Examiner Case No. 1089 EXHIBIT NO.



United States Department of the Interior

BUREAU OF LAND MANAGMENT Colorado State Office 2850 Youngfield Street Lakewood, Colorado 80215-7076

OCT 2 0 1994

In Reply Refer To: CO-922B 3160

Mr. William LeMay, Director New Mexico Oil Conservation Division P.O. Box 2088 Santa Fe, New Mexico 87504

Dear Mr. LeMay:

For many years there has been a spirit of cooperation, communication, and trust between the New Mexico Oil Conservation Division (NMOCD) and the Colorado Bureau of Land Management (BLM) in the management of Ute Mountain Ute Tribal Lands in the state of New Mexico and the development of our nation's oil and gas resources. Each agency's mission and staffing levels have grown during these years to the point where we believe it is important to formalize our excellent working relationship as well as define each agency's role and responsibilities. It is also important to provide oil and gas lessees/operators with consistent policy and procedures on Ute Mountain Ute Tribal Lands.

Federal regulations at 43 CFR 3162.3-1(a), which apply to Indian land leases (see 43 CFR 3160.0-1), provides that an oil and gas well shall be drilled "in conformity with an acceptable well spacing program." It then goes on to say that such a program is either "one which conforms with a spacing order or field rule issued by a State Commission or Board and accepted by the authorized officer" or "any other program established by the authorized officer." BLM is therefore responsible for making the final spacing determinations for oil and gas wells on Indian lands. This decision is also documented in an Interior Board of Land Appeals decision involving the Assiniboine and Sioux Tribes in Montana, which states it is BLM, not a state oil and gas commission, that has jurisdiction for spacing matters on Tribal Lands. Since the Tribe is a sovereign nation, BLM's trust responsibility to the Tribe gives the BLM jurisdiction for spacing matters on Tribal Lands. See also Assiniboine & Sioux Tribes of Fort Peck Indian Reservation v. Board of Oil and Gas Conservation of State of Montana, 792 F.2d 782, 794-96 (9th Cir. 1986).

In order to fulfill BLM's trust responsibilities with respect to Tribal Lands and guarantee the Tribe an effective voice with respect to management of its lands, we would like to propose a plan whereby the Colorado BLM will utilize the NMOCD hearing process to develop a record that we will independently evaluate from both a technical and a trust responsibility

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standpoint. The BLM would like to use the state commission hearing process so as not to duplicate the effort and cost of a separate hearing process, to accommodate industry's familiarity with the existing process, and we would appreciate the NMOCD's input to achieve consistency across jurisdictional boundaries. The Colorado BLM will reimburse the NMOCD for the time and work to develop this record. This would include mailing the notices, portions of room rentals, portions of salaries, holding a hearing, etc. This course of action will be useful to the BLM in its review of oil and gas development decisions on Tribal Lands. It provides a more efficient and lower cost option than formulating and implementing a hearing process of our own. It will also be less confusing to the oil and gas industry.

If the NMOCD is amenable to this proposal, we would like to begin implementation as of the November 10, 1994, hearing date. As you are aware, Meridian Oil Inc., has submitted an application to the NMOCD to abolish the Barker Creek Paradox (Pennsylvanian) Gas Pool and create five new gas pools with special rules. All the land involved in this application is Ute Mountain Ute Tribal Land. We are planning to have three or four representatives at the hearing, not to testify before the NMOCD, but rather to evaluate the record developed at the hearing and to get the NMOCD's recommendations with respect to the resolution of this application. BLM will render a final decision within thirty days of the hearing date.

We hope this proposal will resolve the jurisdictional issues to our mutual satisfaction. Should you have any questions regarding specific details of implementation or other questions in regards to this matter, please contact Sherri Thompson at (303) 239-3758.

