its case.

I again ask that these matters be postponed until at least April 28, 1994.

Thank you for your consideration of this matter.

Sincerely,



James J. Rubow

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION )  
OF THINK OIL, INC. FOR THE )  
ESTABLISHMENT AN EXPLORATORY )  
DRILLING UNIT/ALTERNATIVELY 320- )  
ACRE SPACING UNIT FOR THE )  
PRODUCTION OF OIL AND/OR GAS FROM )  
THE FRONTIER AND DAKOTA )  
FORMATIONS AND FOR AN ORDER )  
POOLING ALL INTEREST IN THE )  
EXPLORATORY DRILLING UNIT/SPACING )  
UNIT COVERING CERTAIN LANDS )  
LOCATED IN MOFFAT COUNTY, )  
COLORADO )

VERIFIED APPLICATION

COMES NOW, the Applicant, Think Oil, Inc., by and through its attorneys, Gosse & Simpson, P.C., and respectfully petitions the Oil and Gas Conservation Commission of the State of Colorado ("Commission") as follows:

- 1. Applicant is the owner of the working interest in various oil and gas leases covering approximately 290 acres, and it has drilling rights under various Farmout Agreements covering 13 acres, more or less, which rights taken together cover approximately 303 acres out of a tract of land comprising 320 acres, more or less, located in Moffat County, Colorado.

Applicant is engaged in efforts to obtain the consent or participation of the working interest owners on the remaining acreage in said tract. Pursuant to the provisions of §34-60-116(2), Colorado Revised Statutes, as amended in 1991, Applicant proposes to establish an exploratory drilling unit comprising 320 acres, which is more particularly described as follows:

Township 6 North, Range 91 West  
Section 9: N/2

Alternatively if the proposed well is drilled and completed prior to a hearing on this matter, Applicant requests that the Commission establish a 320-acre drilling and spacing unit for the production of oil, gas and associated hydrocarbons from the Frontier and Dakota Formations underlying the lands set forth above.

- 2. Applicant proposes to drill a vertical test well upon the aforesaid drilling unit to test and produce from the Frontier and Dakota Formations underlying the 320-acre tract as described. The proposed test well will be drilled from a surface location in the NW/4NE/4 of Section 9, Township 6 North, Range 91 West, 6th P.M., which is approximately 660 feet from the north line and 1980 feet from the east line of said Section 9. Applicant proposes to drill the test well to a depth of approximately 8,600 feet.
- 3. At the present time, pooling of the interests, either unleased or leased in and under the above-described lands, has not been attained and in the interest of conservation, to prevent waste and to protect correlative rights, the unit covering the initial well under the proposed spacing order and should be subject to a forthwith compulsory pooling order in accordance with the statutes of the State of Colorado.
- 4. Applicant believes that the granting of this Application will materially enhance the evaluation of the potential for drilling wells to test and produce from the Frontier and

Dakota Formations in the area of the proposed exploratory drilling unit and will stimulate additional drilling and thereby assure the greatest ultimate recovery of oil and gas from the Frontier and Dakota Formations in the area. Applicant further believes that the granting of this Application will prevent waste and will not adversely the correlative rights of adjacent owners.

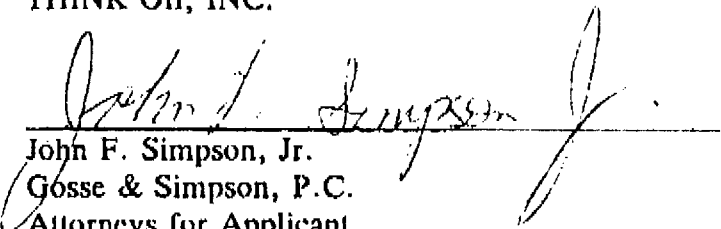
5. Attached hereto as Exhibit A are the names and addresses of all owners and interested parties as defined by statutes and regulations of the Commission in all the lands included within the proposed 320-acre drilling unit.

WHEREFORE, Applicant respectfully requests that this matter be set for hearing by the Commission; that notice thereof be given as required by law; and that upon such hearing this Commission issue its order granting the Application as requested herein. Applicant further requests that the Commission in its order grant such other provisions as the Commission may find to be necessary or desirable in the cause.

Dated this 6<sup>th</sup> day of March, 1994.

Respectfully submitted

THINK OIL, INC.

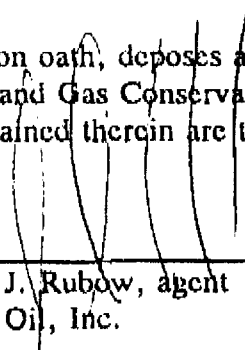
  
John F. Simpson, Jr.  
Gosse & Simpson, P.C.  
Attorneys for Applicant  
475 Seventeenth Street, Suite 900  
Denver, Colorado 80202  
Telephone: (303) 294-3466

Applicant's Address:

Think Oil, Inc.  
c/o Passport Energy, Inc.  
1645 Court Place, Suite 324  
Denver, Colorado 80202

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

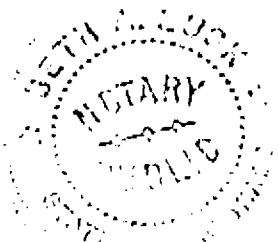
James J. Rubow, as agent for Think Oil, Inc., upon oath, deposes and says that he has read the foregoing Verified Application before the Oil and Gas Conservation Commission of the State of Colorado, and states that the matters contained therein are true to the best of his knowledge and belief.

