

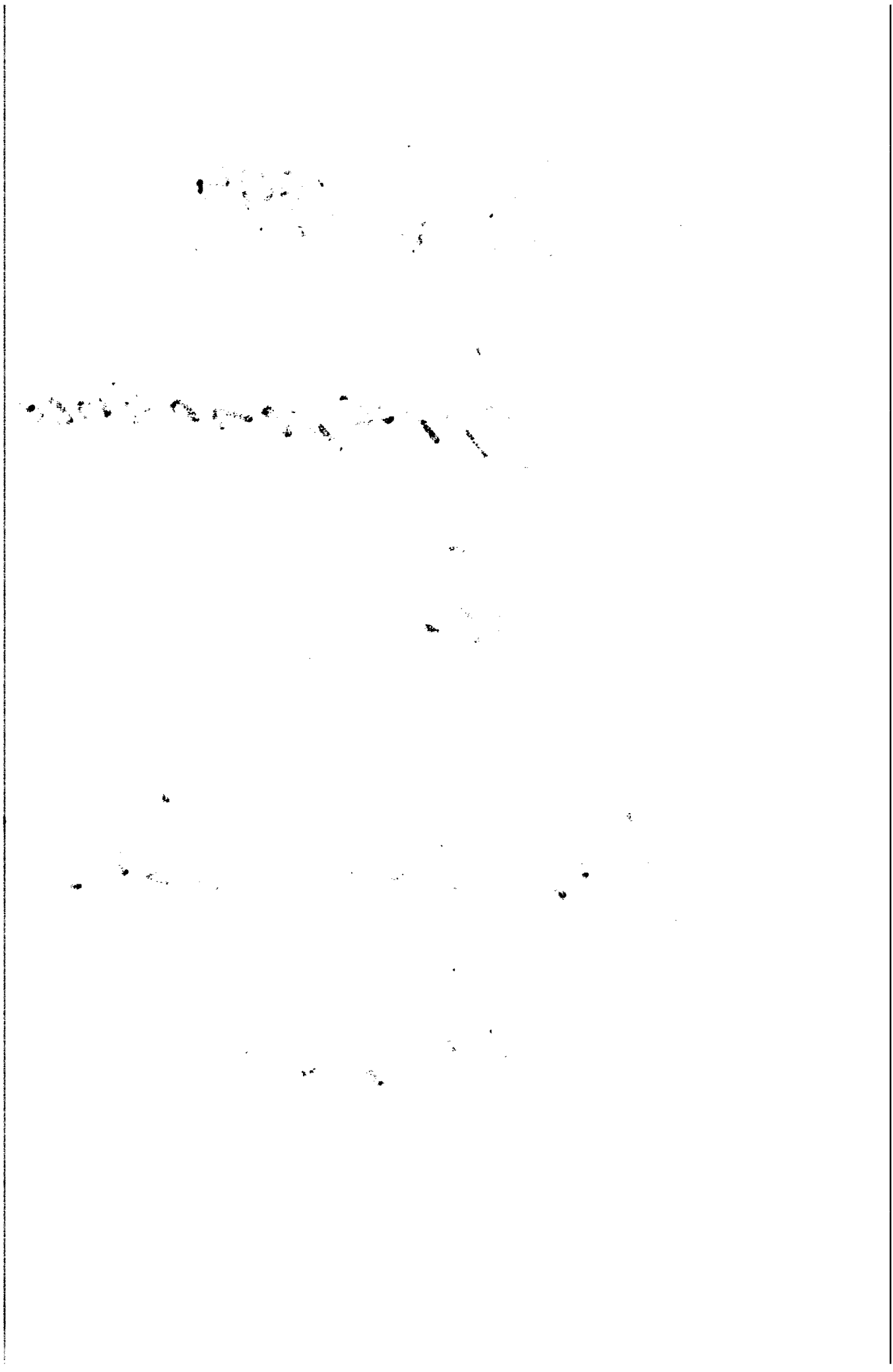
July 1999

Correspondence

for

Re Novo Case No.