Sincerely,

David H. Strunk Deputy State Director Resource Services

cc:

Ute Mountain Ute Indian Tribe-Craig Canfield Rand Carroll, Legai Counsel, NMOCD SJRA, MDO Lyle Rising, Rocky Mountain Regional Solicitor's Office BIA-Ken Young 2

STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT



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POST OFFICE BOX 2088 STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO 87504

(505) 827-5800

OIL CONSERVATION DIVISION

BRUCE KING SOVERNOR ANITA LOCKWOOD CABINET SECRETARY

September 13, 1994

U. S. Bureau of Land Management Colorado State Office Attn: Frank A. Salwerowicz 2850 Youngfield Street Lakewood, Colorado 80215-7076

Kellahin & Kellahin Attn: W. Thomas Kellahin P. O. Box 2265 Santa Fe, New Mexico 87504

Re: Division Case No. 11089. Application of Meridian Oil Inc. to abolish the Barker Creek-Paradox (Pennsylvanian) Pool and the concomitant creation of five replacement gas pools and the promulgation of special rules and regulations for each, Township 32 North, Range 14 West, NMPM, San Juan County, New Mexico.

Dear Messrs. Salwerowicz and Kellahin:

Reference is made to Mr. Frank A. Salwerowicz's correspondence to Mr. William J. LeMay dated September 2, 1994, requesting a continuance of 60-days of this matter to a hearing before the New Mexico Oil Conservation Division ("Division") in November, and to Mr. W. Thomas Kellahin's response dated September 9, 1994, requesting that this case be heard at the September 15, 1994 Division hearing.

Pursuant to the "New Mexico Oil and Gas Act", Sections 70-2-1 through 70-2-36, N.M.S.A. 1978, such request for establishing pools and the promulgation, including spacing, is within the jurisdiction of the Division. Nothing contained within the subject application or in said letters appears to require the Division to deviate from its normal course of action in handling this request.

Further, the Colorado State Office of the Bureau of Land Management ("BLM"), is recognized as a party to the proceedings because it represents the owner interests in the case.



Page 2 W. Thomas Kellahin/U. S. Bureau of Land Management September 13, 1994

Its request for a continuance to the Division hearing scheduled for November 10, 1994 is hereby granted so that it may have adequate time to prepare testimony.

The Division welcomes testimony and/or comment from leasing entities and/or mineral interest owners regarding this case as well as all other caues. It would further good conservation practices and equity considerations to have a representative of the BLM at the hearing and for the BLM to be a party of record should the BLM wish to appeal this matter to the New Mexico Oil Conservation Commission and avail itself of all administrative remedies, as well as judicial appeal.

Sincerely,

Michael E. Stogner Assistant Deputy Director/Engineer

Oil Conservation Division - Aztec, NM cc: William J. LeMay - OCD Director, Santa Fe, NM Rand Carroll - Legal Counsel, OCD, Santa Fe, NM Meridian Oil, Inc. - Farmington, NM Sally Wisely, U. S. Bureau of Land Management - Durango, CO Ute Mountain Ute Tribe (Energy Division) - Towaoc, CO U. S. Bureau of Indian Affairs (Ute Mountain Ute Agency) - Towaoc, CO

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW EL PATIO BUILDING II7 NORTH GUADALUPE POST OFFICE BOX 2265 SANTA FS, NEW MEXICO 87504-2265

TELEPHONE (605) 982-4289 TELEFAX (505) 982-2047

"NEW MEXICO GOARD OF LEGAL SPECIALIZATION Recognized Specialist in the Area of Natural Resources-oil and gas law

W, THOMAS KELLAHIN*

JASON KELLAHIN (RETIRED 1991)

September 9, 1994

VIA FACSIMILE

William J. LeMay Oil Conservation Division 310 Old Santa Fe Trail Santa Fe, New Mexico 87504

Re: NMOCD Case 11089 Application of Meridian Oil Inc. to Amend the Barker Creek-Paradox (Pennsylvanian) Gas Pool and to Create Five Replacement Pools with Special Rules San Juan County, New Mexico

Dear Mr. LeMay:

On August 22, 1994, I filed the referenced case for Meridian Oil Inc. and requested that it be set for hearing on September 15, 1994 before the New Mexico Oil Conservation Division ("NMOCD").

Contrary to NMOCD Rule 1208, exparte conversations and correspondence have been conducted with the NMOCD about this matter without notice to me.

