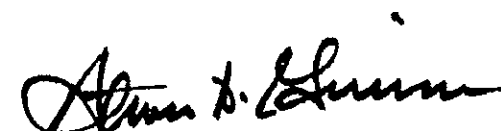


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EXHIBIT “3”
Hearing Transcript for November 12, 2013



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

In the matter of the Trust of:)

The W.N. Connell and Marjorie)
T. Connell Living Trust, dated)
May 18, 1972)

CASE NO. P-09-066425
DEPT. NO. XXVI

Transcript of Proceedings

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

**HEARING ON PETITION FOR DECLARATORY JUDGMENT REGARDING
LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040,
NRS 153.031(1)(E), AND NRS 164.033(1)(A)**

TUESDAY, NOVEMBER 12, 2013

APPEARANCES:

For the Petitioner,
Eleanor Ahern:

JOHN MUGAN, ESQ.
MICHAEL LUM, ESQ.
JOSEPH POWELL, ESQ.

For Jaqueline Montoya:

RECORDED BY:

KERRY ESPARZA, COURT RECORDER

TRANSCRIBED BY:

KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 TUESDAY, NOVEMBER 12, 2013 9:54 A.M.

2

3 THE COURT: Connell Living Trust, P066425. All
4 right. Will everybody make their appearances?

5 MR. MUGAN: Good morning, Your Honor, John Mugan,
6 10690, for Eleanor Connell Ahern.

7 MR. LUM: Good morning, Your Honor, Michael Lum,
8 bar number 12997, co-counsel with Mr. Mugan.

9 MR. POWELL: Good morning, Your Honor, Joey Powell
10 appearing on behalf of Jacqueline Montoya.

11 THE COURT: Okay. All right. So this is a
12 petition for declaratory judgment regarding limited
13 interest of the trust assets and then there was -- I'm not
14 sure if it was technically noticed for today, but we see on
15 here that there is something filed with respect to
16 referring this back to the Commissioner, but I didn't know
17 if it was opposed, I didn't know if there was anything else
18 filed on that one because --

19 MR. POWELL: Yeah, we filed --

20 THE COURT: -- that was kind of confusing.

21 MR. POWELL: -- a response to that.

22 MR. MUGAN: I believe there -- I believe you filed
23 a response Thursday and then we filed a reply yesterday in
24 a moment of brilliance. I didn't realize yesterday was
25 Veteran's Day when we got it Thursday and we filed it

1 electronically yesterday. I don't know if our runner put
2 one in your drop box or not.

3 THE COURT: Yeah and it hasn't shown up yet in --

4 MR. MUGAN: I --that's my fault. I apologize. I
5 --

6 THE COURT: Oh I see, yeah.

7 MR. MUGAN: Our office was open yesterday --

8 THE COURT: Right.

9 MR. MUGAN: -- and it didn't dawn on me that it
10 was Veteran's Day.

11 THE COURT: Yeah, exactly. Exactly. I remember
12 those days. Now that I'm a government employee, it's a
13 little different.

14 So, with respect to that issue of referring it
15 back to the Commissioner --

16 MR. MUGAN: I -- if I may, Your Honor? I think --

17 THE COURT: If it's --

18 MR. MUGAN: You know, I think it's a relatively
19 simple issue. I think it needs to be handled first before
20 we start getting into the substantive issues. We didn't
21 address the substantive issues because we filed this motion
22 and, quite frankly, after this motion, we're going to be
23 filing a motion to dismiss on issue preclusion and some
24 other facts, but on this motion, and looking at it, I think
25 the saving grace is twofold.

1 Number one, I don't see any *Landreth* II problems.
2 I don't think we need a super judge. So I don't think we
3 have *Landreth* problems and I think the issue is solely in
4 your discretion. I mean, you can do whatever you want.

5 Our whole point is -- and I practiced law back in
6 the Midwest for 33 years and then came out here because all
7 of our children and grandchildren are here and I've
8 practiced here for 7 years and I never quite understood how
9 Probate Court worked even though I appear there all the
10 time and this luckily has hopefully clarified some of it.

11 If you look at the law -- the Rule 4.16 of the
12 local rules, it basically says that you, as Probate Judge,
13 may hear whatever contested matters you select and you also
14 may refer any contested matters on the probate calendar to
15 a Master appointed by you for hearing and report. And
16 Nevada Rule of Civil Procedure 53 always gives the Court,
17 you know, the power to appoint a Master in any case.

18 And then, granted it's not a rule, it's a proposed
19 rule on the new rules that have been redone and proposed
20 and they're a long way from being adopted, but Rule 4.08
21 basically is a rule of the longstanding practice in Probate
22 Court. If the Probate Commissioner hears something and you
23 don't request that it go to the Probate Judge, then you
24 live with the Probate Commissioner otherwise you're going
25 to be doing forum shopping or the minute you get a bad

1 ruling, you want the Probate Judge and I know that's not
2 the rule, but that's the practice as I understand it.

3 And in this situation, back in 2009, exact same
4 case, case number, exact same trust, there was a petition
5 brought in part to construe and reform the trust. Sat down
6 for a hearing, and notice given, hearing date comes, an
7 order entered, notice of entry sent out, and that was it
8 and part of the order construed and reformed the trust.

9 Now we have 2013, one of the interested parties
10 comes back and basically says that her mother is only
11 entitled to 35 percent of the income from certain assets
12 and we believe that even though we have no problem with you
13 as a Judge, I've appeared before you a number of times, we
14 believe that the Probate Commissioner is the one that's
15 most familiar with it, has construed this and reformed it
16 previously. We think it should go before him, that he
17 should keep it. It would be just easier and simpler.

18 In the response Mr. Powell said it's not a -- it
19 was not a contested matter. We searched and searched in
20 Nevada law, there is no definition of a contested matter.
21 I note -- like I said previously, this was all done on
22 notice, etcetera, etcetera. The order wasn't stipulated
23 to. There was another interested party: Shriners
24 Hospital, and they were sent notice of the hearing. They
25 were sent notice of the notice of entry. They never

1 stipulated. They never consented. There's an email
2 attached to Mr. Powell's response, Exhibit A, where the
3 attorney, Mr. Steadman, says that there is an interested
4 party, Shriners, they have the right to object, etcetera,
5 etcetera. They got notice of the hearing and also the
6 notice of the entry.

7 So we believe it was a contested matter that was
8 handled by the Probate Commissioner and now we're coming
9 back four years later, same case, same trust, and we're
10 asking for a declare -- a declaration that my client's only
11 entitled to 35 percent of the income and we believe that
12 there is a substantive and direct connection between the
13 two matters and if you look at the pleadings in the 2009
14 case, you look at the consent of the party in this case,
15 Mr. Powell's client, there are allegations and consents
16 that basically say trust number two has these assets and
17 our client is a lifetime beneficiary.

18 And so, there is a direct connection, direct
19 connection, and we believe that there may be issues of
20 reforming and construing the trust because we believe if
21 you look at the trust language and the facts and
22 circumstances, it was obviously the intent of the decedent,
23 W. N. Connell, that my client, his only child, be entitled
24 to income from these Texas assets which were his sole and
25 separate property that he brought into the marriage and he

1 wanted to make sure that she receive the income for as long
2 as she lived and any alleged power of appointment that Mr.
3 Powell's client is claiming that the second wife had was
4 specifically subject to that life estate.

5 So I think there's reformation issues. There's
6 construction issues. Like I said, you know, regardless of
7 how you rule, we're going to be filing a motion to dismiss
8 on issue preclusion, etcetera, but we believe that since
9 the Probate Commissioner handled it previously, the
10 longstanding practice, regardless of the proposed rules,
11 you as Probate Judge, have the right at any time to refer
12 the matter to a Master including the Probate Commissioner.

13 We just think under the circumstances it would be
14 better if the Probate Commissioner handled it because he's
15 familiar. I know you've got plenty of things to do. If
16 you want the case, that's fine, too. We don't have any
17 problem with it; we just think under this circumstance it
18 would be better if the Probate Commissioner handled it.

19 THE COURT: Okay. So, I guess just trying to
20 figure out procedurally where we are here, that motion is
21 technically not on calendar. I guess it's been fully
22 briefed although the only thing that shows up in Odyssey is
23 the motion which, you know, we didn't see noticed. It
24 didn't show up at least on our calendar from Master
25 Calendar and an errata and I don't -- didn't see an

1 opposition or a reply. So, just, you know, for the record,
2 I don't know -- Mr. Powell, do you want to be heard on the
3 issue of whether this is really appropriately before this
4 Court --

5 MR. POWELL: Yeah and --

6 THE COURT: -- and why you -- I guess, because --
7 it's here because you requested that it be here. So, --

8 MR. POWELL: Yeah. In terms of the motion, their
9 motion, you know, it's up to you. We've already briefed
10 it. We've filed our response. Even though it had the
11 heading of motion to reference back, it had substantive
12 arguments. So I took it as though that was an objection to
13 our petition. It was basically pleading in the alternative
14 of here's our argument that we -- you know, we don't want --
15 - we want this to go back to the Commissioner to hear these
16 arguments.

17 THE COURT: And so then that really I guess gets
18 us really to the issue here which is --

19 MR. POWELL: Yeah.

20 THE COURT: -- and I think that's what Mr. Mugan
21 was --

22 MR. POWELL: Yeah.

23 THE COURT: -- referencing that in 2009, a certain
24 action was taken, --

25 MR. POWELL: Yeah.

1 THE COURT: -- and now in 2013 there was a
2 petition for declaratory relief.

3 MR. POWELL: Yeah.

4 THE COURT: So --

5 MR. POWELL: We have that petition because 33
6 years of precedent and status quo is now being changed and
7 that's the issue before us is there's -- there was --
8 again, 33 years of a 65/35 split of the income from oil,
9 gas, and mineral rights in Texas and suddenly in basically
10 June/July, Ms. Ahern decides: No, I'm entitled to 100
11 percent. That 65/35 that I've been living with for 33
12 years, I don't want to abide by that anymore. No logic, no
13 reason, nothing, just I'm keeping 100 percent now. Okay?
14 Well, that changes the status quo and --

15 THE COURT: Okay. So the issue is -- because I
16 think kind of the argument they were arguing here is that
17 if --

18 MR. POWELL: Yeah.

19 THE COURT: -- you're going to oppose this order
20 reforming the trust back in 2009, --

21 MR. POWELL: Yeah.

22 THE COURT: -- the process should have been
23 followed in 2009 to do that; there was no such process.
24 But the point is she didn't do anything until 2013.

25 MR. POWELL: Well, no, actually the 2009 had no

1 effect on the 65/35 split.

2 THE COURT: Okay.

3 MR. POWELL: That -- the whole point of what '09
4 did was to add provisions and that was the key. It added
5 provisions to the trust to basically say: These are the
6 remainder beneficiaries after Ms. Ahern's death which
7 wasn't first spelled out. It was easily inferred that it
8 would go to her issue, it was just spelled out because it
9 wasn't addressed. So that was the point of the reformation
10 was to say we need to -- we should probably just handle
11 this now so that there's no issues that arise later.

12 THE COURT: So -- and so there's nothing that
13 happened in 2009 that would have prompted any kind of an
14 appeal? You're not like --

15 MR. POWELL: No.

16 THE COURT: -- it's not like [indiscernible] --

17 MR. POWELL: There was nothing wrong with it.

18 THE COURT: -- to do a late appeal of that earlier
19 --

20 MR. POWELL: Exactly. None of that is being
21 appealed at all and that's why a consent was signed to say:
22 We're fine with it, spelling out the fact that my sister
23 and I are the remainder beneficiaries of trust number two.
24 No problem.

25 I mean, that -- it basically was to their benefit

1 to have that go into effect because basically it's spelled
2 out.

3 Not -- again, it was -- if you read the trust, the
4 language clearly inferred that that was the normal way that
5 it would go, it just -- it didn't expressly state it and
6 that was the issue of the reformation.

7 THE COURT: If there -- Mr. Mugan's point that
8 traditionally if a matter starts out with the Probate
9 Commissioner, it stays with the Probate Commissioner unless
10 you think some sort of -- you know, he has no authority to
11 hear a jury trial for example. So that's -- it's got to
12 come up here. And the way it's always been handled, as he
13 pointed out, you know, it hasn't ever been really clear how
14 we're going to handle probate. It's just sort of been
15 grafted on as a --

16 MR. POWELL: Yeah.

17 THE COURT: -- you know, to a highbred of what
18 part of District Court it was going to be and no real clear
19 rule.

20 So I guess the point is what you're seeking now is
21 instead of filing a new action, there's -- you don't file a
22 new action, it stays under the old action, --

23 MR. POWELL: Yeah.

24 THE COURT: -- which -- like probate cases never
25 close.

1 MR. POWELL: Right.

2 THE COURT: They are never --

3 MR. POWELL: Not --

4 THE COURT: -- over.

5 MR. POWELL: -- in a trust situation unless you

6 affirmatively --

7 THE COURT: Right.

8 MR. POWELL: -- request that jurisdiction be taken

9 off and then, in that case, you've got to get jurisdiction

10 back. But, absent that, yeah, it just continues forever

11 until --

12 THE COURT: We've got a case from --

13 MR. POWELL: -- somebody --

14 THE COURT: -- 1972.

15 MR. POWELL: Yeah.

16 THE COURT: So, I mean, --

17 MR. POWELL: Yeah.

18 THE COURT: -- I -- it -- they just never end.

19 MR. POWELL: They never end unless you do

20 something affirmative --

21 THE COURT: Right.

22 MR. POWELL: -- to get rid of jurisdiction.

23 THE COURT: Right. So you had to file under the

24 old case number because that jurisdiction --

25 MR. POWELL: That --

1 THE COURT: The Court's got jurisdiction there.

2 So fine.

3 MR. POWELL: Jurisdiction still exists. Yep.

4 THE COURT: Okay.

5 MR. POWELL: Yep.

6 THE COURT: So, now it gets to the next point --

7 MR. POWELL: Yep.

8 THE COURT: -- which is who is really the most
9 appropriate person to hear the case?

10 MR. POWELL: Right and --

11 THE COURT: I mean, because that really seemed
12 like that was --

13 MR. POWELL: -- basically it's not a knock on
14 Commissioner Yamashita, it's really a situation of it's an
15 urgent, pressing matter that we get a determination now and
16 it's something that we feel that you're clearly capable of
17 handling. There's not -- there's no special expertise
18 which, you know, obviously you have -- you can do as you
19 choose, but there's no special expertise that's required
20 that Commissioner Yamashita would bring to this that you
21 otherwise don't possess.

22 So, really, it's a matter of efficiency and
23 urgency because we need an order, not just a report and
24 recommendation, as soon as possible because we've got big
25 money at stake here, we have reliance on these

1 distributions, and as Mr. Goodsell pointed out with his
2 case, it's a situation that you can be a war of attrition
3 because these monies are being choked off that they have
4 been relying on, my client and her sister, basically for
5 the last four years when they stepped into the shoes then
6 of their grandmother, Marjorie, who had for the previous 29
7 years been receiving 65 percent of oil, mineral, and gas
8 income.

9 So, --

10 THE COURT: Okay. So that --

11 MR. POWELL: -- the whole point is --

12 THE COURT: The question is --

13 MR. POWELL: Yeah.

14 THE COURT: -- you know, is this -- I can't think
15 of any other way to frame it and I don't know if Mr. Mugan
16 necessarily accused you of this, but is this forum
17 shopping? Because that's what I want to make real clear.

18 MR. POWELL: Yeah.

19 THE COURT: You're not seeking to --

20 MR. POWELL: Not -- no.

21 THE COURT: -- reform anything that Commissioner
22 Yamashita has previously done?

23 MR. POWELL: No.

24 THE COURT: It's just a question: Who is more
25 perfect to hear this? So what are you looking for because

1 --

2 MR. POWELL: We're looking for --

3 THE COURT: -- if you're looking for it to be
4 decided on just, you know, the pleadings or is this
5 something where you need some discovery and an evidentiary
6 hearing?

7 MR. POWELL: I think we're good with the pleadings
8 because --

9 THE COURT: Because it's a petition for
10 declaratory relief.

11 MR. POWELL: I think we're good with the
12 pleadings. We can't -- we -- there's nothing further that
13 I can submit to you in terms of testimony or anything else
14 other than to -- and I don't think this is being contested
15 and if it is, then I'm super surprised because we have tax
16 returns all the way up through 2012 showing a 65/35 split.
17 It's been that way for the last 33 years; only over the
18 summer has this now changed. So, the issue is pretty black
19 and white there.

20 The other thing is on the one tax return we have
21 which we can't locate the Form 706. The IRS has been
22 asked. They don't have a copy of it. It was prepared
23 here. The preparer doesn't have a copy of it and, I mean,
24 how can you really expect it? It was a -- from '79/'80.
25 So, I mean, that's going back a long time to try to get

1 form way back before we had electronic -- saving documents
2 through electronic means. So, we just don't have it.

3 But going back to that return that was filed, it
4 shows a 65/35 split. That's the way, again, it's gone
5 since 1980 when Mr. Mugan's client became a co-trustee of
6 the trust. So we've got the precedent. There's nothing
7 more than we can declare.

8 THE COURT: What was going on in Texas? That was
9 another point where I wasn't quite clear if --

10 MR. POWELL: There was a -- oh --

11 THE COURT: -- there was maybe a -- and, like I
12 said, I don't want to accuse anybody of forum shopping, --

13 MR. POWELL: Sure. Sure.

14 THE COURT: -- but it seemed like there was a
15 concern about that that might be some forum shopping.

16 MR. POWELL: Yeah, I don't know if you could call
17 it forum shopping. The issue there was the fact that there
18 -- it was Texas property and it's --

19 THE COURT: Right.

20 MR. POWELL: -- related to Texas real estate.

21 THE COURT: Right.

22 MR. POWELL: So I think that was the issue there
23 is covering all bases because I -- it's basically a
24 situation where, again, you have 33 years of the status quo
25 and then all of a sudden the plug is pulled and then the

1 question is: Wait a second, how do we put the plug back
2 in? And so, that was part of it was basically I think just
3 simply getting a declaratory ruling there on the issue.

4 There's -- the accusations, you know, -- and it
5 upsets me when there's not full disclosure given. There
6 was a mistake made in the Texas filings and immediately
7 upon the Texas attorney realizing the mistake, it was --
8 there was a phone call made, it was corrected.

9 So it's a half-truth to say: Well, you tried --
10 in bad faith, you tried to avert this and done this.
11 Nobody has ever made any assertion that Ms. Ahern is not
12 the adopted daughter of Marjorie Connell, not -- that's not
13 even an issue. They spent time briefing the issue somehow
14 trying to establish that. It's not a -- it's a nonissue.

15 The Texas return -- the Texas filing was simply a
16 mistake. Texas counsel didn't realize it. Upon being
17 notified he made a mistake called opposing counsel and said
18 I made a mistake. You know, your client is clearly this.
19 That was my error as the drafting attorney and that's it.
20 It wasn't in bad faith. Nobody is looking to hoodwink
21 anybody or do anything like that.

22 The situation that we have here is we need an
23 order and so --

24 THE COURT: Well but I guess my question --

25 MR. POWELL: -- going back to --

1 THE COURT: -- is it you're --

2 MR. POWELL: Yeah.

3 THE COURT: -- trying to get a different order
4 here from --

5 MR. POWELL: No.

6 THE COURT: -- what you're getting out of Texas --

7 MR. POWELL: No.

8 THE COURT: -- because what is the Texas --

9 MR. POWELL: Yeah.

10 THE COURT: -- going to be asked to do?

11 MR. POWELL: Yeah. No, I'm glad to kind of bring
12 you up to speed on that.

13 Basically, the Texas proceeding has essentially
14 been simply stayed. Ms. Ahern has Texas counsel. They had
15 a mediation there. It was unsuccessful. The last report I
16 got is basically Texas is just kicking the can down
17 basically saying: No, really, Nevada should probably be
18 deciding this because that's where the trust has
19 jurisdiction.

20 So, my understanding is that whole proceeding is
21 just simply stayed pending this outcome.

22 THE COURT: Okay. So, I guess then what are you
23 looking for? Are you looking --

24 MR. POWELL: We're looking for a declaratory --

25 THE COURT: I guess --

1 MR. POWELL: Yeah.

2 THE COURT: -- my question is: What's the
3 procedure that you think would be followed and who is more
4 appropriately, I guess, set up to hear that? If it's a
5 matter of having a hearing and putting this evidence on,
6 because, I mean, when you're seeking declaratory relief, it
7 seems to me that -- I mean, you can get a declaratory
8 judgment basically on the pleadings, but I think that
9 they've got -- you know, their initial response was: We
10 think this has to go back to the Commissioner because there
11 is -- this has already been determined and I understand
12 your position is that that order didn't really determine
13 anything that effects --

14 MR. POWELL: Yeah.

15 THE COURT: -- this issue that you've got going on
16 right now, --

17 MR. POWELL: Yeah.

18 THE COURT: -- but they've indicated that their
19 next step is they want to file a motion to dismiss this
20 because they think that it does. So, --

21 MR. POWELL: Which I think is something --

22 THE COURT: -- logistically, what's the schedule?

23 MR. POWELL: Which I think is something that you
24 can basically handle right now just by looking at the
25 pleading that the petition that was filed, nowhere in that

1 petition is there any declaration of basically asking for -
2 - them, in their prayer, asking for declaration that Ms.
3 Ahern has 100 percent interest in that income. It's solely
4 a reformation petition saying: We want to add provisions
5 so that it's clear who the remainder beneficiaries of trust
6 number two are and that's another key function.

7 The whole thing was -- this was -- and it gets a
8 little confusing because they use the term trust one, trust
9 two, trust three. Trust one was essentially just when both
10 of the settlers were living, they refer to that as trust
11 one, basically an undivided trust. Then at the first
12 death, which was Mr. Connell, they did a division of the
13 trust number two, trust number three. Trust number three
14 was the survivor's trust along with a marital trust because
15 back at that time there was no such thing as what we do now
16 with the martial trust as being the third sub trust. So,
17 it basically -- whatever was determined to me the marital
18 monies for purposes of tax deferment went into the
19 survivor's trust. Trust number two was essentially the
20 decedent's trust.

21 So, when they were reforming the trust, the
22 provisions that they were adding to were dealing with trust
23 number two. That's another issue as well and what they did
24 is basically -- and, again, I'm not saying anything that's
25 not in the pleadings and then in the accompanying order.

1 All they sought was to act -- basically what I would say
2 clarification provisions saying: At the death of Ms. Ahern
3 that Jacqueline Montoya and her sister, Kathryn, would be
4 the residuary beneficiaries of that trust. It also
5 basically prescribed the way that that trust would be
6 administered for Jacqueline and Kathryn, and then it also
7 prescribed as well that -- who would be the successor
8 trustees of trust number two upon Ms. Ahern's death.

9 Currently Ms. Ahern is the only trustee of trust
10 number two. So, that's what that '09 petition did. It had
11 nothing to do with a declaration of rights saying: Ms.
12 Ahern now owns 100 percent of the income. My client and
13 her sister would have never agreed to that. That wasn't
14 even remotely in the mindset of why they would agree to
15 that. It wasn't even -- it wasn't being asked.

16 And so, in my response to their motion, again,
17 relying entirely on a consent? You're consenting to the
18 prayer. The prayer is the substance of the petition. Any
19 other facts that get thrown in are irrelevant. You're --
20 again, the substance of the petition is the prayer. We all
21 know that. The only thing that can be in the order is
22 what's asked for in the relief, in the prayer.

23 So, they had no reason to object to that. That's
24 why they signed consents. Yeah, fine, add in the
25 clarifying language. We want it. It's not detrimental to

1 them.

2 And to the assertion, again, that contested, we're
3 on two different wavelengths then in terms of what
4 contested means because the whole point of the approved
5 list in Probate Court is there is not an objection filed,
6 therefore -- meaning there is no contest to what's being
7 asked for and the fact that you have to give notice and a
8 notice of a hearing, well, you have to do that for every
9 petition, and the fact that you don't necessarily secure
10 consents from anybody, that doesn't defer it from being put
11 on the approved list, which this was. There was no oral
12 argument at this hearing. It was -- the order got rubber
13 stamped. So, that's --

14 THE COURT: Well I --

15 MR. POWELL: -- my point is this is not a --

16 THE COURT: But I guess the --

17 MR. POWELL: -- contested matter.

18 THE COURT: -- point, as I understood it, the
19 point that was being made about shouldn't this be heard by
20 the Commissioner is isn't he the more perfect person to
21 make that determination of when I entered that order in
22 2009 granting this reforming of the trust it was or was not
23 addressing an ultimate issue here and I understand your
24 point that you don't want to go through that process and
25 then have to object to that report and recommendation and

1 then come up here, but it seems like that's kind of the
2 suggested method --

3 MR. POWELL: Well, --

4 THE COURT: -- that Mr. Mugan is --

5 MR. POWELL: Yeah, and I'm not sure why.

6 THE COURT: -- seeking.

7 MR. POWELL: I don't really understand. They are
8 two separate things. It's apples and oranges what's going
9 on here and so I don't think there's any need to clarify
10 because the order itself doesn't reference any declaration.
11 If you read the order, it doesn't reference any declaration
12 about: Oh Ms. Ahern is 100 percent -- has 100 percent
13 interest in these oil, mineral, and gas rights. It doesn't
14 say that. The only thing it says -- and that's, again, if
15 the Commissioner looks at the order, there's --

16 THE COURT: And certainly it --

17 MR. POWELL: -- nothing you can ever infer from
18 that.

19 THE COURT: -- would seem that if she had thought
20 that it did, she would have taken that action in 2009.

21 MR. POWELL: Exactly. Exactly.

22 MR. MUGAN: Your Honor, if it --

23 THE COURT: That's a good point. Thanks.

24 MR. MUGAN: I don't mean to interrupt Mr. Powell,
25 but --

1 MR. POWELL: But so --

2 MR. MUGAN: This is a really important issue,
3 really important.

4 THE COURT: Okay.

5 MR. MUGAN: And you look at the petition that was
6 filed in 2009 and here's what it says in part:

7 Trust number two owned land and oil and gas shares
8 in reserve and income located in Upton County, excuse
9 me, Texas.

10 That's what we're talking about in this
11 declaration, petition today, and paragraph 19 of that
12 petition in 2009 says:

13 Pursuant to Article 4th, and they're referring to
14 Article 4th of the Trust Agreement, which article
15 governs the administration of trust number two, all
16 income from the oil assets is to be paid to the
17 petitioner, and the petitioner is my client, as the
18 residual beneficiary during her lifetime.

19 I agree it's black and white. It's already been
20 decided and that was stated in the 2009 petition and Mr.
21 Powell and his clients say: Doesn't have anything to do
22 with it. Doesn't have anything to do with it. It's got
23 everything to do with it.

24 And you look at their consent that his client
25 signed, she not only consents to it, she makes an

1 affirmative statement and says:

2 I am a contingent income beneficiary of the trust.

3 I have read the petition and believe it to be true and
4 correct to the best of my knowledge. I hereby consent
5 to the petition and request that the Court enter an
6 order approving the petition in its entirety.

7 I don't know how the two of them aren't related.
8 That's what we're arguing about in his declaratory
9 petition. My client's not entitled to all of the income.
10 The order that was entered in 2009, it's based on the
11 petition with affirmative allegations which his client
12 consented to and she even admits she's the contingent
13 income beneficiary.

14 So, how you can say they're completely separate
15 and distinct and how this shouldn't be handled by the
16 Probate Commissioner, at least the motion to dismiss since
17 he's the one who handled the previous matter, I -- in my
18 limited intellect, I don't see it. I think they're
19 intricately -- there's a substantive, intricate
20 relationship between that action and what was done and pled
21 in there and what they're asking for now.

22 And, you know, I don't want to get into
23 substantive matters because basically we're just asking for
24 a motion here. We really didn't address the substantive
25 matters --

1 THE COURT: Well but see [indiscernible] me. The
2 motion that you filed isn't technically on my calendar
3 today.

4 MR. MUGAN: Right. Right. And I think he said
5 that it was all right and we can go ahead with it unless I
6 misunderstood him.

7 MR. POWELL: No, let's do it. Let's do it. It's
8 fine. I briefed it. I'm --

9 THE COURT: Okay.

10 MR. POWELL: -- fine with it. So let's go.

11 THE COURT: Okay. But I haven't seen your brief.

12 MR. POWELL: My response?

13 THE COURT: Yeah. Haven't seen it.

14 MR. POWELL: Okay.

15 THE COURT: So, you know, that's my problem is
16 that --

17 MR. POWELL: Yeah.

18 THE COURT: -- we've got this fugitive motion out
19 there that was filed and not calendared, but if the parties
20 feel that it's appropriate to address it, then I guess we
21 can address it and -- because then I think we get down then
22 to the next point which is it sounds to me that even if
23 this Court keeps jurisdiction, that Mr. Mugan wishes to
24 file his motion to dismiss, that -- and it seems to me that
25 the declaratory judgment action then -- it's kind of a

1 countermotion almost to it that you're seeking -- your
2 petitioner seeks declaratory judgment and their opposition
3 is: No, we oppose that and our countermotion is that there
4 is -- there's already been a ruling on this essentially by
5 the Commissioner, despite the fact that she didn't act on
6 it for four years, there's a ruling from the Commissioner
7 in 2009 that governs this, that she's acting under the
8 authority of. So, this should have already been decided.

9 MR. POWELL: Which I would have no problem with
10 except let's read the order.

11 THE COURT: Right. Okay.

12 MR. POWELL: The order doesn't correct any of
13 that.

14 THE COURT: I'm not --

15 MR. POWELL: Yeah.

16 THE COURT: I don't really want to get to the
17 merits, but I'm trying to figure out the procedure what we
18 are trying --

19 MR. POWELL: Yeah.

20 THE COURT: -- to do here today.

21 MR. MUGAN: Excuse me, Your Honor, but maybe the
22 answer is to kick it out two weeks, give the Court an
23 opportunity to read the pleadings and then we come back and
24 try and answer whatever questions you have. If that -- if
25 that's agreeable to Mr. Powell and you, I'm willing to do

1 whatever the Court wants to do.

2 THE COURT: Okay. Well because see -- and I agree
3 that with the -- the first thing to be decided is who's
4 going to hear it. Is this something that's more
5 appropriate for this Court to hear? Is it more appropriate
6 for this to be referred to the Commissioner to hear and
7 then seek this -- you know, appeal any report and
8 recommendations?

9 Mr. Powell's clients are -- you know, position is:
10 We want this to go faster. We don't want the additional
11 built-in delay of getting a report and recommendation and
12 then doing an appeal on that.

13 MR. POWELL: Yes.

14 THE COURT: We want this all decided now. We
15 think the Court can hear all of it. Both the question of
16 was this in fact previously ruled on by the Commissioner,
17 that's -- basically, that's the opposition to the petition
18 of declaratory relief is: No, you can't have this ruling
19 that you're seeking because it's already ruled on by the
20 Commissioner and you've lost it or you consented to the
21 action that she's taking now, whatever the opposition is.
22 It sort of seems to me that procedurally that's where we
23 are with it that --

24 MR. MUGAN: Well, yeah, I didn't intend to do
25 that. What I intended to do is take it one step at a time.

1 I think the first question is who is this matter
2 going to be heard by: Your Honor or the Probate
3 Commissioner? And so that's the issue that I was trying to
4 get decided and then whoever it is going to be, whether
5 it's you or Commissioner Yamashita, then we're going to
6 file our motion to dismiss based on issue preclusion.

7 I think the first step is to decide whether this
8 Court or the Probate Commissioner is going to handle this
9 matter and then the next step is for me to either file the
10 motion to dismiss or an opposition.

11 THE COURT: Okay. All right. Well, so then if
12 you're prepared to have this unfiled motion -- or unnoticed
13 motion ruled on now, I appreciate the point, Mr. Mugan,
14 that practice has been that if the Commissioner hears
15 something, then it's going to -- he's going to continue the
16 hearing. You know, whether he actually took action on
17 this, he signed an order on something that was unopposed
18 and consented to. I think ultimately whatever he would rule
19 on issue preclusion would be appealed up here anyway. The
20 request has been made by these petitioners that we skip
21 that step and just come here. So I'll grant the
22 petitioner's request and I'll hear the -- I'll keep
23 jurisdiction over this and we'll keep this motion here.
24 So, respectfully, deny the motion to remand back to the
25 Commissioner.

1 Now we have this question of this petition for
2 declaratory relief --

3 MR. MUGAN: If I may --

4 THE COURT: Yeah.

5 MR. MUGAN: Pardon me, Your Honor, if I may say
6 one thing?

7 THE COURT: Okay.

8 MR. MUGAN: I just want to clarify the record. If
9 part of your ruling is based on the fact that it was on the
10 approved list and rubber stamped, I don't think there's
11 ever been any showing of that. In fact, I don't think that
12 was an allegation in his response on that. This, today, is
13 the first time I've heard that. So, I just --

14 MR. POWELL: It was --

15 MR. MUGAN: -- want to clarify the record.

16 MR. POWELL: It was addressed. I can't say with
17 100 percent certainty because I haven't located a
18 transcript of that, but I can say with nearly 99.99 percent
19 certainty it would have been on the approved list and there
20 would not have been additional oral argument and that
21 implication is addressed in my response. So it's not the
22 first time I'm raising it here.

23 MR. MUGAN: I just wanted the record to reflect
24 that, Your Honor.

25 THE COURT: It's likely that it wasn't because

1 there's no minutes.

2 THE CLERK: There are minutes. If you go ahead
3 and click on it, it's just it is so old, it didn't locate
4 it.

5 THE COURT: I didn't see minutes.

6 THE CLERK: Here's the -- you're clicking too far.

7 THE COURT: Oh.

8 THE CLERK: They just didn't go over because --

9 THE CLERK: Yeah, it says: Matter being on the
10 approved list there being no objection.

11 MR. POWELL: Yeah.

12 THE COURT: So it was on the approved list.

13 MR. POWELL: It was on the approved list, yeah.

14 THE COURT: Okay.

15 MR. MUGAN: Very good.

16 THE COURT: All right. So, anyway I don't see any
17 reason to send it back to him and then -- because the
18 request is of the petitioner's that it be heard here and we
19 skip that step. Okay, fine.

20 So having -- moving on then, I think though, Mr.
21 Powell, that the point is, and I don't know, Mr. Mugan,
22 what -- I appreciate your position being that we have to
23 take this step by step. First you have to see, you know,
24 our -- we have the right to oppose this and our opposition
25 is going to be that this has already been decided. So

1 however you want to present that because the -- otherwise
2 it's a petition for declaratory relief which is you need to
3 oppose it or file some -- whatever -- and I guess my
4 question is: Do you view this as something that requires -
5 - that can all be done on affidavits because it's strictly
6 a legal issue? Do you need testimony?

7 MR. MUGAN: No, I think it's going to need
8 testimony if we -- you know, if we get to that point. I
9 really think there's going to need to be some evidence.
10 There's two sides --

11 THE COURT: Okay.

12 MR. MUGAN: -- to every story and you need to hear
13 her side of the story.

14 THE COURT: Okay.

15 MR. MUGAN: My client's side.

16 THE COURT: All right. So, is it something that
17 requires any kind of -- is it more like a preliminary
18 matter like an injunction hearing where you don't need
19 discovery first or are you going to need discovery? This
20 is just what --

21 MR. MUGAN: Oh I --

22 THE COURT: -- I'm trying to just figure out is
23 how we schedule this and set this up procedurally to go
24 forward.

25 MR. MUGAN: I think we're going to need some

1 discovery.

2 THE COURT: Okay. Mr. Powell.

3 MR. POWELL: No. I don't need any. I mean, it --
4 Mr. Mugan was just saying a moment ago that it's black and
5 white, it's already been decided, and now we're saying it's
6 not. So, --

7 THE COURT: Right.

8 MR. POWELL: -- I think --

9 THE COURT: So I guess the --

10 MR. POWELL: We don't need discovery on our end.
11 There's nothing more we can offer to establish that 33
12 years of precedent has been established. There's nothing
13 more that we can go by.

14 If that's what we're intending to raise that issue
15 that it was done improperly back then, I don't know what
16 more we can go to than saying that this is the way that
17 it's been done and, really, at the basis of what we're
18 asking for is if they want to now dispute that 65/35, let -
19 - what we would ask is put -- let's go back to the status
20 quo and then we'll haggle it out from there, but it's not
21 fair to have my clients, my client choked off from
22 receiving what they've been -- what she's been getting for
23 the last four years, her grandmother has been getting for
24 the previous 29 years and that's the issue.

25 I'm not sure how the delay benefits anybody. To

1 me, this is something you want declared now. Both sides
2 apparently feel it's black and white. So let's go. I
3 mean, again, there's nothing more we can offer than what
4 we've already established. I can give -- we can provide
5 tax returns. Those are just pleadings. There's no
6 testimony that can be offered in that regard.

7 It's precedent. It's been 33 years of this split.
8 If that's -- if that issue -- I don't think that issue is
9 in dispute. If the issue in dispute is: Well, it
10 shouldn't have been that way, okay, fine. Then that's up
11 to them now to change what's been, but you can't just,
12 again, pull the plug and then go: No, I'm not putting it
13 back in. It doesn't work that way and --

14 THE COURT: Okay. So you're seeking some sort of
15 --

16 MR. MUGAN: Your Honor, --

17 MR. POWELL: That's why I'm seeking the
18 declaratory --

19 THE COURT: -- preliminary --

20 MR. POWELL: -- judgment is so that we can go back
21 to the trustee -- trustee, again, not beneficiary, the
22 trustee and say: This must be honored. It's a 65/35
23 split. What --

24 THE COURT: Okay.

25 MR. MUGAN: The --

1 THE COURT: So you're looking for a preliminary
2 relief which is to maintain the status quo --

3 MR. POWELL: Exactly.

4 THE COURT: -- pending a determination on the
5 underlying issue?

6 MR. POWELL: Exactly. Exactly.

7 THE COURT: Okay. Got it. Thanks.

8 MR. MUGAN: Your Honor, it's black and white I
9 think in my motion to dismiss, that issue preclusion.
10 That's what I mean when it's black and white. If they get
11 over that hurdle, then I think there's evidentiary issues.

12 You know, he keeps talking about urgency and
13 returning to the status quo, his client -- and if you look
14 at their petition, they state that my client is entitled to
15 at least 35 percent, at least 35 percent -- no argument
16 about that.

17 MR. POWELL: No argument about that.

18 MR. MUGAN: No argument.

19 MR. POWELL: Nope. No.

20 THE COURT: Yeah.

21 MR. MUGAN: Her Texas attorney sends a letter to
22 all of the oil companies --

23 THE COURT: When you say her in Texas, you mean
24 the petitioners?

25 MR. MUGAN: She had -- the petitioner. Not Mr.

1 Powell, but her Texas attorney sends a letter to all of the
2 oil companies paying the royalties, encloses copies of the
3 petition up here, and doesn't say: There's 65 percent in
4 dispute, we want you to hold the 65 percent. No. The
5 letter says: There's a dispute, we want you to hold it
6 all. You know, even though there's no dispute about my
7 client getting 35 percent, we want you to hold it all. And
8 what did the oil companies do? They hold until we show
9 them the petition and try and convince them and the biggest
10 one is Apache, the one who really pays the money and we
11 haven't convinced them yet that they should release the 35
12 percent.

13 So this urgency and return to the status quo, it's
14 a little fuzzy, a little fuzzy because they claim they want
15 it but yet they tie us up.

16 MR. POWELL: Let's go back to 65/35 and we're
17 done.

18 MR. MUGAN: No.

19 MR. POWELL: And then we can go --

20 MR. MUGAN: That's not going to happen because
21 it's --

22 MR. POWELL: Oh, so give us our money but you keep
23 yours.

24 THE COURT: One at a time.

25 MR. POWELL: Okay.

1 THE COURT: So, Mr. Mugan, I guess my problem -- I
2 guess it's -- I'm just trying to understand --

3 MR. MUGAN: Right.

4 THE COURT: -- procedurally how we're going to go
5 forward. The petition for declaratory relief doesn't seek
6 an emergency finding. It is emergency relief saying, you
7 know, at least maintain the status quo pending a
8 resolution.

9 MR. MUGAN: No.

10 THE COURT: But it sounds to me like that might be
11 a perfectly reasonable option to order -- enter a
12 preliminary order saying: Let's maintain the status quo
13 and we'll make a determination as to who is correct.

14 MR. MUGAN: Well, I think if you want to go that -
15 - down that line, down that path, and there's no argument
16 that my client's entitled to 35 percent. There's a dispute
17 over the 65 percent and whose it's going to go to. The oil
18 company holds 65 percent until the dispute is determined.
19 That would seem to be more logical to me than to kind of
20 make a predetermination and then say: Well, we're going to
21 give them 65 percent.

22 There's reasons for what happened in the past, the
23 33 years, and I'll be glad to get into them if you want me
24 to but then we're starting to get into substantive issues
25 and stuff, but there's reasons, there's explanations,

1 there's reasons why it changed. There's Nevada statutes
2 that we can cite, etcetera, but I don't want to get into
3 the substantive issues.