  
James J. Rubow, agent  
Think Oil, Inc.

Subscribed and sworn to before me this 4<sup>th</sup> day of March, 1994, by James J. Rubow, agent for Think Oil, Inc.

Witness my hand and official seal. My commission expires: July 20, 1997

  
Notary Public



OIL CONSERVATION DIVISION  
RECEIVED

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**JAMES J. RUBOW**  
**1645 Court Place #324**  
**Denver, Colorado 80202**  
**303-572-3351**

David Catanach  
Hearing Examiner  
Oil Conservation Division  
P.O. BOX 2088  
Santa Fe, NM 87504

April 22, 1994

Re: NMOCD Cases #10956 & #10957  
Miller 32-6-11 #1 Well and  
Carnes 32-6-11 Well  
Consolidated Oil & Gas, Inc.  
San Juan and Rio Arriba Counties,  
New Mexico

Dear Mr. Catanach:

Reference is made to the above headed cases which were heard on April, 14, 1994.

I am the owner of mineral interests and was named as a party to these cases. I ask that this letter be considered prior to your issuance of decisions in these cases.

1. I was not given notice of these proceedings until April 4, 1994, which did not give me adequate time to prepare for the hearing. The New Mexico Oil Conservation Division Rules and Regulations state that a 20 day notice is required.

2. I was obligated to appear in Denver, Colorado before the Colorado Oil and Gas Conservation Commission on the same date that your hearing was held. The obligation to appear before the Colorado Commission emanated from a Notice dated March 4, 1994, a full 30 days before I received notice from New Mexico. Your failure to grant a continuation amounts to the taking of property without due process.

3. Consolidated Oil & Gas, Inc. (Consolidated) claims to be successor in interest to Richmond Petroleum, Inc. (Richmond) and as such claims to be a proper party to institute the above cases. The lease covering my mineral interest was granted to T. H. McElvain, Jr. No evidence has been given to me that shows Consolidated to be an owner of oil and gas rights or working interest underlying the tracts in question.

4. I have repeatedly, over a two year period, asked for a release of the T. H. McElvain, Jr. lease covering my mineral interests. No release has been given, in fact I recently received a check from Richmond purporting to be a "shut-in" payment on my lease.

5. I have asked that Consolidated provide me with a copy of logs, test data, drilling reports, etc related to the subject wells. They have refused.

6. I asked for a proposed Operating Agreement covering the subject wells so that I could determine the fairness of same. They have refused.

7. I asked for their proposals concerning the gathering, purchasing and sale of gas from subject wells. They have refused.

8. Consolidated seeks, among other things, to have my interest force pooled and asks that certain payments of money be made to them. I asked for a showing of their costs in the subject wells i.e., what they paid Richmond for the wells. They have refused. I understand that they did produce some estimates of costs at the hearing. I am not privy to these sums and ask that I be provided with a copy of these estimates.

Consolidated seeks the reimbursement for "actual and future costs"..., They are in fact, according to my understanding of the testimony before you, asking for more than their "actual costs".

9. At the time the subject wells were drilled, my minerals were subject to an oil and gas lease. Had the wells been timely drilled, completed and gas sales commenced, the matters now before you would not exist. Because T.H. McElvain, Jr., or his assigns, (Richmond), did not carry out their duties as a Lessee, they cannot properly ask that the mineral owner now reimburse them for monies spent during the time the lease was still in force. An operator without sufficient funding to carry out its leasehold obligations cannot properly cease operations and demand money from its mineral owners to fulfill its leasehold duties. In Fox Wood III and Regena Lee Wood vs. TXO Production Corp. In the Oklahoma Supreme Court Case No. 75.929. 7 July 1992. the court stated: "Part of the mineral owners' decision whether to lease or become a working interest owner is based upon the costs involved. We consider also that working interest owners who share costs under an operating agreement have input into the cost bearing decisions. The royalty owners have no such input after they have leased. In effect, royalty owners would be sharing the burdens of working interest ownership without the attendant rights."

10. Consolidated is asking that any non-consenting party be subject to a 156% penalty. The Rules clearly state that penalties may be assessed only for risk associated with the drilling of wells. Consolidated did not drill either of the wells and shared no risk in the drilling of same. The wells were drilled by others and were purchased at some lesser price by Consolidated later. Consolidated bore no risk in the drilling of the subject wells.



## Requested Remedies

I ask to be granted the opportunity to state my case before the Oil Conservation Division if a ruling adverse to me is made.

I ask for a showing that Consolidated is a proper party to file the Applications covering the Miller 32-6-11 and Carnes 32-6-11 Wells.

Before I am asked to share in any costs associated with the wells, I ask for copies of logs, test, data, drilling reports, etc. These are part of the normal duties of an operator to its non-operating venturers and Consolidated's past refusal causes concern as to their willingness and competency to act in a fiduciary position.