However, on September 7, 1994, I did obtain a copy of a letter dated September 2, 1994 addressed to you from Frank A. Salwerowicz, Deputy State Director, BLM for the San Juan Resources Area in Durango, Colorado in which he requests a 60-day continuance of the referenced case so that the BLM-Colorado can develop its own hearing process to address pools rules in the referenced pool. Mr. William J. LeMay September 9, 1994 Page 2

Meridian, as a prudent operator exercising its rights and duties in accordance with existing leasehold obligations, has determined that substantial additional recoverable gas can be efficiently and timely produced from these reservoirs if its application is granted in a timely manner by what ever regulatory agency has jurisdiction. If these rule changes are accomplished, then Meridian intends to initiate a multiple well drilling program in these reservoirs. Time is of the essence. Any delay in the regulatory proceedings can result in the loss of Meridian's leasehold and forfeiture of what it knows to be proven recoverable hydrocarbon reserves.

On behalf of Meridian Oil Inc., I wish to express its concern that it will be delayed and frustrated by a jurisdictional dispute between multiple regulatory agencies. I would expect that this issue would be of extreme importance to the State of New Mexico and would require the personal attention of the Governor.

The BLM-Colorado presumes that the NMOCD lacks jurisdiction over federal or indian lands relating to the State of New Mexico's oil and gas regulatory objectives. However, pursuant to the requirements of the State of New Mexico's Oil and Gas Act, Meridian is required to apply for and obtain the NMOCD's approval for changes in pool boundaries, well spacing and the other issues raised in its pending application. See Section 70-2-12 NMSA (1978).

The Barker Creek-Paradox Gas Pool ("Pool") was established by the NMOCD by Order R-13 issued March 15, 1950 and extended by Order R-6421 dated August 1, 1980. On November 21, 1950, the NMOCC issued Order R-46 which established 640-acre spacing units and prescribed well locations.

For more than 44 years, the NMOCD has exercised specific and undisputed jurisdiction over well spacing and other pool rules for this pool to which both the BLM and the Ute Mountain Ute Tribe have acquiesced and concurred. For the BLM-Colorado to now seek a continuance of 60days of Meridian's application before the NMOCD is contrary to well Mr. William J. LeMay September 9, 1994 Page 3

established regulatory action by the NMOCD and creates an onerous burden upon my client.

Finally, we wish to express our concern that this jurisdictional dispute will create a situation where the simultaneous compliance with both federal and state regulation of this particular matter will be impossible. We encourage both the NMOCD and the BLM-Colorado to utilize and to participate in the well established and highly respected NMOCD hearing process so that waste can be prevented and the rights of all interested owners protected.

While Meridian does not desire to be "captured" in a regulatory maze created by multiple agencies each asserting jurisdiction in this matter, we do not see how you as Director have the authority to concede that the NMOCD is without jurisdiction.

However, if the State of New Mexico is not going to assert any jurisdiction over these reservoirs within the State of New Mexico, please let me know. Otherwise, Meridian should be allowed to present its case next Thursday.

ery truly yours Thomas Kellahin

cc: Meridian Oil Inc. cc: Michael E. Stogner, Hearing Examiner (NMOCD) cc: BLM-Colorado 10-24-1994 09:08AM

FROM UTE MTN UTE TRIBE BUREAU OF LAND MANAGEMENT FEDERAL BUILDING 701 CAMINO DEL RIO DURANGO, CO 81201-5482

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Certified Mail-Return Receipt Requested (Z 774 963 118)

Kellahin and Kellahin Attorneys At Law R. O. Box 2265 Santa Fe, New Mexico 87504-2265

Gentlemen:

Reference is made to your notice on behalf of Meridian Oil Inc., to abolish the Barker Creek Paradox Pool and create five (5) new gas pools in that portion of the Ute Mountain Ute Reservation, in San Juan County, New Mexico. Oil and gas operations on the Ute Mountain Ute Reservation have been historically administered in trust by the Bureau of Land Management (BLM), specifically by the San Juan Resource Area. As such, the jurisdiction to set spacing and other regulatory controls lies completely and solely with the BLM. The BLM has asked the New Mexico Oil and Gas Conservation Division (NMOCD) for a continuance until the November hearing to allow us to develop a hearing process that is satisfactory to all parties involved. Until such time as the BLM establishes procedures which will allow us to discharge our trust, any decisions or actions which the NMOCD may take will have no force or effect on Ute Mountain Ute lands. Ute Mountain Ute lands.