4 But addressing your point, what's in dispute is
5 the 65 percent. If anything, I would think you just hold
6 that -- hold the 65 percent and that doesn't go to anybody
7 --

8 THE COURT: Well, here's my question and this is
9 why I asked earlier, is there some forum shopping going on
10 here because what's happening in Texas? Is this Texas
11 attorney just takes it on himself to send an order -- to
12 send around a petition that hasn't even got an order
13 attached to it and oil companies act on that?

14 MR. POWELL: There's an obligation because they
15 don't want to payout to anybody anytime there's a dispute
16 and that's the whole thing is -- it's -- if they don't,
17 there's issues there with them not having notified that
18 there's a dispute as to these.

19 The oil companies, like anything else, it's almost
20 kind of like an interpleader. They want to be informed:
21 Wait a second. Okay. There's disputes here, you better
22 notify us.

23 And I -- if -- and I could be mistaken and so
24 please don't hold me to this, but I believe there's some
25 boiler plate in there -- in these contracts that are

1 voluminous basically saying if there's any other claims
2 going on here, you better notify us immediately. That's my
3 understanding of the way it's done. I'm not a Texas
4 authority. I don't know --

5 THE COURT: I don't think any of us would hold
6 ourselves out to be authority for --

7 MR. POWELL: Yeah, and the whole --

8 THE COURT: -- Texas oil and gas law.

9 MR. POWELL: -- oil and gas -- and, I mean, that's
10 really almost a Texas-based --

11 THE COURT: Yeah.

12 MR. POWELL: I mean, that's -- Texas is oil
13 country.

14 THE COURT: It is its own thing.

15 MR. POWELL: Yeah. It's its own entity.

16 So the -- it's not an issue of simply retaliating
17 or anything like that. It's basically giving notice to
18 this third party to say: I'm putting you on notice, you
19 know, and basically there's a dispute. We have a dispute
20 here from the way it was being originally anticipated and
21 going.

22 So, I mean, --

23 MR. MUGAN: I've been through those leases and
24 I've been through those addendums and they're about that
25 thick and, again, don't hold me to it, but I sure don't

1 remember any provision like that and this attorney is
2 representing Ms. Montoya down there in Texas and I presume
3 he wouldn't be doing anything without her direction and
4 consent.

5 THE COURT: Okay. But here's my question is
6 procedurally, how do we go forward? If there's been some
7 action taken, and it sounds to me like Texas Court doesn't
8 -- Probate Court doesn't want to take jurisdiction over
9 this, they will honor any order entered if that's what the
10 point is. Then the question is: At this point in time, is
11 there any proper order? Because is what they're -- is what
12 the oil and gas companies are doing in reaction to this
13 premature? There has been no finding that anybody is
14 entitled to any of this money other than I think it says
15 pretty clearly that everybody agrees that 35 percent goes
16 to Eleanor. Nobody disputes the 35 percent to Eleanor.

17 So, Mr. Powell's suggestion is let's just go back
18 to the status quo and I understand, Mr. Mugan, your
19 opposition to that is the undisputed portions should be
20 distributed but if you distribute the disputed portion,
21 there's no way for your client to get it back if ultimately
22 it's determined it is hers.

23 MR. MUGAN: Well, I don't think that was
24 requested.

25 THE COURT: Okay.

1 MR. MUGAN: You know, I think we're going way
2 beyond what we were here today for, number one.

3 Number two, Texas --

4 THE COURT: What we are here today for technically
5 is an unopposed motion for declaratory relief.

6 MR. MUGAN: Well, I am appearing personally to
7 oppose it.

8 THE COURT: Okay.

9 MR. MUGAN: Texas has not turned down
10 jurisdiction, Your Honor.

11 THE COURT: Okay.

12 MR. MUGAN: What happened was that petition was
13 filed. My client was never given any notice of it. The
14 will was admitted to probate and the -- Ms. Montoya was
15 appointed personal representative down there.

16 THE COURT: Why would the will be admitted to
17 probate in Texas? I mean, nobody lived in Texas, did they?

18 MR. POWELL: I think those rights -- dealing with
19 the rights --

20 THE COURT: Right, but nobody lived in Texas?

21 MR. MUGAN: I don't understand that either, Your
22 Honor.

23 MR. POWELL: Well it was just --

24 MR. MUGAN: Died a Nevada --

25 MR. POWELL: It was --

1 MR. MUGAN: -- resident.

2 MR. POWELL: Yeah.

3 THE COURT: I was going to say she's a Nevada
4 resident.

5 MR. POWELL: I -- yeah, I think it's like anything
6 else. It's an ancillary proceeding dealing with property
7 rights or something there. You know, obviously, same thing
8 here, if somebody owns a house -- mineral rights in Las
9 Vegas or water rights, I guess would be more appropriate
10 out here --

11 MR. MUGAN: But property rights were owned by the
12 trust. There's no dispute about that. You know, why you
13 would go to Texas and then have a false or incorrect
14 allegation in there and get yourself appointed down there
15 and try and get the will admitted to probate down there
16 without noticing my client and the will is the document
17 that they claim exercised this power of appointment where
18 my client, you know, doesn't get all the rights -- all of
19 the money and as soon as my client finds out about it, they
20 file a -- they intervene and file a motion basically to set
21 it aside, etcetera, and the matter was scheduled for
22 hearing and, as I understand it, an expert witness was
23 supposed to testify, had serious health problems, is
24 hospitalized, and so they continued the hearing
25 indefinitely until the expert witness who is hopefully

1 available to testify. Texas has never said -- turned down
2 jurisdiction; has never said we'll do whatever Nevada
3 tells. That is just not correct.

4 MR. POWELL: Well, one is a probate matter and one
5 is not a probate matter. The trust matter is this matter;
6 the probate matter for Marjorie Connell is a Texas matter.
7 I don't think there's -- I think it's clear they are two
8 separate things. So I'm not sure -- I am not even sure
9 what the relevance of Texas as opposed to what we're asking
10 for here even comes into play.

11 THE COURT: But see this is my problem, I'm not --
12 I'm trying to figure out what exactly it is you're asking
13 for this Court to do and what the best process is --

14 MR. POWELL: Yeah.

15 THE COURT: -- to get to a hearing on that.

16 MR. POWELL: We're asking for the status quo to go
17 back which was the whole point of the declaratory judgment
18 was to say: It's 65/35 like it's been --

19 THE COURT: Well --

20 MR. POWELL: -- for 33 years.

21 THE COURT: But it didn't say status quo, it said
22 we want --

23 MR. POWELL: Well, not in those terms, but, I
24 mean, we asked for the declaration that it's 65 percent
25 interest, 35 percent interest. So, --

1 THE COURT: Okay.

2 MR. POWELL: Yeah, I mean, I'm kind of just
3 informalizing the relief, but if you see what we're praying
4 for it's the declaration that it's the 35/65 split.

5 THE COURT: But I -- but that to me, the
6 declaratory relief is seeking a conclusive and permanent
7 determination of that --

8 MR. POWELL: Right.

9 THE COURT: -- as opposed to maintaining the
10 status quo which is a little bit different --

11 MR. POWELL: Right.

12 THE COURT: -- which is that pending the outcome
13 of these various motions, we're going to --

14 MR. POWELL: Yeah.

15 THE COURT: -- return to that.

16 MR. POWELL: And I -- and the only thing I can
17 offer is I guess, you know, we pray in general, too, for
18 any other relief the Court may grant and so, to me, it goes
19 hand-in-hand with -- you know, basically, the whole point
20 is to get the determination done with and that sets the
21 record straight.

22 There has been no declaration despite what Mr.
23 Mugan says. Show me any order, order -- I want to see the
24 order that says that Ms. Ahern is entitled to 100 percent.
25 There was just simply statements in a petition as to that.

1 There's no prayer seeking to confirm that. And, again, as
2 Your Honor recognizes, if that was what -- if that was the
3 point of what you were going for and you then continued
4 four years of distributions and some of which were \$500,000
5 plus, where's the gift tax returns? Were those gifts? If
6 you had your declaration, those must be gifts. You don't
7 have --

8 THE COURT: Well but -- that -- and that gets us
9 to the how procedurally do we get there --

10 MR. POWELL: Yeah.

11 THE COURT: -- because I'm trying to figure out
12 what -- how this thing should go forward.

13 MR. POWELL: Yeah.

14 THE COURT: I mean, it -- are you just looking for
15 right now a temporary determination to let the oil and gas
16 companies in Texas know the Court's assuming jurisdiction
17 over this, we're going to have a hearing to determine who's
18 ultimately entitled to this money, until then, continue
19 with the distributions as you were previously making them,
20 35 percent to Eleanor, 65 percent to the granddaughters,
21 and we'll let you know once we've determined --

22 MR. POWELL: That there's an ultimate --

23 THE COURT: -- who in fact is entitled permanently
24 --

25 MR. POWELL: That's fine.

1 THE COURT: -- to this money?

2 MR. POWELL: That's fine with us.

3 THE COURT: Because --

4 MR. POWELL: Yeah.

5 THE COURT: -- it may be that it's 100 percent, it
6 may be that it remains 65/35.

7 MR. POWELL: Right.

8 THE COURT: We don't know yet. That remains to be
9 determined.

10 MR. POWELL: And what I will tell you, though, is
11 when Ms. Ahern decided I'm entitled to 100 percent, she was
12 taking 100 percent. That's the issue is it was previously
13 taking 35 percent, 65 percent going to Jacqueline and her
14 sister, then the plug was pulled, and then from essentially
15 June, she --

16 THE COURT: You see, I'm not understanding the
17 logistics of this. Is it the --

18 MR. POWELL: Okay.

19 THE COURT: -- oil and gas companies that you
20 notify to stop this or is it a trustee that gets notified?

21 MR. POWELL: Well, that's the whole thing. The
22 petition is based on a declaratory ruling that the trustee
23 must then honor.

24 Again, we have this weird situation where we've
25 had 65/35 for 33 years including the last four and then all

1 of a sudden, the trustee determines: No, -- the trustee
2 and the beneficiary being the same person --

3 THE COURT: Okay.

4 MR. POWELL: -- no, I'm entitled to 100 percent,
5 I'm not giving you that 65 anymore. I've turned off the
6 spigot. It's done. You're not getting it.

7 So that puts my client in the precarious position
8 of: Under what authority are you acting with that?

9 THE COURT: That's --

10 MR. POWELL: Yeah.

11 THE COURT: There you go. That's my question is -
12 -

13 MR. POWELL: Yeah.

14 THE COURT: -- how do we ultimately get to that
15 question?

16 MR. POWELL: Yeah.

17 THE COURT: It seems to me that that's an
18 evidentiary hearing.

19 MR. POWELL: I guess. I mean, --

20 MR. MUGAN: I agree.

21 MR. POWELL: I -- the thing is we can go into an
22 evidentiary hearing, I'm -- your question though is, you
23 know, basically are you -- do you need discovery? Do you
24 need any more evidence? There's nothing --

25 THE COURT: Well --

1 MR. POWELL: -- more we can offer other than what
2 we've -- what we already have.

3 THE COURT: Okay. Thank you.

4 MR. POWELL: Tax returns, and all that, yeah.

5 THE COURT: So then, Mr. Mugan, I understand that
6 the procedurally you have a motion you want to file, but as
7 to the status quo, you're -- let's just say we'll be
8 returning to the status quo. Your position is, at most,
9 the undisputed portions should be distributed and I don't
10 understand if it's the oil and gas companies that aren't
11 honoring it or if it's your client as the role of trustee.

12 MR. MUGAN: Yeah. And I apologize if I haven't
13 made myself clear.

14 Number one, I'm opposed to returning to the
15 alleged status quo.

16 THE COURT: Right.

17 MR. MUGAN: There was no request for that. There
18 was a request for a final determination. He can certainly
19 file and request a temporary order, injunction, whatever,
20 you know, but that was never prayed for and I think we're
21 going beyond the bounds of the pleadings, number one.

22 Number two, if the Court in its discretion thinks
23 there should be some type of order entered at this point in
24 time, the 65 percent should not go to his clients because
25 that's in dispute. The 65 percent should just be held or

1 tied up or put in trusts or whatever until there's a final
2 determination and my client, there's no dispute that she's
3 entitled to the 35 percent.

4 And my understanding is that the companies are the
5 ones, you know, who -- they're the ones who issue the
6 checks, etcetera. They're the ones that have to be
7 notified, not the trustee.

8 THE COURT: Okay. Well, here's my concern here is
9 that I have before me this petition and yes, it does -- I
10 viewed it as seeking an ultimate ruling. I don't think
11 we're at the point where we can make an ultimate ruling,
12 however, you know, the concern I have is that these Courts
13 in Texas are taking action based on just getting a letter
14 from an attorney that -- and there's -- I have this whole
15 question of whether the Texas Court is doing anything with
16 respect to this, but my point is that who would be ordered
17 to -- is it an order saying: Resume your distributions,
18 the trustee's ordered to impound the 65 percent and not
19 make any distributions of the 65 percent, she's entitled to
20 her 35 percent as the beneficiary?

21 Because the whole point is I understand your
22 concern is that if the granddaughters aren't entitled to
23 it, how do you claw it back, but if it's -- but their
24 concern is: Wait a minute, we don't want to go back to the
25 -- to her getting 100 percent because we think 65 percent

1 of that is ours and how do we claw it back?

2 MR. POWELL: How about a bond?

3 THE COURT: Pardon?

4 MR. POWELL: How about a bond? I mean, if the
5 assertion is essentially we can't give it to you because we
6 think you're going to go and take it and then we can't ever
7 get it back from you, how about a bond? I mean, that seems
8 to me to be --

9 THE COURT: Well -- and so that's, I guess, a
10 point is at some point in time is this something that can
11 be ruled on in this point in time or do we need to have a
12 separate motion on it? It seems to me that I can go
13 forward and say that it's undisputed that 35 percent of
14 this money should be going to Eleanor and she is that
15 beneficiary, but to the extent that the -- my concern is
16 just that there's oil and companies that are out there who
17 are responding to letters from attorneys. I've never seen
18 any company respond to a letter from an attorney.

19 MR. POWELL: Yes.

20 THE COURT: I'm shocked that they did, but
21 apparently oil and gas law in Texas is unique --

22 MR. POWELL: Yeah.

23 THE COURT: -- and they actually are responsive to
24 claims for their --

25 MR. MUGAN: Well, --

1 THE COURT: -- oil rights because they don't want
2 to end up paying them twice.

3 MR. POWELL: Right.

4 THE COURT: So if there's some direction to say:
5 Go ahead and make the distributions to the trustee and the
6 trustee is directed because I -- she is a Nevada resident
7 and we certainly have jurisdiction over her. The trustee,
8 in her capacity as trustee of this trust, is directed that
9 she can distribute the undisputed portion of the funds to
10 herself but the 65 percent needs to be held until further
11 order and then --

12 MR. POWELL: I --

13 THE COURT: -- we have to figure out how we're
14 going to go about getting to how we determine who's got the
15 --

16 MR. POWELL: And --

17 THE COURT: -- entitlement to that 65 percent?
18 What's --

19 MR. POWELL: -- I guess -- yeah.

20 THE COURT: -- the process?

21 MR. POWELL: You direct us because I think that's
22 where it's ultimately going to come down to is how we do
23 this. If you want me to come back and seek an injunction,
24 I -- what I was trying to do with this declaratory ruling
25 is skip all the steps, go right to the heart of the issue,

1 and set forth to you we've had 33 years of precedent --

2 THE COURT: I understand but --

3 MR. POWELL: That's only changed --

4 THE COURT: I don't know that we can do --

5 MR. POWELL: Yeah.

6 THE COURT: I appreciate the interest in the
7 judicial economy, --

8 MR. POWELL: Yeah.

9 THE COURT: -- however, I'm not sure we can get
10 there --

11 MR. POWELL: Okay.

12 THE COURT: -- in one big leap because I do think
13 that it requires steps --

14 MR. POWELL: Yeah.

15 THE COURT: -- and it's because I've got these
16 other parties involved here and --

17 MR. POWELL: Yeah.

18 THE COURT: -- I -- this Court -- if you're
19 saying: Will this Court today enter an order directing
20 these oil and gas companies in Texas to resume their
21 distributions, which I guess means it goes to the trustee
22 and the trustee has been ordered to do the 65/35? Yeah, I
23 have no problem in saying: Oil and gas companies in Texas,
24 go ahead, we've taken this under consideration. We will
25 deal with this at the trust level. It's not a problem for

1 you, oil and gas company. Pay your royalties the way
2 you're supposed to be, make those distributions. I'm going
3 to direct the trustee what to do because I control that
4 trustee.

5 MR. POWELL: Yeah. And I don't have a problem
6 with that. That's --

7 THE COURT: Okay.

8 MR. POWELL: -- totally fine.

9 THE COURT: And my ruling to that trustee is
10 you're entitled to 35 percent and nobody says you're not.

11 MR. POWELL: Yeah. The only thing I would ask
12 though just to keep fairness is for the last distributions
13 that have gone back, I think starting in June, it was less
14 than 65/35, is require the trustee -- again, if we're
15 keeping it all fair here is to go back, put that money back
16 in that same 65 percent category that's in dispute. She
17 can have 35 percent of June, July, August, September,
18 October. Take the 35, but that other 65, put that back in
19 the pot, too.

20 THE COURT: You know, I have no idea how much
21 money this is involved here --

22 MR. POWELL: It's a lot.

23 MR. MUGAN: That --

24 THE COURT: No, but my point is, --

25 MR. POWELL: Yeah.

1 THE COURT: -- I don't know how much -- at what
2 point did these oil and gas companies stop distributing any
3 money. All I'm saying is my only point of what I want to
4 do here is to tell these oil and gas companies stop
5 responding to letters from attorneys. An

6 MR. MUGAN: Your Honor, --

7 THE COURT: -- attorney can't tell an oil and gas
8 company what to do.

9 MR. POWELL: Sure.

10 THE COURT: Make your distributions. The trustee
11 is going to do the following.

12 MR. MUGAN: But, Your Honor, we've gotten several
13 of them straightened out. Basically -- my client, of
14 course, has Texas counsel, too, and we've gotten several of
15 them straightened out. Apache just happened, just
16 happened. I think the letter was dated November or October
17 29th or something and we're just getting it straightened out
18 with them.

19 Again, I think we're going way past what was asked
20 here and, you know, if you want to do it on a separate
21 motion, that's fine. In the interim, we may get the spigot
22 turned back on. You know, I mean, we just keep moving down
23 the road, you know, and kind of making predeterminations
24 that I just don't think are proper.

25 THE COURT: What's wrong with what I suggested

1 that we go to -- we tell these oil and gas companies that
2 you don't have to honor this letter from this attorney,
3 start making distributions to this trustee, the trustee is
4 directed she has to in her role as a beneficiary is
5 entitled to 35 percent. She's got to hold 65 percent.
6 What's wrong with that?

7 MR. MUGAN: There's nothing wrong with it except
8 that it does prejudice my client. It wasn't -- he never
9 asked for that in his petition. He had the right to ask
10 for that, for a temporary injunction, a restraining order,
11 etcetera. It was never requested. I mean, all of a sudden
12 we have to address it right now and I, you know, that's
13 fine. That's fine. But I just -- again, I think we're
14 going down the road in making some predeterminations that
15 were never requested, you know, and it's just, you know,
16 return to the status quo, well then go back three months,
17 go back --

18 THE COURT: I never said I was willing to go back
19 --

20 MR. MUGAN: I know, but that's where we're going.
21 We're just going --

22 THE COURT: I appreciate that. I never said I'm
23 willing to go back any period of time. All I'm saying is
24 that as of today's date when I have what's before me what
25 technically is an unopposed motion for declaratory relief

1 that my only -- the only thing I'm willing to do is to say
2 to these Texas oil and gas companies, whoever they may be,
3 you do not have to honor that letter from counsel. I am
4 telling you that 35 percent of this is the undisputed
5 property of this beneficiary, pay your distributions to the
6 trust, and I'm ordering the trustee to hold 65 percent of
7 it, to not make a distribution as to 65 percent of it.

8 MR. MUGAN: That's fine.

9 THE COURT: And then we -- we're going to set this
10 out for a hearing at some point in the future because I
11 think, as you've said, your opposition -- your first thing
12 is we have this opposition that it shouldn't even be --
13 that there's nothing to be heard because it's already been
14 ruled on. You've got your right to do the motion to
15 dismiss. Mr. Powell's got the right to oppose it and then
16 we wanted to get there much faster than this, but
17 procedurally I just think you can't. I think you have to
18 follow the procedural steps. So we have to follow the
19 procedural steps.

20 I think ultimately this petition for declaratory
21 relief may not be whether it requires a lot of discovery,
22 but I think that there's still going to have to be
23 documents produced and you need to come in for a hearing.
24 So we need to probably put it out 60 or 90 days and have a
25 hearing. And, in the interim, if you've got a motion to

1 file, you can file your motion and we can rule on that, but
2 I think it's got to be out at least 60 days for the hearing
3 on the declaratory relief and I think that there needs to
4 be testimony.

5 MR. POWELL: And would that be -- that would be a
6 final determination at that point? That won't just be --

7 THE COURT: That's the petition for --

8 MR. POWELL: Okay. That will be hearing the
9 petition on the merits?

10 THE COURT: On the merits.

11 MR. POWELL: Okay.

12 THE COURT: Right.

13 MR. MUGAN: Yeah. I -- 60 days, to me, is a
14 little short especially with the holiday season.

15 THE COURT: Okay.

16 MR. MUGAN: You know, I think we should be out at
17 least 90 days.

18 THE COURT: Okay.

19 MR. MUGAN: We are going to have to do some
20 discovery. You know, we have people down in Texas,
21 etcetera. So I would ask at least 90 days.

22 THE COURT: All right.

23 MR. POWELL: Just to clarify for the Court, too,
24 though, this was already -- this was filed in September.
25 So there's already been almost a month and a half here to

1 do a lot of fact gathering and fact finding.

2 THE COURT: Yeah, and that's --

3 MR. POWELL: So to just -- and, again, it -- and I
4 don't have a problem with what you're --

5 THE COURT: Well --

6 MR. POWELL: -- saying is --

7 THE COURT: -- I think Mr. Mugan was only recently
8 retained though because I think there was this whole
9 problem about --

10 MR. POWELL: No, he was retained --

11 THE COURT: October.

12 MR. POWELL: -- pretty quickly on. In fact, I
13 even gave him a continuance --

14 THE COURT: In October?

15 MR. POWELL: Yeah. And so, I -- you know, again,
16 we have the whole thing of who is really being choked off
17 here and, again, there's not a problem with what you were
18 suggesting which is go back to oil and gas say: 65/35,
19 keep it coming; 65 stays in trust until the determination,
20 35 goes out to Ms. Ahern. That's not a problem.

21 The only thing I would suggest though is, again,
22 my clients, who rely on this for their living expenses,
23 this is -- my client, just so you're aware, and this will
24 be raised further, my client quit her job on reliance --

25 THE COURT: Okay.

1 MR. POWELL: -- on this. So, it's a situation
2 where -- and, again, I just want to be forthcoming so -- to
3 which sets up my next question which is in the meantime, is
4 there -- is it problematic for me, and, again, I don't want
5 to do anything that upsets you, can I come in for
6 injunctive relief to have the 65 continue to flow with
7 something like a bond?

8 THE COURT: That would be -- yeah, that's a
9 different issue.

10 MR. POWELL: Okay.

11 THE COURT: That's a different issue and --

12 MR. POWELL: Because that's -- I'll tell you right
13 now, I'm going to come back in as soon as possible then on
14 that --

15 THE COURT: Okay.

16 MR. POWELL: -- just -- yeah.

17 THE COURT: That's what I'm saying is I'm not
18 going to rule on anything other than --

19 MR. POWELL: Sure.

20 THE COURT: -- I just want the oil --

21 MR. POWELL: Understood.

22 THE COURT: -- and gas companies to start sending
23 the money to the trust --

24 MR. POWELL: Understood.

25 THE COURT: -- and the trust can deal with it in

1 accordance --

2 MR. POWELL: Understood. Yeah. Understood.

3 THE COURT: It can be held and I have --

4 MR. POWELL: Yeah.

5 THE COURT: -- no reason that it wouldn't be.

6 MR. POWELL: Okay.

7 THE COURT: So that's my only -- the only thing

8 I'm prepared to do today is --

9 MR. POWELL: Okay.

10 THE COURT: -- I'm denying the request to remand

11 this back to the Commissioner. I --

12 MR. POWELL: Okay.

13 THE COURT: -- think it's ultimately going to have

14 to be heard here anyway.

15 MR. POWELL: Okay.

16 THE COURT: Step number two, set this out. Let's

17 go 90 days.

18 MR. POWELL: Okay.

19 THE COURT: And that gives everybody time to file

20 these interim motions that they wish to feel.

21 MR. POWELL: Okay.

22 THE COURT: Mr. Mugan's going to want to file his

23 motion to dismiss this thing in its entirety.

24 MR. POWELL: Sure.

25 THE COURT: Your clients may wish to seek some

1 distributions.

2 MR. POWELL: Yes.

3 THE COURT: I just -- my only point right now is
4 just if these oil and gas companies are holding onto this
5 money for no reason other than an attorney sent them a
6 demand letter which I just find --

7 MR. POWELL: I don't think it was a demand letter.

8 THE COURT: -- mind boggling.

9 MR. POWELL: I think it was just -- I don't think
10 it was a demand letter, I think it was just a notification
11 letter of just so you are aware, this is what's pending.

12 THE COURT: Okay.

13 MR. POWELL: And from what I understand, that's
14 the way it's done there. I don't think there's --

15 THE COURT: Like I said, --

16 MR. POWELL: I don't --

17 THE COURT: -- maybe. I don't think any of us
18 presumes to represent --

19 MR. POWELL: Yeah. Out here, I know it's a shock
20 --

21 THE COURT: -- to know anything about --

22 MR. POWELL: -- that you can send a letter to
23 anybody and they'll do anything. So --

24 MR. MUGAN: I can read the letter to you and it's
25 a demand letter.

1 MR. POWELL: Okay.

2 THE COURT: Yeah. Okay. So here's my point. At
3 this juncture, this is the procedure and I don't know what
4 it would take in an order that would satisfy these oil and
5 gas companies that they can begin distributions. It may be
6 all it needs to say is the Court is assuming jurisdiction
7 for this petition for declaratory relief. It appears
8 undisputed that the 35 percent -- so that the Court makes a
9 finding that as to the 35 percent, Ms. Ahern's entitled to
10 that. The 65 percent should be held by the trust.

11 Hopefully that will satisfy the oil and gas
12 companies that they're off the hook and that it's going to
13 be litigation involving the trust and it doesn't involve
14 the oil and gas companies.

15 MR. MUGAN: Maybe the best thing would be for Mr.
16 Powell and I, you know, to contact our respective co-Texas
17 counsel and they can -- they know more about oil and gas
18 companies than I think both of us would ever know and make
19 sure that that's the way to do it and that the oil
20 companies will do what they're told that way and then we'll
21 just prepare an order for you.

22 THE COURT: Right because --

23 MR. POWELL: Yeah.

24 THE COURT: -- if Mr. Powell wants to see his
25 clients get some money in the interim, there's no point in

1 asking for that if the oil and gas companies aren't sending
2 it.

3 MR. POWELL: Right.

4 THE COURT: So we need the oil and gas companies
5 to send the money.

6 MR. POWELL: Yeah. And that makes --

7 THE COURT: So --

8 MR. POWELL: -- logical sense. We'll figure out
9 what they need to do that but then we're, just for the
10 record, we're preserving that we will have you sign an
11 order to that effect basically saying you're hereby
12 demanded to continue the 65 -- well, pay 100 percent of the
13 proceeds, 65 must be held by the trustee and --

14 THE COURT: Correct.

15 MR. POWELL: -- 35 to Ms. Ahern.

16 THE COURT: Correct.

17 MR. POWELL: So, yeah.

18 THE COURT: But the -- it's strictly an issue as -
19 -

20 MR. POWELL: Sure.

21 THE COURT: -- as under the trust, shouldn't --
22 that these third parties don't need to be involved in it
23 any further. It's litigation with the trust. This Court's
24 got the jurisdiction. This Court will make that finding
25 and, you know, proceed accordingly.

1 MR. MUGAN: And --

2 THE COURT: And that's -- if we put it out 90
3 days, you can file your respective motions and we can maybe
4 get all this stuff resolved in the interim, but at the
5 earliest the declaratory relief would be heard would be,
6 you know, 90 days in the future which would be -- and we
7 might need to --

8 MR. MUGAN: Maybe a status check, I don't know.

9 THE COURT: I was going to say we might need to
10 put it actually on a stack to actually give you like a date
11 for an evidentiary hearing, but -- so it would probably be
12 better to let you know what our stack looks like in
13 February. Would it be February?

14 THE CLERK: Yeah, February 17th. We have one med-
15 mal that starts on the 10th.

16 THE COURT: Okay.

17 THE CLERK: That was before we changed our --

18 THE COURT: Okay. So February 17th is --

19 THE CLERK: We have a preferential --

20 THE COURT: -- probate.

21 THE CLERK: -- [indiscernible].

22 THE COURT: Okay. So it will be a status check to
23 give you a hearing date for your --

24 MR. POWELL: On the 17th will be a status check?

25 THE COURT: Correct, for your actual --

1 MR. POWELL: Okay.

2 THE COURT: It's not going to be the actual
3 evidentiary hearing, but we'll hopefully have enough
4 information that we can give you a date that day.

5 MR. POWELL: Okay.

6 MR. MUGAN: I just --

7 THE CLERK: The 17th in our department is on
8 calendar call --

9 THE COURT: What's calendar call?

10 THE CLERK: The 24th of January. That's the trial
11 stack [indiscernible].

12 MR. MUGAN: I --

13 THE COURT: Okay. So -- okay. I guess it might
14 be -- yeah, we might be better off then seeing you at the
15 calendar calls for that stack which is Friday, the 24th, and
16 we'll be able to tell you if there's any time on that stack
17 that we can go because we do have one med-mal and one --

18 MR. MUGAN: That's February 24th, Your Honor?

19 THE COURT: No, January 24th.

20 MR. POWELL: January.

21 THE COURT: And it's the calendar calls that
22 correspond to that stack that starts February --

23 THE CLERK: 17th through March 14th.

24 THE COURT: Yeah.

25 MR. MUGAN: And by way of full disclosure, Your

1 Honor, and I don't know if it will affect the thinking at
2 all, and we can deal with it later if we have to, if in
3 fact this ends up going to an evidentiary hearing and our
4 motion to dismiss is not successful, there are going to be
5 some counterclaims made by my client in this matter --

6 THE COURT: Okay.

7 MR. MUGAN: -- that are --

8 THE COURT: And I think --

9 MR. MUGAN: -- going to involve some things.

10 THE COURT: -- at that point in time, on the 24th
11 if it's not going to be ready to go, if we ruled on all
12 those other motions in the interim, then it may or may not
13 be ready to go. It's a calendar call just to see if we can
14 get you on that stack, but I -- because until we actually
15 see what the pleadings are, you know, who knows. I just
16 want to make sure that we've got this calendar and the
17 declaratory relief petition is calendared. If it has to be
18 continued, it has to be continued, but we've got a date for
19 it which will be on that stack, that February 17th and I
20 think the first day of that stack might be a holiday. So,
21 you know, just keeping in mind that --

22 MR. POWELL: Okay.

23 THE COURT: -- if the first day of the stack is a
24 holiday, then it won't go -- obviously it won't go -- just
25 like yesterday was a holiday for us, the -- you know,

1 that's just the first day. It doesn't necessarily mean it
2 can go on that day because of the holiday and whatever else
3 we can figure out with respect to anybody who has a
4 preference on it.

5 MR. POWELL: Okay. What time is your calendar on
6 the 24th?

7 THE COURT: On January 24th?

8 MR. POWELL: Yeah.

9 THE CLERK: The calendar calls are --

10 THE COURT: 9 a.m.?

11 THE CLERK: No. They're late. I'll have to get
12 that to him.

13 MR. MUGAN: Aren't they at 11?

14 THE COURT: That's right.

15 THE CLERK: 11 is [indiscernible].

16 THE COURT: Yeah. They're 11 because we have them
17 after regular motions.

18 MR. POWELL: 11.

19 MR. MUGAN: Yeah, I was thinking it was 11 but I
20 might be wrong.

21 THE CLERK: It's 11.

22 THE COURT: Okay. Sorry about that. 11 a.m.

23 MR. POWELL: 11 a.m.

24 And, Judge, just lastly, I know you want to move
25 on with your day, but just for the record again, we have in

1 -- our declaratory judgment petition asked for the fees,
2 costs, and damages. So we just wanted to preserve that
3 that we have requested it --

4 THE COURT: Right.

5 MR. POWELL: -- and everything related. So, --

6 THE COURT: Yeah, exactly. That's why I said I'm
7 not making any rulings on any other request for relief.

8 MR. POWELL: Sure.

9 THE COURT: The petition itself is set to be heard
10 on that --

11 MR. POWELL: Yeah.

12 THE COURT: -- date. This is just a preliminary
13 ruling --

14 MR. POWELL: Yeah.

15 THE COURT: -- and the only reason is I'm just
16 concerned about, you know, these -- a foreign state that
17 they're somehow holding up -- I mean, the whole thing's
18 moot if they're not going to distribute any money.

19 MR. POWELL: Right. And just, again, foreshadow,
20 we will be coming back in shortly --

21 THE COURT: Sure.

22 MR. POWELL: -- on a petition, too.

23 THE COURT: I'll expect to see that and I'll
24 expect to see the motion to dismiss in its entirety.

25 MR. POWELL: Yep. Exactly.

1 THE COURT: Okay. Without prejudice, I'm not
2 making any findings or any rulings --

3 MR. POWELL: Right.

4 THE COURT: -- on anything. It's all going to be
5 argued unfortunately [indiscernible] the interest and let's
6 get right to the point, but I don't see any way to do it
7 other than a set time.

8 MR. POWELL: Okay.

9 THE COURT: Okay. So --

10 MR. MUGAN: Thank you, Your Honor.

11 THE COURT: -- all right.

12 MR. POWELL: Thank you, Your Honor.

13 THE COURT: Thanks.

14 MR. POWELL: Appreciate the time.

15

16 PROCEEDING CONCLUDED AT 11:04 A.M.

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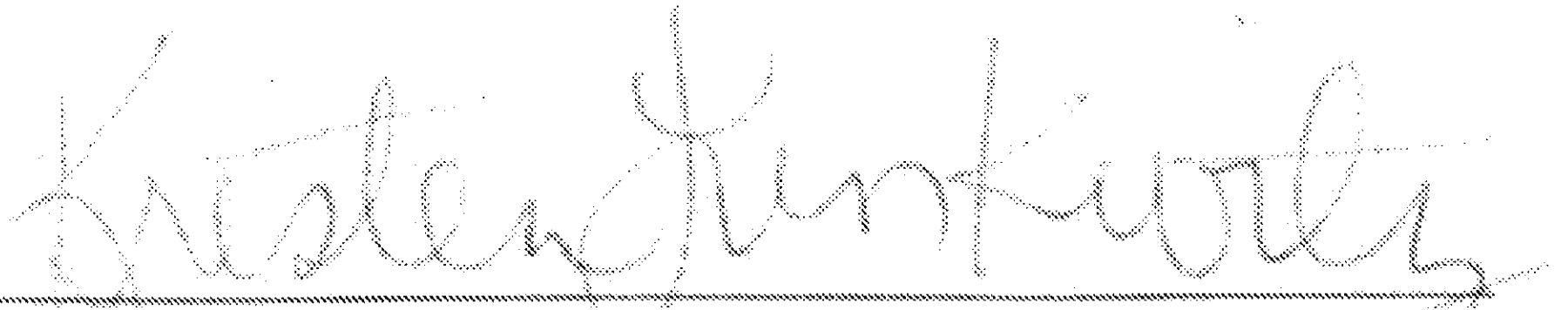
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CERTIFICATION

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.

A handwritten signature in cursive script, reading "Kristen Lunkwitz", is written over a horizontal dotted line.

KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER

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EXHIBIT “4”
Affidavit of Stan Crawford

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DISTRICT COURT**CLARK COUNTY, NEVADA**

11 In the Matter of

12 THE W. N. CONNELL AND MARJORIE T. CONNELL
13 LIVING TRUST,

Dated May 18, 1972

Case No. P-09-066425-T

Dept. No. XXVI (26)

14
15 An Inter Vivos Irrevocable Trust.

AFFIDAVIT OF STANLEY E. CRAWFORD, ESQUIRE

18 STATE OF TEXAS }

ss

19 COUNTY OF HARRIS }

20 The undersigned, STANLEY E. CRAWFORD, Esquire, being first duly sworn on oath, deposes
21 and states as follows:

23 1. I have been licensed to practiced law for approximately thirty-seven (37) years in the state of
24 Texas.

25 2. My Martindale-Hubbell rating is AV Preeminent, and has been for many years.

26 3. This affidavit contains my opinions based on my experience, and my knowledge and
27 understanding of the Texas Natural Resource Code.

1 4. Section 91.402 of the Texas Natural Resources Code sets the time limits by which a "payor"
2 (generally defined as the purchaser of production from a well, the operator of that well, or the lessee
3 under a lease on which royalty is due) must pay each "payee" (defined as "any person or persons
4 legally entitled to payment from the proceeds derived from the sale of oil or gas from an oil or gas
5 well located" in Texas) proceeds derived from the sale of oil or gas production. Under Section
6 91.402 (a), proceeds from production must be paid within 120 days after the end of the month of the
7 first sale of production; after that, proceeds must be paid to payees 60 days after the end of the
8 month when oil is sold, and 90 days after the end of the month when gas is sold.

9
10 5. Section 91.403 of the Texas Natural Resources Code sets the rate of interest owed on
11 payments of proceeds not made within these statutory deadlines. That interest is owed as a penalty
12 for late payment unless payments are suspended by a payor for one of the following reasons listed
13 in Section 91.402:

14 Section 91.402(b)(1): There is "a dispute concerning title that would affect distribution of
15 payments;"

16 Section 91.402 (b)(2): There is "a reasonable doubt that the payee:

17 (A) has sold or authorized the sale of its share of the oil or gas to the purchaser of
18 such production; or

19 (B) has clear title to the interest in the proceeds of production;

20 Section 91.402 (b)(3): There is "a requirement in a title opinion that places in issue the title,
21 identity, or whereabouts of the payee and that has not been satisfied by the payee after a
22 reasonable request for curative information has been made by the payor."

23 A true and correct copy of the statutory text is attached hereto as Exhibit 1 and incorporated
24 herein.

25 6. Section 91.402 is a statutory protection for an oil company or other "payor" when royalties
26 aren't timely paid, and a penalty of additional interest when they aren't paid for a reason specified in
27 the statute. In my opinion, Section 91.402 says nothing about the liability of a third party for
28 tortious interference with contract, and it certainly doesn't say that all payment of royalty should be


1 suspended and held in trust by an oil company whenever a lawsuit is filed that would affect
2 distribution of royalty payments.

3 7. Based on the pleadings, representations and stipulations of all parties in the Nevada
4 proceeding (Case No. P-09-066425-T), there is no good faith dispute as to the title of the Upton
5 County minerals begin vested in the 1972 Living Trust of W.N. and Marjorie Connell (Trust No. 2).
6 There is no dispute that the proceeds from production have always been paid by "payors" to the
7 trustees of that Trust.

8 8. Furthermore, in my opinion, it is not industry standard or regular practice in Texas for
9 "payors" to routinely suspend royalty payments where royalty allocation is the focus of a lawsuit, at
10 least without incurring the penalty of statutory interest. In fact, this contention was rejected by the
11 Court of Appeals in Austin in *Browning Oil Co., Inc. v. Luecke*, 38 S.W.3d 625, 647 (Tex. App.--
12 Austin 2000, pet. denied), when Browning Oil Co. argued that because there was a dispute as to
13 how much royalty the Lueckes should be paid, Section 91.402 protected them from paying interest
14 on the suspended royalties. The Court said:

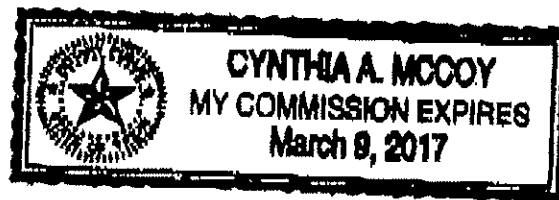
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16
17 "The purpose of the statute is to protect royalty owners from intentional payment delays
18 while permitting delays that result from legitimate *title* disputes....The crux of this case is
19 whether the Lueckes are entitled to a pro rata share of royalties under the pooling provisions
20 or royalties for all production from their land. Their *entitlement* to royalties, however, was
21 never in dispute. All parties agreed that the Lueckes' royalty interests are valid. Thus, the
22 Natural Resources Code does not excuse Lessees from paying prejudgment interest where
23 there is no legitimate title dispute, but rather a dispute as to how to calculate the Lueckes'
24 royalties." (Emphasis in the original.)

25 9. In any event, neither JACQUELINE M. MONTOYA nor her Texas counsel, Sean Guerrero,
26 is protected from liability for interfering with the payment of royalties by Section 91.402 of the
27 Texas Natural Resource Code. In my opinion, neither of them is considered a "payor," and they are
28 not the parties for whom the statute was enacted.