I ask that I be provided with a proposed Operating Agreement for my review and approval.

I ask that the gas gathering and marketing issues be explored. Will Consolidate Market my gas? This is critical to my evaluation of the economic viability of this undertaking.

Consolidated should not attempt to collect more for the well costs than they spent. Also the value placed on the gas reserves in the ground must be considered when determining the cost paid by Consolidated to Richmond. The purchase price paid to Richmond obviously included the value of gas reserves in the ground and the rights to produce and sell same. The price paid for the wells is less than the value they place on the ultimate production from the wells. The "Actual costs" that were requested can only be determined by including the expected profits which they hope to receive from producing the gas from the wells.

Industry Operating Agreements call for the depreciation of well equipment, including pipe in the ground,. Since these wells are now nearly two years old, the depreciated value of the well and the pipe would be reduced by approximately one-third.

I am willing to be responsible for the "future costs" called for in Consolidated's Application. Costs incurred beyond the time that I was no longer a passive mineral owner (Lessor) are quite different from those incurred while my minerals were subject to an oil and gas lease. As the Oklahoma Supreme Court stated; " Part of the minerals owners' decision whether to lease or become a working interest owner is based upon the costs involved. We consider also that working interest owners who share costs under an operating agreement have input into the cost bearing decisions."

After a satisfactory Operating Agreement is in place, costs to complete, produce, market and sell are properly joint expenses.

Consolidated's request for 156% penalties should be rejected out of hand. They clearly do not meet the criteria as set forth in the Rules and Regulations, Oil Conservation Division for the granting of such penalties. They did bear any of the risks attendant to the drilling of these wells.

This letter is incomplete in its scope, but does set forth some of the issues which are relevant to your decision. I ask that you give careful consideration to the facts of these cases. Applicant is trying "to have its cake and eat it to."

Respectfully submitted,

James J. Rubow

CC: Ed Anderson  
T. Kellahin

OIL CONSERVATION DIVISION  
RECEIVED  
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**JAMES J. RUBOW**  
**1645 Court Place #324**  
**Denver, Colorado 80202**  
**303-572-3351**

Mr. Michael E. Stogner  
Chief Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail, Room 219  
P.O. Box 2088  
Santa Fe, NM 87501

April 11, 1994



RE: NMOCD Cases 10956 & 10957  
Miller 32-6-11 #1 Well & Carnes 32-6-11 Well  
San Juan and Rio Arriba Counties,  
New Mexico

Dear Mr. Stogner:

Reference is made to my FAX and letter to you dated April 8, 1994, wherein I requested an extension of time for the above headed cases.

On Friday afternoon, April 8, 1994, after my FAX to you, I received a telephone call from the Colorado Oil and Gas Commission concerning a case being held before them. This case had been on the Docket for hearing on April 18, 1994, however because there were no protests received, they plan to hold an administrative hearing on April 14, at 2:15 P.M. to consider the matter.

Due to this obvious scheduling conflict, I ask that you consider this, in addition to the reasons previously given, when deciding whether or not to grant a later date for the hearings before you.

Thank you for your consideration of this letter.

Sincerely,



James J. Rubow

CC: Philip G. Wood  
W. Thomas Kellahin  
Edmund T. Anderson IV

*ms*  
**JAMES J. RUBOW**  
**1645 Court Place #324**  
**Denver, Colorado 80202**  
**303-572-3351**

OIL CONSERVATION DIVISION  
RECEIVED

1994 APR 14 AM 8 50

Mr. Michael E. Stogner  
Chief Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail, Room 219  
P.O. Box 2088  
Santa Fe, NM 87501

April 8, 1994

Re: Application of Consolidated Oil & Gas, Inc.  
for Compulsory Pooling  
NMOCD Cases 10956 & 10957  
Miller 32-6-11 #1 Well & Carnes 32-6-11 Well  
San Juan and Rio Arriba Counties, New Mexico

Dear Mr. Stogner:

Request is hereby made for a continuation of the above headed hearings until at least April 28, 1994. It is currently on the docket for April 14, 1994.

I did not receive a notice of this hearing until April 4, 1994 and due to confusion was not clear as to when this matter was actually scheduled until April 6, 1994.

There appear to be numerous legal issues associated with this matter in addition to the normal Oil and Gas Commission issues of waste, correlative rights, etc. At least one lawsuit has already been filed relative to this case by Edmund T. Anderson, IV. The facts of Mr. Anderson's case are almost identical to my own.

I am contemplating the filing of a lawsuit in the State of Colorado relative to this case.

The short notice period has not allowed me sufficient time to consider the situation fully and prepare an adequate response. By granting me an extension, at least until the April 28th date, you will be assured of fairness to all parties.

I have verbally notified Tom Kellahin, attorney for the applicant as well as Philip Wood, landman for applicant of my request for a continuance.

Thank you for your consideration of my request.