11 996



# GALLEGOS LAW FIRM

A Professional Corporation

460 St. Michael's Drive  
Building 300  
Santa Fe, New Mexico 87505  
Telephone No. 505-983-6686  
Telefax No. 505-986-1367  
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July 13, 1998  
(Our File No. 98-266.00)

MICHAEL J. CONDON

## VIA TELECOPY

J. Scott Hall  
Miller, Stratvert, Torgerson  
& Schlenker, P.A.  
150 Washington, Suite 300  
Santa Fe, New Mexico 87501

Re: Pendragon Application NMOCD Case No. 11996

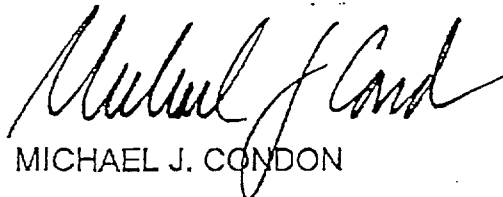
Dear Scott:

In addition to the documents we have received and have already requested, we would also like to request copies of the complete well files, including but not limited to any documents pertaining to water production, for the Chaco wells. A copy of our subpoena defining the Chaco wells is attached for your review. If water was hauled from any of those wells, we would like the water hauling tickets and any other related documents. If any pits were constructed at the site for water disposal, we would like all documents related to that process. Thank you for your cooperation.

Very truly yours,

GALLEGOS LAW FIRM, P.C.

By



MICHAEL J. CONDON

MJC:sa

fxc: Mickey O'Hare  
John Hazlett

ioc: J.E. Gallegos

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

IN THE MATTER OF:

APPLICATION OF PENDRAGON ENERGY  
PARTNERS, INC., PENDRAGON RESOURCES, L.P.,  
And EDWARDS ENERGY CORPORATION TO CONFIRM  
PRODUCTION FROM THE APPROPRIATE COMMON  
SOURCE OF SUPPLY, SAN JUAN COUNTY, NEW MEXICO

CASE NO. 11906  
ORDER NO. 8-1193  
DENE

PENDRAGON'S MEMORANDUM BRIEF  
ON DISCOVERY ISSUES

Pendragon Energy Partners, Inc., Pendragon Resources, L.P. and Edwards Energy Corporation<sup>1</sup>, (together, "Pendragon"), through counsel, submit this Memorandum Brief pursuant to certain issues raised at the March 30, 1999 pre-hearing conference convened before the Commission's counsel. At the conference, a number of items were discussed and agreement was reached on the following:

1. In view of the planned requirement for pre-filed testimony for experts,<sup>2</sup> counsel agreed to confer on a form of a pre-hearing scheduling order to include, among other things, deadlines for the conduct of discovery, the filing of objections to the pre-filed testimony and rulings thereon;

2. The parties will identify witnesses and supply exhibit lists by a date certain.

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<sup>1</sup> F/k/a J.K. Edwards Associates, Inc.

<sup>2</sup> The possibility of pre-filed testimony for fact witnesses was expressly precluded at the prehearing conference. Consequently, the ramifications of such a concept were not discussed.

3. The objections to the presently pending discovery are resolved and Whiting Petroleum Corporation's Motion to Quash Subpoenas is withdrawn.

4. In connection with item 3, above, it was agreed that the expert's "underlying data" and other materials sought under the Division's March 8, 1999 subpoena on Schlumberger/Brazos/S.A. Holditch would be provided by the expert. Pendragon affirmed that it did not seek interpretations, work-product or other similar information under the subpoena. It was agreed that the subpoenaed materials would be produced by the end of April.

5. With respect to all other experts, the parties similarly agreed to exchange their experts' "underlying data" by a date certain in advance of the hearing.

6. The parties agreed to supplement their prior production of "field data", such as production and pressure data, a certain number of days in advance of the hearing.

7. Counsel will confer and attempt to narrow the issues by filing a Stipulation in advance of the hearing.

8. A four to five-day hearing would be scheduled in late June or early July;

The issue of extra-statutory discovery was also raised, but on discussion, the practical problems precipitated by such a process and the limits of the agency's authority to provide for the same created some concern. Accordingly, it was agreed the matter would be briefed.

It is Pendragon's position that the present practices and procedures for discovery under NMSA 1978, Section 70-2-8 (1995) and Rule 1221 are both efficient and adequate. Moreover, the expansion of existing discovery procedures without more explicit statutory

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June 8, 1999  
(Our File No. 98-266.00)

J.E. GALLEGOS \*

## VIA TELECOPY

J. Scott Hall  
Miller, Stratvert, Torgerson  
& Schlenker, P.A.  
150 Washington, Suite 300  
Santa Fe, New Mexico 87501

Re: Application of Pendragon Energy Partners; NMOCC Case No. 11996  
**DOCUMENT EXCHANGE**

Dear Scott:

I am obliging you with a prompt reply to your fax of this date concerning the discovery of source data used by the respective experts in this matter.