STANLEY H. CRAWFORD
Texas Bar No. 05040500

1 SUBSCRIBED and SWORN to before me
2 this 7th day of May, 2014.

3 *Cynthia A. McCoy*
4 NOTARY PUBLIC in and for the
5 State of Texas



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Vernon's **Texas** Statutes and **Codes** Annotated

Natural Resources Code (Refs & Annos)

Title 3. Oil and Gas (Refs & Annos)

Subtitle B. Conservation and Regulation of Oil and Gas

Chapter 91. Provisions Generally Applicable

Subchapter J. Payment for Proceeds of Sale (Refs & Annos)

V.T.C.A., Natural Resources Code § 91.402

§ 91.402. Time for Payment of Proceeds

Currentness

(a) The proceeds derived from the sale of oil or gas production from an oil or gas well located in this state must be paid to each payee by payor on or before 120 days after the end of the month of first sale of production from the well. After that time, payments must be made to each payee on a timely basis according to the frequency of payment specified in a lease or other written agreement between payee and payor. If the lease or other agreement does not specify the time for payment, subsequent proceeds must be paid no later than:

(1) 60 days after the end of the calendar month in which subsequent oil production is sold; or

(2) 90 days after the end of the calendar month in which subsequent gas production is sold.

(b) Payments may be withheld without interest beyond the time limits set out in Subsection (a) of this section when there is:

(1) a dispute concerning title that would affect distribution of payments;

(2) a reasonable doubt that the payee:

(A) has sold or authorized the sale of its share of the oil or gas to the purchaser of such production; or

(B) has clear title to the interest in the proceeds of production;

(3) a requirement in a title opinion that places in issue the title, identity, or whereabouts of the payee and that has not been satisfied by the payee after a reasonable request for curative information has been made by the payor.

(c)(1) As a condition for the payment of proceeds from the sale of oil and gas production to payee, a payor shall be entitled to receive a signed division order from payee containing only the following provisions:

(A) the effective date of the division order, transfer order, or other instrument;

(B) a description of the property from which the oil or gas is being produced and the type of production;

(C) the fractional and/or decimal interest in production claimed by payee, the type of interest, the certification of title to the share of production claimed, and, unless otherwise agreed to by the parties, an agreement to notify payor at least one month in advance of the effective date of any change in the interest in production owned by payee and an agreement to indemnify the payor and reimburse the payor for payments made if the payee does not have merchantable title to the production sold;

(D) the authorization to suspend payment to payee for production until the resolution of any title dispute or adverse claim asserted regarding the interest in production claimed by payee;

(E) the name, address, and taxpayer identification number of payee;

(F) provisions for the valuation and timing of settlements of oil and gas production to the payee; and

(G) a notification to the payee that other statutory rights may be available to a payee with regard to payments.

(2) Such a division order does not amend any lease or operating agreement between the interest owner and the lessee or operator or any other contracts for the purchase of oil or gas.

(d) In the alternative, the provisions of Subsection (c) of this section may be satisfied by a division order for oil payments in substantially the following form and content:

DIVISION ORDER

TO: (Payor) Property No.

.....

.....

..... Effective

(Date)

The undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil and related liquid hydrocarbons produced from the property described below:

OPERATOR:

Property Name:

County: State:

Legal Description:

OWNER NO.

TAX I.D./SOC. SEC. NO. PAYEE

DIVISION OF INTEREST

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL OR GAS.

The following provisions apply to each interest owner ("owner") who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deductions for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$100 may be accrued before disbursement until the total amount equals \$100 or more, or until 12 months' proceeds accumulate, whichever occurs first. However, the payor may hold accumulated proceeds of less than \$10 until production ceases or the payor's responsibility for making payment for production ceases, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: The owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects the owner's interest to which payor is made a party.

DISPUTE; WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of the owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed.

In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of this agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination is received by either party.

NOTICES: The owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time.

No change of interest is binding on payor until the recorded copy of the instrument of change or documents satisfactorily evidencing such change are furnished to payor at the time the change occurs.

Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor.

Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

§ 91.402. Time for Payment of Proceeds, TX NAT RES § 91.402

In addition to the legal rights provided by the terms and provisions of this division order, an owner may have certain statutory rights under the laws of this state.

	Signature of	Social Security/	
Witness	Interest Owner	Tax I.D. No.	Address
.....			
.....			
.....			

Failure to furnish your Social Security/Tax I.D. number will result in withholding tax in accordance with federal law, and any tax withheld will not be refundable by payor.

(e) If an owner in a producing property will not sign a division order because it contains provisions in addition to those provisions provided for in this section, payor shall not withhold payment solely because of such refusal. If an owner in a producing property refuses to sign a division order which includes only the provisions specified in Subsection (c) of this section, payor may withhold payment without interest until such division order is signed.

(f) Payment may be remitted to a payee annually for the aggregate of up to 12 months' accumulation of proceeds if the payor owes the payee a total amount of \$100 or less for production from all oil or gas wells for which the payor must pay the payee. However, the payor may hold accumulated proceeds of less than \$10 until production ceases or the payor's responsibility for making payment for production ceases, whichever occurs first. On the written request of the payee, the payor shall remit payment of accumulated proceeds to the payee annually if the payor owes the payee less than \$10. On the written request of the payee, the payor shall remit payment of proceeds to the payee monthly if the payor owes the payee more than \$25 but less than \$100.

(g) Division orders are binding for the time and to the extent that they have been acted on and made the basis of settlements and payments, and, from the time that notice is given that settlements will not be made on the basis provided in them, they cease to be binding. Division orders are terminable by either party on 30 days written notice.

(h) The execution of a division order between a royalty owner and lessee or between a royalty owner and a party other than lessee shall not change or relieve the lessee's specific, expressed or implied obligations under an oil and gas lease, including any obligation to market production as a reasonably prudent lessee. Any provision of a division order between payee and its lessee which is in contradiction with any provision of an oil and gas lease is invalid to the extent of the contradiction.

(i) A division order may be used to clarify royalty settlement terms in the oil and gas lease. With respect to oil and/or gas sold in the field where produced or at a gathering point in the immediate vicinity, the terms "market value," "market price," "prevailing price in the field," or other such language, when used as a basis of valuation in the oil and gas lease, shall be defined as the amount realized at the mouth of the well by the seller of such production in an arm's-length transaction.

Credits
Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 650, § 2, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 681, § 1, eff. June 15, 1995.

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EXHIBIT “5”
Email Confirming Stipulation

Michael D. Lum

From: Michael D. Lum
Sent: Tuesday, January 28, 2014 11:54 AM
To: 'joey@rushforth.net'
Cc: John R. Mugan
Subject: Connell Matter
Attachments: 2012-04-02 Apache Lease No. 2.pdf; 2012-04-02 Apache Lease No. 3.pdf; 2012-07-10 Addendum to Apache Lease No. 3.pdf; 2013-07-10 Addendum to Apache Lease No. 2.pdf

Hello Joey:

It was nice speaking with you yesterday. To follow up on the items you requested, attached are the Apache lease agreements. With regard to the division orders that you requested, we are in the process of compiling them. They are quite voluminous, so how would you like them delivered to you? The name of the expert that you requested is J. Randall Turner.

Also, to confirm, the following is a list of items that you stipulated to.

1. W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972.
2. Quitclaim deeds attached as exhibit B to our Objection Of Eleanor To Petition To Compel Trustee To Distribute Income.
3. The letters sent by Sean Guerrero dated September 30, 2013.
4. The MTC Living Trust dated December 6, 1995 as restated on January 7, 2008.
5. The Adoption Decree attached as exhibit L to our Objection Of Eleanor To Petition To Compel Trustee To Distribute Income.
6. The 2009 pleadings filed in this matter, including the Petition To Assume Jurisdiction Over Trust; Confirm Trustee, And Construe And Reform Trust and the consents thereto.
7. The Texas Probate Application attached as exhibit K to our Objection Of Eleanor To Petition To Compel Trustee To Distribute Income.
8. Marjorie T. Connell's death certificate.

In terms of our witnesses, you indicated that you will stipulate to the telephonic depositions of Stan Crawford, J. Randall Turner, and Curtis Baggett (the handwriting expert). Note, as we discussed, if you will stipulate to the admission of the handwriting expert report, we will not need to take the deposition of Curtis Baggett.

Furthermore, to confirm my understanding, you will be discussing with your client as to whether you will stipulate to the admission of the handwriting expert report attached as exhibit I to our Objection Of Eleanor To Petition To Compel Trustee To Distribute Income, and you will review the Apache lease agreements and division orders to ascertain whether you will stipulate to the admission of these reports.

If it will help your discussions with your client, please note that the Apache lease agreements and the division orders were signed by Eleanor and as you previously mentioned in your pleadings Jackie was involved in the negotiation and execution of the lease agreement; accordingly, these documents will be admissible in any event. It would just be easier and more efficient if we could stipulate to the admission of these documents. Like you, we would also like to keep this trial as short as possible.

Please feel free to contact us with any questions.

Thank you for your cooperation,

Michael Lum, J.D., MAcc
Jeffrey Burr, Ltd

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Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that (i) any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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EXHIBIT "6"
The W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

1972

TRUST AGREEMENT

("The W. N. Connell and Marjorie T. Connell Living Trust")

THIS TRUST AGREEMENT, made this 18th day of May, 1972, by W. N. CONNELL and MARJORIE T. CONNELL, husband and wife, (hereinafter sometimes referred to as the "Grantors", when reference is made to them in their capacity as creators of this Trust and the transferrors of the principal properties thereof), and W. N. CONNELL and MARJORIE T. CONNELL, of Las Vegas, Nevada, (hereinafter sometimes referred to as the "Trustee" when reference is made to them in their capacity as the Trustee or fiduciary hereunder), and by this instrument revoke the previous revocable living trust made by us on the 1st day of Dec., 1971:

W I T N E S S E T H :

WHEREAS, the Grantors desire by this Trust Agreement to establish a revocable trust for the uses and purposes hereinafter set forth, to make provision for the care and management of certain of their present properties and for the ultimate disposition of the trust properties;

NOW, THEREFORE, the Grantors hereby give, grant, transfer, set over and deliver as the original trust estate, IN TRUST, unto the Trustee, who hereby declares that they have received from the Grantors all of the property listed on Schedule "A" (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may from time to time be made thereto, subject to the hereinafter provided trusts and the terms and conditions, powers and agreements, relating thereto.

Additional property may be added to the trust estate, at any time and from time to time, by the Grantors, or either of them, or by any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or trust designation.

The property comprising the original trust estate during the joint lives of the Grantors shall retain its character as their community property or separate property, as designated on the attached Schedule "A". Property subsequently received by the Trustee during the joint lives of the Grantors shall be listed on an appropriate schedule annexed hereto and shall have the separate or community character ascribed thereto on such schedule.

FIRST: NAME AND BENEFICIARIES OF TRUST. The trusts created hereby shall be for the use and benefit of the Grantors and for ELEANOR MARGUERITE CONNELL HARTMAN, the daughter of W. N. CONNELL by a prior marriage, and for her issue as hereinafter provided. ELEANOR MARGUERITE CONNELL HARTMAN shall hereinafter be designated as the "Residual Beneficiary".

This trust shall be known and identified as the "W. N. Connell and Marjorie T. Connell Living Trust", and, for purposes of convenience, shall hereinafter be referred to as Trust No. 1.

SECOND: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the trust estate and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay equally to the Grantors, during their joint lives, all community net income of the trust estate and shall pay to each Grantor all separate net income from his or her respective share of the trust estate. Such income shall be paid to the Grantors unless the Trustee receives written notice from the Grantors that all income shall not be distributed but shall be accumulated by the Trustee and invested and reinvested as herein provided.

B. Principal. During the joint lives of the Grantors, the Trustee shall pay over and distribute to a Grantor such part or all of the principal of his or her separate property and his or her share of the community property placed in this initial trust by that Grantor as he or she shall demand in a writing directed to the Trustee.

C. Death of Either Grantor. Upon the death of the Grantor whose death shall first occur, the Trustee shall divide the trust estate, including all property received as a result of the decedent's death, as follows:

1. The trust estate and all property received as a result of the decedent's death shall be divided into two parts, each part to be administered as a separate trust to be known respectively as "Trust No. 2" and "Trust No. 3". Reference hereafter to the "Decedent" shall refer to either of the Grantors whose death shall first occur and reference to the "Survivor" shall refer to the other Grantor.

2. The Trustee shall allocate to Trust No. 3 (a) the Survivor's separate property interest in the trust estate; (b) the Survivor's one-half (1/2) interest in the community property of the trust estate, less a proportionate part of all amounts properly chargeable against all community property; and (c) the Survivor's community property interest in any policy of insurance on the life of the Decedent owned by the Grantors as community property and made payable to Trust No. 1.

3. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property an amount as determined in Article THIRD hereof.

4. The Trustee shall allocate to Trust No. 2, all the remaining portion of the trust estate not allocated to Trust No. 3, including, but not limited to, the Decedent's community property interest, if any, in any life insurance policy on the life of the Decedent payable to Trust No. 1.

5. In the event that property is received by the Trustee, by inter vivos or testamentary transfer and directions are contained in the instrument of transfer for allocation to or between Trust No. 2 or Trust No. 3, then the Trustee shall make allocation in accordance with such directions, anything to the contrary herein, notwithstanding.

6. It is the intention of the parties, that ELEANOR MARGUERITE CONNELL HARTMAN shall be a Co-trustee of the Decedent's separate property in trust in this Trust to the extent the term "Trustee", as hereinafter used, shall apply to her.

THIRD: MARITAL DEDUCTION. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property the fractional share of the said assets which is equal to the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this trust estate. In making the computations and allocations of the said property to Trust No. 3 as herein required, the determination of the character and ownership of the said property and the value thereof shall be as finally established for federal estate tax

purposes. This distribution is being made without regard to death taxes payable by reason of the Decedent's death, which taxes shall be paid from Trust No. 2 only.

FOURTH: TRUST NO. 2. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 2 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Death of Decedent. Upon the death of the Decedent, the Trustee shall pay from the income or principal of this trust, the death taxes, probate and legal expenses, and the expenses of the last illness and funeral of the Decedent, provided, however, that no funds received by the Trustee as proceeds from a retirement plan qualified under the Internal Revenue Code shall be available for these purposes unless there are no other assets in the Survivor's estate, in which event funds from a qualified plan can be used, but only to the extent of these actual expenses.

B. Income. All income received by this Trust from the separate property of the Decedent shall be paid to the Residual Beneficiary. In the event any of the real property located in Upton County, Texas, as listed on the original Schedule "A" attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary shall be paid an additional payment from the income received from the Decedent's half of the community property, which forms a part of the corpus of this Trust, equal to all of the income received by this Trust from the real property located in Upton County, Texas. However, the provisions relating to the additional payment, shall be noncumulative, and in any calendar year in which the income received from the said community property is not sufficient to make full payment hereunder, the Trustee is directed to pay only the income which has been received by this Trust during that year, and not to carry forward any deficiency in payment to the next calendar year's income.

In the event the Residual Beneficiary predeceases the Survivor, the Residual Beneficiary's rights to receive income hereunder shall be paid to or for the benefit of her living children and the issue of any deceased child by right of representation; or in the event she dies without living issue, her income rights hereunder shall become those of the Survivor.

All other income received by this Trust shall be distributed to the Survivor.

All payments as provided in this Section shall be made at frequent intervals, but at least semi-annually.

C. Principal. The Trustee shall pay over and distribute the principal of the estate of Trust No. 2 as follows:

1. Power to make gifts. The Survivor shall have the discretionary power during his or her lifetime to direct the Trustee to pay over and distribute trust principal of the separate property in trust from the Decedent's Trust to or for the benefit of the Residual Beneficiary or any of her living issue; such power may be exercised by delivering to the Trustee a writing duly executed and acknowledged, wherein he or she specifies the amount of principal that should be paid over and distributed to the particular issue and in what proportions such principal shall be paid over and distributed. It is the Grantors' intent hereby to convey upon the Survivor a sprinkling power; said power is limited, however, to appointments made to and among the Residual Beneficiary or her living issue.

2. Power of invasion. If, in the opinion of the Trustee, the income from all sources of which the Trustee has knowledge shall not be sufficient to support, maintain, educate and provide for the Survivor or Residual Beneficiary or any issue of the Residual Beneficiary in their accustomed manner of living, or in the event of any emergency befalling these said parties, such as illness, accident or other distress, the Trustee is authorized to use and expend such part of the trust principal of Decedent's separate property in trust, as the Trustee may deem necessary or desirable to meet such needs or emergencies. The decision of the Trustee as to what shall constitute an emergency or the necessity or desirability of encroachment upon principal shall be conclusive upon all parties and the Trustee shall be relieved and exonerated hereunder if the Trustee acts in good faith in making such determination.

3. Sale of real property from Decedent's separate property. The Survivor is directed that in the event any additional money is needed for payment of funeral, last illness or other costs to settle any claims made against Decedent's estate, or in the event that the sale of Decedent's separate property is contemplated at any time, only the separate property of Decedent situated in Las Vegas, Clark County, Nevada, shall be sold to satisfy this obligation.

4. Sale of real property. In the event that any real property which is listed on Schedule "A" attached hereto as the Decedent's separate property, and, is a part of the corpus of Trust No. 2 is sold, the Grantors direct the Trustee to distribute the net proceeds from such sale, less any applicable income tax due because of such sale, to the Residual Beneficiary, free of trust. In the event the Residual Beneficiary is not living at the time of the said sale, the proceeds therefrom shall remain in this Trust, and shall be subject to all of the provisions as herein contained.

D. Definition of real property. The term "real property" as used in this Article FOURTH shall not include the mineral, oil and gas interests in Upton County, Texas, if the same are separately listed on Schedule "A" hereto.

FIFTH: TRUST NO. 3. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 3 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay to the Survivor during his or her lifetime all of the net income of the Survivor's trust estate in convenient, regular installments, but not less frequently than quarter-annually.

B. Powers of appointment over income and principal.

1. During his or her lifetime, the Survivor shall have the power to appoint all or any part of the principal and undistributed income, if any, of the estate of Trust No. 3 to himself or herself, or to any person or persons. Such power of appointment shall be exercisable in all events, but only by the Survivor's submitting to the Trustee written instructions expressly exercising such power.

2. Upon the death of the Survivor, he or she shall have the absolute power to appoint the entire principal and the undistributed income, if any, of the estate of Trust No. 3, or any part thereof, to his or her estate or to any person or persons. Such power of appointment shall be exercised only by a provision in the Last Will of the Survivor expressly exercising such power. Unless within ninety (90) days after the death of the Survivor the Trustee has actual notice of the existence of a Will exercising such power, it shall be deemed for all purposes hereunder that such power was not exercised.

C. Revocation and Amendments. The Survivor shall have the power to revoke, amend or terminate Trust No. 3 herein provided by delivering such amendments or revocation in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

D. Death of Survivor. Upon the death of the Survivor, the Trustee shall distribute the trust estate in accordance with and to the extent provided by the Survivor's exercise of his or her power of appointment.

If and to the extent that the Survivor shall fail to effectively exercise the foregoing power of appointment, the principal and undistributed income of Trust No. 3 shall, upon his or her death, be distributed to the Residual Beneficiary, or to the heirs of her body if she is not then living.

SIXTH: SPENDTHRIFT PROVISION. Each and every beneficiary under the Living Trust and the various estates created hereunder is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise, or in any manner affect or impair his, her or their beneficial right, title, interest, claim and estate in and to either the income or principal of any claim created hereunder, or to any part thereof, during the entire term of said trusts; nor shall the right, title, interest, or estate of any beneficiary be subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor be subject nor liable to any process of law or equity, but all of the income and principal, except as otherwise provided in this Trust Agreement shall by the Trustee be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the times hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

SEVENTH: POWERS OF TRUSTEE. To carry out the purposes of any trust created under this instrument and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. To continue to hold any property, including any shares of the Trustee's own stock and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable.

B. To manage, control, grant options on, sell, (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property.

C. To lease trust property for terms within or beyond the term of the trust and for any purpose, including

exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

D. To borrow money and to encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise; to borrow money on behalf of one trust from any other trust created hereunder to guarantee any loan made during the lifetime of the Grantors.

E. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust estate and the Trustee against any hazard.

F. To commence or defend such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable at the expense of the trust.

G. To compromise or otherwise adjust any claims or litigation against or in favor of the trust.

H. To invest and reinvest the trust estate in every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, stocks, preferred or common, shares of investment trusts, investment companies, and mutual funds and mortgage participations, which men of prudence, discretion and intelligence acquire for their own account, and to invest in any common trust fund administered by the Trustee and to lend money of one trust to any other trust created hereunder.

I. With respect to securities held in the trust, to have all the rights, powers and privileges of an owner, including, but not by way of limitation, the power to vote, give proxies and pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations, sales and leases and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable; and to exercise or sell stock subscriptions or conversion rights.

J. Except as otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and expenses thereon shall be governed by the provisions of the Nevada Principal and Income Law and shall be determined by the Trustee in the Trustee's discretion; provided, however, that all capital gain distributions from mutual funds should be allocated to principal.

K. All of the trust powers set forth in Nevada Revised Statutes 163.265 to 163.410 inclusive, are hereby incorporated into this Trust Agreement.

EIGHTH: SPECIAL PROVISIONS.

A. Use of Home. The Trustee shall allow the Survivor to occupy and use until his or her death the home (or any interest therein) used by either or both Grantors as a principal residence at the time of the Decedent's death. The Trustee shall, at the discretion of the Survivor, sell such home, and if the Survivor so directs, purchase and/or build another comparable residence to be used as a home for the Survivor, and so on from time to time. The Survivor shall not be required to pay any rent for the use of such home.

B. Revocation and Amendment.

1. (Except as provided in paragraph 2 of this clause):

(a) This Trust Agreement, and the trusts evidenced thereby, may be revoked at any time during the joint lives of the Grantors by either of the Grantors delivering written notice of revocation to the Trustee and to the other Grantor.

(b) This Trust Agreement, and the trusts evidenced thereby, may be amended at any time and from time to time during the joint lives of the Grantors by the joint action of both Grantors delivering such amendment or amendments in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

(c) From and after the death of the Decedent, this Trust Agreement may not be revoked, altered or amended, except as provided in relation to Trust No. 3.

(d) Upon any revocation of this Trust Agreement, during the Grantors' joint lives, the Trustee shall return to each Grantor his or her half of the community assets and to each Grantor his or her separate property, as indicated on Schedule "A".

2. In the event that any insurance on the life of either Grantor, owned by the other Grantor as his or her separate property, is payable to the Trustee or Trustees of any trust hereunder, then this Trust Agreement and the trusts evidenced thereby may be amended or revoked, insofar as they relate to such insurance, only by the Grantor who is owner of such insurance. The insured Grantor shall have no right to revoke or amend to that extent. This paragraph shall be construed as limiting the rights of the insured-Grantor and not as expanding the rights of the owner-Grantor.

C. Simultaneous Death. If there be no sufficient evidence that the Grantors died otherwise than simultaneously, then for purposes of this Trust Agreement, it shall be conclusively presumed for all purposes of administration and tax effect of this Trust Agreement that the Decedent shall be the Husband and the Survivor shall be the Wife.

D. Limitation of Trust Powers. Administrative control and all other powers relating to the various trust estates created hereunder, shall be exercised by the Trustee in a fiduciary capacity and solely for the benefit of the Survivor and the other beneficiaries as herein provided. Neither the Trustee, the Grantors, nor any other person, shall be permitted to purchase, exchange, reacquire or otherwise deal with or dispose of the principal of any of the various trust estates or the income therefrom, for less than an adequate and full consideration in money or money's worth; nor shall any person borrow the principal or income of the trust estates, directly or indirectly, without adequate interest in any case or without adequate security therefor.

E. Compensation of Trustee. The Trustee or successor Trustee, as herein provided, shall receive reasonable compensation for ordinary services performed hereunder. Reasonable compensation shall be based upon the then prevailing rates charged for similar services in the locality where the same are performed by other fiduciaries engaged in the trust business or acting as trustees.

F. Applicable Law. This Trust Agreement is executed under the laws of the State of Nevada and shall in all respects be governed by the laws of the State of Nevada; provided, however, the Trustee shall have the discretion, exercisable at any later time and from time to time, to administer Trust No. 1 pursuant to the laws of any jurisdiction in which the Trustee may be domiciled, by executing and acknowledging a written instrument to that effect and attaching the same to this Trust Agreement, and, if the Trustee so exercises the Trustee's discretion, as above provided, the various trust estates shall be governed by the laws of the other state or jurisdiction in which Trust No. 1 is then being administered.

G. Invalid Provisions. In the event any clause, provision or provisions of this Trust Agreement and the Living Trust created hereunder prove to be or be adjudged invalid or void for any reason, then such invalid or void clause, provision or provisions, shall not affect the whole of this instrument, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as legally possible. If any provision contained in this Trust Agreement shall otherwise violate the rules against perpetuities now or hereafter in effect in the State of Nevada or in any state by which this Living Trust may subsequently be governed, that portion of the Trust so effected shall be administered as herein provided until the termination of the maximum period authorized by law, at which time and forthwith, such part of the said trust estate so

affected shall be distributed in fee simple to the beneficiary or beneficiaries in the proportions in which they are then entitled to enjoy the benefits so terminated.

H. Incompetency of Beneficiary. During any period in which any beneficiary under this Trust Agreement is judicially declared incompetent, or in the opinion of the Trustee is unable to care for himself, the Trustee shall pay over or use for the benefit of said incompetent beneficiary any part or all of the net income or principal from his or her share of the trust estate, in such manner as the Trustee shall deem necessary or desirable for said beneficiary's support, maintenance and medical care.

I. Claimants. The Grantors have, except as otherwise expressly provided in this Trust Agreement, intentionally and with full knowledge declined to provide for any and all of their heirs or other persons who may claim an interest in their respective estates or in these trusts.

J. Headings. The various clause headings used herein are for convenience of reference only and constitute no part of this Trust Agreement.

K. Copies. This Trust Agreement may be executed in any number of copies and each shall constitute an original of one and the same instrument.

L. Construction. Whenever it shall be necessary to interpret this trust, the masculine, feminine and neuter personal pronouns may be construed interchangeably, and the singular shall include the plural and the plural the singular.

NINTH: LIFE INSURANCE POLICIES. With respect to any policies of life insurance under which the Trustee is designated as beneficiary, the Trustee shall deal with such policies as required by the following trust provisions, in addition to the general trust provisions hereinbefore and hereinafter set forth:

A. Custody of Insurance Policies. The Trustee shall have the custody of any policy of life insurance under which the Trustee is designated as beneficiary. However, the owner shall have the right to possession of said policy or policies upon written request to the Trustee.

B. Payment of Premiums. The Trustee shall be under no obligation to pay the premium of any policy or policies of insurance, nor to make certain that such premiums are paid by the Grantors or others, nor to notify any persons of the non-payment of such premiums; and, the Trustee shall be under no responsibility or liability of any kind in case such premiums are not paid.

C. Collection of Policy Proceeds. Upon the death of the insured under such policy or policies, the Trustee shall collect all proceeds due thereon and the Trustee shall make all reasonable efforts to carry out the provisions of this Trust Agreement, including the maintenance of or defense of any action or suit; provided, however, the Trustee shall be under no duty to maintain or enter into any litigation unless the expenses thereof, including counsel fees and costs, have been advanced or guaranteed in an amount and in a manner which is reasonably satisfactory. The Trustee may repay any advances made by the Trustee or reimburse itself for any such fees and costs expended in reasonable attempts for collection of such proceeds out of the principal or income of the trust.

D. Purchase of Assets. The Trustee is hereby authorized and empowered to apply any part or the whole amount of any insurance proceeds collected hereunder to purchase assets from the insured's estate which may be offered for sale by the legal representative of the insured's estate at a price equal to the value of such assets as fixed by competent authority for purposes of determining the liability of the insured's estate for death taxes or at such other price as may be agreed upon by the personal representative of the insured's estate.

TENTH: NON-CONTEST PROVISION. The Grantors specifically desire that these trusts created herein be administered and distributed without litigation or dispute of any kind. If any beneficiary of these trusts or any other person, whether stranger, relatives or heirs, or any legatees or devisees under the Last Will and Testament of the Grantors or the successors in interest of any such persons, including any person who may be entitled to receive any portion of the Grantors' estates under the intestate laws of the State of Nevada, seek or establish to assert any claim to the assets of these trusts established herein, or attack, oppose or seek to set aside the administration and distribution of the said trusts, or to have the same declared null and void or diminished, or to defeat or change any part of the provisions of the trust established herein, then in any and all of the above mentioned cases and events, such person or persons shall receive One Dollar (\$1.00) and no more in lieu

of any interest in the assets of the trusts.

ELEVENTH: DEATH OF ALL BENEFICIARIES. In the event the Residual Beneficiary shall predecease the Grantors without living issue or children of any deceased child, then the Grantors direct that all of the income and principal of any trusts created hereunder shall be distributed to the Shriners Hospitals for Crippled Children upon the death of the Survivor.

TWELFTH: SUCCESSOR TRUSTEE. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR MARGUERITE CONNELL HARTMAN as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint the FIRST NATIONAL BANK OF NEVADA to serve in the said capacity. No successor trustee shall have any responsibility for the acts or omissions of any prior trustee and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.

THIRTEENTH: ACKNOWLEDGEMENT, REPORTS, INSPECTION OF RECORDS. The Trustee hereby acknowledges receipt of and accepts the property and the estate of Trust No. 1 created hereunder on the terms and conditions stated and agrees to care for, manage and control the same in accordance with the directions herein specified, and to furnish to each beneficiary having income paid, distributed, credited or accumulated for his or her benefit, annually and more often if requested so to do, a statement showing

the condition of the trust property, the character and amounts of the investments and liabilities, and the receipts, expenses and disbursements since the last previous statement. The books of account of the Trustee in connection with the investments shall at all times be open to the reasonable inspection of the living beneficiaries or their duly qualified representatives, and such person or persons as they may designate for that purpose.

THIS TRUST AGREEMENT is accepted and executed by the Grantors and Trustee in the State of Nevada on the day and year first above written.

GRANTORS:

W. N. Connell
W. N. CONNELL
Marjorie T. Connell
MARJORIE T. CONNELL

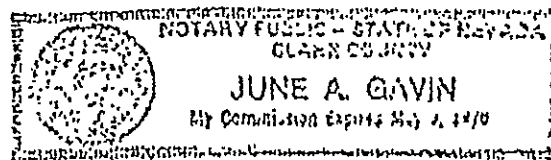
TRUSTEE:

W. N. Connell
W. N. CONNELL
Marjorie T. Connell
MARJORIE T. CONNELL

STATE OF NEVADA)
COUNTY OF CLARK) SS

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who declared to me that they executed the foregoing Trust Agreement.

June A. Gavin
Notary Public in and for said
County and State



SCHEDULE "A"

("The W. N. Connell and Marjorie T. Connell Living Trust")

All of the Grantors' rights, title and interest in the following assets are hereby transferred to the Trustee as part of this trust estate and will be administered and distributed in accordance with the terms of the foregoing Trust Agreement.

The following real property interests constitute the community property of the Grantors:

1. Lots One (1) and Two (2) in Block Sixteen (16) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.
2. Lot Three (3), Block Six (6), Biltmore Addition to the City of Las Vegas, as shown by map thereof on file in Book 2 of Plats, Page 33, in the Office of the County Recorder of Clark County, Nevada.
3. Lots Fifteen (15) and Sixteen (16) in Block Fifteen (15) in the South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 14, in the Office of the County Recorder of Clark County, Nevada.
4. Lots Twenty-Two (22) and Twenty-Three (23) in Block Eleven (11) of South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 51, in the Office of the County Recorder of Clark County, Nevada.
5. Lots Twenty-four (24) and Twenty-five (25) in Block Eleven (11) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.

The following assets constitute the separate property of

W. N. CONNELL:

1. Real Property:

(a) That portion of the North Half (N 1/2) of the South Half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 28, Township 20 South, Range 61 East, M.D.B.&M., described as follows:

Beginning at the point of intersection of the East Line of the Northwest Quarter (NW 1/4) of

the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 28, said Township and Range, (hereinafter called Line 1) with the South boundary of Clark Avenue produced Westerly as the same is now established (hereinafter called Line 2); thence South along said Line 1 a distance of 378 feet; thence North 89° 36' West and parallel to said Line 2 a distance of 100 feet; thence North along a line parallel to said Line 1 a distance of 378 feet to said Line 2; thence East along said Line 2, 100 feet to the point of beginning-

Together with an undivided 1/30th interest of, in and to all water flowing or otherwise produced from that certain artesian well located in the North Half of the South Half of the Southeast Quarter of Section 29, Township 20 South, Range 61 East, M.D.B.&M, known as the New Russell Well. Together with an undivided 1/30th interest in and to that certain pipe line connected to and running from said well Easterly to a point 100 feet West from said Line 1 above described; together with an easement for said pipe line in common with all the other owners of said pipe line along a strip of ground three feet in width, the center line of which is located approximately 150 feet South of and running parallel with said Line 2, and which strip extends from said well to a point 100 feet West from said Line 1; together with the right to enter thereon for the purpose of repairing, replacing and renewing said pipe line.

Reference: Deed # 180405, Book 35, pages 159 and 160.

(b) The West 1/2 of Section 37, all of Sections 38, 47 and 48 in Block 39, Township 5 South, T. & P. R.R. Co. Survey in Upton County, Texas.

2. Oil, gas and mineral rights on and under the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R.R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5 South, T. & P. R.R. Co. Survey.

3. The oil, gas and mineral leases on the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R. R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5
South, T. & P. R.R. Co. Survey.

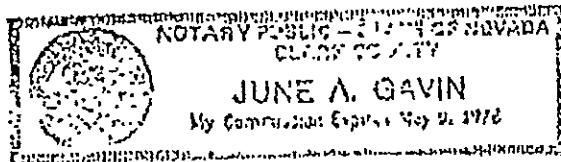
The undersigned Grantors named in the foregoing Trust Agreement hereby certify that they have read said Trust Agreement and that it fully and accurately sets out the terms, trusts and conditions under which the trust estate therein described is to be held, managed and disposed of by the Trustee therein named; and, that they hereby approve, ratify and confirm the said Trust Agreement.

W. N. Connell
W. N. CONNELL
Marjorie T. Connell
MARJORIE T. CONNELL

STATE OF NEVADA)
COUNTY OF CLARK) SS

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who acknowledged to me that they executed the foregoing Trust Agreement.

June A. Gavin
Notary Public in and for said
County and State



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EXHIBIT “7”
Schedule “A” of the Trust Agreement

SCHEDULE "A"

("The W. N. Connell and Marjorie T. Connell Living Trust")

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1. Real Property:

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the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 28, said Township and Range, (hereinafter called Line 1) with the South boundary of Clark Avenue produced Westerly as the same is now established (hereinafter called Line 2); thence South along said Line 1 a distance of 278 feet; thence North 89° 36' West and parallel to said Line 2 a distance of 100 feet; thence North along a line parallel to said Line 1 a distance of 378 feet to said Line 2; thence East along said Line 2, 100 feet to the point of beginning-

Together with an undivided 1/30th interest of, in and to all water flowing or otherwise produced from that certain artesian well located in the North Half of the South Half of the Southeast Quarter of Section 29, Township 20 South, Range 61 East, M.D.B.&M, known as the New Russell Well. Together with an undivided 1/30th interest in and to that certain pipe line connected to and running from said well Easterly to a point 100 feet West from said Line 1 above described; together with an easement for said pipe line in common with all the other owners of said pipe line along a strip of ground three feet in width, the center line of which is located approximately 150 feet South of and running parallel with said Line 2, and which strip extends from said well to a point 100 feet West from said Line 1; together with the right to enter thereon for the purpose of repairing, replacing and renewing said pipe line.

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South, T. & P. R.R. Co. Survey.

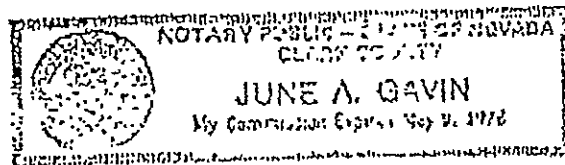
The undersigned Grantors named in the foregoing Trust Agreement hereby certify that they have read said Trust Agreement and that it fully and accurately sets out the terms, trusts and conditions under which the trust estate therein described is to be held, managed and disposed of by the Trustee therein named; and, that they hereby approve, ratify and confirm the said Trust Agreement.

W. N. Connell
W. N. CONNELL
Marjorie T. Connell
MARJORIE T. CONNELL

STATE OF NEVADA)
COUNTY OF CLARK) SS

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who acknowledged to me that they executed the foregoing Trust Agreement.

June A. Gavin
Notary Public in and for said
County and State



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EXHIBIT "8"
Handwriting Report from Curt Baggett

Curtis Baggett
Expert Document Examiner
908 Audelia Road, Suite 200-245
Richardson, Texas 75081
Phone: 972.644.0285
-+Fax: 972.644.5233
curtbaggett@msn.com
www.ExpertDocumentExaminer.com

Questioned Document Examiner Letter

Subject: *Marjorie T. Connell*
Date: April 16, 2014

I have examined three (3) documents with the purported known handwriting and signatures of Marjorie T. Connell. For the purpose of this examination I have labeled these exhibits "K 1" through "K 3".

Today I have compared the handwriting and signatures on the questioned document; identified herein as "Q1" to determine if the author of the Marjorie T. Connell handwriting and signatures on the "K" documents was the same person who authored the name of Marjorie T. Connell on the questioned document; signature page for the Marjorie T. Connell Last Will and Testament dated January 7, 2008.

An examination of handwriting includes establishing patterns of writing habits to help identify the author. Handwriting is formed by repeated habits of writing by the author, which are created by neuro-pathways established in the brain. These neuro-pathways control muscular and nerve movement for writing whether the hand executes the writing, foot, or mouth.

In support of my opinion, I have included an excerpt from *Handwriting Identification, Facts and Fundamentals* by Roy A. Huber and A.M. Headrick (CRC Press LLC, 1999, pp 50-51) wherein the leading forefathers of document examination in the USA agree that one significant difference in the fundamental structure of a writing compared to another is enough to preclude common authorship:

[Ordway] Hilton stated: "It is a basic axiom of identification in document problems that a limited number of basic differences, even in the face of numerous strong similarities, are controlling and accurately establish nonidentity."

[Wilson R.] Harrison made similar comments: "...the fundamental rule which admits of no exception when handwritings are being compared ...is simple -- whatever features two specimens of handwriting may have in common, they cannot be considered to be of common authorship if they display but a single consistent dissimilarity in any feature which is fundamental to the structure of the handwriting, and whose presence is not capable of reasonable explanation."

[James V.P.] Conway expressed the same theme when he wrote: "A series of fundamental agreements in identifying individualities is requisite to the conclusion that two writings were authored by the same person, whereas a single fundamental difference in an identifying individuality between two writings precludes the conclusion that they were executed by the same person."

And finally,

[Albert S.] Osborn and others have generally agreed that despite numerous similarities in two sets of writings, a conclusion of identity cannot be made if there are one or more differences in fundamental features of the writings.

Based upon thorough analysis of these items and from an application of accepted forensic document examination tools, principles and techniques, *it is my professional expert opinion that a different person authored the name of Marjorie T. Connell on the questioned document. Someone did indeed forge the Marjorie T. Connell signature on the questioned document "Q1".*

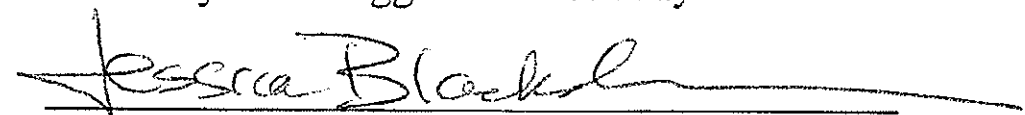
I am willing to testify to this fact in a court of law and I will provide exhibits to the Court showing that I had sufficient data and that my opinion is correct. My Curriculum Vitae is attached and incorporated herein by reference.

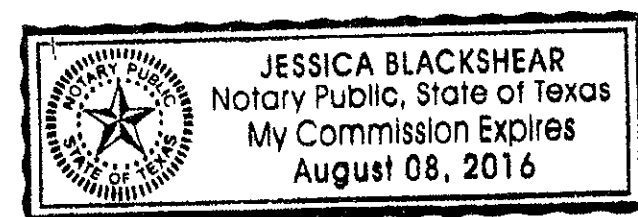
Respectfully submitted,


Curt Baggett

State of Texas §
 §
County of Dallas §

The above Letter of Opinion was sworn to and subscribed before me by Curt Baggett this 16th day of April 2014.


Notary Public



Section 8.07 Other Definitions

Except as otherwise provided in my will, terms shall be as defined in the Nevada Revised Statutes as amended after the date of my will and after my death.

Section 8.08 Survivorship

For purposes of this will, any beneficiary shall be deemed to have predeceased me if such beneficiary dies within 90 days after the date of my death.

Section 8.09 Severability

If any part of this instrument shall be adjudicated to be void or invalid, the remaining provisions not specifically so adjudicated shall remain in full force and effect.