Sincerely,

James J. Rubow

CC: Philip G. Wood  
W. Thomas Kellahin  
Edmund T. Anderson IV



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

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

June 16, 1994

KELLAHIN AND KELLAHIN  
Attorneys at Law  
P. O. Drawer 2265  
Santa Fe, New Mexico 87504

RE: CASE NO. 10956  
ORDER NO. R-9178-A

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

  
Sally E. Martinez  
Administrative Secretary

cc: BLM - Farmington  
CCD - Aztec  
Ed Anderson  
Taxation & Revenue

**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:

**APR 7 1988**

APPLICATION OF CONSOLIDATED OIL & GAS INC.  
TO AMEND DIVISION ORDER NO. R-9033, *CASE 10955*  
SAN JUAN COUNTY, NEW MEXICO

APPLICATION OF CONSOLIDATED OIL & GAS INC.  
TO AMEND DIVISION ORDER NO. R-9178, *CASE 10956*  
SAN JUAN AND RIO ARriba COUNTIES, NEW MEXICO

APPLICATION OF CONSOLIDATED OIL & GAS INC. *CASE 10957*  
TO AMEND DIVISION ORDER NO. R-9179,  
SAN JUAN AND RIO ARriba COUNTIES, NEW MEXICO

**CONSOLIDATED PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by Consolidated Oil & Gas, Inc. as required by the Oil Conservation Division.

**APPEARANCES OF PARTIES**

**APPLICANT**

Consolidated Oil & Gas Inc.  
410 17th Street, Suite 2300  
Denver, Colorado 80202  
attn: Mr. Philip Wood  
(303) 893-1225

**ATTORNEY**

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

## **STATEMENT OF THE CASES**

### **APPLICANT**

CONSOLIDATED OIL & GAS, INC., in accordance with Section 70-2-17(c) (1978) seeks orders from the Division amending previous compulsory pooling orders:

(1) Case 10955: Order R-9033, issued November 3, 1989, designated Richmond Petroleum Inc as operator and which pooled all mineral interests in the Basin Fruitland Coal Gas Pool underlying the E/2 equivalent of Section 9, T32N, R6W, NMPM, San Juan County, New Mexico, forming a 279.40-acre gas spacing and proration unit dedicated to the Federal 32-6-9 Well No. 1 which was drilled by Richmond Petroleum Inc. at an unorthodox location within Unit A of said Section 9;

(2) Case 10956: Order R-9178, issued May 23, 1990, which designated Richmond Petroleum Inc. as operator and which pooled all mineral interests in the Basin Fruitland Coal Gas Pool underlying the N/2 of irregular Section 11, T32N, R6W, NMPM, San Juan and Rio Arriba Counties, New Mexico, forming a nonstandard 232.80-acre gas spacing and proration unit dedicated to the Miller "11" Well No. 1 which was drilled by Richmond Petroleum Inc. at an unorthodox location within Unit E of said Section 11.

(3) Case 10957: Order R-9179, issued May 23, 1990, which pooled all mineral interests in the Basin Fruitland Coal Gas Pool underlying the S/2 of irregular Section 11, T32N, R6W, NMPM, San Juan and Rio Arriba Counties, New Mexico, forming a standard 320-acre gas spacing and proration unit dedicated to the Carnes "11" Well No. 1 which was drilled by Richmond Petroleum Inc. at an unorthodox location within Unit L of said Section 11.



Consolidated Oil & Gas, Inc., ("Consolidated") is the successor in interest to Richmond Petroleum Inc. ("Richmond") and now has a working interest ownership in each of these wellbores and in the oil and gas minerals underlying each of these spacing units.

Order R-9033 provided among other things that (a) the Federal 32-6-9 Well No. 1 should be commenced on or before January 1, 1990, unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling. The Division entered various extensions and on May 13, 1990, Richmond commenced the well and drilled to total depth on May 16, 1990, cased the wellbore and then suspended operations. The well is awaiting perforation and fracture completion and installation of pipeline facilities.

Order R-9895 provided among other things that (a) the Carnes 32-6-11 Well No. 1 should be commenced on or before August 1, 1990, unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling. On June 5, 1990, Richmond commenced the well and drilled to total depth on June 9, 1990, cased the wellbore and then suspended operations. The well is awaiting perforation and fracture completion and installation of pipeline facilities.

Order R-9178 provided among other things that (a) the Miller "11" Well No. 1 should be commenced on or before August 1, 1990; unless extended by the Division Director; and (b) it should be completed within 120 days after commencing drilling. On June 23, 1990, Richmond commenced the well and drilled to total depth on June 26, 1990, cased the wellbore and then suspended operations until December, 1990 when the well was perforated. The well is awaiting fracture completion and installation of pipeline facilities.

On January 24, 1994, Consolidated acquired the interests of Richmond in these wellbores and spacing units and has assumed operations therein.

Certain parties originally pooled by Richmond are being pooled again by Consolidated. In addition, during the period between issuing the orders and Consolidated's acquisition of these units and wells, some oil & gas leases have expired. Consolidated seeks amendments of the pooling orders to pool these interest owners who are now "unleased" and have refused to lease their interests.

Consolidated has proposed these wells to all parties but, as of the date of this statement, Consolidated has not been able to obtain a voluntary agreement from all those parties. Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Consolidated needs an order of the Division pooling the mineral interests involved in order to protect correlative rights and prevent waste.