First, what you have written in your memorandum brief of April 12, 1999 is far from definitive on this issue. I can think of very little that I have agreed with in any of your pleading, but we cannot take the time or bother the Commission with disputing every self-serving statement you make. My fax to you yesterday accurately recounted the discussion and the clear purpose of the Scheduling Order specifying that "Each party was to have provided the documents . . ."

Next, your proposal that Whiting, Maralex and Holditch provide the "subpoenaed" documents is equally off the mark. The subpoenas were clearly objectionable because of the requirement for work product, interpretation, etc. That is why we filed motions to quash. That is why the matter was taken up at the March 30, 1999 conference. That is why there was a **mutual** agreement to exchange the underlying data and records used by the experts. It is absolutely incredible that you are now trying to depart from that agreement after all this time.

This should really be a rather simple problem and require no more of these letters. I suggest that we make the exchange of documents this Friday, June 11, 1999. If you cannot have your experts' data ready by then, please specify a date next week.

I am at a loss to understand your proposal number (4) about document requests. I thought it was understood that the parties would supplement the initial exchange as

\* New Mexico Board of Legal Specialization  
Recognized Specialist in the area of  
Natural Resources-Oil and Gas Law

require resolution by the Director.

Sincerely,

GALLEGOS LAW FIRM, P.C.

By

  
J.E. GALLEGOS

JEG:sa

fxc: Marilyn Hebert, Esq.  
John Hazlett  
Mickey O'Hare  
ioc: Michael J. Condon  
Caroline C. Woods

J. Scott Hall  
June 8, 1999  
Page 2

more data and information was accumulated. There is no mystery here. Everyone understands what is expected from the other. If you would like to set a specific date before July 16, 1999 for supplementation, that would be a good idea and we will be pleased to cooperate.

Unless we can proceed with the agreed and ordered mutual exchange, and you insist on the "subpoenaed" materials from our experts two weeks before we are to receive only the underlying data from yours, then this matter will – unfortunately – require resolution by the Director.

Sincerely,

GALLEGOS LAW FIRM, P.C.

By

  
J.E. GALLEGOS

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

OIL CONSERVATION DIV.  
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JUL

**APPLICATION OF PENDRAGON ENERGY  
PARTNERS, INC., PENDRAGON RESOURCES,  
L.P., AND J.K EDWARDS ASSOCIATES, INC.  
TO CONFIRM PRODUCTION FROM THE  
APPROPRIATE COMMON SOURCE OF SUPPLY,  
SAN JUAN COUNTY, NEW MEXICO**

**OCD CASE NO. 11996**

**WHITING'S RESPONSE TO REQUEST  
FOR PRODUCTION**

Whiting Petroleum Corp. hereby responds to the Request for Production of Reservoir Pressure Test Data as follows:

**GENERAL OBJECTIONS AND LIMITATIONS**

Whiting objects to each and every Request to the extent that the Request would require Whiting to divulge information protected by the attorney-client privilege, the attorney work-product doctrine, the party communications and/or investigative privilege, the Commission's interpretive analysis privilege, or any other applicable privilege or immunity or exemption from discovery, including but not limited to those addressed in Rule 1-026, NMRA 1999.

**REQUEST FOR PRODUCTION**

1. All of the data and materials derived from or related in any way to the reservoir pressure testing to be performed by Whiting and Maralex pursuant to the procedures set forth in the June 1, 1999 affidavit of Bradley M. Robinson (Holditch Reservoir Technologies) attached to the Motion to Require Comprehensive and Fairly Designed Testing In Connection With Reservoir Pressure Tests. (By this request, Pendragon does not seek the production of interpretive or protected work product materials or information.)



**Response**

The testing referenced in the June 1, 1999 affidavit of Bradley M. Robinson has not been performed. If such testing is performed and completed, Whiting will produce all responsive documents.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By   
J.E. GALLEGOS

MICHAEL J. CONDON

460 St. Michael's Drive, Bldg. 300  
Santa Fe, New Mexico 87505  
(505) 983-6686

Attorneys for Whiting and Maralex

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of Whiting's Response to Request for Production to be served by U.S. Mail on this 13<sup>th</sup> day of July, 1999 to the following counsel for defendants:

J. Scott Hall  
Miller, Stratvert, Torgerson & Schlenker, P.A.  
150 Washington Avenue  
Santa Fe, New Mexico 87501

  
J. E. GALLEGOS

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

OIL CONSERVATION DIV.