Pursuant to the jurisdictional authority outlined above, Meridian Oil Inc., is requested to file supporting documentation for the application as proposed. The supporting information will be used to help us better understand the technical aspects of this proposal. Please file your supporting information within 30 days from receipt of this notice. Your timely response is appreciated.

Any questions regarding the above should be directed to Jim Lovato or Kent Hoffman at (303) 247-4082.

Sincerely,

Ute Mountain Ute Tribe CO Attn: Energy Division ... P. O. Box 42 Towaoc, CO 81334

Sally Wisely Area Manager

Bureau of Indian Affairs Ute Mountain Ute Agency Phillip Coyote Sr. Memorial Hall Towaoc, CO 81334

New Mexico Oil Conservation Division William Lemey Attn: P. O. Box 2088 Santa Fe, New Mexico 87504

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TO DEHN PRICE	From Craig CANFIELD
Co. MERILIAN	CO.
Dept.	Phone # 303-565-375)

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United States Department of the Interior

BUREAU OF LAND MANAGMENT Colorado State Office 2850 Youngfield Street Lakewood, Colorado 80215-7076 MERIDIAN OIL

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FARMINGTON, NEW MEXICU REGULATORY

SEP 0 2 1994

In Reply Refer To: CO-922B 3160

Mr. William LeMey, Director New Mexico Oil Conservation Division P.O. Box 2088 Santa Fe, New Mexico 87504

Dear Mr. LeMey:

As you are aware, the Bureau of Land Management (BLM) has jurisdiction and is responsible for establishing spacing on Indian lands. The entire Ute Mountain Ute Reservation has been administered by Colorado BLM for many years; specifically by the San Juan Resource Area in Durango. Per your conversation of August 31, 1994, with Sherri Thompson of this office regarding the Meridian Oil application to abolish the Barker Creek Paradox (Pennsylvanian) Gas Pool and create five new gas pools with special rules, the Colorado BLM is requesting a continuance until the November hearing.

The reason for this request is that the land involved is entirely Ute Mountain Ute Tribal Land and there are issues that need to be resolved. The Tribe feels very strongly that the BLM establish any spacing on their lands. A 60-day continuance of this matter until November should allow us sufficient time to develop a hearing process that is satisfactory to all involved parties. Until such time as BLM establishes procedures which will allow us to discharge our trust, any decision or actions which NMOCD may take will have no force or effect on Ute Mountain Ute lands.

Thank you for your consideration in this matter. We would appreciate written notification of the granting of the continuance as soon as possible. Please call Sherri Thompson at (303) 239-3758 if you have any questions regarding this matter.

Sincerely,

Frank A. Salwerowicz Deputy State Director Mineral Resources

Awards.

cc: Meridian Oil Inc. Ute Mountain Ute Tribe KELLAHIN AND KELLAHIN ATTORNEYS AT LAW EL PATIO BUILDING II7 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)

August 22, 1994

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

AUG 2 2 1994

HAND DELIVERED

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

Re: Application of MERIDIAN OIL INC. to Abolish the Barker Creek Paradox Gas Pool and to Create Five New Gas Pools, including the Adoption of Special Rules therefor, San Juan County, New Mexico

Dear Mr. Stogner:

On behalf of Meridian Oil Inc., please find enclosed our Application as referenced above, which we request be set for hearing on the Examiner's docket now scheduled for September 15, 1994. Also enclosed is our suggested advertisement for this case.

By copy of this letter and application, sent certified mail, we are notifying all interested parties of their right to appear at the hearing and participate in this case, including the right to present evidence either in support of or in opposition to the application and that failure to appear at the hearing may preclude them from any involvement in this case at a later date.



Oil Conservation Division August 22, 1994 Page 2.

Pursuant to the Division's Memorandum 2-90, all 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, September 9, 1994, with a copy delivered to the undersigned.