Accordingly, Consolidated seeks the following amendments:

(a) that Ordering paragraph (1) be amended to designate Consolidated as operator;

(b) that a new deadline be established for the completion of the Carnes and Federal wells which shall be not less than 120 days after the date of this order;

(c) that all parties previously pooled or to be now pooled shall be afforded an election to participate in the appropriate well by paying their proportionate share of actual and future costs;

(d) that any non-consenting party shall be subject to a 156 % penalty;

(e) that the overhead rates shall be amended to provide for a \$3,500 per month drilling/completing rate and a \$350 per month producing rate; and

(f) for such other relief as is necessary to re-issue or otherwise affirm the validity of the subject pooling order.

### **PROPOSED EVIDENCE**

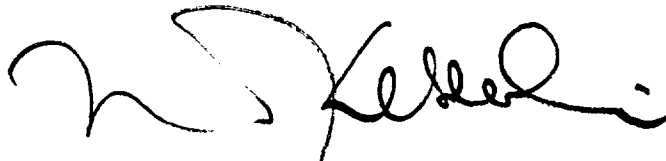
#### **APPLICANT**

| <b>WITNESSES</b>                      | <b>EST. TIME</b> | <b>EST. EXHIBITS</b> |
|---------------------------------------|------------------|----------------------|
| Philip G. Wood<br>(landman)           | 1 hr.            | 15 exhibits          |
| Alan Harrison<br>(petroleum engineer) | 1 hr.            | 8 exhibits           |

### **PROCEDURAL MATTERS**

None applicable at this time.

**RESPECTFULLY SUBMITTED:**



W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

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SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

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

JASON KELLAHIN (RETIRED 1991)

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

June 28, 1994

HAND DELIVERED

JUN 28 1994

Mr. William J. LeMay, Director  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: Request of Consolidated Oil & Gas, Inc.  
for Extension of Dates for Commencement of  
Completion Pursuant to Compulsory Pooling Orders:

Order R-9033-A (Federal 32-6-9 Well No.1)  
Order R-9178-A (Miller 32-6-11 Well No. 1)  
Order R-9179-A (Carnes 32-6-11 Well No. 1)

Dear Mr. LeMay:

On behalf of Consolidated Oil & Gas, Inc. and in accordance with the provisions of the referenced orders (copies enclosed), I am requesting a 45-day extension to the commencement date for each of the subject wells and in support state:

(1) Each order was entered effective June 16, 1994 and provides that the completion operations required on each well shall be commenced on or before August 1, 1994;

William J. LeMay  
June 28, 1994  
Page 2.

(2) Before each well can be completed, it is necessary to have the gas gathering system in place and each well tied into that system so that when each well is completed and stimulated it can then commence flowing into the gathering system rather than being shut-in which will risk formation damage;

(3) An extension of the commencement date for completion of each well until October 1, 1994 will provide the opportunity to coordinate completion with the ability to gather the gas production.

I have enclosed a letter dated June 22, 1994 from Mr. Alan C. Harrison, District Operations Manager for Consolidated Oil & Gas, Inc. which substantiates the necessity for granting this request.

Should you grant this extension, I have enclosed for your consideration a proposed letter which will authorize the requested extension.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Thomas Kellahin". The signature is fluid and cursive, with a large initial "W" and a long, sweeping underline.

W. Thomas Kellahin

cc: David R. Catanach (NMOCD Hearing Examiner)  
cc: Consolidated Oil & Gas, Inc.  
cc: Edmund T. Anderson  
cc: James J. Rubow

# *Consolidated Oil & Gas, Inc.*

June 22, 1994

Mr. W. Thomas Kellahin  
Kellahin & Kellahin  
117 N. Guadalupe  
Santa Fe, NM 87504

RE: OCD Orders No. R9033-A, R-9178-A, R-9179-A

Dear Mr. Kellahin:

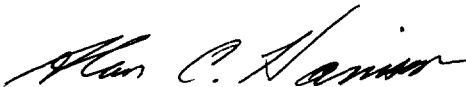
Having reviewed the above captioned orders, Consolidated Oil and Gas, Inc. respectfully requests that you attempt to obtain a 45-day extension for the commencement of completion operations. We are seeking this extension for the following reasons:

- Construction of the gas gathering system, which will ultimately tie-in the subject wells, has just begun and is projected for completion in mid to late August.
- Experience has shown that shutting in a well for any length of time; i.e., for lack of production facilities or a pipeline, can result in unnecessary formation damage and loss of productivity. Therefore, it is in the best interest of all concerned that we delay further completion and stimulation operations until such time that the wells can be flowed back on an uninterrupted basis.

In view of the above, we prefer to begin completion operations in late August or early September. All wells should be on line and selling gas by October 1, 1994.

Tom, your assistance in this matter is greatly appreciated. Please contact me if you require any additional information or have any questions.