RECEIVED AN 10:34

July

**APPLICATION OF PENDRAGON ENERGY  
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L.P., AND J.K EDWARDS ASSOCIATES, INC.  
TO CONFIRM PRODUCTION FROM THE  
APPROPRIATE COMMON SOURCE OF SUPPLY,  
SAN JUAN COUNTY, NEW MEXICO**

**OCD CASE NO. 11996**

**MARALEX'S RESPONSE TO REQUEST  
FOR PRODUCTION**

Maralex hereby submits its response to the Request for Production served by applicant in this proceeding.

**GENERAL OBJECTIONS AND LIMITATIONS**

Maralex objects to each and every Request to the extent that the Request would require Maralex to divulge information protected by the attorney-client privilege, the attorney work-product doctrine, the party communications and/or investigative privilege, the Commission's interpretive analysis privilege, or any other applicable privilege or immunity or exemption from discovery, including but not limited to those addressed in Rule 1-026, NMRA 1999.

**REQUEST FOR PRODUCTION**

1. All documents related in any way to the venting, flaring or other production and disposition of gas prior to reporting first gas production from the Fruitland Coal Wells that are the subject of this proceeding, including any run tickets, lease operating expense materials, joint interest billings, regulatory applications and permits for the same.

**Response**

Maralex has no documents which are responsive to this request. There are no documents which evidence venting, flaring or other production and disposition of gas prior to reporting first gas production from the Fruitland coal wells which are subject to this proceeding. To the extent regulatory applications and permits for same would reflect such information, which is doubtful, those documents have already been produced with the well files. To the extent Pendragon seeks all lease operating expense materials and joint interest billings, Maralex objects to the request as calling for information which is irrelevant to any issue in this proceeding. Maralex will check its lease operating expense materials and joint interest billings to determine if such documents reflect, prior to reporting first gas production, any venting, flaring, or other production and disposition of gas, and produce such documents if and to the extent they contain such information.

2. All documents related to in any way to the production and disposition of water prior to reporting first gas production from the Fruitland Coal Wells that are the subject of this proceeding, including any run tickets, lease operating expense materials, joint interest billings, and any regulatory reporting for the same.

**Response:**

Maralex has no documents which are responsive to this request. Again, there are no records which documented the production and disposition of water prior to reporting first gas production from the Fruitland Coal Wells. To the extent that there are regulatory applications and reporting of water production, those documents have previously been produced. To the extent the request asks for all run tickets, lease operating expense materials, and joint interest billings for the Fruitland Coal Wells, Maralex objects to that request as calling for information that is irrelevant to any issue in

this proceeding. Maralex will review its run tickets, lease operating expense materials, and joint interest billings and produce any such documents to the extent they contain such information which reflect water production and disposition prior to reporting first gas production, though Maralex believes that no such documents exist.

3. All frac records (in both computer disc and paper format, if available), including, but not limited to (i) proposed frac designs, (ii) Nolte plots for frac jobs, (iii) frac job reports, (iv) tracer surveys, and (v) all related materials, including rates, pressures, volumes and rheologies for all fluids for all frac jobs performed on all Fruitland coal wells owned and/or operated by Maralex (as contract operator or otherwise) in the Largo Canyon and Hart Canyon areas.

**Response:**

Subject to the general objection, supra, Maralex will produce responsive documents in its possession, custody and control relating to frac records on the Fruitland coal wells owned and/or operated by Maralex in the Largo Canyon and Hart Canyon areas. Those documents are presently being assembled, and will be reviewed prior to production.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By 

J.E. GALLEGOS  
MICHAEL J. CONDON

460 St. Michael's Drive, Bldg. 300  
Santa Fe, New Mexico 87505  
(505) 983-6686

Attorneys for Whiting and Maralex

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of Maralex's Response to Request for Production to be served by U.S. Mail on this 13<sup>th</sup> day of July, 1999 to the following counsel for defendants:

J. Scott Hall  
Miller, Stratvert, Torgerson & Schlenker, P.A.  
150 Washington Avenue  
Santa Fe, New Mexico 87501

  
\_\_\_\_\_  
J. E. GALLEGOS