Very truly yours, W. Thomas Kellahin

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cc: Meridian Oil Inc. Farmington, New Mexico Attn: John F. Zent

> **By Certified Mail - Return Receipt** All Parties Listed on Exhibit "D" of Application

CASE _____: Application of Meridian Oil Inc. to abolish the Barker Creek Paradox (Pennsylvanian) Gas Pool, and to create five new gas pools with special rules and regulations therefor, San Juan County, New Mexico. Applicant, in the above styled cause, seeks to abolish the Barker Creek Paradox (Pennsylvanian) Gas Pool and to create five new gas pools by dividing the Pennsylvanian formation into five separate pools being the Ismay formation, the Desert Creek formation, the Upper Barker Creek formation, the Lower Barker Creek formation and the Alkali Gulch formation, with each said pool being subject to special rules and regulations including 640-acre spacing, well locations for any new wells not closer than 790 feet to the outer boundary of a section within a horizontal area containing all or parts of Sections 7 through 10, 11, 14 through 23, 27 through 30, T32N, R14W, NMPM.

Said area is located approximately 9 miles west-northwest of La Plata, New Mexico

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:

AUG 2 2 1994

CASE:

APPLICATION OF MERIDIAN OIL INC. TO ABOLISH THE BARKER CREEK PARADOX GAS POOL, TO CREATE FIVE NEW GAS POOLS INCLUDING SPECIAL RULES AND REGULATIONS THEREFOR, SAN JUAN COUNTY, NEW MEXICO

APPLICATION

Comes now MERIDIAN OIL INC., by and through its attorneys, Kellahin and Kellahin, and applies to the New Mexico Oil Conservation Division to abolish the Barker Creek Paradox (Pennsylvanian) Gas Pool and to create five new gas pools by dividing the Pennsylvanian formation into five separate pools being the Ismay formation, the Desert Creek formation, the Upper Barker Creek formation, the Lower Barker Creek formation and the Alkali Gulch formation, with each said pool being subject to special rules and regulations including 640-acre spacing, well locations for any new wells not closer than 790 feet to the outer boundary of a section within a horizontal area containing all or parts of Sections 7 through 10, 11, 14 through 23, 27 through 30, T32N, R14W, NMPM.

In support the Applicant states:

(1) The Barker Creek-Paradox Gas Pool ("Pool") was establish by Order R-13 issued March 15, 1950 and extended by Order R-6421 dated August 1, 1980. NMOCD Application Meridian Oil Inc. Page 2

(2) The current Pool boundaries are shown on Exhibit "A" attached and consists of the following acreage:

TOWNSHIP 32 NORTH, RANGE 14 WEST, NMPM

Sections 8-11: All Sections 14-16: All Section 17: E/2 Sections 19-22: All Section 23: NW/4 Section 27: NW/4 Section 28: N/2 Section 29: All

(3) There are currently some nine wells in the pool as identified on Exhibit "B" attached. One of those wells is a salt water disposal well, one is a horizontal well with a non-standard proration and spacing unit and three other wells are located at unorthodox well locations.

(4) Meridian Oil Inc. controls 100% of the gas operating rights in the Pool with 100% of the royalty being owned by the Ute Mountain Tribe.

(5) On November 21, 1950, the Commission issued Order R-46 which established 640-acre spacing units and required wells to be located "not closer than 330 feet to center and 1650 feet from boundary of each section" in the Pool.

(6) The current vertical limits for Barker Creek Paradox (Pennsylvanian) Gas Pool is from the top of the Ismay formation at 8502 feet to the base of the Lower Alkali Gulch formation at 9444 feet, a total vertical distance of 942 feet.

NMOCD Application Meridian Oil Inc. Page 3

(7) There are five separate and distinct formations each of which constitutes a separate hydrocarbon productive reservoir within the current vertical limits of the Barker Creek Paradox (Pennsylvanian) Gas Pool.

(8) The Pennsylvanian formation of Barker Creek Paradox Gas Pool is characterized by occasionally porous limestone and dolomite, anhydrides and black shales.

(9) The inclusion of these five separate reservoirs into one pool has frustrated the complete and orderly development of these reservoirs and has not resulted in the efficient recovery of hydrocarbons or exploration of the pool.

(10) That each of these five reservoirs is geologically separated from and is not in pressure communication with any other. (See type log of the Ute #6 Well, Exhibit "C" attached).