Sincerely,



Alan C. Harrison  
District Operations Manager

ACH/id

PROD\ACH\KELLAHIN.LTR

June \_\_\_, 1994

W. Thomas Kellahin  
Kellahin & Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501

Re: Approval of Request for Extensions  
of Dates to Commence Operations

Dear Mr. Kellahin:

Based upon good cause shown in your written request dated June 28, 1994, and in accordance with the provisions of Division Order R-9033-A, Order R-9178-A and Order R-9179-A and the authority retained by the Division therein, Consolidated Oil & Gas, Inc. is hereby granted an extension of time until October 1, 1994 in which to commence the completion operations for each of the following wells:

- (1) Federal 32-6-9 Well No. 1  
Unit A, Section 9, T32N, R6W  
San Juan County, New Mexico  
NMOCD Case 10955  
Order R-9033-A
- (2) Miller 32-6-11 Well No. 1  
Unit E, Section 11, T32N, R6W  
San Juan & Rio Arriba Counties, N.M.  
NMOCD Case 10956  
Order R-9178-A
- (3) Carnes 32-6-11 Well No. 1  
Unit L, Section 11, T32N, R6W,  
San Juan & Rio Arriba Counties, N.M.  
NMOCD Case 10957  
Order R-9179-A

Sincerely,

William J. LeMay, Director



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

June 30, 1994

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

Mr. Thomas Kellahin  
Kellahin & Kellahin  
Attorneys at Law  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Dear Mr. Kellahin:

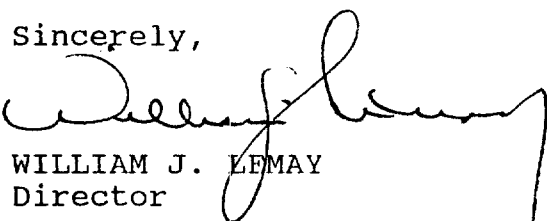
Based upon the reasons stated in your letter of June 28, 1994, and in accordance with the provisions of Division Orders Nos. R-9033-A, R-9178-A, and R-9179-A, Consolidated Oil & Gas, Inc. is hereby granted an extension of time until October 1, 1994, in which to begin the wells on the units pooled by said orders as follows:

Federal 32-6-9 Well No. 1-A  
Section 9, T32N, R6W  
Order No. R-9033-A

Miller 32-6-11 Well No. 1-E  
Section 11, T32N, R6W  
Order No. R-9178-A

Carnes 32-6-11 Well No. 1-L  
Section 11, T32N, R6W  
Order No. R-9179-A

Sincerely,



WILLIAM J. LEMAY  
Director

fd/

cc: Cases Nos. 10955, 10956, and 10957  
OCD - Aztec



# Consolidated Oil & Gas, Inc.

July 7, 1994

FAX #505-827-5741

Mr. David R. Catanach  
State of New Mexico  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, New Mexico 87504

Re: OCD Order No.'s R-9033-A,  
R-9178-A and R-9179-A  
San Juan & Rio Arriba Counties, New Mexico

Dear Mr. Catanach:

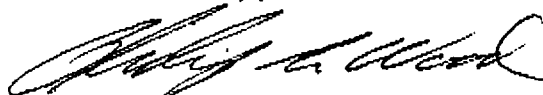
Enclosed are copies of the Certified letters, including itemized schedules of estimated completion costs that were sent to Mr. Rubow and Mr. Anderson for the Federal 32-6-9 #1, Carnes 32-6-11 #1 and Miller 32-6-11 #1 wells. Please call me with any questions or comments that you may have.

Further, with regards to Mr. Rubow's letter of July 6, 1994, the office of T.H. McElvain has advised me that the release of Mr. Rubow's minerals is recorded as follows:

| <u>COUNTY</u>  | <u>SAN JUAN</u> | <u>RIO ARRIBA</u> |
|----------------|-----------------|-------------------|
| Recording Date | 5-23-94         | 6-29-94           |
| Book           | 1183            | 145               |
| Page           | 245             | 638               |

I am certain that Mr. Kellahin can provide you with a copy next week.

Sincerely,



Philip G. Wood  
Land Manager

PGW:lm  
enclosures

# Consolidated Oil & Gas, Inc.

July 7, 1994

CERTIFIED MAIL

James Rubow  
1645 Court Place, Suite 324  
Denver, CO 80202

*Case File - 10956*

Re: Miller 32-6-11 #1 Well  
N/2 Section 11, T32N, R6W  
Carnes 32-6-11 #1 Well  
S/2 Section 11, T32N, R6W  
San Juan County, New Mexico

Dear Mr. Rubow:

Pursuant to State of New Mexico Oil Conservation Division Orders R-9033-A and R-9178-A, you are hereby provided with Consolidated's itemized schedule of estimated completion costs for the Miller 32-6-11 #1 and Carnes 32-6-11 #1 wells.

Each AFE has an industry standard 10% contingency factored into its total, which move the amounts slightly above the estimates set forth in the orders, but should still fall well within the range of "reasonable well costs."

At this time, Consolidated requests your election to either 1) participate by paying your pro-rata share of reasonable well costs, or 2) become subject to the risk penalties outlined in the Orders. Should you elect to participate in either one or both wells, please provide Consolidated with a cashiers check for your pro-rata share as follows:

|                         |                          |
|-------------------------|--------------------------|
| <u>Miller 32-6-9 #1</u> | <u>Carnes 32-6-11 #1</u> |
| \$203,990.00            | \$205,338.40             |
| * 0.00257732            | * 0.050000               |
| Your share: \$525.75    | Your share: \$10,266.92  |

Your share in both wells: \$10,792.67

Your election to participate and subsequent payment of funds is due within thirty (30) days from receipt of this letter.