I, MARJORIE T. CONNELL, sign my name to this instrument consisting of 9 pages on January 7, 2008 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.


MARJORIE T. CONNELL, Testatrix

OIL & GAS DIVISION ORDER

COPY

TO: Prime Operating Company
2900 Wilcrest Dr., Suite 475
Houston, TX 77042

Date: September 19, 2001

Property Number: 6375
Property Name: Connell Estate #1 #2, #3, #4
Operator: Prime Operating Company
County and State: Upton
Property Description: Section 33, Block 39, T&P Railway Company Survey, Upton County, Texas, containing 640 acres, more or less, from the surface of the ground down to a depth of 9,150 feet.

Effective Date: First Sales

Owner #	Interest Type	Name & Address	Decimal Interest
7635	Royalty	Marjorie T. Connell & Eleanor M. Hartman, Trustees P. O. Box 710 Las Vegas NV 89125	0.046392050

The undersigned certifies the ownership of their decimal interest in production or proceeds as described above payable by Prime Operating Company:

Prime Operating Company shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Prime Operating Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Prime Operating Company may accrue proceeds until the total amount equals \$25.00, or pay annually, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil or gas.

In addition to the terms and conditions of this Division Order, the undersigned and Prime Operating Company may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: **COMPLETE AND RETURN THE ATTACHED W-9 FORM**

Owner Signature:

Marjorie T. Connell Trustee
Eleanor C. Hartman Trustee

Owner Tax I.D. Number:

88-6037258

Owner Daytime Telephone #:

(702) 878-8698

Owner Fax #:

Failure to furnish your Social Security / Tax I.D. number will result in a 34 percent withholding tax in accordance with federal law, and any tax conditions will not be enforceable by Payor.

QDE EXHIBIT

KI

1980
1980/11/24

SUBSTITUTION OF TRUSTEE

1 MARJORIE T. CONNELL, surviving Trustee of the W. N.
2 CONNELL AND MARJORIE T. CONNELL LIVING TRUST, made and en-
3 tered into on May 18, 1972, by and between W. N. CONNELL
4 and MARJORIE T. CONNELL, as Grantors, and W. N. CONNELL and
5 MARJORIE T. CONNELL, as Trustees, hereby substitutes and
6 appoints ELEANOR MARGUERITE CONNELL HARTMAN, daughter of
7 W. N. CONNELL, as Co-Trustee of the separate property of
8 W. N. CONNELL presently held in the above-entitled Trust.
9 This substitution is made pursuant to the terms of said Trust,
10 due to the decease of W. N. CONNELL, who passed away Novem-
11 ber 24, 1979.

12
13 Marjorie T. Connell
14 MARJORIE T. CONNELL

15 The undersigned, ELEANOR MARGUERITE CONNELL HARTMAN, also
16 known as ELEANOR C. HARTMAN, hereby consents to serve as Co-
17 Trustee of the separate property of W. N. CONNELL in the above-
18 entitled Trust.

19 Dated this 6th day of May, 1980.

20
21 Eleanor Marguerite Connell Hartman
22 ELEANOR MARGUERITE CONNELL HARTMAN
23 Eleanor C. Hartman

24 STATE OF NEVADA)
25) ss
26 COUNTY OF CLARK)

27 On this 6th day of May, 1980, before me,
28 undersigned a Notary Public in and for the State of Nevada,

QDE EXHIBIT

K2

QDE EXHIBIT
K3

Prime Operating Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Prime Operating Company may accrue proceeds until the total amount equals \$25.00, or pay annually, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil or gas.

In addition to the terms and conditions of this Division Order, the undersigned and Prime Operating Company may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: **COMPLETE AND RETURN THE ATTACHED TAG FORM**

Owner Signature:

Shirley J. Larnelle Jenkins
Shirley J. Larnelle Jenkins

Owner Tax I.D. Number:

88-6677238

Owner Daytime Telephone #:

878-878-8648

Owner Fax #:

.....

Failure to furnish your State Sales Tax ID Number will result in the undersigned withholding tax in accordance with Federal Law, and any tax withheld will not be refundable by Payor.

CURT BAGGETT

Expert Document Examiner

908 Audelia Road, Suite 200-245, Richardson, TX 75081

Phone: 972.644.0285 - Fax: 972.644.5233

curtbaggett@msn.com

www.ExpertDocumentExaminer.com

Curt Baggett is a document examiner and expert witness. He is also a skilled authority in handwriting identification and completed over 3,500 cases. Mr. Baggett has examined documents and/or testified in court cases as a handwriting expert in all 50 states, Washington, D.C., the Bahamas, Brazil, Canada, Chile, England, Ireland, Mexico, Pakistan, Puerto Rico, Thailand and New Zealand, Korea, China, Australia and Denmark.

He has been retained by the U.S. Department of Justice, the State of Arizona, State of Arkansas, the State of California, Louisiana Public Defender Board, and the State of Texas. Mr. Baggett has appeared as a handwriting expert on WOLF-BLITZER-CNN; CHARLES GIBSON-ABC, INSIDE EDITION, CBS Network Radio, CBS, CNBC, CNN, FOX, JUDGE ALEX, TEXAS JUSTICE and GOOD MORNING TEXAS and was a consultant as a forensic document examiner for a number one television show, "CSI: Crime Scene Investigation". Mr. Baggett is the co-author of "The Handwriting Certification Home Study Course" and has been a guest on various other television and radio programs discussing handwriting and forensic document examination.

Mr. Baggett once held the position as Dean of the School of Forensic Document Examination at Handwriting University. In addition to lecturing and teaching document examination, Mr. Baggett has analyzed handwriting for over 30 years. He has been qualified as an expert witness in Justice of the Peace, Municipal, District, State, U.S. District, and Federal Bankruptcy Courts.

His education and training in document examination and psychology include: U.S. Army, Military Police Officer's School; B.A. and M.Ed., McNeese State University, Lake Charles, Louisiana; and post-graduate studies at the University of Houston, Houston, Texas.

Curt Baggett's library is extensive and includes literature on questioned document examination, forensic handwriting analysis, behavior profiling, and statement analysis.

Laboratory equipment used for examination consists of a Stereo Star Zoom American Optical 7x – 30x twin microscope; Micronta illuminated 30x microscope; stereo microscope S/ST series; universal DigiScoping adapter; numerous magnifying devices; protractor and metric measuring devices; Pentax ME camera; Pentax macro 1.4, 50mm flat copy lens; overhead projector; light table, and transparencies.

Curt Baggett's Education and Training in Handwriting and Document Examination Include:

An in-person, two-year apprenticeship with Dr. Ray Walker as a handwriting expert and questioned document examiner. Dr. Walker's qualifications have been affirmed in the Court of Appeals, Fifth District of Texas at Dallas, and had historical rulings in his favor. A leading authority in the field of handwriting analysis and document examination, Dr. Walker is the author of The Questioned Document Examiner and the Justice System.

Mr. Baggett is certified by the American Bureau of Document Examiners. He also has a certificate of completion from the American Institute of Applied Science.

Lectures, Conferences, and Classes Attended:

- 2004 School of Forensic Document Examination's Annual Conference, Dallas, Texas
Attended classes taught by Reed Hayes, QDE, Katherine Koppenhaver, QDE, Bill Koppenhaver, QDE
- 2004 School of Forensic Document Examination's Teleclass Curriculum
Examination of Anonymous Writing by Reed Hayes, QDE
Document Examination Terminology by Don Lehew, QDE
Notary Public by Don Lehew, QDE
Advanced Forgery Identification by Don Lehew, QDE
Instructor
- 2005 School of Forensic Document Examination's Annual Conference, Dallas, Texas
Attended the following lectures, in addition to general sessions:
Tremors and line Quality taught by Reed Hayes, QDE
Demonstrative Evidence taught by Katherine Koppenhaver, QDE, Bill Koppenhaver, QDE
Photography through microscopes by David Babb, QDE
Paper and Watermarks by John McGuire, QDE
Lecturer
- 2005 School of Forensic Document Examination's Teleclasses
Natural Variation taught by Reed Hayes, QDE
The Discrimination of Handwriting by Don Lehew, QDE
Procedures for Examining Signatures by Don Lehew, QDE
Courtroom Procedures and Roles by Don Lehew, QDE
Instructor
- 2006 School of Forensic Document Examination's Annual Conference, Dallas, Texas
Attended the following lectures, in addition to general sessions:
Deposition and Cross Examinations by Dr. Richard Frazier, QDE
Medical Problems Affecting handwriting by Dr. Richard Frazier, QDE
Legal Issues for Document Examiners by Dr. Richard Frazier, QDE
Deposition and Cross Examinations by Dr. Richard Frazier, QDE
Health Factors Affecting Handwriting by Dr. Joe Alexander, QDE
Prescription Forgery and Medical Crimes by Diane King
Lecturer
- 2007 Handwriting University Annual Conference, Dallas, Texas
Trainer and Instructor
- 2007 School of Forensic Document Examination's Teleclasses
Instructor - Handwriting Basics and Exemplars
Instructor - Multiple Classes on Case Studies and Examinations
- 2008 Handwriting University Annual Conference, Las Vegas, Nevada
Trainer and Instructor
- 2009 School of Forensic Document Examination's Live Teleclasses
Attended a variety of classes taught by Robert Baier, QDE, Police Instructor
- 2009 Handwriting University Annual Conference, Las Vegas, Nevada
Critical Incident Stress: Statement Analysis and Interview v. Interrogation by Faith Wood

Forensic Document Examination Application by Robert Baier, QDE, Police Instructor
Trainer and Instructor for Introduction to Forensic Document Examination

2010 Handwriting University Annual Conference, Las Vegas, Nevada

Advanced Statement Analysis by Faith Wood

Identity Theft and Prevention by Robert Baier, QDE, Police Instructor

Trainer and Instructor for Introduction to Forensic Document Examination

2010 Speaker – “Introduction to the Science of Handwriting and Forensic Document Examination”, Clear
Lake High School

2011 Lecturer and Instructor, “How to Spot a Forgery”, Denver Elections Division,
Denver, Colorado

2012 Lecturer and Instructor, “How to Spot a Forgery”, Denver Elections Division,
Denver, Colorado

2012 Speaker – “How to Avoid a Forgery”, Military Order of Purple Hearts Annual Meeting, Dallas,
Texas

2013 Speaker – “Introduction to the Science of Handwriting and Forensic Document Examination”;
Appointment as Guest Lecturer and Consultant by Stefanie Page, Instructor, Forensic Science
Department, Jesuit College Preparatory School of Dallas

2013 Speaker – “Introduction to the Science of Handwriting and Forensic Document Examination”, Irma
Lerma Rangel Young Women’s Leadership School, Dallas, Texas

Current Memberships

American College of Forensic Examiners International

American Legion

Center of Forensic Profiling

Forensic Expert Witness Association

IMS Expert Services

Military Order of World Wars

National Questioned Document Association

Sheriff’s Association of Texas

Texas Police Association

Veterans of Foreign Wars

World Federation of Handwriting Experts

Published Articles and Books

Ethics for Experts

Handwriting Certification Course

How to Help Attorneys With Your Case

How to Spot a Forgery

Taking the Witness Stand

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EXHIBIT “9”
Handwriting Report from Laurie Hoeltzell

DECLARATION OF LAURIE HOELTZEL

I, LAURIE HOELTZEL, hereby declare as follows:

1. I am a Court Qualified Document Examiner and Handwriting Expert in this field. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this Declaration. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

2. I have studied and was trained in the examination, comparison, analysis and identification of handwriting, discrimination and identification of writing, altered numbers and altered documents, handwriting analysis, trait analysis, including the discipline of examining signatures, with over twenty (20) years of experience in this field. A true and correct copy of my current Curriculum Vitae ("C.V.") is attached as "**Exhibit 1**".

An examination of handwriting includes establishing patterns of writing habits to help identify the author. Handwriting is formed by repeated habits of writing by the author, which are created by neuro-pathways established in the brain. These neuro-pathways control muscular and nerve movement for writing, whether the writing done is by the hand, foot, or mouth.

In support of my opinion, I have included an excerpt from *Handwriting Identification, Facts and Fundamentals* by Roy A. Huber and A.M. Headrick (CRC Press LLC, 1999, pp 50-51) wherein the leading forefathers of document examination in the USA agree that one significant difference in the fundamental structure of a writing compared to another is enough to preclude common authorship:

[Ordway] Hilton stated: "It is a basic axiom of identification in document problems that a limited number of basic differences, even in the face of numerous strong similarities, are controlling and accurately establish nonidentity."

[Wilson R.] Harrison made similar comments: "...the fundamental rule which admits of no exception when handwritings are being compared...is simple -- whatever features two specimens of handwriting may have in common, they cannot be considered to be of common authorship if they display but a single consistent dissimilarity in any feature which is fundamental to the structure of the handwriting, and whose presence is not capable of reasonable explanation."

[James V.P.] Conway expressed the same theme when he wrote: "A series of fundamental agreements in identifying individualities is requisite to the conclusion that two writings were authored by the same person, whereas a single fundamental difference in an identifying individuality between two writings precludes the conclusion that they were executed by the same person."

and finally,

[Albert S.] Osborn and others have generally agreed that despite numerous similarities in two sets of writings, a conclusion of identity cannot be made if there is one or more differences in fundamental features of the writings.

3. **Request:** I was asked to review the document in question to determine if the signature of **MARJORIE T. CONNELL** is authentic. I have examined and compared the signature of **MARJORIE T. CONNELL** on the questioned document to the signatures of **MARJORIE T. CONNELL** on the comparison documents. Below are the documents I was asked to examine:

4. **Exhibit List: Questioned Document**

Exhibit 2. Q1 – A signature page of a Last Will and Testament, page 8, dated January 7, 2008 bearing the purported signature of **MARJORIE T. CONNELL**, Testatrix.

Comparison Documents for MARJORIE T. CONNELL

Exhibit 3. C-MTC1-A one (1) page copy of an Oil & Gas Division Order to Prime Operating Company, Property Number: 6375, Property Name: Connell Estate #1 #2 #3 #4, Property Description: Section 33, Block 39, T&P Railway Company Survey, Upton County, Texas, Containing 640 acres, more or less, from the surface of the ground down to a depth of 9,150 feet, dated September 19, 2001, bearing the purported signature of **MARJORIE T. CONNELL, Owner Signature, Trustee.**

Exhibit 4. C-MTC2- A one (1) page Substitution of Trustee, dated May 6, 1980, bearing the purported signature of **MARJORIE T. CONNELL, Owner Signature, and Trustee.**

Exhibit 5. C-MTC3- A one (1) page handwritten Trust Estate, Upton County, Texas, Trust Number: 88-6037338, dated 1995, bearing the purported handwriting of **MARJORIE T. CONNELL, Trustee.**

Exhibit 6. C-MTC4- A one (1) handwritten letter to Ellie, dated November 7, 2006, bearing the purported handwriting of **MARJORIE T. CONNELL, Nanna.**

Conclusion: Based upon my thorough analysis of these items, and from an application of accepted forensic document examination tools, principles and techniques my professional opinion follows.

5. Pertaining to the alleged signature of **MARJORIE T. CONNELL**, Testatrix on the 'Q1' document: It is highly probable the author of the **MARJORIE T. CONNELL** signatures on the comparison documents 'CMTC1' & 'CMTC2' did not author the signature of **MARJORIE T. CONNELL** on the questioned document, 'Q1' a signature page of a Last Will and Testament, dated January 7, 2008. This document examiners professional opinion is that the **MARJORIE T. CONNELL** signature on the questioned document, 'Q1' is a forgery.

6. I reserve the right to update my opinion based upon my examination of verified known exemplars.

7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the 17th day of April, 2014, in San Bernardino County, CA.


LAURIE HOELTZEL, PhDc

Section 8.07 Other Definitions

Except as otherwise provided in my will, terms shall be as defined in the Nevada Revised Statutes as amended after the date of my will and after my death.

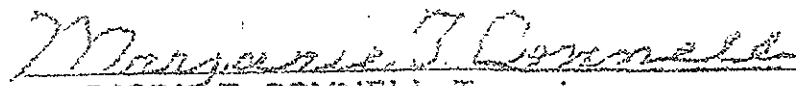
Section 8.08 Survivorship

For purposes of this will, any beneficiary shall be deemed to have predeceased me if such beneficiary dies within 90 days after the date of my death.

Section 8.09 Severability

If any part of this instrument shall be adjudicated to be void or invalid, the remaining provisions not specifically so adjudicated shall remain in full force and effect.

I, MARJORIE T. CONNELL, sign my name to this instrument consisting of 9 pages on January 7, 2008 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.


MARJORIE T. CONNELL, Testatrix

OIL & GAS DIVISION ORDER

COPY

TO: Prime Operating Company
2900 Wilcrest Dr., Suite 475
Houston, TX 77042

Date: September 19, 2001

Property Number: 6375
Property Name: Connell Estate #1 #2, #3, #4
Operator: Prime Operating Company
County and State: Upton
Property Description: Section 33, Block 39, T&P Railway Company Survey, Upton County, Texas,
containing 640 acres, more or less, from the surface of the ground down to a depth of
9,150 feet.

Effective Date: First Sales

Owner #	Interest Type	Name & Address	Decimal Interest
7635	Royalty	Marjorie T. Connell & Eleanor M. Harahan, Trustees P. O. Box 710 Las Vegas NV 89125	0.046392050

The undersigned certifies the ownership of their decimal interest in production or proceeds as described above payable by Prime Operating Company:

Prime Operating Company shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Prime Operating Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Prime Operating Company may accrue proceeds until the total amount equals \$25.00, or pay annually, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil or gas.

In addition to the terms and conditions of this Division Order, the undersigned and Prime Operating Company may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: **COMPLETE and RETURN THE ATTACHED W-9 FORM**

Owner Signature:

Marjorie T. Connell, Trustee
Eleanor M. Harahan, Trustee

Owner Tax I.D. Number:

88-6037258

Owner Daytime Telephone #:

502-878-8698

Owner Fax #:

Failure to furnish your Social Security Number will result in 31 percent withholding tax in accordance with Federal law, and a copy of this Order will not be returned by Payor.

QDE EXHIBIT

3

1980

SUBSTITUTION OF TRUSTEE

1 MARJORIE T. CONNELL, surviving Trustee of the W. N.
2 CONNELL AND MARJORIE T. CONNELL LIVING TRUST, made and en-
3 tered into on May 16, 1972, by and between W. N. CONNELL
4 and MARJORIE T. CONNELL, as Grantors, and W. N. CONNELL and
5 MARJORIE T. CONNELL, as Trustees, hereby substitutes and
6 appoints ELEANOR MARGUERITE CONNELL HARTMAN, daughter of
7 W. N. CONNELL, as Co-Trustee of the separate property of
8 W. N. CONNELL presently held in the above-entitled Trust.
9 This substitution is made pursuant to the terms of said Trust,
10 due to the decease of W. N. CONNELL, who passed away Novem-
11 ber 24, 1979.

12
13 Marjorie T. Connell
14 MARJORIE T. CONNELL

15 The undersigned, ELEANOR MARGUERITE CONNELL HARTMAN, also
16 known as ELEANOR C. HARTMAN, hereby consents to serve as Co-
17 Trustee of the separate property of W. N. CONNELL in the above-
18 entitled Trust.

19 Dated this 6th day of May, 1980.

20
21 Eleanor Marguerite Connell Hartman
22 ELEANOR MARGUERITE CONNELL HARTMAN
23 Eleanor C. Hartman

24 STATE OF NEVADA)
25) ss
26 COUNTY OF CLARK)

27 On this 6th day of May, 1980, before me,
28 undersigned a Notary Public in and for the State of Nevada,

QDE EXHIBIT

4

PAGE - 1

1995

TRUST ESTATE
UPTON COUNTY
TEXAS

W. N. & MARTORIE T. CONNELL

LIVING TRUST - DATED - 5-18-72

TRUST NUMBER

88-6037338 -

MARTORIE T. CONNELL, TRUSTEE

P.O. Box - 710

LAS VEGAS, NEVADA - 89125

SOCIAL SECURITY NUMBER

417-12-1212

ELEANOR C. HARTMAN, CO TRUSTEE

P.O. Box - 710

LAS VEGAS, NEVADA 89125

SOCIAL SECURITY NUMBER

530-26-1044

TRUST NUMBER

88-6037338

1995

QDE EXHIBIT

5

Dear Ellie

Two to Bill

I am enclosing Division
Checks from Prime Operating
Oil & Gas Co. to be signed. As
you can see I signed a check
Kenton and Tex. I think no
doubt. I was not sure just
how you signed ^{name} for the
original Division Order, so last
night I looked up the names &
you signed at Eleanor C. Hartman
Contractor. So sign the enclosed
the same way & mail the
two originals & send the
signed copies back to me so
I can file it with the other
papers. Do this real soon because
it will not get paid until
Prime receives the signed papers.
Hope they will. A bunch of it
would be a nice Holiday
gift!!

Hope you & Earl get home safe
& are rested up by now. Well
often I miss you two.

Love & Kisses,
Nanna

QDE EXHIBIT

6

Laurie A. Hoeltzel, PhD

California Handwriting Expert

PO Box 1496* Crestline* CA* 92325

Office: 909-338-4247 Cell: 310-985-2807 Fax: 310-943-2647

E-mail: LAH78@MSN.COM

www.CaliforniaHandwritingExpert.com

www.FloridaHandwritingExpert.com

Curriculum Vitae

Laurie Hoeltzel, is a court qualified Forensic Document Examiner-Handwriting, she has studied handwriting examination for the past twenty (20) years has studied and apprenticed under some of the leading court-qualified Forensic Document Experts in the U.S.A. such as: Don Lehew, Texas, Wendy Carlson, Denver, Colorado, and Curt Baggett, Texas all internationally famous handwriting and document examination experts.

Laurie offers a verbal opinion or a written court qualified opinion to include but not limited to the following: Disputed documents or signatures including: wills, checks, contracts, deeds, account ledgers, mortgages, loans, notary disputes and medical records. Investigation and analysis including: questioned signatures, suspect documents, forgeries, identity theft, robo-signing, anonymous letters, bond authentication, alterations, obliterations, erasures, typewritten documents, altered medical records, graffiti, handwritten numbers, suicide notes and computerized and handwritten documents.

Education:

Laurie spent 11 years serving her country in the United States Air Force including three tours of duty in Iraq, she has a Bachelors degree in Business Management and handwriting analysis certificates and studying document examination.

Barron University, Los Angeles, CA: PhD's

Capella University, Minneapolis, MN: Bachelor's Business Management

Apprentice under Curt Baggett, Graduated 2004- Forensic Document Examiner since 1983

2004 School of Forensic Document Examination's Teleclass Curriculum

EXHIBIT 1

Examination of Anonymous Writing by Reed Hayes, QDE
Document Examination Terminology by Don Lehew, QDE
Notary Public by Don Lehew, QDE
Advanced Forgery Identification by Don Lehew, QDE

2006 School of Forensic Document Examination's Annual Conference, Dallas, Texas

Attended the following lectures, in addition to general sessions:

Deposition and Cross Examinations by Dr. Richard Frazier, QDE
Medical Problems Affecting handwriting by Dr. Richard Frazier, QDE
Legal Issues for Document Examiners by Dr. Richard Frazier, QDE
Deposition and Cross Examinations by Dr. Richard Frazier, QDE
Health Factors Affecting Handwriting by Dr. Joe Alexander, QDE
Prescription Forgery and Medical Crimes by Diane King
Lecturer-Curt Baggett
Kathy Kopenhagen

2007 Handwriting University Annual Conference, Dallas, Texas

Curt Baggett-Trainer and Instructor
Bart Baggett and Don Lehew

2007 School of Forensic Document Examination's Teleclasses

Curt Baggett Instructor - Handwriting Basics and Exemplars
Curt Baggett Instructor - Multiple Classes on Case Studies and Examinations
Dr. Joe Alexander Instructor

2008 Handwriting University Annual Conference, Las Vegas, Nevada

Curt Baggett-Trainer and Instructor

2009 Handwriting University Annual Conference, Las Vegas, Nevada

Critical Incident Stress: Statement Analysis and Interview v. Interrogation by Faith Wood
Forensic Document Examination Application by Robert Baier, QDE, Police Instructor
Introduction to Forensic Document Examination-Curt Baggett & Laurie Hoeltzel

2012 American Institute of Applied Science-Home Study Course Lessons 1-3.

History, mechanism, Factors, Exemplars & Standards
Capitals, Numerals, and Special Marks
System, Movements, Muscular Habits & Skills

2012 American Institute of Applied Science-Home Study Course Lessons 4-5

Analysis Charts, Form, Cases Worked Out
Practical Examples Worked Out In Detail

2013 American Institute of Applied Science-Home Study Course Lessons 6-7

Typewriting History, Class Characteristics, Identifying Factors

EXHIBIT 1

Analysis of Typewritten Material and Practical Examples

Organizations:

National Questioned Document Association
Thomas Reuters Round Table Group

Further Qualifications:

I have reviewed numerous signatures and handwritings, examined case documents and rendered an opinion on cases in Alabama, California, Colorado, Florida, Indiana, Iowa, Illinois, Kansas, Kentucky, Louisiana, Maryland, New Jersey, New Mexico, New York, Pennsylvania, South Carolina, Texas, Wisconsin, Washington D.C., Virginia, Montreal, Quebec, Canada and Freeport, Bahamas.

Laboratory Equipment used for examination:

Laurie Hoeltzel's laboratory equipment, such as: 10x – 400x twin/digital microscope; HP flat bed scanner; light table; SVP Digital Mobile Magnifier Microscope 500x, numerous magnifying devices; Canon SD700 digital camera; Canon Powershot S2; protractor and metric measuring devices; powerpoint; photoshop program and transparencies.

Specific Areas of Training:

Handwriting Identification and Discrimination, Signature Comparison, Techniques for Distinguishing Forged Signatures, Disguised Handwriting, Altered Numbers, Anonymous Writing, Factors that Affect Writing

Library:

Numerous forensic document examination books and other handwriting reference materials:

To include but not limited to:

The Expert Witness Handbook by Dan Poynter

Document Examiner Textbook by Jess E. Dines

Handwriting Identification: Facts and Fundamentals by Roy A. Huber & A. M. headrick

Scientific Examination of Questioned Documents by Kelly and Lindblom- (2nd Edition by Hilton)

EXHIBIT 1

Testimony

December 12, 2012

Miami-Dade County Court House

Eric Nadel vs Wells Fargo

Case No.:08201CA-32

Assigned Judge Vicki Platzer

October 31, 2012

Van Nuys County Superior Court

William Washington vs People

Case LA070312

Assigned Judge Jessica Parrin Silvers

July 17, 2012

San Bernardino County Superior Court

Joe Bevacqua vs Mercedes Sanchez

Case No.: PROPS120012

Assigned Judge Cynthia Ludvigsen

April 17, 2012

Orange County Superior Court

Jennifer Alter vs. Emily Neto Benes

Case No.: 30-2009-003117808

Assigned Judge David Chaffee

December 7, 2011

San Bernardino County Superior Court

Lalita Booker vs Millie Williams

Case No.: SCVSS145195

EXHIBIT 1

Assigned Judge John P. Vanderfeer

September 21, 2011

Ventura County Superior Court
Riggs v. Aurora Loan Servicing

Case No. #56-2011-00394035

Assigned Judge Frederick Bythe

September 11, 2011

Central District Bankruptcy Court

Nick James Bankruptcy

Case No. 2:11-bk-25454-VZ

Curt Baggett/Laurie Hoeltzel

June 23, 2010

Circuit Court, Branch 1

Green County, Wisconsin
Warner Kent Bahler v. David Bahler et, al.

Case No. 08-CV-188

June 9, 2008

The Supreme Court of the Bahamas
Freeport, Bahamas

Nicole Longley v Kim Monique Stuart

Case No. 2006/CLE/gen/01210

Assigned Justice Mrs. Estelle Gray Evans

February 8, 2008

336th District Court of Grayson County
Sherman, Texas

Paul Allen and Sharleen Wilson v. Allen Bryon Wilson

Case No. 07-1451-336

Assigned Judge Blake

EXHIBIT 1

December 17, 2007

Superior Court of the State of California
County of San Bernadino, Redlands, California

LaMonte William Ward Trust

Case No. PRO50700188

Assigned Judge Cynthia Ludvigsen

EXHIBIT 1

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EXHIBIT "10"
Texas Application for Original Probate of Foreign Will and Issuance of Letters of
Independent Administration

with the Clerk of the District Court of the Eighth Judicial District of the State of Nevada, in and for the County of Clark. An exemplified copy of the Will is filed herein.

7. The subscribing witnesses to the Will are Sharon A. Brown, whose present address is unknown, and Josefina C. Jones, whose present address is 900 Rancho Lane, Las Vegas, Nevada 89106. The Will is not self-proved according to Texas law, but will be proved by the sworn deposition on written questions of Josefina C. Jones.

8. Decedent's Will has never been offered for probate in the State of Nevada where she was domiciled and does not stand rejected for probate in that state.

9. Decedent's Will names Jacqueline Marguerite Montoya, Applicant herein, as personal representative of her estate, and provides that no bond shall be required of her.

10. Decedent's Will was prepared in accordance with the laws of the State of Nevada and does not provide for independent administration of her estate in accordance with Texas law.

11. Decedent's Will provides that her probate estate shall be distributed to the then acting Trustee of the MTC Living Trust dated December 6, 1995, as restated on January 7, 2008.

12. In Article Four of Decedent's Will, she exercised a Power of Appointment granted in the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1971, Article Fifth, Trust No. 3, Paragraph B(2), by which she appointed the entire principal and undistributed income in Trust No. 3 to Jacqueline Montoya and Kathryn Anne Bouvier, to be distributed in trust in accordance with the provisions of the MTC Living Trust dated December 6, 1995, as restated on January 7, 2008. The oil, gas and mineral interests located in Upton County, Texas, comprise a portion of the principal and undistributed income of Trust No. 3.

13. Jacqueline Montoya and her sister, Kathryn Anne Bouvier, are the distributees of Trust No. 3 and the residuary distributees of the MTC Living Trust, which includes the Upton County property. Jacqueline Montoya is the current trustee of the MTC Living Trust, and Kathryn Anne Bouvier is the successor trustee. As the distributees, Jacqueline Montoya and Kathryn Anne Bouvier agree to independent administration of Decedent's Estate. Kathryn Anne Bouvier further agrees to the appointment of Jacqueline Montoya as Independent Administrator of the estate.

14. Applicant is willing to accept the trust and qualify and is not disqualified by law from accepting Letters of Independent Administration, and she is entitled to such Letters. Because Applicant is a resident of the State of Nevada, she will appoint Mary Lou Cassidy, of Stubbeman, McRae, Sealy, Laughlin & Browder, Inc., Midland, Texas, as resident agent for service of process in the State of Texas.

15. Decedent's Will does not name the State of Texas, a governmental agency of Texas, or a charitable organization as a devisee.

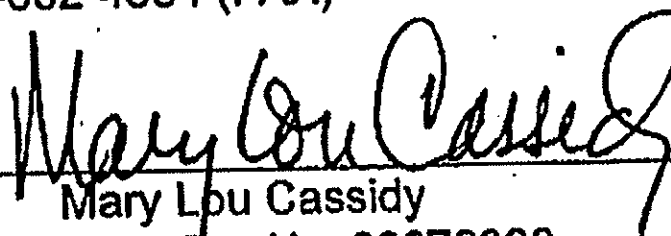
16. It is represented to the Court that there is no need for the appointment of appraisers.

WHEREFORE, Applicant prays that citation issue as required by law to all persons interested in this estate; that the Will of Marjorie T. Connell be admitted to probate; that Applicant be appointed Independent Administrator of the estate to serve without bond; that Letters of Independent Administration be issued to Applicant upon qualification; and that all other orders be entered as the Court may deem proper.

Respectfully submitted,

STUBBEMAN, McRAE, SEALY,
LAUGHLIN & BROWDER, INC.
550 West Texas, Suite 800
Midland, Texas 79702
432-682-1616
432-682-4884 (FAX)

By: _____


Mary Lou Cassidy
State Bar No. 03979300

ATTORNEYS FOR APPLICANT

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

IN THE MATTER OF: THE W.N.
CONNELL AND MARJORIE T.
CONNELL LIVING TRUST, DATED
MAY 18, 1972,

ELEANOR C. AHERN A/K/A
ELEANOR CONNELL HARTMAN
AHERN,

Appellant,

vs.

JACQUELINE M. MONTOYA; AND
KATHRYN A. BOUVIER,

Respondents.

Supreme Court No.: 66231
Consolidated with: 6782, 68046
Electronically Filed
Nov 20 2015 04:09 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

District Court Case No.:
P-09-066425-T

Appeal from the Eighth Judicial
District Court, The Honorable Gloria
Sturman Presiding

APPELLANT'S APPENDIX

(VOLUME 6 OF 17)

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

IN THE MATTER OF: THE W.N.
CONNELL AND MARJORIE T.
CONNELL LIVING TRUST, DATED
MAY 18, 1972,

ELEANOR C. AHERN A/K/A
ELEANOR CONNELL HARTMAN
AHERN,

Appellant,

vs.

JACQUELINE M. MONTOYA; AND
KATHRYN A. BOUVIER,

Respondents.

Supreme Court No.: 66231

Consolidated with: 67782, 68046

District Court Case No.:
P-09-066425-T

Appeal from the Eighth Judicial
District Court, The Honorable Gloria
Sturman Presiding

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRAP 25(c) and (d), I caused a true and correct copy of the foregoing **APPELLANT’S APPENDIX (Volume 6 of 17) (Pages AA 1165-1386)** by using the Court’s Electronic Filing System on November 20, 2015, upon the following:

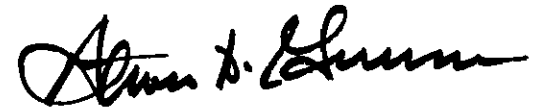
WHITNEY B. WARNICK, ESQ.
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Attorneys for Kathryn A. Bouvier

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P.O. Box 371655
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*Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier*

I hereby certify that on November 20, 2015, I served a copy of this document by mailing a true and correct copy, postage prepaid, via U.S. Mail, addressed to the following:

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Las Vegas, NV 89145
Attorneys for Fredrick P. Waid, Court-
appointed Trustee

/s/ Erin Parcels
an employee of Brownstein Hyatt Farber Schreck, LLP



CLERK OF THE COURT

OPPS

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*Attorneys for ELEANOR CONNELL HARTMAN AHERN,
Individually and as Trustee*

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

THE W. N. CONNELL AND MARJORIE T. CONNELL
LIVING TRUST,

Dated May 18, 1972

Case No. P-09-066425-T

Dept. No. XXVI (26)

Date of Hearing:

Time of Hearing:

An Inter Vivos Irrevocable Trust.

**OPPOSITION OF ELEANOR C. AHERN TO MOTION TO DISMISS COUNTERCLAIMS
OF ELEANOR C. AHERN**

COMES NOW ELEANOR C. AHERN, a/k/a ELEANOR CONNELL HARTMAN AHERN
("ELEANOR"), individually and as Trustee of THE W. N. CONNELL AND MARJORIE T.
CONNELL LIVING TRUST dated May 18, 1972 (the "TRUST"), by and through her counsel of
record, JOHN R. MUGAN, Esquire, and MICHAEL D. LUM, Esquire, of the law firm of
JEFFREY BURR, LTD., and hereby submits this Opposition of Eleanor C. Ahern To Motion To
Dismiss Counterclaims Of Eleanor C. Ahern ("OPPOSITION"), and in support thereof states:

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In response to JACQUELINE M. MONTOYA's Petition For Declaratory Judgment
Regarding Limited Interest Of Trust Assets Pursuant To NRS 30.040, NRS 153.031(1)(E), And

1 NRS 164.033(1)(A) ("2013 DECLARATORY JUDGMENT PETITION") filed on September 27,
2 2013, ELEANOR filed her Answer Of Trustee Eleanor C. Ahern To Jacqueline M. Montoya's
3 Petition For Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant To NRS
4 30.040, NRS 153.031(1)(e), And NRS 164.033(1)(a) And Counterclaims Against Jacqueline M.
5 Montoya ("ANSWER") on February 10, 2014. In accordance with Rule 12(b) of the Nevada Rules
6 of Civil Procedure, ELEANOR did not file her ANSWER, a responsive pleading, until after her
7 Motion To Dismiss Petition For Declaratory Judgment Regarding Limited Interest Of Trust Assets
8 Pursuant To NRS 30.040, NRS 153.031(1)(e), And NRS 164.033(1)(a) For Failure To State A
9 Claim Upon Which Relief Can Be Granted Per NRCP 12(b)(5) ("MOTION TO DISMISS") was
10 ruled upon. Rule 12(b) of the Nevada Rules of Civil Procedure provides:

11 **(b) How Presented.** Every defense, in law or fact, to a claim for
12 relief in any pleading, whether a claim, counterclaim, cross-claim, or
13 third-party claim, shall be asserted in the responsive pleading thereto
14 if one is required, *except that the following defenses may at the option*
15 *of the pleader be made by motion:* (1) lack of jurisdiction over the
16 subject matter, (2) lack of jurisdiction over the person, (3)
17 insufficiency of process, (4) insufficiency of service of process, (5)
18 *failure to state a claim upon which relief can be granted*, (6) failure to
19 join a party under Rule 19. ***A motion making any of these defenses***
20 ***shall be made before pleading if a further pleading is permitted.*** No
21 defense or objection is waived by being joined with one or more other
22 defenses or objections in a responsive pleading or motion. If a
23 pleading sets forth a claim for relief to which the adverse party is not
24 required to serve a responsive pleading, the adverse party may assert
25 at the trial any defense in law or fact to that claim for relief. If, on a
26 motion asserting the defense numbered (5) to dismiss for failure of the
27 pleading to state a claim upon which relief can be granted, matters
28 outside the pleading are presented to and not excluded by the court,
the motion shall be treated as one for summary judgment and
disposed of as provided in Rule 56, and all parties shall be given
reasonable opportunity to present all material made pertinent to such a
motion by Rule 56. (Emphasis added)

26 Thus, according to NRCP Rule 12(b), a motion asserting a defense based on the failure of an
27 adverse party to state a claim upon which relief can be granted must be made first before any
28 further pleading. In this case, ELEANOR's MOTION TO DISMISS sought to dismiss this case for

1 JACQUELINE M. MONTOYA's failure to state a claim upon which relief can be granted and was
2 captioned as a Rule 12(b)(5) motion. Accordingly, it was required to be filed and decided upon
3 before any other responsive pleading could be filed by ELEANOR. Other pleadings were in fact
4 filed herein on behalf of ELEANOR, but they were Motions or responses to Motions of opposing
5 counsel. The MOTION TO DISMISS was denied by the Court without prejudice on January 14,
6 2014. A proposed Order was prepared by counsel for ELEANOR and sent to opposing counsel. As
7 of the date of this OPPOSITION and to date, such Order has not been entered.

8 In her ANSWER, ELEANOR asserted various affirmative defenses and counterclaims. It is
9 these counterclaims that JACQUELINE M. MONTOYA seeks to dismiss based on Rule 12(b)(5) of
10 the Nevada Rules of Civil Procedure. On March 18, 2014, JACQUELINE M. MONTOYA filed
11 her Motion To Dismiss Counterclaims Of Eleanor C. Ahern ("MOTION"). However, for the
12 reasons set forth below, JACQUELINE M. MONTOYA has failed to satisfy the requirements to
13 prevail on her MOTION.

14 II. ARGUMENT

15 A. Legal Standard.

16 Pursuant to Rule 12(b)(5) of the Nevada Rules of Civil Procedure, a defendant is entitled to
17 dismissal when the pleading fails to state a claim upon which relief can be granted. In considering
18 the dismissal of a pleading, this court must "construe the pleading liberally and draw every fair
19 inference in favor of the non-moving party." *Simpson v. Mars, Inc.*, 113 Nev. 188, 190 (1997);
20 citing *Vacation Village v. Hitachi America*, 110 Nev. 481, 484 (1994). Further, "[a]ll factual
21 allegations of the [pleading] must be accepted as true." *Id.* Dismissal is only proper when "it
22 appears beyond a doubt that the plaintiff could prove no set of facts which, if accepted by the trier
23 of fact, would entitle him or her to relief." *Id.*; see also *Edgar v. Wagner*, 101 Nev. 226, 228 (1985)
24 (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (S.Ct. 1957)) (emphasis added). Stated differently,
25 "[a] claim should not be dismissed ... unless it appears to a certainty that the plaintiff is not entitled
26 to relief under any set of facts which could be proved in support of the claim." *Bemis v. Estate of*
27 *Bemis*, 114 Nev. 1021, 1024 (1998) (emphasis added). Further, "Nevada is a notice-pleading
28 jurisdiction, [so] our courts liberally construe pleadings to place into issue matters which are fairly
noticed to the adverse party." *Hay v. Hay*, 100 Nev. 196, 198 (1984) (emphasis added).