(11) Further development of these reservoirs will be promoted by dividing the existing pool into five new gas pools as follows:

the Ismay Formation, the Desert Creek Formation, the Upper Barker Creek Formation, the Lower Barker Creek Formation, and the Alkali Gulch Formation.

(12) In order to provide a common means for the orderly development of all five new gas pools, each said pool initially should be subject to similar special rules and regulations including 640-acre spacing with standard well locations not closer than 790 feet to the outer boundary

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of a section. However, any well currently within the pool(s) as identified on Exhibit "B" which is closer than 790 feet to an outer boundary should be granted an exception to this rule.

(13) In addition, the initial boundary for each new gas pool should be contiguous with the current boundary of the Barker Creek Paradox (Pennsylvanian) Gas Pool.

(14) As required, notice is provided to those offsetting interest owners as listed on Exhibit "D."

(15) The granting of this Application will be in the best interest of conservation, the prevention of waste and the protection of correlative rights.

WHEREFORE, Applicant requests that this matter be set for hearing on September 15, 1994 before a duly appointed Examiner of the Oil Conservation Division and, after notice and hearing as required by law, the Division enter its Order granting this application.

Respectfully submitted,

KELLAHIN and **KELLAHIN**

Bv:

W. Thomas Kellahin Post Office Box 2265 Santa Fe, New Mexico 87504 (505) 982-4285 Attorneys for Applicant

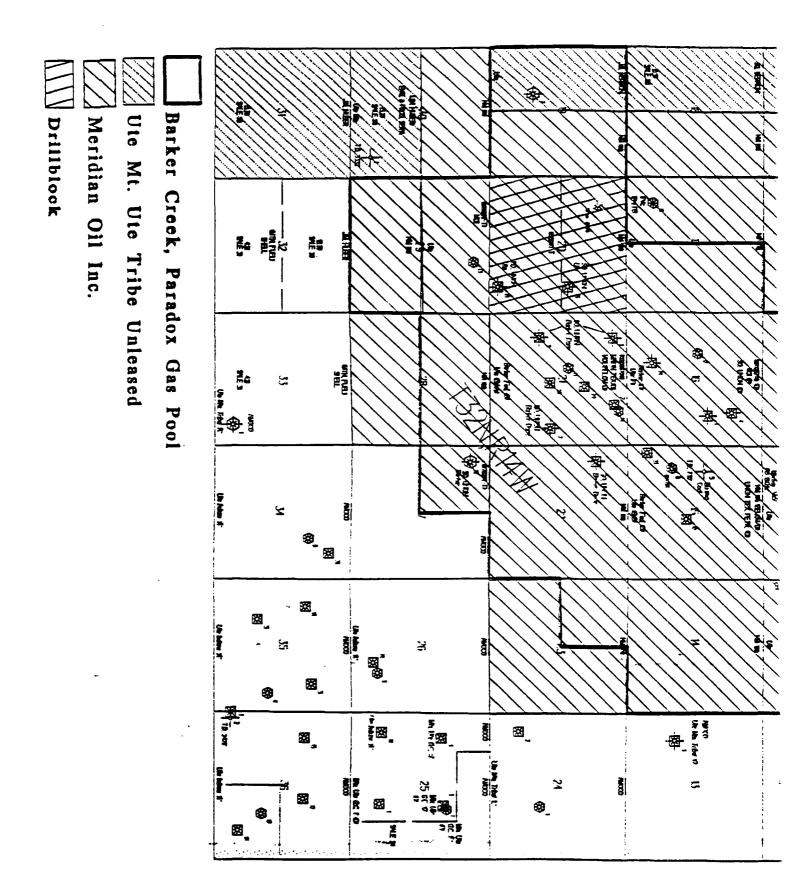