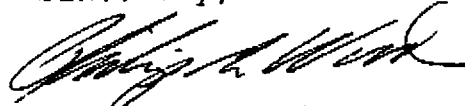
# *Consolidated Oil & Gas, Inc.*

Mr. James Rubow  
July 7, 1994  
Page Two

Consolidated Oil & Gas, Inc. is approximately midway through the construction of its Colorado based gas gathering/water disposal system that will ultimately branch southward and tie into the Carnes and Miller wells. Water will be piped to a central facility in La Plata County and disposed of through our agreement with RMI Environmental Services. The gas line will be connected to El Paso's Ignacio Blanco System.

We anticipate initial gathering and disposal rates of \$0.80 - \$1.00 per barrel of water and \$0.18 - \$0.25 per MCF. Additional information regarding rates and time schedules is forthcoming. Our plan is to be fully operational by October 1, 1994.

Sincerely,



Philip G. Wood  
Land Manager

PGW:ab  
enclosure

cc: State of New Mexico  
Oil Conservation Division  
Attn: Mr. David R. Catanach  
P.O. Box 2088  
Santa Fe, NM 87504

CONSOLIDATED OIL & GAS, INC.  
410 17TH STREET, SUITE 2300  
DENVER, CO 80202

AUTHORIZATION FOR EXPENDITURE

Lease Carnes 32-6-11 #1 AFE No. 0694006  
County San Juan Field Basin Fruitland Coal  
Date Work to Start 8-29-94 Time to Complete 5 Days State New Mexico  
Work to Be Done By 9-2-94

Nature of Proposed Work: The well will be fracture stimulated, equipped with facilities and hooked up for gas sales.

It is estimated that the following labor, material, etc., will be required:

| Quantity | Description                            | Estimated Cost |
|----------|--|----------------|
|          | Frac Stimulation                       | \$70,000.00    |
|          | Workover Rig                           | \$6,000.00     |
|          | Testing                                | \$2,500.00     |
|          | Equipment (Tbg, Rods, Valves)          | \$9,500.00     |
|          | Facilities (P.U., Sep., Tanks, Mtr.)   | \$34,000.00    |
|          | Flowline Installation                  | \$16,000.00    |
|          | Site Reclamation, Road Work, Graveling | \$15,000.00    |
|          | Misc. (Roustabout, Rentals, etc.)      | \$3,000.00     |
|          | Contingencies @10%                     | \$15,000.00    |
|          | Supervision                            | \$2,500.00     |

TOTAL \$173,500.00

Recommended by *ASH* Alan C. Harrison, District Operations Manager Date: July 1, 1994  
Name and Title

Approved by *J A Waechter* Date: 7/1/94

COMPANY NAME: James Rubow

Approved by \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Title

Company W. I. .050000 Net Cost: \$8,675.00

CONSOLIDATED OIL & GAS, INC.  
410 17TH STREET, SUITE 2300  
DENVER, CO 80202

AUTHORIZATION FOR EXPENDITURE

Lease Miller 32-6-11 #1 AFE No. 0694004  
County San Juan Field Basin Fruitland Coal  
Date Work to Start 8-22-94 State New Mexico  
Time to Complete 5 Days Work to Be Done By 8-26-94

Nature of Proposed Work: The well will be fracture stimulated, equipped with facilities and hooked up for gas sales.

It is estimated that the following labor, material, etc., will be required:

| Quantity | Description                            | Estimated Cost |
|----------|--|----------------|
|          | Frac Stimulation                       | \$70,000.00    |
|          | Workover Rig                           | \$6,000.00     |
|          | Testing                                | \$2,500.00     |
|          | Equipment (Tbg, Rods, Valves)          | \$9,500.00     |
|          | Facilities (P.U., Sep., Tanks, Mtr.)   | \$34,000.00    |
|          | Flowline Installation                  | \$16,000.00    |
|          | Site Reclamation, Road Work, Graveling | \$15,000.00    |
|          | Misc. (Roustabout, Rentals, etc.)      | \$3,000.00     |
|          | Contingencies @10%                     | \$15,000.00    |
|          | Supervision                            | \$2,500.00     |

TOTAL \$173,500.00

Recommended by Alan C. Harrison, District Operations Manager Date: July 1, 1994  
Name and Title

Approved by J. A. Wacker Date: 7/1/94

COMPANY NAME: James Rubow

Approved by \_\_\_\_\_ Date: \_\_\_\_\_  
Name and Title

Company W. I. .00257732 Net Cost: \$447.17

# Consolidated Oil & Gas, Inc.

1995 JUL 17 AM 8 52

June 16, 1995

New Mexico Oil Conservation Division  
Attn: Mr. Michael Stogner  
2040 S. Pacheco  
Santa Fe, NM 87505

*M.S.*  
*Case 10956*

RE: Miller 32-6-11 #1  
(OCD Pooling Order R-9178-A)  
San Juan County, New Mexico

Dear Working Interest Owner:

The following is an itemized schedule of the completion costs incurred for the above-referenced well.