1
2 **B. Objection To Factual Allegations Made By Petitioner JACQUELINE M. MONTOYA.**

3 In her MOTION, JACQUELINE M. MONTOYA states that “[f]or 34 years prior to July,
4 2013, the income from the properties had been allocated between the two sub-trusts created under
5 the provisions of Trust 1. One sub-trust (hereinafter “Trust 2”) received approximately 35% of the
6 income, which went to Eleanor as a beneficiary of Trust 2. The remaining approximately 65% of
7 the income was paid to Marjorie T. Connell (the surviving grantor of Trust 1) during her lifetime, as
8 beneficiary of the other sub-trust, Trust 3. Upon Marjorie’s death on May 1, 2009, this 65% share
9 of the income was then paid to Jacqueline and Kathryn, successor beneficiaries under Trust 3, until
10 Eleanor abruptly stopped the payment to them beginning in July, 2013.” Quite simply, these factual
11 allegations are incorrect.

12 First, contrary to the claim made by JACQUELINE M. MONTOYA, there was never an
13 allocation of the Upton County, Texas, Oil right income between Trust No. 2 and Trust No. 3.
14 Curiously, JACQUELINE M. MONTOYA’s claim that there was an allocation is contrary to the
15 position that she has espoused heretofore. In fact, prior to the trial scheduled in this matter on
16 February 18, 2014, JACQUELINE M. MONTOYA’s other counsel stipulated, via email, to the
17 facts that were to be testified to by Texas attorney John Randall Turner in that “[b]ased on Mr.
18 Turner’s review and search of ... property records, Mr. Turner has determined that neither W.N.
19 Connell, Marjorie t. Connell, nor Eleanor Connell Hartman Ahern ever executed any deed or other
20 document of conveyance transferring any portion of the Upton County, Texas, Oil rights to ‘Trust
21 NO. 3’ of the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972 and there is
22 no such deed or other document of public record.” A copy of such Email is attached hereto as
23 **Exhibit “1”** and incorporated herein by this reference. There was never an allocation between
24 Trust No. 2 and Trust No. 3 of the Upton County, Texas, Oil right income. Quite the opposite, all
25 of the Upton County, Texas, Oil right income was paid to Trust No. 2 and its EIN. A copy of the
26 Division Orders are attached hereto as **Exhibit “2”** and incorporated herein by this reference.
27 Because there was no allocation to Trust No. 3, MARJORIE T. CONNELL did not receive 65% of
28 the Upton County, Texas, Oil right income via Trust No. 3 as suggested by JACQUELINE M.
MONTOYA.

1 Second, JACQUELINE M. MONTOYA claims that she and her sister, KATHRYN A.
2 BOUVIER, are “successor beneficiaries under Trust 3;” however, there is no language in Trust No.
3 3 to indicate as such. In fact, the terms of Trust No. 3 read in relevant part as follows:

4 FIFTH: TRUST NO. 3. The Trustee shall hold, manage, invest and reinvest the estate of
Trust No. 3 and shall collect the income thereof and dispose of the net income and principal as
5 follows:

6 A. Income. The Trustee shall pay to the Survivor (MARJORIE T. CONNELL) during his
or her lifetime all of the net income of the Survivor’s trust estate in convenient, regular
installments, but not less frequently than quarter-annually.

7 ...

8 D. Death of Survivor. Upon the death of the Survivor (MARJORIE T. CONNELL),
the Trustee shall distribute the trust estate in accordance with and to the extent provided by
the Survivor’s (MARJORIE T. CONNELL) exercise of his or her power of appointment.

10 If and to the extent that the Survivor (MARJORIE T. CONNELL) shall fail to effectively
exercise the foregoing power of appointment, the principal and undistributed income of
11 Trust No. 3 shall, upon his or her death, be distributed to the Residual Beneficiary
(ELEANOR), or to the heirs of her body if she is not then living. (emphasis added)

12 As is clearly shown by the forgoing language of the TRUST, the only beneficiaries of Trust
13 No. 3 are MARJORIE T. CONNELL during her life and thereafter ELEANOR. Neither
14 JACQUELINE M. MONTOYA nor her sister, KATHRYN A. BOUVIER, is a beneficiary or a
15 “successor beneficiar[y]” of Trust No. 3.

16 On various occasions throughout her MOTION, JACQUELINE M. MONTOYA alludes and
17 makes reference to the Upton County, Texas, Oil right income being paid to “Trust 1” (used by
18 JACQUELINE M. MONTOYA when discussing the TRUST) following the death of W.N.
19 CONNELL. As noted above, however, this was quite simply not the case. As this Court will notice
20 upon reviewing the Division Orders provided by the various oil lessees relating to the Upton
21 County, Texas, Oil rights attached hereto has **Exhibit “2”** from approximately 1986 through the
22 present, the oil companies have remitted payment of the royalties to the tax identification number
23 for Trust No. 2. The tax identification number for Trust No. 2 was provided to the oil companies by
24 MARJORIE T. CONNELL and ELEANOR. Trust No. 3 has a separate tax identification number
25 that was never furnished to, nor used by, the oil companies for such royalty payments. Notably, this
26 has been the practice since the death of W.N. CONNELL and even after the death of MARJORIE
27 T. CONNELL. Also, JACQUELINE M. MONTOYA was extensively involved in dealing with the
28 Upton County, Texas, Oil rights, including dealing with accountant, Corey Haina, in accounting for

1 the Upton County, Texas, Oil right income. Therefore, she was fully aware that the royalty income
2 from such rights was paid, in full, to Trust No. 2.

3 In his Affidavit attached to the MOTION, Texas attorney Sean Guerrero said, “[o]ur clients
4 filed a lawsuit in Clark County, Nevada, in January 2014 in order to enforce their rights to
5 distribution of a **Trust created by the Will of Marjorie T. Connell.**” In fact, there was no trust
6 created by the Will of MARJORIE T. CONNELL. The TRUST in question is an inter vivos trust,
7 not a testamentary trust, created during the lives of W.N. CONNELL and MARJORIE T.
8 CONNELL. Heretofore, this fact has been uncontroverted. And the assertion that a testamentary
9 trust was created by MARJORIE T. CONNELL’s Will is wholly incorrect. This statement
10 summarizes the confusion and inconsistency shown by JACQUELINE M. MONTTOYA throughout
11 this litigation.

12 **C. This Court May Not Dismiss ELEANOR’s Counterclaim For Intentional Interference**
13 **With Contractual Relations Because There Are Sufficient Facts For ELEANOR To**
14 **Prevail On Such Claim.**

15 To establish intentional interference with contractual relations in Nevada, “the plaintiff must
16 show: (1) a valid and existing contract; (2) the defendant’s knowledge of the contract; (3)
17 intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of
18 the contract; and (5) resulting damages.” *Sutherland v. Gross*, 105 Nev. 192, 196 (1989). The
19 intent necessary to maintain an action for intentional interference with contractual relations requires
20 the plaintiff “to demonstrate that the defendant intended to induce the other party to breach the
21 contract with the plaintiff.” *J.J. Industries, LLC v. Bennett*, 119 Nev. 269, 276 (2003) (Defendant,
22 who purchased real property from a seller that was under contract for the sale of said property with
23 a different buyer, was not found to have intentionally interfered with contractual relations because
24 the defendant was informed by the seller that the seller’s existing contract was terminated.).

25 ***Valid and Existing Contract and Defendant’s Knowledge of Such Contract:***

26 Here, there is no dispute as to the validity of the existing contracts between the TRUST and
27 the various oil lessees and surface tenants. Nor is there a dispute that JACQUELINE M.
28 MONTTOYA was aware of such contracts. Admittedly, in her 2013 DECLARATORY
JUDGMENT PETITION, JACQUELINE M. MONTTOYA noted that she was extensively involved
with the Upton County, Texas, Oil rights during the year 2000 when MARJORIE T. CONNELL’s

1 health began to fail. Also, according to JACQUELINE M. MONTOYA, she “put in a tremendous
2 amount of time and energy” in April 2012 to negotiate new Oil and Gas Lease contracts with
3 Apache Corporation relative to the Upton County, Texas, Oil rights. Once these Oil and Gas Lease
4 contracts were prepared, JACQUELINE M. MONTOYA presented the same to ELEANOR for her
5 approval and signature. ELEANOR signed both Oil and Gas Lease contracts “**[i]ndividually and**
6 **as Trustee of the W.N. Connell and Marjorie T. Connell Living Trust under Trust Agreement**
7 **dated May 18, 1972**” (emphasis added) and as sole lessor. A valid contract was created between
8 the TRUST and the various oil lessees and surface tenants, including the Apache Corporation oil
9 and gas contract, and JACQUELINE M. MONTOYA was well aware of these contracts by her own
10 admission.

11 ***Intentional Acts Intended or Designed to Disrupt the Contractual Relationship:***

12 JACQUELINE M. MONTOYA contends that there are insufficient facts such that
13 ELEANOR can prove elements 4 (intentional acts intended or designed to disrupt the contractual
14 relationship), 5 (actual disruption of the contract) and 6 (resulting damages) of her intentional
15 interference with contract counterclaim. With respect to element 4, there can be no question that
16 JACQUELINE M. MONTOYA’s actions, through her Texas counsel, were designed to disrupt the
17 contractual relationship between the TRUST and the various oil and mineral lessees and surface
18 tenants of the Upton County, Texas, Oil rights. On September 30, 2013, only three (3) days after
19 JACQUELINE M. MONTOYA filed her 2013 DECLARATORY JUDGMENT PETITION herein,
20 her Texas counsel, Sean Guerrero, attorney at law, of the Stubbeman, McRae, Sealy, Laughlin &
21 Browder, Inc. Law Firm in Midland, Texas identified himself as writing on behalf of his client,
22 JACQUELINE M. MONTOYA, and wrote:

23 **“I write on behalf of our client, Jacqueline M. Montoya,** individually and in her capacity
24 as trustee of the MCT (sic) Living Trust, Plaintiff in *Cause No. P-09-066425-T; In the*
25 *Matter of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972.* The
26 lawsuit referenced concerns oil and gas royalty and interest payments in the W. N. Connell
27 and Marjorie T. Connell Living Trust, Eleanor Ahern, Trustee. I enclose a copy of the filed
petition and confirmation of filing for your reference. We will follow up with a file-marked
copy of the petition once we have received it.

28 Due to the dispute regarding the distribution of payments, a portion of which had been made

1 by your company, we request that [Apache Corporation] [Plains Marketing, L.P.] [Drag
2 A Cattle Company] hold in suspense all payment to the W. N. Connell and Marjorie T.
3 Connell Living Trust until this lawsuit has been resolved. We request that you take
4 action immediately so that no further payments are distributed until this suit is
5 resolved. Please let me know if you have any question. We appreciate your cooperation
6 and look forward to working with you.”

7 Also, on October 10, 2013, Sean Guerrero wrote to Apache and stated, “[i]f you will
8 confirm when Apache places the royalty payments in to suspense, I would appreciate it.”

9 Again on November 14, 2013, Sean Guerrero wrote to Andy Taylor of Apache and said the
10 following:

11 “We have undertaken the lawsuit in Nevada to re-establish our client’s rights to 65%
12 distribution of the Trust and ultimately force Ms. Ahern out as Trustee...

13 ...Short of a court order, I do not see who (sic) you can legally and arbitrarily allocate 35%
14 of royalty payments to the Trustee of a trust and withhold 65% from the beneficiaries.
15 Apache would be wise to await a court order on the subject rather than taking the
16 word of Ms. Ahern’s attorney....

17 We have a complicated suit regarding the Trust distribution pending, and we will have a
18 second suit regarding Ms. Ahern’s misappropriation of Trust assets filed in short order. As a
19 result, we renew our request that Apache continue to hold all interest payments to the
20 Trust in suspense....” (emphasis added)

21 Clearly, these correspondences are designed to disrupt the contractual relationship between
22 the TRUST and the recipients of such correspondence in that JACQUELINE M. MONTOYA, if
23 successful, would have caused all payments to the TRUST to cease. It is well understood by all
24 parties hereto and undisputed that only sixty-five percent (65%) of the Upton County, Texas, Oil
25 rights are in dispute in this case. In fact, at the November 12, 2013 hearing, JACQUELINE M.
26 MONTOYA’s Nevada counsel said, “no argument about that” when referring to the thirty-five
27 percent (35%) of the Upton County, Texas, Oil right income paid to ELEANOR. A copy of the
28 Transcript from this hearing is attached hereto as **Exhibit “3”** and incorporated herein by this
reference. Notwithstanding this, however, JACQUELINE M. MONTOYA demanded that all
payments to the TRUST be suspended — not just the sixty-five percent (65%) that is in dispute.
(Notably, upon information and belief, similar correspondence has been sent to other oil and
mineral lessees of the Upton County, Texas, Oil right property, as the TRUST has not received all

1 of the royalty payments owing to it since JACQUELINE M. MONTOYA's Texas counsel began
2 sending these letters and emails.)

3 JACQUELINE M. MONTOYA, in her MOTION, intimates that the action of her Texas
4 counsel was proper and sanctioned by Texas law and in fact, was "the only method available to
5 them under Texas law to protect Jacqueline's and Kathryn's royalty income interest." In support of
6 her position that the sending of the forenamed letters by her Texas counsel was sanctioned by Texas
7 law, JACQUELINE M. MONTOYA relies on the Affidavit of her Texas counsel, attorney Sean
8 Guerrero, which cites to Texas Natural Resource Code Section 91.402(b). (It is important to note
9 that Sean Guerrero, Esquire, was involved in sending the letters and emails above, and therefore, he
10 is not a disinterested third party affiant, but someone trying to avoid a possible malpractice claim by
11 his client – JACQUELINE M. MONTOYA.). In particular, JACQUELINE M. MONTOYA states
12 that under Texas Natural Resource Code Section 91.402(b) "a company paying royalty income has
13 authority specifically given to it to withhold payments without interest if 1) a dispute exists
14 concerning title that would affect distribution of payments; or 2) a reasonable doubt exists that the
15 payee has clear title to the interest in the proceeds of production" (emphasis added).

16 By way of full disclosure, Section 91.402 of the Texas Natural Resource Code sets the time
17 limits by which a "payor" (generally defined as the purchaser of production from a well, the
18 operator of that well, or the lessee under a lease on which royalty is due) must pay each "payee"
19 (defined as "any person or persons legally entitled to payment from the proceeds derived from the
20 sale of oil or gas from an oil or gas well located" in Texas) proceeds derived from the sale of oil or
21 gas production. See the Affidavit of ELEANOR's Texas attorney, Stan Crawford, attached hereto
22 has **Exhibit "4"**. Under Section 91.402(a), proceeds from production must be paid within one
23 hundred twenty (120) days after the end of the month of the first sale of production; after that,
24 proceeds must be paid to payees sixty (60) days after the end of the month when oil is sold, and
25 ninety (90) days after the end of the month when gas is sold. Section 91.403 of the Texas Natural
26 Resource Code sets the rate of interest owed on payment of proceeds not made within these
27 statutory deadlines. That interest is owed as a penalty for late payment unless payments are
28 suspended by a payor for one of the following reasons:

91.402(b)(1) there is "a dispute concerning title that would affect distribution of payments;"

1 91.402(b)(2) there is “a reasonable doubt that the payee:

2 (A) has sold or authorized the sale of its share of the oil or gas to the purchaser of such
3 production; or

4 (B) has clear **title** to the interest in the proceeds of production;” or

5 91.402(b)(3) there is “a requirement in a **title** opinion that places in issue the **title**, identity,
6 or whereabouts of the payee and that has not been satisfied by the payee after a reasonable
7 request for curative information has been made by the payor.” (emphasis added).

8 Thus, Section 91.402 of the Texas Natural Resource Code allows a payor of proceeds from
9 the sale of oil or gas to suspend payment to the payee, without interest, if there is a “title” dispute or
10 if the payee cannot be identified or found. Neither is the case here. The owner of the Upton
11 County, Texas, Oil rights is the TRUST and this has never been questioned. In fact on January 27,
12 2014, prior to the original February 18, 2014 trial date in this matter, JACQUELINE M.
13 MONTOYA’s other Nevada counsel stipulated to the admission of the two Quitclaim deeds that
14 were used to transfer the Upton County, Texas, Oil rights to the TRUST. A copy of an Email
15 confirming such stipulation is attached hereto as **Exhibit “5”** and incorporated herein by this
16 reference. Further, as noted above, JACQUELINE M. MONTOYA was extensively involved in the
17 negotiation of the 2012 Oil and Gas lease contracts with Apache Corporation, which she presented
18 to ELEANOR for her approval and signature and that were signed by ELEANOR “**[i]ndividually**
19 **and as Trustee of the W.N. Connell and Marjorie T. Connell Living Trust under Trust**
20 **Agreement dated May 18, 1972**” (emphasis added) and as sole lessor. Accordingly,
21 JACQUELINE M. MONTOYA was and is fully aware that title to the Upton County, Texas, Oil
22 rights is vested in the TRUST and that there is no dispute as to this fact. Without a dispute
23 concerning title, JACQUELINE M. MONTOYA had no right to demand that suspension of the
24 Upton County, Texas, Oil right income.

25 JACQUELINE M. MONTOYA’s Texas counsel, Sean Guerrero, states in his Affidavit
26 attached to JACQUELINE M. MONTOYA’s MOTION that “[o]ur request was consistent with not
27 only Texas statutory law, but with industry standard and regular practice in Texas....” However,
28 this contention was rejected by the Court of Appeals in Austin in *Browning Oil Co., Inc. v. Luecke*,
38 S.W.3d 625, 647 (Tex.App.--Austin 2000, pet. denied). In that case, Browning Oil Co. argued

1 that because there was a dispute as to how much royalty the Lueckes should be paid, Section 91.402
2 protected them from paying interest on the suspended royalties. The Court said:

3 The purpose of the statute is to protect royalty owners from intentional payment delays
4 while permitting delays that result from legitimate title disputes....The crux of this case is
5 whether the Lueckes are entitled to a pro rata share of royalties under the pooling provisions
6 or royalties for all production from their land. Their *entitlement* to royalties, however, was
7 never in dispute. All parties agreed that the Lueckes' royalty interests are void. Thus, the
8 Natural Resource Code does not excuse Lessees from paying prejudgment interest where
9 there is no legitimate title dispute, but rather a dispute as to how to calculate the Lueckes'
10 royalties. (Emphasis in the original and emphasis added)

11 Again, the actions of JACQUELINE M. MONTOYA and her Texas counsel were not done
12 in accordance with Texas law and were inconsistent with "regular practice in Texas" because there
13 is no title dispute here. Furthermore and importantly, neither JACQUELINE M. MONTOYA nor
14 her Texas counsel, Sean Guerrero, are "payors" under Section 91.402 of the Texas Natural
15 Resource Code, and therefore, they are outside of the protected class of individuals that the statute
16 intends to protect. Section 91.402 provides protection to payors of oil and gas royalties when there
17 is a title dispute as to the land relating to such oil and gas interests or when the payee of oil and gas
18 royalties cannot be identified or located. JACQUELINE M. MONTOYA and her Texas counsel are
19 not "payors."

20 In light of the forgoing, it is clear that the actions of JACQUELINE M. MONTOYA
21 constitute "acts intended or designed to disrupt the contractual relationship." These actions can be
22 characterized in no other way.

23 Now that it has been established that the actions by JACQUELINE M. MONTOYA and her
24 Texas counsel in sending demand letters to the oil and gas payors of the Upton County, Texas, Oil
25 right income and demanding that all of such payments be suspended despite there being no dispute
26 as to thirty-five percent (35%) of such income payments are designed to disrupt the contractual
27 relations between the TRUST and the payors, it must next be shown that JACQUELINE M.
28 MONTOYA had the requisite intent. According to *J.J. Industries v. Bennett*, JACQUELINE M.
MONTOYA must have "intended to induce the other party (the payors) to breach the contract with
the plaintiff (ELEANOR as Trustee of the TRUST and individually)."

Unlike in *J.J. Industries, LLC, v. Bennett*, where the seller of real property informed the
defendant that the seller's prior contract for the sale of said property was terminated, JACQUELINE

1 M. MONTOYA knew there was and is a valid contract between the TRUST and Apache
2 Corporation (the recipient of her demands to suspend royalty payments owed by Apache to the
3 TRUST). JACQUELINE M. MONTOYA knew that there was and is no dispute as to the thirty-
4 five percent (35%) of the Upton County, Texas, Oil right income (which includes the amount
5 payable from Apache Corporation) owed to the TRUST for the benefit of ELEANOR. And
6 JACQUELINE M. MONTOYA knew that she had no legal basis, under Texas law or otherwise,
7 from which to demand that the suspense of all the royalty payments owing to the TRUST from
8 Apache Corporation as there was and is no dispute concerning the title of the Upton County, Texas,
9 Oil rights. Notwithstanding this, JACQUELINE M. MONTOYA sent not one, not two, but at least
10 three (3) correspondences to Apache Corporation to have them suspend funds owing to the TRUST.
11 Furthermore, given the fact that ELEANOR as Trustee of the TRUST has not received all of the
12 income payments owing to the TRUST from the oil and gas lessees of the Upton County, Texas, Oil
13 rights, she has reason to believe that JACQUELINE M. MONTOYA has sent demands to these
14 companies and tenants in addition to the ones referenced above. Upon information and belief,
15 ELEANOR believes that JACQUELINE M. MONTOYA has sent such correspondence even after
16 this Court ordered otherwise in its Order Denying Motion To Refer Contested Probate Matter To
17 Master-Probate Commissioner Per EDCR 4.16; Directing Payment Of All Oil, Gas, Mineral And
18 Interest Royalties And Rent To Eleanor C. Hartman, Also Known As Eleanor C. Ahern, As Trustee
19 Of Trust No. 2 Of The W.N. Connell And Marjorie T. Connell Living Trust Dated May 18, 1972;
20 And Setting Calendar Call And Hearing filed on January 6, 2014. Based on these actions, this
21 Court should find that JACQUELINE M. MONTOYA has demonstrated the necessary intent for the
22 tort of intentional interference with contractual relations in that she intended and intends to induce
the payors of the Upton County, Texas, Oil right income to breach their contracts with the TRUST.

23 ***Actual Disruption and Resulting Damages:***

24 Upon receipt of the aforementioned letters sent by JACQUELINE M. MONTOYA's Texas
25 counsel, Apache Corporation did in fact suspend payment to the TRUST in order to evaluate
26 JACQUELINE M. MONTOYA's demands. Although JACQUELINE M. MONTOYA in her
27 MOTION attempts to minimize the effect of this, it was not until the later part of February 2014,
28 four (4) months after Sean Guerrero sent his first correspondence, that Apache Corporation finally

1 paid the TRUST the amount owed to it. When Apache Corporation finally issued a check to the
2 TRUST, they did so in the amount of Six Hundred Sixty-Four Thousand Five Hundred Twenty-
3 Four and 20/100 dollars (\$664,524.20). This is no inconsequential amount and the delay was more
4 than minimal. Notably, when Apache Corporation paid the TRUST it did so without interest. In
5 light of this, there was certainly actual disruption and actual damages in this case.

6 In her MOTION, JACQUELINE M. MONTOYA admits that there was disruption in that
7 there was a “temporary delay” in payment while Apache Corporation “evaluated” JACQUELINE
8 M. MONTOYA’s demands. Contrary to JACQUELINE M. MONTOYA’s assertion that there was
9 “no appreciable disruption,” in fact, the delay was not so “temporary;” rather, it was a four (4)
10 month delay. In any event, the standard set forth in *Sutherland v. Gross* only requires “actual
11 disruption” and not “appreciable disruption.”

12 JACQUELINE M. MONTOYA further asserts that “any interest which may have been
13 earned on the suspended payments would have been so minimal in today’s financial market as to be
14 a non-factor in this matter.” Again, the *Sutherland v. Gross* standard does not require “more than
15 minimal” damages; instead, only “actual damages” are required. ELEANOR, as Trustee of the
16 TRUST and individually as beneficiary of the TRUST, incurred actual damages in that Apache
17 Corporation suspended payments and did so without paying interest. Although the amount of lost
18 interest is not a factor in the *Sutherland v. Gross* analysis, ELEANOR objects to JACQUELINE M.
19 MONTOYA’s claim that the interest is “minimal.” We are talking about a payment of Six Hundred
20 Sixty-Four Thousand Five Hundred Twenty-Four and 20/100 dollars (\$664,524.20) here – a
21 substantial sum of money. Of this Six Hundred Sixty-Four Thousand Five Hundred Twenty-Four
22 and 20/100 dollars (\$664,524.20), the undisputed amount that should have been paid to ELEANOR
23 was Two Hundred Thirty-Two Thousand Five Hundred Eighty-Three and 47/100 Dollars
24 (\$232,583.47) (thirty-five percent (35%)). In reality, then, ELEANOR lost the use of over a quarter
25 million dollars! Given the tremendous run up in the stock market at the end of 2013 and into 2014,
26 it is untenable to say that ELEANOR’s damages are only “minimal in today’s financial market.”

27 Furthermore, as noted above, ELEANOR has reason to believe that JACQUELINE M.
28 MONTOYA sent similar correspondences as those sent to Apache Corporation to other oil and gas
lessee and surface tenants of the Upton County, Texas, Oil right property. Since JACQUELINE M.

1 MONTOYA sent her demands, the TRUST has not received all of the income payments owing to
2 it. Thus, it is believed that JACQUELINE M. MONTOYA continues to cause damage to the
3 TRUST.

4 ***Summary:***

5 ELEANOR's claim for intentional interference with contractual relations should not be
6 dismissed because there are sufficient facts for ELEANOR to prevail on such claim. And, under the
7 facts plead it does not "appear to a certainty" that ELEANOR is not entitled to relief as required by
8 Nevada law. In this case, JACQUELINE M. MONTOYA sent demand letters/emails to Apache
9 Corporation, a company who has a contractual relationship with the TRUST, and demanded that
10 Apache Corporation cease all payment of income to the TRUST even though only sixty-five
11 percent (65%) of such payments are in dispute. JACQUELINE M. MONTOYA took these actions
12 despite there being no legal basis in Texas or Nevada for doing so — all in an effort to prevent the
13 TRUST from receiving income owed to it and to interfere with the TRUST's contractual relation
14 with Apache Corporation. Thus, ELEANOR's counterclaim for intentional interference with
15 contractual relations should not be dismissed.

16 **D. This Court Should Not Dismiss ELEANOR's Counterclaim To Apply the No-Contest**
17 **Clause Against JACQUELINE M. MONTOYA Because JACQUELINE M.**
18 **MONTOYA is challenging the TRUST in contravention of the No-Contest Clause**
19 **Therein And No Exception To the Applicability Of The No-Contest Clause Exists In**
20 **This Case.**

21 Section 163.00195, *Enforcement of no-contest clauses; exceptions*, of the Nevada Revised
22 Statutes states in relevant part:

23 2. **A no-contest clause must be construed to carry out the settlor's intent.** ... Except as
24 otherwise provided in subsections 3 and 4, **a beneficiary's share may be reduced or**
25 **eliminated** under a no-contest clause **based upon conduct that is set forth by the settlor**
26 **in the trust.** Such conduct may include, without limitation:

- 27 (a) Conduct other than formal court action; and
- 28 (b) Conduct which is unrelated to the trust itself, including, without limitation:
- (1) The commencement of civil litigation against the settlor's probate estate or family members;
- (2) Interference with the administration of another trust or business entity;
- (3) Efforts to frustrate the intent of the settlor's power of attorney; and

1 (4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by
2 the settlor. (emphasis added).

3 The TRUST expressly sets forth the intent of the settlors, namely W.N. CONNELL and
4 MARJORIE T. CONNELL, in Article TENTH, *NON-CONTEST PROVISION*, which states as
5 follows:

6 **The Grantors specifically desire that these trusts created herein be administered and**
7 **distributed without litigation or dispute of any kind. If any beneficiary of these trusts**
8 **or any other person**, whether stranger, relatives or heirs, or any legatees or devisees under
9 the Last Will and Testament of the Grantors or the successors in interest of any such
10 persons, including any person who may be entitled to receive any portion of the Grantors'
11 estate under the intestate laws of the State of Nevada, **seek or establish to assert any claim**
12 **to the assets of these trusts established herein, or attack, oppose or seek to set aside the**
13 **administration and distribution of the said trusts**, or to have the same declared null and
14 void or diminished, or to defeat or change any part of the provisions of the trust established
15 herein, **then in any and all of the above mentioned cases and events, such person or**
16 **persons shall receive One Dollar (\$1.00) and no more in lieu of any interest in these**
17 **assets of the trusts.**

18 Based on this language, it is clear that W.N. CONNELL and MARJORIE T. CONNELL, the
19 settlors of the TRUST, intended for the TRUST to be "administered and distributed without
20 litigation or dispute of any kind." By filing her 2013 DECLARATORY JUDGMENT PETITION,
21 JACQUELINE M. MONTOYA violated the non-contest provision of the TRUST and did so against
22 the settlors' clear expression of intent. Instead of the TRUST being administered without litigation,
23 the TRUST is now embroiled in intensive and highly contentious litigation. Clearly, this is not
24 what W.N. CONNELL and MARJORIE T. CONNELL desired when they created the TRUST. As
25 with the creation of any living trust, one of the main thrust is to preserve family wealth for the
26 settlors' children. In this case, the only child of the settlors, W.N. CONNELL and MARJORIE T.
27 CONNELL, is ELEANOR, who is specifically designated as the "Residuary Beneficiary" of the
28 TRUST. But, instead of having the TRUST assets be distributed to ELEANOR, as is the norm,
JACQUELINE M. MONTOYA, a granddaughter of the Settlers, is seeking to claim a present
interest in the TRUST.

Notably, almost immediately after MARJORIE T. CONNELL's death, JACQUELINE M.
MONTOYA removed numerous TRUST documents and records, including documents relating to
the Upton County, Texas, Oil rights, from MARJORIE T. CONNELL's home and refused to allow
ELEANOR access to the same. Also, attendant to the control that JACQUELINE M. MONTOYA

1 had gained while ELEANOR lived in Idaho (ELEANOR moved to Idaho in 1999), JACQUELINE
2 M. MONTOYA possessed the key to the post office box located in Las Vegas, Nevada, to which
3 the Upton County, Texas, Oil right income payments were sent. JACQUELINE M. MONTOYA
4 refused to turn over the key or allow ELEANOR access to this post office box. Accordingly,
5 JACQUELINE M. MONTOYA had full control over the payments received from the Upton
6 County, Texas Oil rights. Exerting her control, JACQUELINE M. MONTOYA took it upon herself
7 to continue dividing the Upton County, Texas, Oil right income in the same proportion as it had
8 been divided while MARJORIE T. CONNELL was alive. Now, however, JACQUELINE M.
9 MONTOYA decided that she would pay the sixty-five percent (65%) that was formerly paid to
10 MARJORIE T. CONNELL to herself and her sister, KATHRYN A. BOUVIER.

11 As JACQUELINE M. MONTOYA is not a trustee of the TRUST, her efforts above in
12 taking control of the TRUST documents and post office box against the will and instruction of
13 ELEANOR certainly interfered with the administration of the TRUST. In doing so, JACQUELINE
14 M. MONTOYA “attack[ed], “oppose[d],” [and] “[sought] to set aside the administration and
15 distribution of ... the trust,” in contravention of the non-contest provision of the TRUST.

16 JACQUELINE M. MONTOYA claims that her action in filing this lawsuit is protected by
17 Section 163.00195(3) of the Nevada Revised Statutes, which prevents the enforcement of the no-
18 contest clause of a trust where a beneficiary seeks only to: (a) enforce the terms of the trust; (b)
19 enforce the beneficiary’s legal rights related to the trust; or (c) obtain a court ruling with respect to
20 the construction or legal effect of the trust.

21 JACQUELINE M. MONTOYA, however, is only a residuary beneficiary of the TRUST and
22 under the terms of the TRUST, ELEANOR is the sole beneficiary with respect to the Upton County,
23 Texas, Oil rights (sixty-five percent (65%) of which is the subject of this dispute). The TRUST
24 agreement provides in part that upon the death of the Grantor whose death shall first occur [W. N.
25 CONNELL], the Trustee shall divide the trust estate into two parts, each part to be administered as a
26 separate trust to be known respectively as “Trust No. 2” and “Trust No. 3”. In particular, Article
27 SECOND, *TRUST NO. 1*, Paragraph C, *Death of Either Grantor*, of the TRUST agreement in
28 relevant part states:

1 Upon the death of the Grantor whose death shall first occur, the Trustee shall divide the trust
2 estates, including all property received as a result of the decedent's death, as follows:

- 3 **1. The trust estate and all property received as a result of the decedent's death**
4 **shall be divided into two parts, each part to be administered as a separate**
5 **trust to be known respectively as 'Trust No. 2' and 'Trust No. 3'.**

6 A copy of such Trust is attached hereto as **Exhibit "6"** and incorporated herein by this
7 reference.

8 Subparagraphs 2 and 3 of said Paragraph C of the TRUST agreement (**Exhibit "6"**) describe
9 how Trust No. 3 is to be funded, and state as follows:

10 2. The Trustee shall allocate to Trust No. 3 (a) the Survivor's [MARJORIE T. CONNELL]
11 separate property interest in the trust estate; (b) the Survivor's [MARJORIE T. CONNELL]
12 one-half (1/2) interest in the community property of the trust estate, less a proportionate part
13 of all amounts properly chargeable against all community property; and (c) the Survivor's
14 [MARJORIE T. CONNELL] community property interest in any policy of insurance on the
15 life of the Decedent [W. N. CONNELL] owned by the Grantors as community property and
16 made payable to Trust No. 1.

17 3. The Trustee shall allocate to Trust No. 3 from the Decedent's [W. N. CONNELL]
18 separate property an amount as determined in Article THIRD hereof.

19 Article *THIRD, MARITAL DEDUCTION*, of the TRUST agreement (**Exhibit "6"**) states in
20 relevant part:

21 The Trustee shall allocate to Trust No. 3 from the Decedent's [W. N. CONNELL] separate
22 property the fractional share of the said assets which is equal to the maximum marital
23 deduction allowed for federal estate tax purposes, reduced by the total of any other amounts
24 allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this
25 trust estate.

26 Subparagraph 4 of said Paragraph C of the TRUST agreement (**Exhibit "6"**) describes how
27 Trust No. 2 is to be funded, and states as follows:

28 **The Trustee shall allocate to Trust No. 2 all the remaining protion (sic) of the trust**
estate not allocated to Trust No. 3, including but not limited to, the Decedent's [W. N.
CONNELL] community property interest, if any, in any life insurance policy on the life of
the Decedent [W. N. CONNELL] payable to Trust No. 1. (emphasis added)

The Upton County, Texas Oil rights were never allocated to Trust No. 3 via a deed, and
accordingly became a part of Trust No. 2 as part of "... all the remaining protion (sic) of the trust
estate not allocated to Trust No. 3."

1 Article *FOURTH, TRUST NO. 2*, Paragraph B, *Income*, of the TRUST agreement (**Exhibit**
2 **“6”**) sets forth how the income of Trust No. 2 was to be paid, and in relevant part states:

3 All income received by this Trust from the separate property of the Decedent [W. N.
4 CONNELL] shall be paid to the Residual Beneficiary [ELEANOR]. In the event any of the
5 real property located in Upton County, Texas, as listed on the original Schedule “A”
6 attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary
7 [ELEANOR] shall be paid an additional payment from the income received from the
8 Decedent’s [W. N. CONNELL] half of the community property, which forms a part of the
9 corpus of this Trust, equal to all of the income received by this Trust from the real property
10 located in Upton County, Texas.

11 Schedule “A” attached to the TRUST agreement sets out the detailed legal descriptions of
12 the Upton County, Texas, real property as the “... separate property of W. N. CONNELL.” See
13 Schedule “A” of the TRUST agreement, **Exhibit “7”**. It is obvious that the intent of Decedent
14 W.N. CONNELL was that his only child, ELEANOR, should have the right to receive an amount
15 equal to all of income generated from the Upton County, Texas, Oil rights as long as ELEANOR
16 lived. This makes perfect sense from an estate-planning point of view in that the Upton County,
17 Texas, Oil rights were the sole and separate property of W. N. CONNELL that he brought into his
18 second marriage with MARJORIE T. CONNELL, ELEANOR was his only child, and ELEANOR
19 was his child from a previous marriage.

20 Based on the foregoing TRUST language, it is clear that W.N. CONNELL intended for
21 ELEANOR to receive all of the Upton County, Texas, Oil right income during her life; therefore,
22 JACQUELINE M. MONTOYA’s contention that the no-contest clause contained in the TRUST
23 should not be applied to her because she is seeking a court ruling with respect to construction of the
24 TRUST is wholly without merit. W.N. CONNELL intended for the Upton County, Texas, Oil right
25 income (W.N. CONNELL’s sole and separate property) to benefit ELEANOR, his only daughter,
26 during her life – period.

27 Although, as JACQUELINE M. MONTOYA pointed out in her MOTION, there is an
28 exception to the application of a no-contest clause if the contestant’s action was brought in good
faith with probable cause, such is not the case here. In fact, few, if any, of the actions taken by
JACQUELINE M. MONTOYA in this case can be considered to have been done in good faith. In
brief, JACQUELINE M. MONTOYA forged or caused to be forged bank signature cards relating to
TRUST accounts; she instituted an improper probate proceeding in Texas and by making blatant

1 misrepresentations therein she sought to have MARJORIE T. CONNELL's purported Last Will &
2 Testament probated without giving notice to ELEANOR (MARJORIE T. CONNELL's only child);
3 she forged or caused to be forged the purported Last Will & Testament of MARJORIE T.
4 CONNELL dated January 7, 2008; and she sent demand letters/emails to Apache Corporation
5 demanding that they cease payment to the TRUST notwithstanding the fact that there is no dispute
6 as to the title of the Upton County, Texas, Oil right property. Given these actions, JACQUELINE
7 M. MONTOYA cannot be considered to have acted in "good faith." "Bad faith" is the more proper
8 characterization.

9 In sum, ELEANOR's counterclaim for enforcement of the no-contest clause must not be
10 dismissed because sufficient facts exists on which ELEANOR could prove her claim. Based on the
11 facts set forth in ELEANOR's ANSWER and the facts set forth above, it cannot be said that it is
12 "appears to a certainty" that ELEANOR is not entitled to relief. Again, at the motion to dismiss
13 stage, all facts must be construed in favor of the non-moving party (ELEANOR), and if every fact
14 above is accepted as true, then ELEANOR would certainly be entitled to the enforcement of the no-
15 contest clause against JACQUELINE M. MONTOYA. For these reasons, ELEANOR's
16 counterclaim for enforcement of the no-contest clause must not be dismissed.

17 **E. ELEANOR's Counterclaim For Punitive Damages Should Not Be Dismissed As It Has**
18 **Merit And Is Supported By The Facts In This Case.**

19 NRS 42.005, *Exemplary and punitive damages: In general, limitations on amount of award;*
20 *determination in subsequent proceeding*, provides in relevant part:

- 21 1. Except as otherwise provided in NRS 42.007, in an action for the breach of an
22 obligation not arising from contract, **where it is proven by clear and convincing**
23 **evidence that the defendant has been guilty of oppression, fraud, or malice,**
24 **express or implied, the plaintiff, in addition to the compensatory damages, may**
25 **recover damages for the sake of example and by way of punishing the**
26 **defendant...** (emphasis added)

27 NRS 42.001, *Definition; exceptions*, defines "oppression," "fraud," and "malice" as follows:

- 28 2. "Fraud" means an intentional misrepresentation, deception or concealment of a
material fact known to the person with the intent to deprive another person of his or
her rights or property or to otherwise injure another person.
3. "Malice, express or implied" means conduct which is intended to injure a person or
despicable conduct which is engaged in with conscious disregard of the rights or

1 safety of others.

2 4. "Oppression" means despicable conduct that subjects a person to cruel and unjust
3 hardship with conscious disregard of the rights of the person.

4 The definitions of "fraud," "malice" and "oppression" are directly applicable to this case as
5 there are various actions taken by JACQUELINE M. MONTOYA that can be categorized as such.
6 The actions taken by JACQUELINE M. MONTOYA are more fully described below.

7 ***Forgery and Misrepresentation- Bank Records***

8 In approximately spring of 2012, ELEANOR discovered that the bank account for the
9 TRUST had been closed by JACQUELINE M. MONTOYA. This account was established by
10 MARJORIE T. CONNELL and ELEANOR to receive the royalty payments from the Upton
11 County, Texas, Oil rights. In its place, ELEANOR discovered that JACQUELINE M. MONTOYA
12 had opened an account on which JACQUELINE M. MONTOYA was listed as the Customer and to
13 which the Upton County, Texas, Oil right income was deposited. ELEANOR never consented to
14 the closing of the TRUST bank account or opening of this new account. Upon looking into this
15 matter further and hiring a handwriting expert, ELEANOR discovered that JACQUELINE M.
16 MONTOYA forged or caused to be forged ELEANOR's signature and the signature of MARJORIE
17 T. CONNELL on this signature card for this account.

18 Further, in September of 2012, JACQUELINE M. MONTOYA completed a Consumer
19 Account Application at Wells Fargo Bank to open two (2) new accounts under the name of the ECA
20 LIVING TRUST. Included with this Consumer Account Application is a Certification Of Trustee
21 wherein JACQUELINE M. MONTOYA lists herself as the sole trustee and the person who has the
22 power to revoke said trust. However, the ECA LIVING TRUST is ELEANOR's trust and
23 JACQUELINE M. MONTOYA is not a trustee of this trust.