Exhibit A

CURRENT BARKER CREEK PARADOX GAS WELLS

MOI DP#	WELL NAME	CURRENT PRODUCTION ZONE	LOCATION	CURRENT DEDICATION	PROPOSED DEDICATION	STATUS	COMMENTS
3847	- Uie #1	SWD Well	SW/4 SW/4 Section 11, T32N, R14W	ŇA	NIA	Injecting	
3848	Ule #4	ismæy	540' FSL & 1980' FWL		All Section 10 T32N, R14W		
3949	Ute #6	Desert Creek	1100' FSL & 1000' FWL		All Section 17, T2N, R14W	Flowing	
3950B		ismay	Surface 1750' FSL & 940' FWL Section 15, T32N, R14W BH.	All Section 15 & 16	814W	Flowing	Horizontal Recompletion NMOCD Order R-9889
3943	Ule #11	inactive Non-Producing 2310' FNL & 2310' FWI	, 2310' FNL & 2310' FWL		All Section 21, T32N, R14W	T/A	
3944	1	Lower Barker Creek	2708' FSL & 1608' FWL		All Section 16, T32N, R14W	Flowing	
3845	Ule #13	Inacilve T&A	660' FNL & 1980' FEL		All Section 29, T30N, R14W	T/A	
3842	Ule #14	Ule #14 Lower Barker Creek	' 275' FNL & 1364' FEL		All Section 21, T32N, R14W	Flowing	
38949A	Ule #24	Desert Creek (W. O.C.) 1595' FNL & 1258 FWL	1585' FNL & 1258 FWL	All Section 20	All Section 20, T32N, R14W	W.O.C.	

Exhibit B

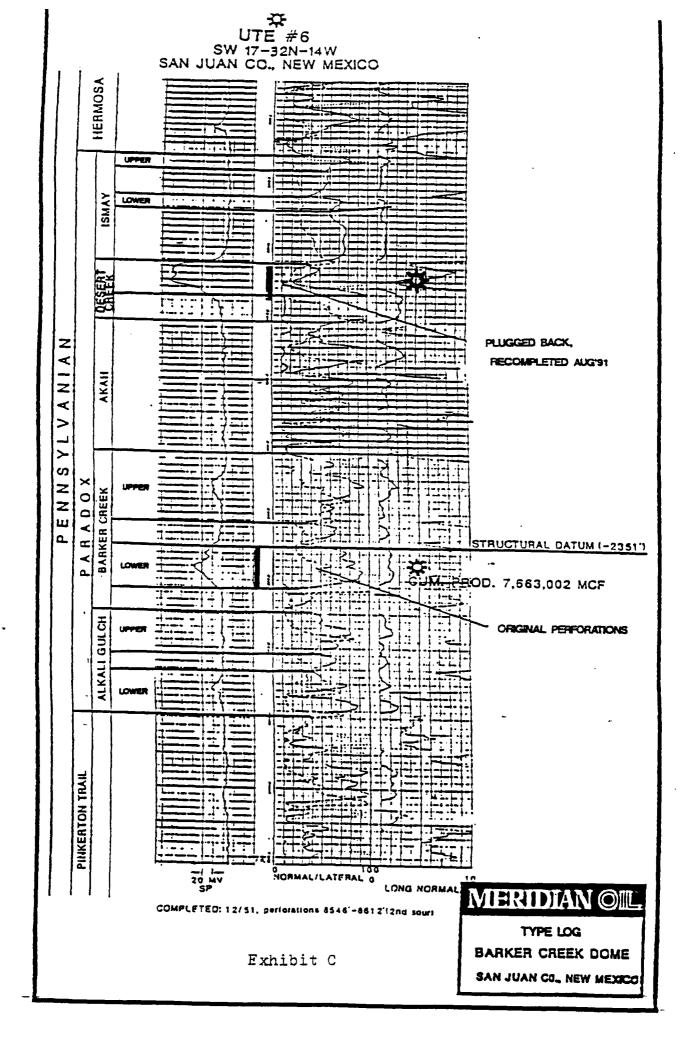


Exhibit "D"

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Interest Owners in Pool(s)

Meridian Oil Inc.

Ute Mountain Ute Inclan Tribe PO Box 42 Towacc, CO 81334

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Bureau of Indian Affairs Ute Mountain Agency Towacc, CO 81334

Bureau of Land Management Federal Building 701 Camino Del Rio Durango, CO 81301

Coerators Offset Pools

Amoco Production Company PO Box 800 Denver, CO 80201

Ute Mountain Indian Tribe PO Box 42 Towacc, CO 81334

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