## COMPLETION COSTS:

|  |              |
|--|--------------|
| • FRAC STIMULATION                       | \$ 52,100    |
| • WORKOVER RIG                           | 11,500       |
| • TESTING                                | 7,900        |
| • EQUIPMENT (TBG, RODS, WELLHEAD)        | 11,300       |
| • FACILITIES (SEP, TANKS, P.U. MTR)      | 53,300       |
| • FLOWLINE INSTALLATION                  | 51,100       |
| • SITE RECLAMATION, ROAD WORK, GRAVELING | 23,700       |
| • MISC. (ROUSTABOUT, RENTALS, ETC.)      | 9,300        |
| • CONTINGENCIES                          | 10,500       |
| • SUPERVISION                            | <u>1,500</u> |

**TOTAL \$ 232,200**

We apologize for the delay in forwarding this information to you, however, we just recently reconciled several disputed charges with various vendors and had deferred some of the site reclamation and graveling costs until this spring.

Also, attached herewith is an AFE cost comparison schedule. You will note that attached to this schedule is an explanation for those items in which a significant cost overrun was incurred.

New Mexico Oil Conservation Division

June 16, 1995

Page 2

If you have any questions or require any additional information pertaining to this matter or to the operations of the well in general, please do not hesitate to contact me at 303/893-1225.

Thank you for your patience and attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan C. Harrison". The signature is fluid and cursive, with the first name "Alan" and last name "Harrison" clearly distinguishable.

Alan C. Harrison  
District Operations Manager

ACH/dg

Enclosures

MILLER 32-6-11 NO. 1  
 COG AFE NO. 0694004  
 NMOCD POOLING ORDER R-9178-A

### **AFE COST ITEMIZATION & COMPARISON**

| <u><b>COST ITEM</b></u>                   | <u><b>ORIGINAL<br/>AFE COST<br/>(\$'s)</b></u> | <u><b>ACTUAL<br/>COST<br/>(\$'s)</b></u> | <u><b>DIFFERENCE<br/>(\$'s)</b></u> |
|---|--|--|-------------------------------------|
| FRAC STIMULATION                          | 70,000   | 52,100                                   | (17,900)                            |
| WORKOVER RIG                              | 6,000  | 11,500                                   | 5,500                               |
| TESTING                                   | 2,500  | 7,900                                    | 5,400                               |
| EQUIPMENT (TBG, RODS, WH)                 | 9,500  | 11,300                                   | 1,800                               |
| FACILITIES (SEP, TANKS, P.U.)             | 34,000   | 53,300                                   | 19,300                              |
| FLOWLINE INSTALLATION                     | 16,000   | 51,100                                   | 35,100                              |
| SITE RECLAMATION, ROAD WORK,<br>GRAVELING | 15,000   | 23,700                                   | 8,700                               |
| MISC. (ROUSTABOUT, RENTALS, ETC.)         | 3,000  | 9,300                                    | 6,300                               |
| CONTINGENCIES @ 10%                       | 15,000   | 10,500                                   | (4,500)                             |
| SUPERVISION                               | <u>2,500</u>                                   | <u>1,500</u>                             | <u>(1,000)</u>                      |
| <b>TOTAL</b>                              | <b>173,500</b>                                 | <b>232,200</b>                           | <b>58,700</b>                       |



MILLER 32-6-11 NO. 1  
COG AFE NO. 0694004  
NMOCD POOLING ORDER R-9178-A

RE: AFE COST OVERRUNS

**WORKOVER RIG:** Additional rig charges were incurred due to extra time spent on cleaning out fill (sand and coal fines) after the frac job.

**TESTING:** Costs for flowback equipment, flowback crews and disposal of frac load water while testing were underestimated in the AFE.

**PRODUCTION FACILITIES:** The availability of used equipment for coalbed methane production was very limited in the Durango/Farmington area. Facilities such as the separator and water production tanks were purchased "new." All other equipment items (i.e. pumping unit, engine, etc.) were either purchased in "used" condition from suppliers in other states or a material transfer was made from one of COG's other districts per COPAS guidelines. In the original AFE estimate, it was assumed all equipment would be purchased in used condition from local vendors.

**FLOWLINE INSTALLATION:** The actual pipeline footage was greater than originally estimated due to changes in routing to accommodate lot and designated road locations in the surrounding sub-division. Also, larger diameter pipe was installed for a portion of the pipeline to reduce the pressure drop from the well to the tie-in point with the Tiffany Gathering System.

**RECLAMATION, ROAD WORK, GRAVELING:** The majority of the cost overrun was for the equipment and gravel associated with building a new road to the location. A major portion of this was done on a cost-share basis with the sub-division owner realizing this road would be used by lot owners within the sub-division. Also, additional pit run gravel was used on the well pad to allow for water hauling trucks to access the production tanks during wet conditions.

**ROUSTABOUT, RENTALS, ETC.** The cost of rental items such as the wellhead isolation tool, flowback manifold and accessories, in addition to general roustabout services associated with the well hook-up were underestimated.