24 These actions of closing the TRUST account without ELEANOR's consent, secretly
25 establishing new accounts for the TRUST; forging or causing to be forged ELEANOR's and
26 MARJORIE T. CONNELL's signature; and making misrepresentations on bank account
27 applications without question rise to the level of "fraud," "malice" and "oppression." These actions
28 include intentional misrepresentation, deception and concealment of material facts. These actions
were intended to injure ELEANOR. And these actions are undoubtedly despicable.

1 ***Forgery – The Purported Last Will And Testament of MARJORIE T. CONNELL***

2 Based upon the expert opinion of two handwriting experts – Curt Baggett and Laurie
3 Hoeltzell – the signature of MARJORIE T. CONNELL on her purported Last Will And Testament
4 dated January 7, 2008, like the bank signature cards above, was forged. Copies of such
5 Handwriting Reports are attached hereto as **Exhibit “8”** and **Exhibit “9”** and incorporated herein
6 by this reference. Upon information and belief, ELEANOR believes that JACQUELINE M.
7 MONTOYA forged or caused to be forged MARJORIE T. CONNELL’s signature on her purported
8 Last Will And Testament dated January 7, 2008. By forging or causing to be forged MARJORIE T.
9 CONNELL’s purported Last Will And Testament, JACQUELINE M. MONTOYA has subjected
10 herself to punitive damages and her actions are tantamount to “fraud,” “oppression” and “malice.”

11 ***Misrepresentation – Texas Probate***

12 On July 12, 2012, JACQUELINE M. MONTOYA as Applicant filed an Application for
13 Original Probate of Foreign Will and Issuance of Letters of Independent Administration (the “Texas
14 Application”) in the Estate Of MARJORIE T. CONNELL, Deceased, in the County Court of
15 Upton County, Texas, No. 1207-U1836-PRO. A copy of the Application is attached hereto as
16 **Exhibit “10”** and incorporated by this reference. Although required under Texas probate law,
17 JACQUELINE M. MONTOYA failed to give notice of the Texas Application to ELEANOR, the
18 only child of MARJORIE T. CONNELL. JACQUELINE M. MONTOYA’s Nevada legal counsel
19 attempted to classify this Texas proceeding as a necessary ancillary administration because of the
20 Upton County, Texas, Oil rights at the November 12, 2013 hearing before Judge Sturman in the
21 matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18,
22 1972 (Case No. P-09-066425-T). That rationalization is without merit since it is undisputed that at
23 the time of her death, the Upton County, Texas, Oil rights were not titled in the name of
24 MARJORIE T. CONNELL but were titled in the name of the TRUST and the TRUST is governed
25 by Nevada law and its situs is Nevada. Both JACQUELINE M. MONTOYA and ELEANOR are,
26 and have been for many years, residents of Clark County, Nevada. Furthermore, MARJORIE T.
27 CONNELL was a resident of Clark County, Nevada, at the time of her death and had been for many
28 years. Accordingly, no ancillary Texas probate administration of the MARJORIE T. CONNELL
Estate was necessary or proper on account of the Upton County, Texas, Oil rights. However,

1 JACQUELINE M. MONTOYA contends that MARJORIE T. CONNELL exercised a testamentary
2 power of appointment in her purported Last Will And Testament appointing Trust No. 3 of the
3 TRUST, including sixty-five percent (65%) of the Upton County, Texas, Oil rights, to THE MTC
4 LIVING TRUST dated December 6, 1995 as restated January 7, 2008 ("THE MTC LIVING
5 TRUST"), of which JACQUELINE M. MONTOYA is the sole trustee and of which JACQUELINE
6 M. MONTOYA and her sister are the sole beneficiaries. It is therefore evident that that the sole
7 impetus behind the Texas probate proceeding was in fact an effort by JACQUELINE M.
8 MONTOYA to have the purported Last Will And Testament admitted to probate and the time
9 expire for challenging the validity of the terms of the Will, all unbeknownst to ELEANOR. This is
10 further evidenced by the fact that the Texas Application of JACQUELINE M. MONTOYA contains
several falsehoods, including but not limited to the following:

11 "3. **Decedent** [MARJORIE T. CONNELL] **owned oil, gas and mineral interests located**
12 **in Upton County, Texas**, of a probable value in excess of \$100,000.00."

13 "5. To Applicant's [JACQUELINE M. MONTOYA] knowledge, Decedent was married
14 one time only, such marriage being to W. N. Connell, who predeceased her. She was not
15 divorced after the making of her Will. **No child was ever** born to or **adopted by the**
Decedent [MARJORIE T. CONNELL]."

16 Applicant JACQUELINE M. MONTOYA has personal knowledge of, and has known for
17 years, that her mother, ELEANOR, was the adopted child of Decedent MARJORIE T. CONNELL.
18 In fact JACQUELINE M. MONTOYA in Paragraph 1 of the Application states she [JACQUELINE
19 M. MONTOYA] "[is] a granddaughter of the Decedent ..." The only way that JACQUELINE M.
20 MONTOYA could be the granddaughter of Decedent MARJORIE T. CONNELL is if ELEANOR
21 is the child of the Decedent MARJORIE T. CONNELL.

22 JACQUELINE M. MONTOYA also references THE MTC LIVING TRUST - in Paragraphs
23 11, 12 and 13 of the Texas Application. In particular, JACQUELINE M. MONTOYA states in
24 relevant part in Paragraph 13 of the Texas Application as follows:

25 "JACQUELINE M. MONTOYA is the current trustee of THE MTC LIVING TRUST, and
26 Kathryn Anne Bouvier is the successor trustee."

27 Article Two, *Family Information*, of THE MTC LIVING TRUST states as follows:

28 **"I have one child ELEANOR C. HARTMAN AHERN, born on May 13, 1938."**

1 (emphasis added)

2 JACQUELINE M. MONTOYA as trustee of THE MTC LIVING TRUST obviously knows
3 the terms and provisions of THE MTC LIVING TRUST, including the fact that her own mother,
4 ELEANOR, is the child of Decedent MARJORIE T. CONNELL as stated and set forth therein. It is
5 self-evident that this blatantly false allegation that no child was ever adopted by Decedent
6 MARJORIE T. CONNELL contained in her Texas Application was an attempt by JACQUELINE
7 M. MONTOYA to avoid having to give ELEANOR lawful notice of the Texas MARJORIE T.
8 CONNELL Estate proceedings and due opportunity to object to the purported Last Will And
9 Testament of MARJORIE T. CONNELL under which the testamentary power of appointment of
10 Trust No. 3 to THE MTC LIVING TRUST was purportedly exercised, all as part of the plan of
11 JACQUELINE M. MONTOYA to deprive ELEANOR of sixty-five percent (65%) of the income
12 from the Upton County, Texas Oil interests to the benefit of Petitioner JACQUELINE M.
MONTOYA and her sister.

13 Since instituting the Texas probate proceeding (which is still pending), JACQUELINE M.
14 MONTOYA instituted another probate proceeding in Nevada by filing her Petition For Probate Of
15 Will Of Marjorie T. Connell And Declaration Of Validity Of Will Pursuant To NRS 30.040
16 ("Nevada Probate Petition") on March 25, 2014. By filing this Nevada Probate Petition,
17 JACQUELINE M. MONTOYA has arguably admitted that Texas is not the proper jurisdiction and
18 venue and that the Texas probate proceeding is wholly improper.

19 By filing the aforementioned Texas probate proceeding and doing so without giving notice
20 to ELEANOR and by making blatant misrepresentations, JACQUELINE M. MONTOYA
21 perpetrated fraud with the "intent to injure" ELEANOR. As such, punitive damages are
22 appropriate.

23 ***Misrepresentation, Deception, Concealment, Deprivation of Property and Rights – Control of***
24 ***Trust and Royalties***

25 As noted above, almost immediately after MARJORIE T. CONNELL's death,
26 JACQUELINE M. MONTOYA removed numerous TRUST documents and records, including
27 documents relating to the Upton County, Texas, Oil rights, from MARJORIE T. CONNELL's home
28 and refused to allow ELEANOR access to the same. Also, attendant to the control that

1 JACQUELINE M. MONTOYA had gained while ELEANOR lived in Idaho, JACQUELINE M.
2 MONTOYA possessed the key to the post office box located in Las Vegas, Nevada, to which the
3 Upton County, Texas, Oil right income payments were sent. JACQUELINE M. MONTOYA
4 refused to turn over the key or allow ELEANOR access to this post office box. Accordingly,
5 JACQUELINE M. MONTOYA had full control over the payments received from the Upton
6 County, Texas Oil rights. Exerting her control, JACQUELINE M. MONTOYA took it upon herself
7 to continue dividing the Upton County, Texas, Oil right income in the same proportion as it had
8 been divided while MARJORIE T. CONNELL was alive. Now, however, JACQUELINE M.
9 MONTOYA decided that she would pay the sixty-five percent (65%) that was formerly paid to
10 MARJORIE T. CONNELL to herself and her sister, KATHRYN A. BOUVIER.

11 As JACQUELINE M. MONTOYA is not a trustee or beneficiary of the TRUST, her efforts
12 above in taking control of the TRUST documents and post office box and the royalties and their
13 distributions constitute misrepresentation, deception and concealment with the intent to deprive
14 ELEANOR her rights and the oil royalties.

15 ***Oppression – Letters and Emails to Oil Companies***

16 As noted above, Ms. MONTONYA's Texas legal counsel sent letters and emails to various
17 oil companies and the surface tenant requesting the withholding of all rent and royalties based on
18 the Nevada proceeding, notwithstanding there is no dispute as to ELEANOR's right to thirty-five
19 percent (35%) of the rent and royalties. Such actions constitute oppression that subjected
20 ELEANOR to unjust hardship with a conscious disregard to ELEANOR's undisputed right to such
21 thirty-five percent (35%) of the rent and royalties.

22 **F. JACQUELINE M. MONTOYA's Request For Attorney's Fees Based On NRS**
23 **18.010(2)(b) Lacks Justification; However, ELEANOR Should Be Awarded Attorneys'**
24 **Fees For Having To Defend Against JACQUELINE M. MONTOYA's Harassing**
25 **Claims.**

26 JACQUELINE M. MONTOYA claims that she is entitled to a reimbursement of attorneys'
27 fees because "Eleanor's Counterclaims lack any merit and have obviously been brought to harass
28 Jacqueline." However, this assessment could be no further from the truth. In light of the facts
above and for the reasons discussed above, there are can be no doubt that ELEANOR's claims are
meritorious. In fact, given the facts of this case it is more accurate to say that JACQUELINE M.

1 MONTOYA's claims are intended to harass ELEANOR.

2 In summary, JACQUELINE M. MONTOYA has: (1) filed her 2013 DECLARATORY
3 JUDGMENT PETITION in spite of the fact that the TRUST clearly expresses W.N. CONNELL's
4 intent to allow ELEANOR, his only daughter, to benefit from his sole and separate Upton County,
5 Texas, Oil right property during her life; (2) sent demand letters/emails to Apache Corporation and
6 other oil and gas lessees and surface tenants demanding that they suspend all of the Upton County,
7 Texas, Oil right income notwithstanding the fact that only sixty-five percent (65%) of such income
8 is in dispute; (3) instituted an improper and fraudulent probate proceeding in Texas to probate the
9 purported Last Will And Testament of MARJORIE T. CONNELL without giving notice to
10 ELEANOR (MARJORIE T. CONNELL's only child); (4) seized TRUST documents, records and
11 rent and royalty payments following the death of MARJORIE T. CONNELL and refused to turn
12 over the same to ELEANOR as the rightful trustee; (5) made distributions of the rent and royalty
13 payments following the death of MARJORIE T. CONNELL contrary to the terms of the TRUST;
14 (6) made intentional misrepresentations in the Texas probate proceeding and on bank account
15 applications/documents; and (7) forged or caused to be forged signatures of ELEANOR and/or
16 MARJORIE T. CONNELL on various bank signature cards and on the purported Last Will And
17 Testament of MARJORIE T. CONNELL. All of these actions were taken by JACQUELINE M.
18 MONTOYA in her effort to claim sixty-five percent (65%) of the Upton County, Texas, Oil right
19 income, which rightfully belong to ELEANOR during her lifetime under the terms of the TRUST.
20 And as a result of JACQUELINE M. MONTOYA's harassing actions, ELEANOR has incurred
21 legal fees attendant to her defense. Accordingly, this Court should award attorneys' fees to
22 ELEANOR to the extent she prevails under NRS 18.010(2)(b).

22 III. CONCLUSION

23 In conclusion, JACQUELINE M. MONTOYA has failed to satisfy the requirements for the
24 dismissal of a claim under Nevada law with respect to each of ELEANOR's counterclaims, and for
25 this reason ELEANOR respectfully requests that JACQUELINE M. MONTOYA's MOTION be
26 denied. JACQUELINE M. MONTOYA has not shown "beyond a doubt" and "to a certainty" that
27 ELEANOR is unable to prove her counterclaims in light of the facts plead in this case. Thus,
28 JACQUELINE M. MONTOYA's Rule 12(b)(5) MOTION should be denied and ELEANOR should

1 be permitted to pursue her counterclaims.

2 WHEREFORE, ELEANOR C. AHERN, a/k/a ELEANOR CONNELL HARTMAN
3 AHERN, as Trustee of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST
4 dated May 18, 1972, prays as follows:

- 5 1. For this Court to deny JACQUELINE M. MONTOYA's Motion To Dismiss
6 Counterclaims of ELEANOR C. AHERN;
7 2. For this Court to deny JACQUELINE M. MONTOYA's request for reimbursement of
8 attorneys' fees; and
9 3. For any other relief as this Court deems appropriate.

10 DATED: May 7, 2014.

JEFFREY BURR, LTD.

11
12 By: 

JOHN R. MUGAN, ESQUIRE

Nevada Bar No. 10690

MICHAEL D. LUM, ESQUIRE

Nevada Bar No. 12997

2600 Paseo Verde Parkway, Suite 200

Henderson, Nevada 89074

13 Attorneys for ELEANOR CONNELL HARTMAN
14 AHERN, individually and as Trustee
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VERIFICATION

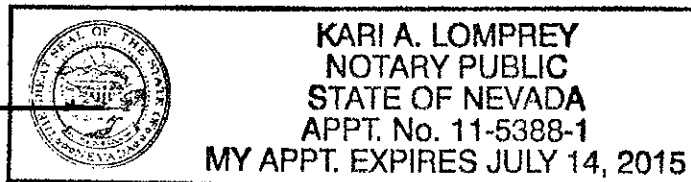
STATE OF NEVADA)
): ss
COUNTY OF CLARK)

ELEANOR CONNELL HARTMAN AHERN, individually and as Trustee of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18, 1972, being first duly sworn, deposes and says: That I am the Defendant herein; that I have read the above and foregoing Opposition of Eleanor C. Ahern To Motion To Dismiss Counterclaims Of Eleanor C. Ahern, that the same is true of my own knowledge, except for matters therein stated on information and belief, and as for those matters, I believe it to be true.

Eleanor Connell Hartman Ahern
ELEANOR CONNELL HARTMAN AHERN

SUBSCRIBED and SWORN to before me
this 7 day of May, 2014.

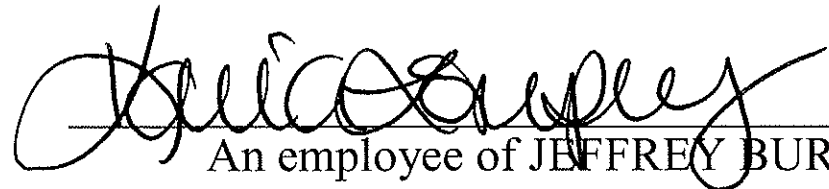
Kari A. Lomprey
NOTARY PUBLIC



CERTIFICATE OF MAILING

I hereby certify that on the 8 day of May, 2014, I did email to JOSEPH J. POWELL, Esquire, as indicated below, and I did email and deposit in the U.S. Post Office at Las Vegas, Nevada, postage prepaid, a copy of the above and foregoing Opposition of Eleanor C. Ahern To Motion To Dismiss Counterclaims Of Eleanor C. Ahern, to each person as indicated below, addressed as follows:

Joseph J. Powell
The Rushforth Firm, Ltd.
P.O. Box 371655
Las Vegas, NV 89137-1655
probate@rushforthfirm.com


An employee of JEFFREY BURR, LTD.

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EXHIBIT “1”
Email Regarding Facts

Michael D. Lum

From: Joseph Powell [joey@rushforth.net]
Sent: Wednesday, February 05, 2014 5:09 PM
To: Michael D. Lum
Cc: John R. Mugan; Vanessa F. Farmer; Kari Lomprey
Subject: RE: J Randall Turner - Stipulation of Facts

TimeMattersID: M637AA2E47EC4186
TM Contact: Eleanor Ahern
TM Contact No: 19690
TM Matter No: 01LTE
TM Matter Reference: Ahern, Eleanor - Beneficiary Representation

Michael,

I am fine with the language for Mr. Turner. Therefore, I think we are okay with vacating his depo.

As to the orders, I have to look at them more in depth and let you know. I will be out of the office and nearly all of Friday so I may not be able to give you a response on the orders until Monday.

As to Sean Guerrero, no, he will not be actively participating in the depo, just listening. Therefore, there are no plans to admit him pro hoc vice.

Thanks.

Joey

From: Michael D. Lum [mailto:michael@jeffreyburr.com]
Sent: Wednesday, February 05, 2014 11:04 AM
To: 'Joseph Powell'
Cc: John R. Mugan; Vanessa F. Farmer; Kari Lomprey
Subject: J Randall Turner - Stipulation of Facts

Joey:

As previously discussed, we have prepared proposed language relating to the facts that J Randall Turner would testify to. This language is as follows.

"John Randall Turner is an attorney licensed to practice law in the State of Texas and has been so licensed since May 15, 1981. Mr. Turner's law office is located in Midland, Texas. Through his many years of practice, Mr. Turner has extensive experience in the field of property rights relating to oil and gas interests in Texas. Mr. Turner has performed a thorough review and search of the property records regarding the oil, gas and mineral interest on and under certain real estate and severed oil, gas and mineral interests in other acreage all located in Upton County, Texas ("Upton, County, Texas Oil Rights") and owned by the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972. Based on Mr. Turner's review and search of these property records, Mr. Turner has determined that neither W.N. Connell, Marjorie T. Connell, nor Eleanor Connell Hartman Ahern ever executed any deed or other document of conveyance transferring any portion of the Upton, County, Texas Oil Rights to "Trust No. 3" of the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972 and there is no such deed or other document of public record."

Please let us know whether you will stipulate to these facts so that we may vacate Mr. Turner's deposition.

Also, attached are the orders that we previously discussed. Following your approval of these orders, please sign and return them to our office.

Finally, as a point of clarification, will Jackie's Texas counsel be actively participating in the deposition of Curt Baggett? If yes, will he be admitted pro hoc vice in Nevada (I presume he is not licensed in Nevada)?

Thank you,

Michael Lum, J.D., MAcc
Jeffrey Burr, Ltd
2600 Paseo Verde Parkway
Henderson, NV 89074
michael@jeffreyburr.com

702.433.4455 phone
702.451.1853 fax
Follow [Jeffrey Burr on Twitter](#)
Read the [Jeffrey Burr Blog](#)
Visit the [Jeffrey Burr Website](#)



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Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that (i) any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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EXHIBIT “2”
Division Orders - Upton County, Texas, Oil Rights

Las Vegas, Nevada
Dec. 6, 1989

Graham Royalty, Ltd.
P.O. Box 3134
Covington, La. 70434-3134
att: Frances Beverly
Land Dept.
Re: Gress & Co.
Upton County, Texas.

Dear Mrs. Beverly.

I am enclosing copies of all the records & etc. I have that I think will be of interest to you in order for you to correct your records. Where you show Eleanor M. Connell as a Royalty owner - it should be Eleanor C. Hartman.

We are Trustee and Co-Trustee of the W. M. Connell & Margaria J. Connell Living Trust dated May 18, 1972. When my husband passed away Nov. 24, 1979 I appointed her as Co-Trustee. Hopefully copies of all the papers I have enclosed will help you to make the necessary corrections. Again I will remind you Royalty Checks & Correspondence should be to Margaria J. Connell, Trustee & Eleanor C. Hartman Co-Trustee. P.O. Box 710 Las Vegas, Nevada 89125. Our Trust Number for Tax I.D. purposes is 88-6037338. If you need additional information let me know if I can help.

P.S. I am returning two checks for name change

Yours truly,

Margaria J. Connell
Trustee

EGA176

DIVISION ORDER

BWW:CJC:3415
DATE: 06/17/92
LEASE: 57200

RETURN ONE COPY TO: PHILLIPS 66 COMPANY
P.O. BOX 5400
BARTLESVILLE, OK 74005-5400

LEASE NAME: NPSU TR 27 N PEMBROOK SPRABERRY
OPERATOR: PARKER & PARSLEY PETROLEUM COMPANY
DESCRIPTION: SE/4 SEC 42-BLK-38 T-5S T&P RR CO SURVEY
UPTON, TX

Each signatory party certifies and warrants that he is the legal owner, in the proportion set out below, of all the oil/gas (which hereunder includes distillate) produced from the above described property.

EFFECTIVE: 01/01/92

Phillips 66 Company, hereinafter referred to as Phillips, subject to the covenants and conditions set out on the reverse side hereof, which are adopted by reference as though fully set out herein, is hereby authorized:

- (a) to purchase and receive oil produced from the above described property, or
- (b) where Phillips owns a working interest in said property or has the right to market all or a portion of the production therefrom, to sell and/or deliver oil produced from the above described property to any purchaser Phillips may designate; and until further notice Phillips shall give credit for said oil, as set out below.

OWNER NUMBER	CREDIT TO	*TI	DECIMAL
178578	MARJORIE T. CONNELL AND ELEANOR MARGUERITE CONNELL HARTMAN TRUSTEES OF THE WILLIAM N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST P. O. BOX 710 LAS VEGAS, NV 89125	R	0.013671700

This division order corrects and supersedes division order issued December 20, 1991. This division order covers the period January 1, 1992 to April 1, 1992.

SIGNATURE OF WITNESS	SIGNATURE OF OWNER(S)	TAXPAYER NUMBER
X <i>Robert A. Schmeider</i>	X <i>Marjorie T. Connell Trustee</i>	** 88-6037338
X <i>Robert A. Schmeider</i>	X <i>Eleanor Marguerite Connell Hartman</i>	** 88-6037338

* Types of Interest: R = Royalty, O = Overriding Royalty Interest, W = Working Interest.

** In accordance with federal law, 20% tax will be withheld if you do not provide your social security or employer identification number or if the number provided does not match the owner name shown above. Any taxes so withheld by Phillips will not be refunded by Phillips.

- OVER -

ECA178

FIRST: Said oil shall become the property of Phillips upon the delivery thereof to it or to any common carrier pipe line, person, firm or corporation designated by Phillips to receive said oil for its account.

SECOND: Oil purchased and received under (a) above, shall be paid for to the signatory parties, according to their respective interest shown above, at the price paid by Phillips for oil of the same grade and gravity in the same field or pool on the date oil is received. Phillips is hereby authorized to receive payment for oil sold and/or delivered under (b) above, and shall pay to the signatory parties, according to their respective interests, the same net price received by Phillips therefor. When necessary for Phillips to transport said oil by truck or other means of transportation from the property above described for delivery to a common carrier pipe line or to any person, firm or corporation designated by Phillips to receive said oil for its account, then Phillips is authorized to arrange for the transportation of said oil. Where oil is purchased and received under (a) above, Phillips is authorized to deduct proportionately from its payment to the signatory parties the transportation charges agreed upon between Phillips and the operator of said lease. Where oil is sold and/or delivered under (b) above, Phillips is authorized to deduct proportionately from its payment to the signatory parties the charges for such transportation.

THIRD: Phillips may refuse any oil which Phillips considers is not in its natural state or is not merchantable. In making settlement for oil: (1) deductions may be made for dirt, sediment and other impurities; (2) where a well produces oil after liquid hydrocarbons have been injected into the same for completion or reworking purposes, deductions may be made for an amount of oil equivalent to the amount of liquid hydrocarbons so injected; (3) adjustments may be made in accordance with accepted practices and rules, regulations and/or customs prevailing at the time and place of delivery. Before making payment to owners hereunder, there shall be deducted therefrom any severance, gross production, occupation or other tax imposed on the production or the purchase or sale of said oil.

FOURTH: Satisfactory evidence of signatory party's title to said oil shall be furnished at any time upon demand. If, in the opinion of Phillips, such party does not have good title to the interest claimed, or in case of adverse claim of title to the land from which said oil may be produced, or to which such oil is allocated under any unit operation, or to any of said oil, Phillips may withhold, without interest, the purchase price or proceeds of said oil, until indemnity satisfactory to Phillips has been furnished, or until such title is made acceptable to Phillips or until such adverse claim is settled to Phillips satisfaction.

FIFTH: Phillips is hereby relieved of any responsibility for determining if and when any of the interest attached set forth shall or should revert to or be owned by other parties as a result of the completion or discharge of money or other payment from said interests, and the signatory parties whose interests are affected by such money or other payments, agree to give Phillips notice in writing addressed as set out on the front of this instrument, when any such money or other payments have been completed or discharged or when any division of interest other than that set forth shall for any reason, become effective and to furnish transfer orders accordingly. Each signatory party agrees to notify Phillips immediately in writing at Bartlesville, Oklahoma, of any change in ownership affecting such owner's interest and to furnish satisfactory proof thereof. Each working interest owner agrees to notify Phillips immediately in writing at Bartlesville, Oklahoma, of any change in ownership affecting any owner's interest, notice of which has been given to such working interest owner, and to furnish to Phillips the proof of such change as given to such working interest owner. In the event notice or notices required in this paragraph are not received by Phillips, the party failing to give such notice agrees to hold Phillips harmless from any damage or loss which may arise by reason of Phillips making payments to owners hereunder whose interests have changed.

SIXTH: Subject to the Fourth condition, settlement shall be made monthly, by mailing or delivering to the owners last known address a check or draft for the amount due on account of oil which has been run hereunder during the preceding calendar month. If at any settlement date, the amount payable to any party hereunder shall be less than Twenty Five Dollars, settlement may be deferred until Twenty Five Dollars or more is payable. Subject to the Fourth condition, upon termination of this agreement, payment shall be made to the respective parties entitled thereto regardless of the amount or amounts due.

SEVENTH: All parties hereto who are connected with the operation of the above described lease guarantee and warrant that all oil hereunder has not been or will not be produced or otherwise handled in violation of the Federal Fair Labor Standards Act of 1938 as heretofore or hereafter amended and all official regulations and orders issued thereunder, and that such oil has been and will be produced in accordance with the applicable laws and official rules and regulations.

EIGHTH: Each of the signatory parties who owns a royalty interest in the lands above described recognizes as valid and subsisting and in full force and effect all oil and gas leases of record held by the herein named working interest owners, which cover or purport to cover his (her) interest in said lands as well as the above mentioned pooled unit (if this division order covers a unit) and the same are hereby adopted, ratified and confirmed.

NINTH: This Division Order shall become valid and binding on each and every owner as attached as soon as signed, regardless of whether or not any of the other named owners shall have so signed, and shall be binding separately and not jointly upon the signatory parties their assigns and successors in interest, and shall insure to the benefit of Phillips, its assigns and successors. Authority of Phillips to purchase or sell oil hereunder is on a day-to-day basis only and, without prejudice to the rights of Phillips under other agreements, if any, this Division Order is terminable at will by either party.

PHILLIPS 66 COMPANY



INSTRUCTIONS TO ALL INTEREST OWNERS READ CAREFULLY BEFORE SIGNING THE INSTRUMENT(S)

We are preparing to account for production from the lease(s) described in the attached Division/Transfer Order(s). Further correspondence will be eliminated and payment expedited if you will follow the instructions outlined below:

The attached instrument(s) should not be altered in any way unless accompanied by documentary evidence to support the change.

If your name and interest are correctly shown:

- SIGNATURE:** Sign name as shown on the instrument. Have your signature witnessed by at least one person not related to the party signing.
- CORPORATIONS:** If signing for a corporation, signature must be attested, corporate seal affixed, and title of signatory party shown. If not previously furnished, a certified copy of executing officer's authority must be submitted.
- PARTNERSHIP:** If signed for a partnership, all partners must sign unless signed by an authorized partner who has furnished a certified copy of his authority.
- SIGNATURE BY SECOND PARTY:** If the instrument is signed by agent, attorney-in-fact, guardian, estate representative, trustee or any party other than the named interest owner, we must have evidence of the rights vested in the signatory party.
- TAXPAYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER:** Insert your number in the space provided. **Failure to furnish number will result in 20% withholding tax in accordance with federal law, and any tax withheld will not be refundable by Phillips.**
- MAILING ADDRESS:** Check your mailing address carefully. If it is not correct then make the necessary changes. If it is not shown insert the correct address below your name. Please print or type the address, do not abbreviate.
- LEASE NUMBER:** In the right, top portion of the instrument you will find the number assigned to this lease. This number will also appear on the statement attached to your check and should **always** be used when corresponding with this company.
- CHANGE OF ADDRESS:** You should notify us promptly of any change in your mailing address. This notice must be over your own signature, or the signature of your appointed agent. Always include your Owner Number (which appears on your check from this company) and your old address, then give your new address with zip code.

Return the executed instrument(s) without delay to the address below. Keep the indicated copy for your records.

PHILLIPS 66 COMPANY

DIVISION ORDERS

ATTN: B. W. WILLIAMS

BOX 5400

BARTLESVILLE, OKLAHOMA 74005

(918) 661-9248

PLEASE SEE REVERSE SIDE

ECA180

FORM 12915-S 5-8

AA 1201

*** IMPORTANT TAX INFORMATION ***

PLEASE READ THIS BEFORE SIGNING YOUR DIVISION/TRANSFER ORDER!

We have been advised by the Internal Revenue Service that:

Section 3406 of the Internal Revenue Code requires that we withhold 20% in tax, called backup withholding, when you do not give us your correct Taxpayer Identification Number (TIN). Further, you may be subject to a \$50 penalty by the IRS under section 6721 of the Internal Revenue Code for failing to provide us with your correct TIN.

For individuals, the TIN is your Social Security Number (SSN). Very often a TIN is incorrect because of a name change due to marriage, divorce, adoption, or some other reason that has not been communicated to the Social Security Administration (SSA) and recorded on its records. Alternatively, the account may not contain the correct SSN of the actual owner. For example, an account in a child's name may contain a parent's SSN. An account should be titled in the name of the actual owner of the account with that person's SSN.

For most non-individuals (such as trusts, estates, partnerships, and similar entities), the TIN is the Employer Identification Number (EIN). The EIN on your account may be incorrect because it does not contain the number of the actual owner of the account. For example, an account of an investment club or bowling league should reflect the organization's own EIN and name rather than the SSN of a member. (The account of a sole proprietor who may have both an EIN and an SSN should reflect the individual name of the sole proprietor and his or her SSN.)

Please make sure the TIN you write on the Division/Transfer Order matches the name shown on the Division/Transfer Order. Should you have any doubts about the number and name matching, send us a copy of your Social Security card, Notice of Employer Identification Number (Form 8501), Application For Employer Identification Number (Form SS-4) or Notice of New Employer Identification Number Assigned (Form 5372).

*** IMPORTANT TAX INFORMATION ***

DIVISION ORDER

Lease No. 48083

DATE AUGUST 14, 1989

o JM PETROLEUM CORPORATION
2500 Allianz Financial Centre
2323 Bryan, Lock Box #185
Dallas, TX 75201

Block 39
Sec 36

PARKER &

Each of the undersigned warrants that he is the owner of the interest credited to him in all oil produced from all wells on the _____
ARSLEY - CONNELL farm or lease, located in UPTON County, State of TEXAS
more particularly described as follows:

all of Section 36, Block 39, T-5-S, T&P RR Co. Survey, Upton County, Texas,
containing 672 acres, more or less, Limited as to all depths down to but not
below the base of the Spraberry formation.

Effective 7 a.m. AUGUST 01, 1989 and until further written notice, subject to the conditions,
covenants and directions hereof, you, your successors and assigns, are authorized to receive and purchase such oil and to give credit to the following:

OWNER NO.	LEASE NO.	INTEREST	CREDIT TO NAME AND ADDRESS
	48083		FOR DIVISION OF INTEREST SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

FIRST: The oil run in pursuance of this division order shall be merchantable and become your property upon delivery thereof to any pipe line designated by you. Correction for temperature and deductions for dirt, sediment and other impurities are to be made in accordance with your rules, regulations and customs in effect at the time and place of delivery. You may require that any unmerchantable oil be steamed or treated before you accept it. Each of the undersigned who is an actual operator of said lease warrants that oil run hereunder will be produced and delivered in accordance with all applicable Federal, State and Local Laws, Orders, Rules and Regulations.

SECOND: The oil received in pursuance of this division order shall be paid for monthly for oil run during the preceding calendar month to the party or parties entitled thereto according to the division of interest shown above, at the price per barrel (42 gallons) agreed upon between you and the operator. (In no event shall any price paid pursuant to this division order be greater than the maximum lawful ceiling price allowed for oil sold hereunder as determined by the laws and regulations of any federal or state agency having jurisdiction). These payments are to be made by your checks delivered or mailed to the parties thereto entitled at the addresses above given. However, it is agreed, if at any settlement date, the amount payable to any party hereunder shall be less than Twenty-Five Dollars, you may withhold payments, without interest, and in lieu of monthly settlement make payment annually. Pipeline grades and measurements, adjusted to conform to the provisions set forth herein and in the price posting above referred to, shall control in all settlements. The undersigned authorize you to withhold from the proceeds of any and all runs made hereunder the amount of any tax placed thereon, or on the production thereof, by any government authority, and to pay the same in our behalf. If at any time a federal or state agency having jurisdiction over the price of oil sold hereunder shall determine that the price which has been paid pursuant to this contract exceeds the maximum lawful ceiling price determined by said agency, the Owner agrees to refund to JM Petroleum Corporation the total amount of such overcharge within thirty (30) days from date of notice of the overcharge given by either said federal or state agency or JM Petroleum Corporation.

THIRD: In case of any adverse claim of title or in case title shall not be satisfactory to you at any time during the term of this division order, each of the undersigned agrees to furnish evidence of title satisfactory to you and authorize you to retain the purchase price of the oil, without obligation to pay interest on the amount so withheld or until title shall be made satisfactory to you. Each undersigned party, as to the oil purchased hereunder from said party, respectively agrees in the event suit is filed in any court affecting title to said oil, either before or after severance, to indemnify and save you and any carrier transporting said oil for your account harmless against any and all liability for loss, cost, damage and expense which you or the carrier may suffer or incur on account of receiving, transporting and paying said party for said oil. Where you, pursuant to the provisions hereof, withhold payment of the purchase price, or any part thereof, on any oil run hereunder, each undersigned party from whom payment is so withheld severally agrees to indemnify and hold you harmless from all liability for any tax, together with all interest and penalties incident thereto, imposed or assessed against, or paid by you on account of, the sum or sums so withheld from payment to said party, and severally agrees, that you may deduct all such taxes, interest and penalties so paid by you from any sums owing by you to said party.

FOURTH: The undersigned severally agree to notify you of any change of ownership and no transfer of interest shall be binding upon you until transfer order and the recorded instrument evidencing such transfer, or a certified copy thereof, shall be furnished to you. Transfers of interest shall be made effective on the first day of the calendar month in which notice is received by you. You are hereby relieved of any responsibility for determining if and when any of the interests hereinabove set forth shall or should revert to or be owned by other parties as a result of the completion or discharge of money or other payments from said interests and the signers hereof whose interests are affected by such money or other payments, if any, agree to give you notice in writing by registered letter addressed to JM Petroleum Corporation, at the above address, when any such money or other payments have been completed or discharged or when any other division of interest than that set forth shall, for any reason, become effective and to furnish transfer orders accordingly, and that in the event such notice shall not be received, you shall be held harmless in the event of, and are hereby released from any and all damages or loss which might arise out of any overpayment.

FIFTH: This division order shall become valid and binding on each and every owner above named as soon as signed by such owner, regardless of whether or not all of the above-named owners have so signed.

IMPORTANT: Owner, please insert your Tax Account Number in the space shown below, Corporate signatures must be attested and corporate seal affixed.
NO PAYMENT WILL BE MADE UNTIL JM PETROLEUM HAS YOUR IRS TAX ACCOUNT NUMBER.

WITNESSES:

SIGNATURE OF OWNER:

OWNER'S SOCIAL SECURITY OR
IRS TAX ACCOUNT NUMBER

x Sally Gonzalez
Signature

Margaret J. [Signature]
P.O. Box 710
Las Vegas, NV 89125

88-6037338

[Signature]
Signature

[Signature]
P.O. Box 710
Las Vegas, NV 89125

88-6037338

Is your signature witnessed? →

Is your correct address shown? →

ECA186

Include Zip Code

AA 1203

EASE NUMBER : 48083
EASE NAME : CONNELL
LOCATION : UPTON

TX

OWNER NO.	INTEREST		CREDIT TO	
* 11433	0.00043940	R	ROY D GOLSTON JR ET AL #441 TAB/FT WORTH, TRUSTEE P O BOX 99033 FORT WORTH	TX 76199-0033
* 11439	0.00076900	R	JOHN W HERBERT EST #586-TAB FT WORTH, JOHN W HERBERT & JOANNE S BILBY, TRSTES DRAWER #99033 FORT WORTH	TX 76199-033
11441	0.00021970	R	ANA GARDNER OSBORN 755 SUNNY LANE BRYAN	TX 77801
11548	0.00468750	R	EMIL MOSBACHER, JR. MERIDIAN BLDG 170 MASON STREET GREENWICH	CT 06830
* 11814	0.00131830	R	TENNECO OIL CO: MID-CONTINENT DIV P O BOX 730089 DALLAS	TX 75373-0089
11999	0.00043940	R	J. H. HERD P O BOX 130 MIDLAND	TX 79702
12003	0.00010985	R	JOHN J REDFERN, JR ESTATE P O BOX 46 MIDLAND	TX 79702
12004	0.00010985	R	ROSALIND REDFERN P O BOX 2127 MIDLAND	TX 79702
12175	0.00820310	R	NORTH CENTRAL OIL CORPORATION 6001 SAVOY #600 HOUSTON	TX 77036-3381
* 15566	0.06093750	R	EXXON CORPORATION P.O. BOX 1547 HOUSTON	TX 77251-1547
24815	0.00195310	R	W E KREPS TRUST #1124 REPUBLICBK 1ST NATL MIDLAND, TRUSTEE P O BOX 270 MIDLAND	TX 79702
30900	0.00021970	R	GENE C. REDFERN JOHN J. REDFERN, JR, ATTORNEY-IN-FACT P O BOX 50430 MIDLAND	TX 79710
36332	0.00936250	W	JOE MAC PARSLEY P O BOX 1771 MIDLAND	TX 79702
36335	0.26025790	W	HOWARD W PARKER P O BOX 201420 AUSTIN	TX 78720
37381	0.00153680	R	JOHN PERKINS III, TRUSTEE P O BOX 2177 MIDLAND	TX 79702
44892	0.00129961	W	A FRANK KUBICA 2605 HODGES MIDLAND	TX 79705
* 44901	0.00129961	W	SCOTT D SHEFFIELD P O BOX 8585	TX

ECA187

EASE NUMBER : 48083
EASE NAME : CONNELL
LOCATION : UPTON

TX

OWNER NO.	INTEREST		CREDIT TO		
44902	0.00129961	W	ROBERT J CASTOR 2302 AUBURN PL MIDLAND	TX	79705
45590	0.00195310	R	EARL R BRUND JR P O BOX 590 MIDLAND	TX	79702
51265	0.00129961	W	HERBERT C WILLIAMSON III 3109 STANOLIND CT MIDLAND	TX	79705
51811	0.25739345	W	PARSLEY OIL PROPERTIES INC P O BOX 1771 MIDLAND	TX	79702
64291	0.00043940	R	LORETTA McDERMOTT MARSH %HARRELL & MCCART 901 W INDIANA #A MIDLAND	TX	79701
65375	0.00097653	R	MARYLANE MYERS ANDERSON 7618 SOUTHWESTERN BLVD DALLAS	TX	75225-7926
65377	0.00097654	R	MICHAEL GLENN ANDERSON P O BOX 4291 RIVERSIDE	CA	92514-4291
65405	0.00129961	W	JAMES D. MORING 2510 CULPEPER MIDLAND	TX	79705-6318
66061	0.00146483	R	PHILLIP HILLHOUSE TRUST #504-03 NCNB TX NATL BK, TRUSTEE P O BOX 270 MIDLAND	TX	79702-0270
66062	0.00146484	R	GEORGE S HILLHOUSE TRUST #504-04 NCNB TX NATL BK, TRUSTEE P O BOX 270 MIDLAND	TX	79702-0270
66063	0.00146483	R	JAMES HILLHOUSE TRUST #504-02 NCNB TX NATL BK, TRUSTEE P O BOX 270 MIDLAND	TX	79702-0270
66072	0.00069750	R	GERTRUDE O. F. TYSON 2104 WOODLAWN MIDLAND	TX	79705-7549
66103	0.00195310	R	MIRIAM L. BROUDY CLOVERLAY CIRCLE "E" NORWALK	CT	06855-5358
66135	0.01367186	R	CARDLYN C. CHANEY 624 AMARILLO ABILENE	TX	79605-1014
66137	0.04452340	W	DAISY CHORIN 1000 PARK AVE NEW YORK	NY	10028-0934
66628	0.02050780	R	MARJORIE T CONNELL & E C HARTMAN, CO-TR P O BOX 710 LAS VEGAS	NV	89101-0710 89125-0710
68458	0.05198410	W	A. R. CONNELLY 1 CHASE MANHATTAN PL NEW YORK	NY	10005-1401

ECA188

AA 1205

LEASE NUMBER : 48083
LEASE NAME : CONNELL
LOCATION : UPTON

TX

OWNER NO.	INTEREST		CREDIT TO		
68508	0.00097660	R	RUTH V. FERGUSON DREWERY 3508 EUCLID DALLAS	TX	75205-3214
68523	0.00097650	R	VALPEY FAMILY TRUST NORMAN C & GLADYS M VALPEY CO-TRTEES 1724 PLAZA DE SAN JOAQUIN MODESTO	CA	95350-3549
68525	0.01367187	R	CONSTANCE C. FAUBER 1721. BROOKS ARLINGTON	TX	76012
68526	0.00097660	R	HUGH W. FERGUSON, JR. ESTATE RUTH F. DREWERY TRUSTEE 3508 EUCLID DALLAS	TX	75205
68544	0.00021970	R	GMFG OIL ACCT #3153 TAB FT WORTH P O BOX 2605 FT WORTH	TX	76113
68555	0.00098870	R	JOSEPHINE H. GRAF C/O FT WORTH NATL BK DRAWER NO 99033 FORT WORTH	TX	76199-0033
68556	0.03964730 0.08182680	R W	FLAVIA R. HACKETT 19 EAST 72ND STREET NEW YORK	NY	10021
68575	0.00390620	R	SOLOMON J. KARAM CONSOLIDATED PRODUCE 1220 BANDERA ROAD SAN ANTONIO	TX	78200-4030
68587	0.01367187	R	CORINNE C. LAW P O BOX 299 ALTO	NM	88312-0299
68608	0.00073240	R	MISSIONARY SOCIETY OF OBLATE FATHERS TX 7711 MADONNA DR SAN ANTONIO	TX	78216-6620
68639	0.04332010	W	EDWARD S PINNEY MARITAL TRUST PO BOX 36010 LOUISVILLE	KY	40233
68642	0.00048820	R	STEPHEN F. PRESLAR 4847 VISTA DEL MONTE EL PASO	TX	79900
68650	0.00048820	R	HENRY RUSSELL ESTATE MARION RUSSELL EXEC 412 S ALBERTA PECOS	TX	79772-2715
68660	0.00263670	R	M. E. SINGLETON JR C/O CITIZENS NATL BK WAXAHACHIE	TX	75165
68669	0.00069750	R	J C THOMPSON & J C THOMPSON JR ROY ACCT 4500 NCNB CENTER TOWER II DALLAS	TX	75201-3993
68691	0.00097655	R	WM. WOLF FAMILY TR 0151602 BANK OF SOUTHWEST TR P O BOX 2629 HOUSTON	TX	77252-2629 AA 1206

ECA189

EASE NUMBER : 48083
EASE NAME : CONNELL
LOCATION : UPTON

TX

INNER NO.	INTEREST		CREDIT TO		
68716	0.00660780 R 0.00722000 W		MONTAGUE H. HACKETT JR 550 PARK AVENUE NEW YORK	NY	10021
69013	0.00034180 R		ANN MORRISSEY 205 YODAKUM PKWY #826 ALEXANDRIA	VA	22304
69014	0.00014650 R		GREGORY E MORRISSEY 2201 BYTON COURT FORREST HILL	MD	21050
69015	0.00034180 R		PATRICIA MORRISSEY 205 YODAKUM PARKWAY #826 ALEXANDRIA	VA	22304
69016	0.00014650 R		RACHEL MORRISSEY MOYER P O BOX 249 SHAWNEE ON DELA	PA	18356-0249
69075	0.02050780 R		E C HOPKINS TRUST FRANCES M MILLER, TRUSTEE 3621 CROMWELL PLANO	TX	75075
69250	0.00097655 R		ANNA R. WOLF TRUST 0151601 BANK OF SOUTHWEST-TRUSTEE P O BOX 2629 HOUSTON	TX	77252
71133	0.00097653 R 1.00000000		MELINDA ANDERSON CATES ADDRESS UNKNOWN		

Date: JUNE 01, 1989
KJY

DIVISION ORDER

TO: Sun Refining and Marketing Company
PO Box 2039
Tulsa OK 74102-2039Crude Oil Account 500672-00000

Condensate Account _____

Effective 7 a.m., MAY 01, 1989

The undersigned, severally and not jointly, warrants, guarantees and certifies that it is the owner of the interest shown opposite its name on the attached exhibit in the oil (defined herein to include condensate), produced from:

Property Name: DECK -A-

Operator: KEYSTONE ENERGY OIL & GAS

Field: SPRABERRY TREND

County: UPTON

State: TX

Description: SECTION 47, BLOCK 39, T-5-S, T&P RR CO. SURVEY. LIMITED TO DEPTHS
BETWEEN 7,130 FEET BENEATH SURFACE OF GROUND DOWN TO 8,419 FEET
BENEATH SURFACE OF GROUND.

NE 1/4 S44?

Call Keystone Re

DIVISION OF INTEREST

See attached exhibit made a part of this Division Order for all purposes.
Exhibit must be returned. Please do not detach.

THIS DIVISION ORDER DOES NOT AMEND ANY OF THE LEASE PROVISIONS BETWEEN THE INTEREST OWNERS AND THE LESSEE.

This Division Order is subject to all the terms and conditions appearing on the reverse side.

FOR YOUR FILES

Marilyn Simpson
 Witnesses:
Sally Gonzalez
 312 West
 Las Vegas, NV 89101
Marilyn Simpson
Shirley Ma

All Signatures Must Be Witnessed.

Signature of Interest Owner:

Social Security/Tax I.D. No.

*Maryjane J. Connell, Trustee*88-6037338

P.O. Box 710

Las Vegas, NV 89125

*Eileen C. Hartman*88-6037338

P.O. Box 710

Las Vegas, NV 89125

ECA191

Failure to furnish your Social Security/Tax I.D. number will result in a 20% withholding tax in accordance with federal law, and any tax withheld will not be refundable by Sun.

AA 1208

Property No. 500672-00000

EFFECTIVE MAY 01, 1989

Page No.

3

Owner Number and Owner's Social Security or Tax Account Number	Credit to	Division of Interest
650873 3 25-1489445	KEYSTONE 1984-P LIMITED PARTNERSHIP FIVE GATEWAY CTR STE 619 PITTSBURGH PA 15222	.71802730 WI
650876 6 25-1330817	KEYSTONE ENERGY OIL & GAS INC FIVE GATEWAY CTR STE 619 PITTSBURGH PA 15222	.03787550 WI
652396 3 230-37-1610	ATLANTIC RICHFIELD COMPANY PO BOX 201690 HOUSTON TX 77216-1690	.02343750 RI
655237 6 86-0460233	TRAFALGAR HOUSE OIL & GAS INC PO BOX 200284 HOUSTON TX 77216-0284	.02109370 RI
657033 7 464-04-7110	CONNIE S GLASSCOCK PO BOX 50215 MIDLAND TX 79710	.02140300 ORI
657035 2 462-08-0114	KRIS LOY PO BOX 8345 MIDLAND TX 79708	.02140300 ORI
657036 0 463-52-3444	CAROLYN COWDEN CHANEY 624 AMARILLO ST ABILENE TX 79602	.00390630 RI
657038 6 459-48-8643	CONSTANCE COWDEN FAUBER 1721 BROOKS DR ARLINGTON TX 76012	.00390620 RI
657039 4 457-34-7128	MARY LANE MYERS ANDERSON 7618 SOUTHWESTERN BLVD DALLAS TX 75225	.00039060 RI
657040 2 459-48-8642	CORINNE COWDEN LAU PO BOX 299 ALTO NM 88312	.00390630 RI
657042 8 85-6095246	FRANCES MOZELLE MILLER TRUSTEE OF THE ELEANOR C HOPKINS REVOCABLE TRUST 3621 CROMWELL PLANO TX 75075	.00585940 RI
657044 4 75-6353421	MARVIN E SINGLETON JR ESTATE PO BOX 717 WAXAHACHIE TX 75165	.00234380 RI
657047 7 75-6251565	PHILLIP MAVERICK TRUST A/C #504-03 REP BANK 1ST NATL MIDLAND TRUSTEE PO BOX 270 MIDLAND TX 79702	.00312500 RI
657048 5 465-80-0122	SARAH M WOODWARD 9004 GLEN SPRINGS DR DALLAS TX 75243	.00117190 RI
657052 7 41-7121212	W N & MARJORIE T CONNELL LIVING TRUST M T CONNELL AND E C HARTMAN CO-TRUSTEES PO BOX 710 LAS VEGAS NV 89125	.00585940 RI

ECA192

AA 1209

DIVISION ORDER

RETURN ONE COPY TO: PHILLIPS 66 COMPANY
P.O. BOX 5400
BARTLESVILLE, OK 74005-5400

BWW:bb P
DATE: 12-20-91
LEASE: 57200

LEASE NAME: NORTH PEMBROOK SPRABERRY UNIT TRACT 27
OPERATOR: PPCo.
DESCRIPTION: SE/4, Sec. 42, Blk. 38, T-5S, T&P RR Co. Survey
Upton County, Texas

Each signatory party certifies and warrants that he is the legal owner, in the proportion set out below, of all the oil (which hereunder includes distillate) produced from the above described property.

EFFECTIVE: 1-1-92

Phillips 66 Company, hereinafter referred to as Phillips, subject to the covenants and conditions set out below which are adopted by reference as though fully set out herein, is hereby authorized:

- (a) to purchase and receive oil produced from the above described property, or
- (b) where Phillips owns a working interest in said property or has the right to market all or a portion of the production therefrom, to sell and/or deliver oil produced from the above described property to any purchaser Phillips may designate; and until further notice Phillips shall give credit for said oil, as per directions below:

OWNER NUMBER	CREDIT TO	*TYPE OF INTEREST	DECIMAL
178503	MARJORIE T. CONNELL AND ELEANOR C. HARTMAN AS CO-TRUSTEES P.O. BOX 710 LAS VEGAS, NV 89101	R	.0137507

FIRST: Said oil shall become the property of Phillips upon the delivery thereof to it or to any common carrier pipe line, person, firm or corporation designated by Phillips to receive said oil for its account.

SECOND: Oil purchased and received under (a) above, shall be paid for to the signatory parties, according to their respective interests shown above, at the price paid by Phillips for oil of the same grade and gravity in the same field or pool on the date oil is received. Phillips is hereby authorized to receive payment for oil sold and/or delivered under (b) above, and shall pay to the signatory parties, according to their respective interests, the same net price received by Phillips therefor. When necessary for Phillips to transport said oil by truck or other means of transportation from the property above described for delivery to a common carrier pipe line or to any person, firm or corporation designated by Phillips to receive said oil for its account, then Phillips is authorized to arrange for the transportation of said oil. Where oil is purchased and received under (a) above, Phillips is authorized to deduct proportionately from its payment to the signatory parties the transportation charges agreed upon between Phillips and the operator of said lease. Where oil is sold and/or delivered under (b) above, Phillips is authorized to deduct proportionately from its payment to the signatory parties the charges for such transportation.

THIRD: Phillips may refuse any oil which Phillips considers is not in its natural state or is not merchantable. In making settlement for oil: (1) deductions may be made for dirt, sediment and other impurities; (2) where a well produces oil after liquid hydrocarbons have been injected into the same for completion or reworking purposes, deductions may be made for an amount of oil equivalent to the amount of liquid hydrocarbons so injected; (3) adjustments may be made in accordance with accepted practices and rules, regulations and/or customs prevailing at the time and place of delivery. Before making payment to owners hereunder, there shall be deducted therefrom any severance, gross production, occupation or other tax imposed on the production or the purchase or sale of said oil.

FOURTH: Satisfactory evidence of signatory party's title to said oil shall be furnished at any time upon demand. If, in the opinion of Phillips, such party does not have good title to the interest claimed, or in case of adverse claim of title to the land from which said oil may be produced, or to which such oil is allocated under any unit operation, or to any of said oil, Phillips may withhold, without interest, the purchase price or proceeds of said oil, until indemnity satisfactory to Phillips has been furnished, or until such title is made acceptable to Phillips or until such adverse claim is settled to its satisfaction.

FIFTH: Phillips is hereby relieved of any responsibility for determining if and when any of the interests attached set forth shall or should revert to or be owned by other parties as a result of the completion or discharge of money or other payment from said interests, and the signatory parties whose interests are affected by such money or other payments, agree to give Phillips notice in writing addressed to Phillips at Bartlesville, Oklahoma, when any such money or other payments have been completed or discharged or when any division of interest other than that attached, for any reason, become effective and to furnish transfer orders accordingly. Each signatory party agrees to notify Phillips immediately in writing at Bartlesville, Oklahoma, of any change in ownership affecting such owner's interest and to furnish satisfactory proof thereof. Each working interest owner agrees to notify Phillips immediately in writing at Bartlesville, Oklahoma, of any change in ownership affecting any owner's interest, notice of which has been given to such working interest owner, and to furnish to Phillips the proof of such change as given to such working interest owner. In the event notice or notices required in this paragraph are not received by Phillips, the party failing to give such notice agrees to hold Phillips harmless from any damage or loss which may arise by reason of Phillips making payments to owners hereunder whose interests have changed.

SIXTH: Subject to the Fourth condition, settlement shall be made monthly, by mailing or delivering to the owner a check or draft for the amount due on account of oil which has been run hereunder during the preceding calendar month. If at any settlement date the amount payable to any party hereunder shall be less than Twenty Five Dollars, settlement may be deferred until Twenty Five Dollars or more is payable. Subject to the Fourth condition, upon termination of this agreement, payment shall be made to the respective parties entitled thereto regardless of the amount or amounts due.

SEVENTH: All parties hereto who are connected with the operation of the above described lease guarantee and warrant that all oil hereunder has not been or will not be produced or otherwise handled in violation of the Federal Fair Labor Standards Act of 1938 as heretofore or hereafter amended and all official regulations and orders issued thereunder, and that such oil has been and will be produced in accordance with the applicable laws and official rules and regulations.

EIGHTH: Each of the signatory parties who owns a royalty interest in the lands above described recognizes as valid and subsisting and in full force and effect all oil and gas leases of record held by the herein named working interest owners, which cover or purport to cover his (her) interest in said lands as well as the above mentioned pooled unit (if this division order covers a unit) and the same are hereby adopted, ratified and confirmed.

NINTH: This Division Order shall become valid and binding on each and every owner above named as soon as signed, regardless of whether or not any of the other named owners shall have so signed, and shall be binding separately and not jointly upon the signatory parties their assigns and successors in interest, and shall insure to the benefit of Phillips, its assigns and successors. Authority of Phillips to purchase or sell oil hereunder is on a day-to-day basis only and, without prejudice to the rights of Phillips under other agreements, if any, this division order is terminable at will by either party.

Dated - 1-13-92

SIGNATURE OF WITNESS

Shirley Newton
Missian Turner

SIGNATURE OF OWNER(S)

Marjorie T. Connell Trustee 88-6037338
Eleanor C. Hartman Co-Trustee 88-6037338

TAXPAYER NUMBER

- * Types of Interest: R-Royalty, O-Overriding Royalty, W-Working, P-Production Payment
- ** In accordance with federal law, 20% tax will be withheld if you do not provide your social security or taxpayers identification number, and any tax withheld by Phillips will not be refunded by Phillips.

ECA193

AA 1210

PHILLIPS 66 COMPANY



*Signed &
Returned
1-13-92*

INSTRUCTIONS TO ALL INTEREST OWNERS
READ CAREFULLY BEFORE SIGNING THE INSTRUMENT(S)

We are preparing to account for production from the lease(s) described in the attached Division/Transfer Order(s). Further correspondence will be eliminated and payment expedited if you will follow the instructions outlined below:

The attached instrument(s) should not be altered in any way unless accompanied by documentary evidence to support the change.

If your name and interest are correctly shown:

SIGNATURE: Sign name as shown on the instrument. Have your signature witnessed by at least one person not related to the party signing.

CORPORATIONS: If signing for a corporation, signature must be attested, corporate seal affixed, and title of signatory party shown. If not previously furnished, a certified copy of executing officer's authority must be submitted.

PARTNERSHIP: If signed for a partnership, all partners must sign unless signed by an authorized partner who has furnished a certified copy of his authority.

SIGNATURE BY SECOND PARTY: If the instrument is signed by agent, attorney-in-fact, guardian, estate representative, trustee or any party other than the named interest owner, we must have evidence of the rights vested in the signatory party.

TAXPAYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER: Insert your number in the space provided. Failure to furnish number will result in 20% withholding tax in accordance with federal law, and any tax withheld will not be refundable by Phillips.

MAILING ADDRESS: Check your mailing address carefully. If it is not correct then make the necessary changes. If it is not shown insert the correct address below your name. Please print or type the address, do not abbreviate.

LEASE NUMBER: In the right, top portion of the instrument you will find the number assigned to this lease. This number will also appear on the statement attached to your check and should always be used when corresponding with this company.

CHANGE OF ADDRESS: You should notify us promptly of any change in your mailing address. This notice must be over your own signature, or the signature of your appointed agent. Always include your Owner Number (which appears on your check from this company) and your old address, then give your new address with zip code.

Return the executed instrument(s) without delay to the address below. Keep the indicated copy for your records.

PHILLIPS 66 COMPANY

DIVISION ORDERS

ATTN: F. W. BROWN

BOX 5400

BARTLESVILLE, OKLAHOMA 74005

(918) 661- 5854

FORM 12915-S 5-87

ECA194

AA 1211

Phibro Energy, Inc.
Gathering Division
2500 Allianz Financial Centre
2323 Bryan
Lock Box #185
Dallas, Texas 75201

214 953 0330
214 953 1199/Fax



February 20, 1992

Re: 48083 - Connell
Upton County, Texas

Dear Interest Owner:

Effective March 1, 1992, Phibro Energy, Inc., formerly JM Petroleum Corporation, will begin purchasing oil from the captioned lease again. Exxon has been purchasing this oil for the past year or so.

We have prepared the enclosed Division Order based on the information we had when Exxon replaced JM Petroleum Corporation as oil purchaser. If your address or interest has changed, please advise us as soon as possible.

Although we have reinstated the division order you formerly signed, we would appreciate your verifying your interest by signing the enclosed division order and returning it to us.

Thank you for your attention to this matter.

Yours truly,

PHIBRO ENERGY, INC.

Marilyn O'Brien

MO:mcd

Enclosure

ECA195

AA 1212

DIVISION ORDER

Lease No. 48083000
DATE FEBRUARY 19, 1992

To PHIBRO ENERGY, INC.
2500 Allianz Financial Centre
2323 Bryan, LB 185
Dallas, Texas 75201

Each of the undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil produced from the PARKER & PARSLEY - CONNELL farm or lease, located in UPTON County/Parish, State of TEXAS

more particularly described as follows:
All of Seciton 36, Block 39, T-5-S, T&P RR Co. Survey, Upton County, Texas, containing .672 acres, more or less, Limited as to all depths down to but not below the base of the Spraberry formation.

Effective 7 a.m. MARCH 01, 1992 and until further written notice, subject to the conditions, covenants and directions hereof, Phibro Energy, Inc. (Payor), its successors and assigns, are authorized to receive and purchase such oil and to give credit to the following:

OWNER NO.	LEASE NO.	INTEREST	CREDIT TO NAME AND ADDRESS
	48083000		FOR DIVISION OF INTEREST SEE REVERSE SIDE HEREOF.

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL.

The following provisions apply to each interest owner (Owner) who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deduction for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$25.00 may be accrued before disbursement until the total amount equals \$25.00 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: Owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects owner's interest to which payor is made a party.

DISPUTE: WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed. In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of the agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination is received by either party.

NOTICES: Owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time. No change of interest is binding on payor until a copy of the recorded instrument of change or documents satisfactorily evidencing such change are furnished to payor. Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor. Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

IMPORTANT: NO PAYMENT WILL BE MADE UNTIL PHIBRO ENERGY, INC. HAS YOUR SOCIAL SECURITY / TAX I.D. NUMBER.

WITNESSES:

MARJORIE T CONNELL & EC HARTMAN=CO-TST

[Handwritten signatures]

BY: *[Handwritten signature]* X 88-6037338
[Handwritten signature] X 88-6037338
**FOR YOUR RECORD
NOT TO BE RETURNED**

66628 R

ECA196

LEASE NUMBER : 48083000
LEASE NAME : CONNELL
LOCATION : UPTON

OWNER NO.	INTEREST	CREDIT TO	
** 11433	0.00043940 R	ROY D GOLSTON JR ET AL #441 TEAM BANK-TRUSTEE P O BOX 99084. FORT WORTH TX	76199
11435	0.00021970 R	GMGF OIL ACCOUNT #3153 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH TX	76199
** 11439	0.00076900 R	JOHN W HERBERT EST #596-TEAM BK. JOHN W HERBERT & JOANNE S RILBY-TRUSTEES DRAWER 99084 FORT WORTH TX	76199
11441	0.00021970 R	ANA GARDNER OSBORN P O BOX 4266 BRYAN TX	77801
** 11451	0.00273440 R	ROBERT MOSBACHER P O BOX 201678 HOUSTON TX	77216-1678
11548	0.00117190 R	EMIL MOSBACHER, JR. 170 MASON ST GREENWICH CT	06830
11999	0.00043940 R	J. H. HERD P O BOX 130 MIDLAND TX	79702
** 12003	0.00010985 R	JOHN J REDFERN JR ESTATE JOHN J REDFERN III-EXECUTOR P O BOX 50896 MIDLAND TX	79710
12004	0.00010985 R	ROSALIND REDFERN P O BOX 2127 MIDLAND TX	79702
12175	0.00820310 P	NORTH CENTRAL OIL CORP P O BOX 200201 HOUSTON TX	77216-0201
12980	0.00138238 W	PARKER & PARSLEY DEVELOPMENT CO P O BOX 3178 MIDLAND TX	79702-3178
** 15245	0.00131830 R	HOUSTON OIL & MINERALS CORP P O BOX 200771 HOUSTON TX	77216
** 15366	0.06093750 R	EXXON CORPORATION P O BOX 1347 HOUSTON TX	77252-1547
24815	0.00195310 R	W E KREPS TRUST #1124 MCNB TX NATL BANK-TRUSTEE P O BOX 841349 DALLAS TX	75284-1549
30900	0.00021970 R	GENE C REDFERN JOHN J REDFERN JR-ATTY-IN-FACT P O BOX 50430 MIDLAND TX	79710
36335	0.26687325 W	HOWARD W PARKER P O BOX 201420 AUSTIN TX	78720
37081	0.00153680 R	JOHN PERKINS III-TRUSTEE 7711 LOUIS PASTEUR #208 SAN ANTONIO TX	78229
44892	0.00138237 W	A FRANK KUBICA 2605 HODGES MIDLAND TX	79705-7411
** 44901	0.00138237 W	SCOTT D SHEFFIELD P O BOX 8585 MIDLAND TX	79708

ECA197

AA 1214

EXHIBIT - A
02/19/92

PAGE 2

LEASE NUMBER : 48083000
LEASE NAME : CONNELL
LOCATION : UPTON

OWNER NO.	INTEREST	TX	CREDIT TO	
44902	0.00138237 W		ROBERT J CASTOR P O BOX 50007 MIDLAND	TX 79710
45590	0.00195310 R		EARL R BRUND JR 5211 WHITMAN MIDLAND	TX 79705
51811	0.27378511 W		PARSLEY OIL PROPERTIES INC P O BOX 1771 MIDLAND	TX 79702
64291	0.00043940 R		LORETTA McDERMOTT MARSH %HARRELL & MCCART 901 W INDIANA #A MIDLAND	TX 79701
65078	0.00013020 R		EMIL MOSBACHER, III 1580 CANADA LN WOODSIDE	CA 94062
65375	0.00097653 R		MARYLANE MYERS ANDERSON 7618 SOUTHWESTERN BLVD DALLAS	TX 75225-7926
65377	0.00097654 R		MICHAEL GLENN ANDERSON P O BOX 4584 DALLAS	TX 75208-0584
65405	0.00138237 W		JAMES D. MORING 2510 CULPEPER MIDLAND	TX 79705-6318
66061	0.00146483 R		PHILLIP HILLHOUSE TRUST #504-03 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX 75284-1549
66062	0.00146484 R		GEORGE S HILLHOUSE TRUST #504-04 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX 75284-1549
66063	0.00146483 R		JAMES HILLHOUSE TRUST #504-02 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX 75284-1549
66072	0.00069750 R		GERTRUDE O. F. TYSON 2104 WOODLAWN MIDLAND	TX 79705
66103	0.00195310 R		MIRIAM L. BROUDY 9 CLOVERLY CIRCLE EAST NORWALK	CT 06855-5358
66135	0.01367186 R		CAROLYN C. CHANEY 624 AMARILLO ABILENE	TX 79605-1014
66628	0.02050780 R		MARJORIE T CONNELL & EC HARTMAN=CO-TRSTE P O BOX 710 LAS VEGAS	NV 89125-0710
68458	0.05529462 W		A R CONNELLY 825 EIGHTH AVE NEW YORK	NY 10019-7415
68508	0.00097660 R		RUTH V. FERGOUSON BREWERY 3508 EUCLID AVE DALLAS	TX 75205-3214
68523	0.00097650 R		VALPEY FAMILY TRUST GLADYS M VALPEY-TRUSTEE 1724 PLAZA DE SAN JOAQUIN MODESTO	CA 95350-3549
68525	0.01367187 R		CONSTANCE C. FAUBER 1721 BROOKS ARLINGTON	TX 76012

ECA198

AA 1215

LEASE NUMBER : 48083000
LEASE NAME : CONNELL
LOCATION : UPTON

TX

OWNER NO.	INTEREST	CREDIT TO
68524	0.00097660 R	HUGH W FERGUSON JR ESTATE RUTH F DREWERY-TRUSTEE 3508 EUCLID AVE DALLAS TX 75205
68555	0.00098870 R	JOSEPHINE H. GRAF C/O TEAM BANK TRUSTEE DRAWER NO 99084 FORT WORTH TX 76199-0084
68556	0.08703780 W	FLAVIA R. HACKETT 19 EAST 72ND STREET NEW YORK NY 10021
68575	0.00390620 R	SOLOMON J. KARAM CONSOLIDATED PRODUCE 1220 BANDERA ROAD SAN ANTONIO TX 78200-4030
68587	0.01367187 R	CORINNE C. LAW 6104 PARKTREE PL NE ALBUQUERQUE NM 87111
68608	0.00073240 R	MISSIONARY SOCIETY OF OBLATE FATHERS TX 7711 MADONNA DR SAN ANTONIO TX 78216-6620
68639	0.04607887 W	EDWARD S PINNEY MARITAL TRUST PO BOX 36010 LOUISVILLE KY 40233
68642	0.00048820 R	STEPHEN F. PRESLAR 4847 VISTA DEL MONTE EL PASO TX 79900
68650	0.00048820 R	MARION WHEELER RUSSELL-TRUSTEE 412 S ALBERTA ST PECOS TX 79772-2715
68660	0.00263670 R	M E SINGLETON JR ESTATE GEORGE SINGLETON & JEANETTE CLOYD-EXEC % CITIZENS NATL BK WAXAHACHIE TX 75165
** 68669	0.00069750 R	J CLEO THOMPSON & JAMES CLEO THOMPSON JR ROYALTY ACCOUNT 4500 NCRB CENTER TOWER II DALLAS TX 75201-3993
68691	0.00097655 R	WM WOLF FAMILY TRUST #4815151629 AMERITRUST TEXAS NA-TRUSTEE P O BOX 951416 DALLAS TX 75395-1416
68716	0.00767979 W	MONTAGUE H. HACKETT JR 550 PARK AVE NEW YORK NY 10021
69013	0.00034180 R	ANN MORRISSEY 205 YOAKUM PKWY #286 ALEXANDRIA VA 22304
69014	0.00014650 R	GREGORY E MORRISSEY 2201 BYTON CT FOREST HILL MD 21050
69015	0.00034180 R	PATRICIA MORRISSEY 205 YOAKUM PARKWAY 826 ALEXANDRIA VA 22304
69016	0.00014650 R	RACHEL MORRISSEY MOYER P O BOX 249 SHAWNEE ON DELA PA 18356-0249
69075	0.02050780 R	E C HOPKINS TRUST FRANCES M MILLER-TRUSTEE 3621 CROMWELL PLANO TX 75075
** 69250	0.00097655 R	ANNA R WOLF TRUST #4815151610 AMERITRUST TEXAS NA-TRUSTEE P O BOX 951416 DALLAS TX 75395-1416

ECA199

LEASE NUMBER : 48083000
LEASE NAME : CONNELL
LOCATION : UPTON

OWNER NO.	INTEREST	CREDIT TO	TX	
71133	0.00097653 R	MELINDA ANDERSON CATES 4532 LORRAINE DALLAS	TX	75205
** 75782	0.00936250 W	PARKER & PARSLEY PETR CO A/C JOE MAC PARSLEY P O BOX 880245 DALLAS	TX	75388-0245
** 77712	0.00660780 W	P&P PETROLEUM A/C MONTAGUE H HACKETT JR P O BOX 880245 DALLAS	TX	75388-0245
** 77713	0.03964730 W	P&P PETROLEUM A/C FLAVIA HACKETT P O BOX 880245 DALLAS	TX	75388-0245
** 79298	0.00936250 W	HOWARD W PARKER %PARKER & PARSLEY P O BOX 3178 MIDLAND	TX	79702-3178
79369	0.00013020 R	JOHN DAVID MOSBACHER 1580 CANADA LANE WOODSIDE	CA	94062
79370	0.00013020 R	R BRUCE MOSBACHER 1580 CANADA LANE WOODSIDE	CA	94062
** 79374	0.00019530 R	BENNETT E SMULLYAN P O BOX 201678 HOUSTON	TX	77216
** 79375	0.00019530 R	CLINTON I SMULLYAN, JR P O BOX 201678 HOUSTON	TX	77216
	1.00000000			

Phibro Energy, Inc.
Gathering Division
2500 Allianz Financial Centre
2323 Bryan
Lock Box #185
Dallas, Texas 75201
214 953 0330
214 953 1199/Fax



April 21, 1992

Re: 50421 - North Pembroke Spraberry
Unit Tract 27
Upton County, Texas

Dear Interest Owner:

Phibro Energy, Inc. has been designated as the purchaser of oil sold from the North Pembroke Spraberry Unit effective April 1, 1992. There are numerous tracts in this unit and we will be paying on a tract basis. In other words a separate lease number will be assigned to each tract which means a separate division order will be issued on each tract. Enclosed is our division order covering Tract 27.

If your interest is shown correctly, please execute before two witnesses (Corporations must attest), enter your tax identification number or social security number in the space provided and return one copy to us.

Thank you for your attention to this matter.

Very truly yours,

PHIBRO ENERGY, INC.

Sue Clark
Division Order Analyst

SC:llg

Enclosures

ECA201

AA 1218

DIVISION ORDER

Lease No. 50421000

To PHIBRO ENERGY USA, INC.
2500 Allianz Financial Centre
2323 Bryan, LB 185
Dallas, Texas 75201

DATE APRIL 21, 1992

Each of the undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil produced from the PARKER & PARSLEY - N PEMBROOK SPR farm or lease, located in UPTON County/Parish, State of TEXAS more particularly described as follows:

NORTH PEMBROOK SPRABERRY UNIT -- TRACT 27
Tract Name: Hopkins

SE/4 Section 42, Block 38, T-5-S, T&P RRC Survey, Upton County, Texas

Effective 7 a.m. APRIL 01, 1992 and until further written notice, subject to the conditions, covenants and directions hereof, Phibro Energy USA, Inc. (Payor), its successors and assigns, are authorized to receive and purchase such oil and to give credit to the following:

OWNER NO.	LEASE NO.	INTEREST	CREDIT TO NAME AND ADDRESS
50421000		FOR DIVISION OF INTEREST SEE REVERSE SIDE HEREOF.	

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL.

The following provisions apply to each interest owner (Owner) who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deduction for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$25.00 may be accrued before disbursement until the total amount equals \$25.00 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: Owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects owner's interest to which payor is made a party.

DISPUTE: WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed. In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of the agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination is received by either party.

NOTICES: Owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time. No change of interest is binding on payor until a copy of the recorded instrument of change or documents satisfactorily evidencing such change are furnished to payor. Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor. Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

IMPORTANT: NO PAYMENT WILL BE MADE UNTIL PHIBRO ENERGY USA, INC. HAS YOUR SOCIAL SECURITY / TAX I.D. NUMBER.

WITNESSES:

SIGNATURE OF OWNER:

OWNER'S SOCIAL SECURITY OR IRS TAX ACCOUNT NUMBER

Mike Dyorich

Major K. B. ...

88-6037338

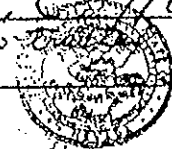
SUBSCRIBED AND SWORN TO BEFORE ME THIS

NOT TO BE RETURNED

88-6037338

24 DAY OF April 1992
NOTARY PUBLIC, CLARK COUNTY, NEVADA

Sue Lanoue



NOTARY PUBLIC
STATE OF NEVADA
County of Clark
SUE LANOUE
My Appointment Expires April 24, 1995

ECA202

AA1219

LEASE NUMBER : 50421000
LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
LOCATION : UPTON TX

OWNER NO.	INTEREST	CREDIT TO	
11435	0.00016340 R	GM&F OIL ACCOUNT #3153 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH	TX 76199
** 11439	0.00057330 R	JOHN W HERBERT EST #586-TEAM BK, JOHN W HERBERT & JOANNE S BILBY-TRUSTEES DRAWER 99084 FORT WORTH	TX 76199
11441	0.00016340 R	ANA GARDNER OSBORN P O BOX 4266 BRYAN	TX 77801
11548	0.00471400 R	EMIL MOSBACHER, JR. 170 MASON ST GREENWICH	CT 06830
11999	0.00047470 R	J. H. HERD P O BOX 130 MIDLAND	TX 79702
** 12003	0.00011840 R	JOHN J REDFERN JR ESTATE JOHN J REDFERN III-EXECUTOR P O BOX 50896 MIDLAND	TX 79710
12004	0.00011850 R	ROSALIND REDFERN P O BOX 2127 MIDLAND	TX 79702
12175	0.00733400 R	NORTH CENTRAL OIL CORP P O BOX 200201 HOUSTON	TX 77216-0201
13980	0.30172900 W	PARKER & PARSLEY DEVELOPMENT CO P O BOX 3178 MIDLAND	TX 79702-3178
** 15566	0.07150340 R	EXXON CORPORATION P O BOX 1547 HOUSTON	TX 77252-1547
24815	0.00098160 R	W E KREPS TRUST #1124 NCNB TX NATL BANK-TRUSTEE P O BOX 841549 DALLAS	TX 75284-1549
30900	0.00023680 R	GENE C REDFERN JOHN J REDFERN JR=ATTY-IN-FACT P O BOX 50430 MIDLAND	TX 79710
33214	0.00073620 R	JOSEPHINE H CHOMAT FAMILY TR #6537 TEAM BANK & JOANNE H BILBY, CO-TRUSTEES P O DRAWER 99084 FT WORTH	TX 76199-008
34810	0.00049080 R	DON STEPHEN BURKET 1301 WOODLAND HILLS TYLER	TX 75701
34812	0.00049080 R	JOHN M BURKET JR 1705 TIMBERCREEK TYLER	TX 75703
34830	0.00032680 R	SALLY M GOLDSTON TRUST TEAM BANK, SUCC TTEE P O BOX 2605 FORT WORTH	TX 76113

ECA203

LEASE NUMBER : 50421000
LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
LOCATION : UPTON TX

OWNER NO.	INTEREST	CREDIT TO.		
34834	0.02645220 R	ROBERT G. HALL 3116 LAMP POST LN OKLAHOMA CITY	OK	73120
34839	0.37716130 W	THELMA WHITSON HENSON 1204 SHIRLEY LN MIDLAND.	TX	79701
34840	0.02542890 O	THE LLAHNZ CORP P O BOX 35992 HOUSTON	TX	77235-5992
34841	0.00007160 O 0.00032720 R	HENRY RUSSELL ESTATE MARION RUSSELL, INDP EXECUTRIX 412 S ALBERTA PECOS	TX	79772
34844	0.02594050 O	RALPH D. SHEPLEY STAR RT A BOX 77C DRIPPING SPRINGS	TX	78620
34845	0.00162030 R	TEXSLYVANIA MINERALS CORP ADDR UNKNOWN		
37381	0.00196420 R	JOHN PERKINS III-TRUSTEE 7711 LOUIS PASTEUR #208 SAN ANTONIO	TX	78229
45590	0.00196430 R	EARL R BRUNO JR 5211 WHITMAN MIDLAND.	TX	79705
61441	0.07543230 W	CASS RESOURCES INC 300 CRESCENT CRT #1800 DALLAS	TX	75201
64291	0.00047470 R	LORETTA McDERMOTT MARSH %HARRELL & LUPARDUS 901 W INDIANA #A MIDLAND	TX	79701
66061	0.00098230 R	PHILLIP HILLHOUSE TRUST #504-03 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66062	0.00098220 R	GEORGE S HILLHOUSE TRUST #504-04 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66063	0.00098230 R	JAMES HILLHOUSE TRUST #504-02 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66069	0.00324150 R	M E SINGLETON JR ESTATE G H SINGLETON & J S CLOYD, INDP CO-EXC P O BOX 717 WAXAHACHIE	TX	76165-0717
66103	0.00196430 R	MIRIAM L. BROUDY 9 CLOVERLY CIRCLE EAST NORWALK	CT	06855-5358
66135	0.00916720 R	CAROLYN C. CHANEY 624 AMARILLO ABILENE	TX	79605-1014
66628	0.01375070 R	MARJORIE T CONNELL & EC HARTMAN TRUSTE P O BOX 710 LAS VEGAS	NV	89125-0710 AA 1221

EOA204

LEASE NUMBER : 50421000
LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
LOCATION : UPTON TX

OWNER NO.	INTEREST	CREDIT TO	
68508	0.00294640 O	RUTH V. FERGUSON DREWERY 3508 EUCLID AVE DALLAS TX	75205-3214
68523	0.00098210 R	VALPEY FAMILY TRUST GLADYS M VALPEY-TRUSTEE 1724 PLAZA DE SAN JOAQUIN MODESTO CA	95350-3546
68525	0.00916710 R	CONSTANCE C. FAUBER 1721 BROOKS ARLINGTON TX	76012
68526	0.00294640 O	HUGH W FERGUSON JR ESTATE RUTH F DREWERY-TRUSTEE 3508 EUCLID AVE DALLAS TX	75205
68587	0.00916720 R	CORINNE C. LAW 6104 PARKTREE PL NE ALBUQUERQUE NM	87111
68642	0.00007160 O 0.00032730 R	STEPHEN F. PRESLAR 4847 VISTA DEL MONTE EL PASO TX	79922
** 68691	0.00014320 O 0.00065480 R	WILLIAM WOLF FAMILY TRUST #4815151629 P O BOX 951416 DALLAS TX	75395-141
69013	0.00034380 R	ANN MORRISSEY 205 YQAKUM PKWY #286 ALEXANDRIA VA	22304
69014	0.00014730 R	GREGORY E MORRISSEY 6913 S OWENS ST LITTLETON CO	80127
69015	0.00034370 R	PATRICIA MORRISSEY 205 YQAKUM PARKWAY 826 ALEXANDRIA VA	22304
69016	0.00014730 R	RACHEL MORRISSEY MOYER P O BOX 249 SHAWNEE ON DELA PA	18356-024
69075	0.01375070 R	ROBERT R OR FRANCES M MILLER REV TRUST P O BOX 867417 PLANO TX	75086-741
** 69250	0.00014320 O 0.00065480 R 1.00000000	ANNA ROSS WOLF TRUST #4815151610 P O BOX 951416 DALLAS TX	75395-141



Phibro Energy USA, Inc.
2500 Allianz Financial Centre
2323 Bryan Street LB 185
Dallas, TX 75201
(214) 953-0330
(214) 953-1132/fax

Gathering Division

Mailed 5-29-92

May 19, 1992

Re: 50339 - Connell A
Upton County, Texas

Dear Interest Owner:

Effective February 1, 1992, Phibro Energy, Inc. was designated purchaser of oil sold from the captioned lease.

We are enclosing two copies of a division order covering your interest in the subject lease. If your interest is shown correctly, please sign in the space provided, have your signature witnessed, enter your Social Security number or Federal Tax Identification number and return the signed copy to us to be placed in line for payment.

Thank you for your assistance in this matter.

Very truly yours,

PHIBRO ENERGY, INC.

Marion Wheeler

Marion Wheeler
Division Order Analyst

MW:llg

Enclosures

ECA206

AA 1223

DIVISION ORDER

Lease No. 50339000

DATE MAY 18, 1992

PHIBRO ENERGY USA, INC.
2500 Allianz Financial Centre
2323 Bryan, LB 185
Dallas, Texas 75201

Each of the undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil produced from the PARKER & PARSLEY - CONNELL A farm or lease, located in UPTON County/Parish, State of TEXAS more particularly described as follows:

CONNELL A: E/2 NE/4 SECTION 36, BLOCK 39, T-5S, T&P RR CO SURVEY, BUT ONLY FROM THE SURFACE TO THE BASE OF THE SPRABERRY FORMATION, UPTON COUNTY, TEXAS.

Effective 7 a.m. FEBRUARY 01, 1992 and until further written notice, subject to the conditions, covenants and directions hereof, Phibro Energy USA, Inc. (Payor), its successors and assigns, are authorized to receive and purchase such oil and to give credit to the following:

OWNER NO.	LEASE NO.	INTEREST	CREDIT TO NAME AND ADDRESS
50339000			FOR DIVISION OF INTEREST SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL.

The following provisions apply to each interest owner (Owner) who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deduction for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$25.00 may be accrued before disbursement until the total amount equals \$25.00 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

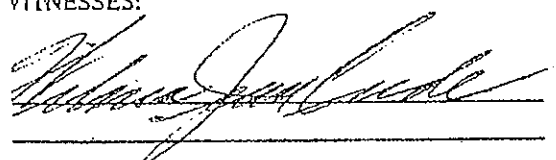
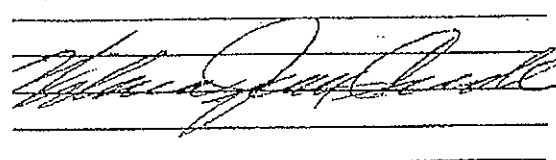
INDEMNITY: Owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects owner's interest to which payor is made a party.

DISPUTE: WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed. In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of the agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination received by either party.

NOTICES: Owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time. No change of interest is binding on payor until a copy of the recorded instrument of change or documents satisfactorily evidencing such change is furnished to payor. Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor. Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

IMPORTANT: NO PAYMENT WILL BE MADE UNTIL PHIBRO ENERGY USA, INC. HAS YOUR SOCIAL SECURITY / TAX I.D. NUMBER.

WITNESSES:	SIGNATURE OF OWNER:	OWNER'S SOCIAL SECURITY OR IRS TAX ACCOUNT NUMBER
	<u>Marjorie T. Connell, Trustee</u>	<u>88-6037338</u>
	FOR YOUR RECORDS	
	NOT TO BE RETURNED	
	<u>E. C. Hartman Co. - Trustee</u>	<u>ECA207</u>

LEASE NUMBER : 50339000
LEASE NAME : CONNELL A
LOCATION : UPTON

TX

OWNER NO.	INTEREST	CREDIT TO	
** 11433	0.00043940 R	ROY D GOLSTON JR ET AL #441 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH	TX 76199
11435	0.00021970 R	GMOF OIL ACCOUNT #3153 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH	TX 76199
** 11439	0.00076900 R	JOHN W HERBERT EST #586-TEAM BK, JOHN W HERBERT & JOANNE S BILBY-TSTEEES DRAWER 99084 FORT WORTH	TX 76199
11441	0.00021970 R	ANA GARDNER OSBORN P O BOX 4266 BRYAN	TX 77801
** 11451	0.00273440 R	ROBERT MOSBACHER P O BOX 201678 HOUSTON	TX 77216-16
11548	0.00117190 R	EMIL MOSBACHER, JR. 170 MASON ST GREENWICH	CT 06830
11999	0.00043940 R	J. H. HERD P O BOX 130 MIDLAND	TX 79702
** 12003	0.00010980 R	JOHN J REDFERN JR ESTATE JOHN J REDFERN III-EXECUTOR P O BOX 50896 MIDLAND	TX 79710
12004	0.00010980 R	ROSALIND REDFERN P O BOX 2127 MIDLAND	TX 79702
12175	0.00820310 R	NORTH CENTRAL OIL CORP P O BOX 200201 HOUSTON	TX 77216-02
13980	0.15486600 W	PARKER & PARSLEY DEVELOPMENT CO P O BOX 3178 MIDLAND	TX 79702-3
** 15245	0.00032960 R	HOUSTON OIL & MINERALS CORP P O BOX 200771 HOUSTON	TX 77216
** 15566	0.06093750 R	EXXON CORPORATION P O BOX 1547 HOUSTON	TX 77252-1
17668	0.00098870 R	SEAGULL MIDCON INC TEXAS COMMERCE BANK P O BOX 200293 HOUSTON	TX 77216-0
22129	0.00390620 R	AZIZI KARAM 1220 BANDERA SAN ANTONIO	TX 78228
24815	0.00195310 R	W E KREPS TRUST #1124 NCNB TX NATL BANK-TRUSTEE P O BOX 841549 DALLAS	EGA208 75284-1

LEASE NUMBER : 50339000
LEASE NAME : CONNELL A
LOCATION : UPTON

TX

OWNER NO.	INTEREST		CREDIT TO		
26287	0.32966420	W	PARKER & PARSLEY 91-A LP & GP P O BOX 3178 MIDLAND	TX	79702-3178
26288	0.01757350	W	P&P EMPLOYEES 91-A P O BOX 3178 MIDLAND	TX	79702-3178
30900	0.00021970	R	GENE C REDFERN P O BOX 50430 MIDLAND	TX	79710
33214	0.00098870	R	JOSEPHINE H CHOMAT FAMILY TR #6537 TEAM BANK & JOANNE H BILBY, CO-TRUSTEES P O DRAWER 99084 FT WORTH	TX	76199-0084
36332	0.30133930	W	JOE MAC PARSLEY P O BOX 1771 MIDLAND	TX	79702
37381	0.00153680	R	JOHN PERKINS III-TRUSTEE 7711 LOUIS PASTEUR #208 SAN ANTONIO	TX	78229
44692	0.00129960	W	A FRANK KUBICA 2605 HODGES MIDLAND	TX	79705-7411
** 44901	0.00129960	W	SCOTT D SHEFFIELD P O BOX 8585 MIDLAND	TX	79708
44902	0.00129960	W	ROBERT J CASTOR P O BOX 50007 MIDLAND	TX	79710
45590	0.00195310	R	EARL R BRUND JR 5211 WHITMAN MIDLAND	TX	79705
64291	0.00043940	R	LORETTA McDERMOTT MARSH KHARRELL & LUPARDUS 901 W INDIANA #A MIDLAND	TX	79701
65078	0.00013020	R	EMIL MOSBACHER, III 1580 CANADA LN WOODSIDE	CA	94062
65375	0.00097650	R	MARYLANE MYERS ANDERSON 7618 SOUTHWESTERN BLVD DALLAS	TX	75225-792
65377	0.00097650	R	MICHAEL GLENN ANDERSON P O BOX 4584 DALLAS	TX	75208-058
65405	0.00129960	W	JAMES D. MORING 2510 CULPEPER MIDLAND	TX	79705-631
66061	0.00439450	R	PHILLIP HILLHOUSE TRUST #504-03 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75264-154
66072	0.00069760	R	GERTRUDE O. F. TYSON 2104 WOODLAWN MIDLAND	TX	79705

T ECA209

CASE NUMBER : 50339000
CASE NAME : CONNELL A
LOCATION : UPTON

TX

VER NO.	INTEREST		CREDIT TO		
66103	0.00195310	R	MIRIAM L. BROUDY 9 CLOVERLY CIRCLE EAST NORWALK	CT	06855-5358
66135	0.01367190	R	CAROLYN C. CHANEY 624 AMARILLO ABILENE	TX	79605-1014
66628	0.02050780	R	MARJORIE T CONNELL & EC HARTMAN=CO-TSTE P O BOX 710 LAS VEGAS	NV	89125-0710
68523	0.00097650	R	VALPEY FAMILY TRUST GLADYS M VALPEY-TRUSTEE 1724 PLAZA DE SAN JOAQUIN MODESTO	CA	95350-3549
68525	0.01367190	R	CONSTANCE C. FAUBER 1721 BROOKS ARLINGTON	TX	76012
68526	0.00195320	D	HUGH W FERGUSON JR ESTATE RUTH F DREWERY-TRUSTEE 3508 EUCLID AVE DALLAS	TX	75205
68587	0.01367190	R	CORINNE C. LAW 6104 PARKTREE PL NE ALBUQUERQUE	NM	87111
68608	0.00073240	R	MISSIONARY SOCIETY OF OBLATE FATHERS TX 7711 MADONNA DR SAN ANTONIO	TX	78216-6620
68641	0.00048820	R	WILLIAM C. PORTER 3205 HAYNES MIDLAND	TX	79705-4214
68650	0.00048820	R	MARION WHEELER RUSSELL-TRUSTEE 412 S ALBERTA ST PECOS	TX	79772-2715
68660	0.00263670	R	M E SINGLETON JR ESTATE GEORGE SINGLETON & JEANETTE CLOYD-EXEC P O BOX 717 WAXAHACHIE	TX	75165
** 68669	0.00069760	R	J CLEO THOMPSON & JAMES CLEO THOMPSON JR ROYALTY ACCOUNT 325 N ST PAUL #4500 DALLAS	TX	75201-3993
** 68691	0.00097650	R	WILLIAM WOLF FAMILY TRUST #4815151629 P O BOX 951416 DALLAS	TX	75395-1416
69013	0.00034180	R	ANN MORRISSEY 205 YOAKUM PKWY #286 ALEXANDRIA	VA	22304
69014	0.00014650	R	GREGORY E MORRISSEY 6913 S OWENS ST LITTLETON	CO	80127
69015	0.00034180	R	PATRICIA MORRISSEY 205 YOAKUM PARKWAY 826 ALEXANDRIA	VA	22304
69016	0.00014650	R	RACHEL MORRISSEY MOYER P O BOX 249	CA	AA 1227-024

ECA210

ASE NUMBER : 50339000
ASE NAME : CONNELL A
CATION : UPTON

TX

NER NO.	INTEREST		CREDIT TO		
69075	0.02050780	R	ROBERT R OR FRANCES M MILLER REV TRUST P O BOX 867417 PLANO	TX	75086-7417
69250	0.00097650	R	ANNA ROSS WOLF TRUST #4815151610 P O BOX 951416 DALLAS	TX	75395-1416
71133	0.00097650	R	MELINDA ANDERSON CATES 4532 LORRAINE DALLAS	TX	75205
79369	0.00013020	R	JOHN DAVID MOSBACHER 44 GRAHAMPTON LANE GREENWICH	CT	06830
79370	0.00013020	R	R BRUCE MOSBACHER 1580 CANADA LANE WOODSIDE	CA	94062
79374	0.00019530	R	BENNETT E SMULLYAN P O BOX 201678 HOUSTON	TX	77216
79375	0.00019530	R	CLINTON I SMULLYAN, JR P O BOX 201678 HOUSTON	TX	77216
	1.00000000				



Phibro Energy USA, Inc.
2500 Allianz Financial Centre
2323 Bryan Street LB 185
Dallas, TX 75201
(214) 953-0330
(214) 953-1132/fax

Gathering Division

July 8, 1992

RE: 50421 - North Pembroke Spraberry
Tract 27
Upton County, Texas

Dear Owners:

Phibro Energy was designated as the purchaser of oil sold from the referenced lease effective April 1, 1992. Accordingly, division orders were issued April 21, 1992 based on information furnished us by the previous oil purchaser. We then found out the information furnished us was incorrect.

Enclosed is a revised division order for your execution. Please execute before two witnesses (Corporations must attest), enter your tax identification number and return one copy to us.

Thank you for your attention to this matter.

Very truly yours,

PHIBRO ENERGY USA, INC.

A handwritten signature in cursive script that reads "Sue Clark".

Sue Clark
Division Order Analyst
(214) 855-1961

SC:ic

Enclosures

ECA212

AA 1229

DIVISION ORDER

Lease No. 50421000

DATE JULY 08, 1992

To PHIBRO ENERGY USA, INC.
2500 Allianz Financial Centre
2323 Bryan, LB 185
Dallas, Texas 75201

Each of the undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil produced from the PARKER & PARSLEY - N PEMBROOK SPR farm or lease, located in UPTON County/Parish, State of TEXAS more particularly described as follows:

NORTH PEMBROOK SPRABERRY UNIT - TRACT 27
Tract Name: Hopkins

SE/4 Section 42, Block 38, T-5-S, T&P RRC Survey, Upton County, Texas

Effective 7 a.m. APRIL 01, 1992 and until further written notice, subject to the conditions, covenants and directions hereof, Phibro Energy USA, Inc. (Payor), its successors and assigns, are authorized to receive and purchase such oil and to give credit to the following:

OWNER NO.	LEASE NO.	INTEREST	CREDIT TO NAME AND ADDRESS
50421000			FOR DIVISION OF INTEREST SEE REVERSE SIDE HEREOF.

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL.

The following provisions apply to each interest owner (Owner) who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deduction for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$25.00 may be accrued before disbursement until the total amount equals \$25.00 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: Owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects owner's interest to which payor is made a party.

DISPUTE: WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed. In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of the agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination is received by either party.

NOTICES: Owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time. No change of interest is binding on payor until a copy of the recorded instrument of change or documents satisfactorily evidencing such change are furnished to payor. Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor. Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

IMPORTANT: NO PAYMENT WILL BE MADE UNTIL PHIBRO ENERGY USA, INC. HAS YOUR SOCIAL SECURITY / TAX I.D. NUMBER.

WITNESSES: July 16, 1992

SIGNATURE OF OWNER: MARJORIE T. CONNELL & EC HARTMAN=CO-TSTE OWNER'S SOCIAL SECURITY OR IRS TAX ACCOUNT NUMBER

[Signature]
[Signature]

BY: Marjorie T. Connell, Trustee 88-6037338

FOR YOUR RECORDS

NOT TO BE RETURNED

[Signature] 88-6037338

66628 R

ECA213

AA 1230

LEASE NUMBER : 50421000
LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
LOCATION : UPTON

NOT TO BE RECORDED

OWNER NO.	INTEREST	CREDIT TO	NAME	TX	76199
** 11433	0.00032550 R		ROY D GOLSTON JR ET AL #441 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH	TX	76199
11435	0.00016270 R		GMGF OIL ACCOUNT #3153 TEAM BANK-TRUSTEE P O BOX 99084 FORT WORTH	TX	76199
** 11439	0.00056960 R		JOHN W HERBERT EST #586-TEAM BK, JOHN W HERBERT & JOANNE S BILBY-TRUSTEES DRAWER 99084 FORT WORTH	TX	76199
11441	0.00016270 R		ANA GARDNER OSBORN P O BOX 4246 BRYAN	TX	77801
** 11451	0.00273450 R		ROBERT MOSBACHER P O BOX 201678 HOUSTON	TX	77216-167
11548	0.00117190 R		EMIL MOSBACHER, JR. 170 MASON ST GREENWICH	CT	06830
11999	0.00047200 R		J. H. HERD P O BOX 130 MIDLAND	TX	79702
** 12003	0.00011780 R		JOHN J REDFERN JR ESTATE JOHN J REDFERN III-EXECUTOR P O BOX 50896 MIDLAND	TX	79710
12004	0.00011780 R		ROSALIND REDFERN P O BOX 2127 MIDLAND	TX	79702
12175	0.00729150 R		NORTH CENTRAL OIL CORP P O BOX 200201 HOUSTON	TX	77216-020
** 15245	0.00161110 R		HOUSTON OIL & MINERALS CORP P O BOX 200771 HOUSTON	TX	77216
** 15270	0.00572470 O		AMERADA HESS CORPORATION P O BOX 910834 DALLAS	TX	75391-083
** 15566	0.07109360 O		EXXON CORPORATION P O BOX 1547 HOUSTON	TX	77252-154
24815	0.00097640 R		W E KREPS TRUST #1124 NCNB TX NATL BANK-TRUSTEE P O BOX 841549 DALLAS	TX	75284-154
30900	0.00023610 R		GENE C REDFERN P O BOX 50430 MIDLAND	TX	79710
30989	0.30000000 W		PARKER & PARSLEY DEVELOPMENT CO P O BOX 3178 MIDLAND	TX	79702-317
33214	0.00073230 R		JOSEPHINE H CHOMAT FAMILY TEAM BANK & JOANNE H BILBY, CO-TRUSTEES P O DRAWER 99084		AA 1231

ECA214

LEASE NUMBER : 50421000
 LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
 LOCATION : UPTON TX

OWNER NO.	INTEREST	CREDIT TO		
34810	0.00048830 R	DON STEPHEN BURKET 1301 WOODLAND HILLS TYLER	TX	75701
34812	0.00048830 R	JOHN M BURKET JR 1705 TIMBERCREEK TYLER	TX	75703
34834	0.05158420 O	ROBERT G HALL 3116 LAMP POST LN OKLAHOMA CITY	OK	73120
34839	0.37500170 W	THELMA WHITSON HENSON 1204 SHIRLEY LN MIDLAND	TX	79701
34844	0.02579190 R	RALPH D SHEPLEY STAR RT A BOX 77C DRIPPING SPRINGS	TX	78620
37381	0.00195300 R	JOHN PERKINS III-TRUSTEE 7711 LOUIS PASTEUR #208 SAN ANTONIO	TX	78229
37953	0.00042720 O 0.00195310 R	WILMA HENTON LAForge ADDRESS UNKNOWN		
45590	0.00195300 R	EARL R BRUND JR 5211 WHITMAN MIDLAND	TX	79705
61441	0.07500170 W	CASS RESOURCES INC 300 CRESCENT CRT #1800 DALLAS	TX	75201
64291	0.00047200 R	LORETTA McDERMOTT MARSH %HARRELL & LUPARDUS 901 W INDIANA #A MIDLAND	TX	79701
65078	0.00013020 R	EMIL MOSBACHER, III 1580 CANADA LN WOODSIDE	CA	94062
66061	0.00097640 R	PHILLIP HILLHOUSE TRUST #504-03 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66062	0.00097640 R	GEORGE S HILLHOUSE TRUST #504-04 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66063	0.00097640 R	JAMES HILLHOUSE TRUST #504-02 NATIONSBANK TX-TRUSTEE P O BOX 841549 DALLAS	TX	75284-1549
66069	0.00322250 R	M E SINGLETON JR ESTATE G H SINGLETON & J S CLOYD, INDP CO-EXC P O BOX 717 WAXAHACHIE	TX	76165-0717
66103	0.00195300 R	MIRIAM L. BROUDY 9 CLOVERLY CIRCLE EAST NORWALK	CT	06855-5356
66135	0.00911450 R	CAROLYN C. CHANEY 624 AMARILLO ABILENE	TX	79605-101

ECA215

LEASE NUMBER : 50421000
 LEASE NAME : N PEMBROOK SPRABERRY UNIT TR 27
 LOCATION : UPTON TX

OWNER NO.	INTEREST	CREDIT TO		
66628	0.01367170 R	MARJORIE T CONNELL & EC HARTMAN=CO-TSTE P O BOX 710 LAS VEGAS NV	89125-0710	
68508	0.00292960 O	RUTH V. FERGUSON DREWERY 3508 EUCLID AVE DALLAS TX	75205-321	
68523	0.00097640 R	VALPEY FAMILY TRUST GLADYS M VALPEY-TRUSTEE 1724 PLAZA DE SAN JOAQUIN MODESTO CA	95350-354	
68525	0.00911460 O	CONSTANCE C. FAUBER 1721 BROOKS ARLINGTON TX	76012	
68526	0.00292960 R	HUGH W FERGUSON JR TESTAMENTARY TRUST RUTH F DREWERY-TRUSTEE 3508 EUCLID AVE DALLAS TX	75205-321	
68587	0.00911450 R	CORINNE C. LAW 6104 PARKTREE PL NE ALBUQUERQUE NM	87111	
69013	0.00034180 R	ANN MORRISSEY 205 YODAKUM PKWY #286 ALEXANDRIA VA	22304	
69014	0.00014640 R	GREGORY E MORRISSEY 6913 S OWENS ST LITTLETON CO	80127	
69015	0.00034180 R	PATRICIA MORRISSEY 205 YODAKUM PARKWAY 826 ALEXANDRIA VA	22304	
69016	0.00014640 R	RACHEL MORRISSEY MOYER P O BOX 249 SHAWNEE ON DELA PA	18356-024	
69075	0.01367200 R	ROBERT R OR FRANCES M MILLER REV TRUST P O BOX 867417 PLANO TX	75086-741	
79369	0.00013020 R	JOHN DAVID MOSBACHER 44 GRAHAMPTON LANE GREENWICH CT	06830	
79370	0.00013020 R	R BRUCE MOSBACHER 1580 CANADA LANE WOODSIDE CA	94062	
** 79374	0.00019540 R	BENNETT E SMULLYAN P O BOX 201678 HOUSTON TX	77216	
** 79375	0.00019540 R	CLINTON I SMULLYAN, JR P O BOX 201678 HOUSTON TX	77216	
	1.00000000			

ECA216

AA 1233

MESA PIPE LINE COMPANY

1200 SMITH STREET, SUITE 2950

HOUSTON, TEXAS 77002

(713) 658-9673

TELECOPY: (713) 658-0997

December 6, 1994

RE: Lease No. 12025
Connell Estate, Well No. 2 Lease
Upton County, Texas

Dear Interest Owner:

You have heretofore received payment for your interest in the captioned property from Hydrocarbon Management, Inc. Effective with runs commencing October 1, 1994, Mesa Pipe Line Company will disburse proceeds from the sale of oil production.

Accordingly, enclosed herewith is Mesa's Division Order, prepared on the basis of information furnished us by TSF Operating, Operator of the captioned property. If you find your interest is correctly stated on the Division Order, please sign one copy in the presence of two witnesses and return it to this office for further handling.

Before returning the signed Division Order, please insert your correct mailing address and Social Security or Taxpayer Identification Number in the spaces provided on the Division Order. It is Mesa's policy not to place an interest in line for payment without the proper number.

Please do not hesitate to contact us if you have any questions.

Yours very truly,

MESA PIPE LINE COMPANY

Ed W. Richter

Ed W. Richter
Senior Title Analyst

EWR/llw
enclosures

cc: TSF Operating (w/division order)
P. O. Box 222
Midland, Texas 79702

ECA217

AA 1234

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL OR GAS.

The following provisions apply to each interest owner ("owner") who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deductions for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$25 may be accrued before disbursement until the total amount equals \$25 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: The owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects the owner's interest to which payor is made a party.

DISPUTE; WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of the owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed.

In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of this agreement is effective on the first day of the month that begins after the 30th day after the date written notice of termination is received by either party.

NOTICES: The owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time.

No change of interest is binding on payor until the recorded copy of the instrument of change or documents satisfactorily evidencing such change are furnished to payor at the time the change occurs.

Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor.

Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

In addition to the legal rights provided by the terms and provisions of this division order, an owner may have certain statutory rights under the laws of this state.

Witnesses' Signature
and Addresses

Signature of Interest Owner
Mailing Address

Social Security/
Tax I.D. Number

William K. Ruck
3124 W. Charleston
Las Vegas, NV 89102

E. Hartman
P.O. Box 710
Las Vegas, NV 89125

88-6037338

Janet M. Everett
3124 W. Charleston
Las Vegas, NV 89102

Marjorie Connell Trustee
P.O. Box 710
Las Vegas, NV 89125

88-6037338

William K. Ruck

Janet M. Everett

BE SURE YOUR SIGNATURE IS WITNESSED AND YOUR CORRECT ADDRESS IS SHOWN

Failure to furnish your Social Security/Tax I.D. Number will result in a withholding tax in accordance with federal law, and any tax withheld will not be refundable by payor.

ECA218

AA 1235

DIVISION ORDER

TO: MESA PIPE LINE COMPANY
1200 Smith Street, Suite 2950
Houston, Texas 77002-4501

PROPERTY NO.: 12025

EFFECTIVE: October 1, 1994

The undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil and related liquid hydrocarbons produced from the property described below:

OPERATOR: TSF OPERATING
PROPERTY NAME: Connell Estate (Well No. 2)
COUNTY: Upton STATE: Texas
DESCRIPTION: NW/4 of Section 32, Block 39,
T-5-S, T&P Ry. Co. Survey.

DEPTH: Limited from the surface to the base of the Dean
Sand Formation at approximately 9100 feet.

DO NOT EXECUTE
THIS COPY
FOR YOUR RECORDS

<u>OWNER NUMBER</u>	<u>PAYEE</u>	<u>DIVISION OF INTEREST</u>	<u>ROYALTY INTEREST</u>
00451	Amoco Production Company	1/12 x 1/4	= .020833333
20120	Fred W. Shield and Company	1/24 x 1/4	= .010416667
29101	Walter R. Berger, Jr.	1/2 x 3/80 x 1/4	= .004687500
28472	Cornelia C. Blake, Trustee	3/80 x 1/4	= .009375000
29102	Lee V. Berger, Jr.	1/3 x 1/2 x 3/80 x 1/4	= .001562500
29103	Charles Frederick Berger	2/3 x 1/2 x 3/80 x 1/4	= .003125000
	Charles Frederick Berger, Trustee of the Lee V. Berger Marital Trust	NO INTEREST	= .000000000
29104	M. E. Singleton, Jr. Estate	1/80 x 1/4	= .003125000
29105	Sarah M. Woodward	1/160 x 1/4	= .001562500
29106	Carolyn Cowden Chaney	1/3 x 7/32 x 1/4	= .018229166
29107	Constance Cowden Fauber	1/3 x 7/32 x 1/4	= .018229167
29108	Corinne Cowden Law	1/3 x 7/32 x 1/4	= .018229167
29109	E. Hartman and Marjorie Connell Trustees of the W.N. and M.T. Connell Living Trust	7/64 x 1/4	= .027343750
29110	Emil Mosbacher, Jr.	3/640 x 1/4	= .001171875
02911	Robert Mosbacher	7/640 x 1/4	= .002734375
29111	Emil Mosbacher, III	1/3 x 1/2 x 2/640 x 1/4	= .000130208

ECA219

(See Reverse Hereof)

AA 1236

		<u>ROYALTY INTEREST</u> (cont'd)	
29112	R. Bruce Mosbacher	1/3 x 1/2 x 2/640 x 1/4	= .000130208
29113	Bennett E. Smullyan	1/2 x 1/2 x 2/640 x 1/4	= .000195313
29114	Clinton I. Smullyan, Jr.	1/2 x 1/2 x 2/640 x 1/4	= .000195313
29115	John David Mosbacher	1/3 x 1/2 x 2/640 x 1/4	= .000130208
29116	Maryland Myers Anderson	1/3 x 1/160 x 1/4	= .000520833
29117	Michael Glenn Anderson	1/3 x 1/160 x 1/4	= .000520833
29118	Melinda Anderson Cates	1/3 x 1/160 x 1/4	= .000520834
29119	NationsBank of Texas, N.A., Trustee of the George Shelton Hillhouse Trust	1/3 x 1/40 x 1/4	= .002083333
29120	NationsBank of Texas, N.A., Trustee of the James D. Hillhouse, IV Trust	1/3 x 1/40 x 1/4	= .002083333
29121	NationsBank of Texas, N.A., Trustee of the Philip Maverick Hillhouse Trust	1/3 x 1/40 x 1/4	= .002083334
29122	R.R. Miller or F.M. Miller, Trustees For Benefit of Robert R. Miller and F. Miller	7/64 x 1/4	= .027343750
10584	North Central Oil Corporation	7/160 x 1/4	= .010937500
<u>OVERRIDING ROYALTY INTEREST</u>			
29123	C. F. Qualia	1.0% x 3/4	= .007500000
29124	Wayne D. Miller	1.0% x 3/4	= .007500000
29125	Mercer 1987 Income Partnership		= .000984300
<u>WORKING INTEREST</u>			
		Before Payout	** After Payout
22035	Terry S. Fields	= .796515700	= .762296950
29126	Curtis Vaughn	NO INTEREST 6.25% x 54.75%	= .000000000 = .034218750
	Alton Oehler and Alberta Oehler	NO INTEREST	= .000000000 = .000000000
	Greg Oehler and Donna Oehler	NO INTEREST	= .000000000 = .000000000
	Ben A. Culpepper	NO INTEREST	= .000000000 = .000000000

* These interests are subject to change *after payout* has been reached. It is the responsibility of the Operator and/or the interest owners involved to notify Mesa Pipe Line Company in writing thirty (30) days prior to any changes in the method of payment due to payout. Mesa Pipe Line Company accepts no responsibility or liability for accounting for the date that payout will occur.

EECA220

NAVAJO CRUDE OIL MARKETING COMPANY
OIL DIVISION ORDER
(INDEMNIFYING)

To: Navajo Crude Oil Marketing Company
P.O. Box 159, Artesia, NM 88211-0159
Telephone: (505) 748-3311
Fax: (505) 746-6410

Effective Date: May, 1996

PLEASE KEEP FOR
YOUR RECORDS

Property Number/Name: 005479 - Exxon Cowden B
Operator: Tamarack Petroleum Co., Inc.

Property Description: Upton County, Texas

B-1 Well - NE/4 SECTION 37 FROM THE SURFACE DOWN TO THE DEPTH OF 9,130 FEET BELOW THE SURFACE

B-2 Well - SE/4 SECTION 37 FROM THE SURFACE DOWN TO THE DEPTH OF 9,120 FEET BELOW THE SURFACE

BLOCK 39, TOWNSHIP 5 SOUTH, T&P RY CO SURVEY

Owner Name and Address: SEE ATTACHED
DIVISION OF INTEREST
EXHIBIT

Owner Number:
Type of Interest:
Decimal Interest:

The undersigned certifies the ownership of their decimal interest in production or proceeds as described herein payable by Navajo Crude Oil Marketing Company.

Navajo Crude Oil Marketing Company shall be notified in writing of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Navajo Crude Oil Marketing Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Navajo Crude Oil Marketing Company may accrue proceeds until the total amount equals \$100.00 or pay annually if the amount is greater than \$25.00, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil and gas.

In addition to the terms and conditions of this Division Order, the undersigned and Payor may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: It is understood that Navajo Crude Oil Marketing Company has based their Division Order upon the payment information of Sunlock Permian Corporation.

Margaret Connell Trustee
Owner's Signature

88-603-7338
Owner's Tax ID/SS#

762-878-8698
Owner's Daytime Telephone #

Edmund C. Hartman Co-Trustee
Owner's Signature

88-603-7338
Owner's Tax ID/SS#

762-1658-6026
Owner's Fax #

Federal Law requires you to furnish your Social Security or Taxpayer Identification Number. Failure to comply will result in 31% tax withholding and will not be refundable by Payor.

ECA221

AA 1238

D I V I S I O N O F I N T E R E S T E X H I B I T
 LEASE NO: 5479 EFFECTIVE DATE: 05/96
 LEASE NAME: EXXON COWDEN B
 OPERATOR: 900890 TAMARACK PETROLEUM CO., INC.
 =====

OWNER NO. CREDIT TO DIVISION OF INTEREST TYPE INTEREST

7941	JOHN SCHERER JR P O BOX 3334 MIDLAND TX 79702-3334	.00441410	OR
8549	PETER R SCHERER 4801 OAKWOOD COURT MIDLAND TX 79707-	.00441410	OR
8582	ROY D GOLDSTON JR ET AL TRUST TEAM BANK NA TRUSTEE ACCT 441 PO BOX 92084 FORT WORTH TX 76195-	.00032550	RI
8585	CONSTANCE COWDEN FAUBER 1721 BROOKS DR ARLINGTON TX 76012-2319	.01822920	RI
8586	CORINNE COWDEN LAW 6104 PARKTREE PL NE ALBUQUERQUE NM 87111-	.01822920	RI
8587	MIRIAM L BROUDY C/O LOUIS L BROUDY 18 BRIDGE ROAD WESTON CT 06883-	.00195310	RI
8592	CONNELL TRUST 5/18/72 W N CONNELL & MARJORIE CONNELL PO BOX 710 LAS VEGAS NV 89125-	.02734370	RI
8593	RUTH V F DREWERY 3508 EUCLID AVE DALLAS TX 75205-3214	.00439450	OR
8595	ANN MORRISSEY 205 YOAKUM PKWY NO 826 ALEXANDRIA VA 22304-3801	.00034180	RI
8597	PATRICIA MORRISSEY 205 YOAKUM PKWY NO 826 ALEXANDRIA VA 22304-	.00034180	RI
8598	GREGORY E MORRISSEY 6913 S OWENS ST LITTLETON CO 80127-	.00014650	RI

ECA222

NAVAJO CRUDE OIL MARKETING COMPANY
OIL DIVISION ORDER
(INDEMNIFYING)

To: Navajo Crude Oil Marketing Company
P.O. Box 159, Artesia, NM 88211-0159
Telephone: (505) 748-3311
Fax: (505) 746-6410

Effective Date: May, 1996

Property Number/Name: 005479-001 - Exxon Cowden C
Operator: Tamarack Petroleum Co., Inc.

Property Description: Upton County, Texas

C-1 Well - SW/4 SECTION 37 FROM THE SURFACE DOWN TO THE BASE OF THE DEAN FORMATION.
BLOCK 39, TOWNSHIP 5 SOUTH, T&P RY. CO. SURVEY

PLEASE KEEP FOR
YOUR RECORDS

Owner Name: SEE ATTACHED
and Address: DIVISION OF INTEREST
EXHIBIT

Owner Number:
Type of Interest:
Decimal Interest:

The undersigned certifies the ownership of their decimal interest in production or proceeds as described herein payable by Navajo Crude Oil Marketing Company.

Navajo Crude Oil Marketing Company shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Navajo Crude Oil Marketing Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Navajo Crude Oil Marketing Company may accrue proceeds until the total amount equals \$100.00 or pay annually if the amount is greater than \$25.00, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil and gas.

In addition to the terms and conditions of this Division Order, the undersigned and Payor may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: It is understood that Navajo Crude Oil Marketing Company has based their Division Order upon the payment information of Scurlock Permian Corporation.

Margaret Connell, Trustee
Owner's Signature

Chas. C. Hartman Co-trustee
Owner's Signature

88-6037338
Owner's Tax ID#/SS#

88-6037338
Owner's Tax ID#/SS#

702-878-8698
Owner's Daytime Telephone #

702 658 6026
Owner's Fax #

Federal Law requires you to furnish your Social Security or Taxpayer Identification Number. Failure to comply will result in 31% tax withholding and will not be refundable by Payor.

ECA223

AA 1240

This Exhibit is attached and made of a part of this Division Order.

Lease #005479-001

It is understood that the crude oil under this Division Order for the Exxon Cowden -C- well lease #005479-001 is being commingled into the same tank battery as the Exxon Cowden -B- well lease #005479. By execution of this Division Order, the undersigned acknowledges that Navajo takes possession of the oil delivered, at the central battery location and has no independent means of verifying the source of oil delivered to it. For purposes of allocating such oil to each interest owner hereunder, the undersigned hereby authorizes Navajo to rely on statements of the source and quantity of all oil delivered hereunder, to be furnished by Tamarack Petroleum its successors and assigns; provided that Navajo shall never be responsible for any quantity of oil in excess of that delivered to it hereunder nor for its reliance upon the information furnished regarding the source of such oil. In consideration of Navajo distributing proceeds under this Division Order, the undersigned does hereby relieve Navajo of any loss, claim or liability incurred by its good faith performance hereunder, including its attorneys fees, and shall indemnify Navajo for such purpose.

D I V I S I O N O F I N T E R E S T E X H I B I T
 LEASE NO: 5479 001
 LEASE NAME: EXXON COWDEN C
 OPERATOR: 900890 TAMARACK PETROLEUM CO., INC.
 EFFECTIVE DATE: 05/96

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OWNER NO.	CREDIT TO	DIVISION OF INTEREST	TYPE INTEREST
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7941	JOHN SCHERER JR P O BOX 3334 MIDLAND TX 79702-3334	.00441400	OR
8549	PETER R SCHERER 4801 OAKWOOD COURT MIDLAND TX 79707-	.00441400	OR
8582	ROY D GOLDSTON JR ET AL TRUST TEAM BANK NA TRUSTEE ACCT 441 PO BOX 99084 FORT WORTH TX 76199-	.00032550	RI
8585	CONSTANCE COWDEN FAUBER 1781 BROOKS DR ARLINGTON TX 76012-2319	.01822920	RI
8586	CORINNE COWDEN LAW 6104 PARKTREE PL NE ALBUQUERQUE NM 87111-	.01822920	RI
8587	MIRIAM L BROUDY C/O LOUIS L BROUDY 18 BRIDGE ROAD WESTON CT 06883-	.00195310	RI
8588	CONNELL TRUST 5/18/72 W N CONNELL & MARJORIE CONNELL PO BOX 710 LAS VEGAS NV 89125-	.02734370	RI
8593	RUTH V F DREWERY 3508 EUCLID AVE DALLAS TX 75205-3214	.00439450	OR
8595	ANN MORRISSEY 205 YOAKUM PKWY NO 826 ALEXANDRIA VA 22304-3801	.00034180	RI
8597	PATRICIA MORRISSEY 205 YOAKUM PKWY NO 826 ALEXANDRIA VA 22304-	.00034180	RI
8598	GREGORY E MORRISSEY 6913 S OWENS ST LITTLETON CO 80127-	.00014650	RI

NAVAJO CRUDE OIL MARKETING COMPANY
OIL DIVISION ORDER
(INDEMNIFYING)

To: Navajo Crude Oil Marketing Company
P.O. Box 159, Artesia, NM 88211-0159
Telephone: (505) 748-3311
Fax: (505) 746-6410

Effective Date: May, 1996

**PLEASE KEEP FOR
YOUR RECORDS**

Property Number/Name: 005480 - Exxon Cowden D.
Operator: Tamarack Petroleum Co., Inc.

Property Description: Upton County, Texas

BLOCK 38, TOWNSHIP 5 SOUTH, T&P RY. CO. SURVEY; SW/4 SECTION 31 (Exxon-Cowden D-1 Well);
AND NW/4 SECTION 31 (Exxon-Cowden D-2 Well); AS TO DEPTHS FROM THE DEPTH OF 7,300 FEET
BELOW THE SURFACE DOWN TO 100 FEET BELOW THE BASE OF THE DEAN FORMATION

Owner Name and Address:	SEE ATTACHED DIVISION OF INTEREST EXHIBIT	Owner Number: Type of Interest: Decimal Interest:
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The undersigned certifies the ownership of their decimal interest in production or proceeds as described herein payable by Navajo Crude Oil Marketing Company.

Navajo Crude Oil Marketing Company shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Navajo Crude Oil Marketing Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Navajo Crude Oil Marketing Company may accrue proceeds until the total amount equals \$100.00 or pay annually if the amount is greater than \$25.00, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil and gas.

In addition to the terms and conditions of this Division Order, the undersigned and Payor may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: It is understood that Navajo Crude Oil Marketing Company has based their Division Order upon the payment information of Scurlock Permian Corporation.

Marjorie Connell Trustee
Owner's Signature

88-6037338
Owner's Tax ID#/SS#

702-878-8698
Owner's Daytime Telephone #

Sharon Connell Hartman
Owner's Signature *Co-trustee*

88-6037338
Owner's Tax ID#/SS#

702 658 6026
Owner's Fax #

Federal Law requires you to furnish your Social Security or Taxpayer Identification Number. Failure to comply will result in 31% tax withholding and will not be refundable by Payor.

ECA226

AA 1243

WELR782 NAVAJO REFINING COMPANY
 DIVISION OF INTEREST EXHIBIT
 LEASE NO: 5480 EFFECTIVE DATE: 05/96
 LEASE NAME: EXXON COWDEN D
 OPERATOR: 900890 TAMARACK PETROLEUM CO., INC. PAGE 2
 =====
 OWNER DIVISION OF TYPE
 NO. CREDIT TO INTEREST INTEREST

7938 ANNA R WOLF TRUST .00130210 RI
 AMERITRUST TEXAS NA TRE
 ACCT NO 4815151610
 P O BOX 951416
 DALLAS TX 75395-1416

7940 WILLIAM WOLF FAMILY TRUST .00130210 RI
 AMERITRUST TEXAS NA TRE
 ACCT NO 4815151629
 P O BOX 951416
 DALLAS TX 75395-1416

7941 JOHN SCHERER JR .00369920 OR
 P O BOX 3334
 MIDLAND TX 79702-3334

8549 PETER R SCHERER .00369920 OR
 4801 OAKWOOD COURT
 MIDLAND TX 79707-

8582 ROY D GOLDSTON JR ET AL TRUST .00032550 RI
 TEAM BANK NA TRUSTEE ACCT 441
 PO BOX 99084
 FORT WORTH TX 76199-

8585 CONSTANCE COWDEN FAUBER .01041670 RI
 1721 BROOKS DR
 ARLINGTON TX 76012-2319

8586 CORINNE COWDEN LAW .01041670 RI
 6104 PARKTREE PL NE
 ALBUQUERQUE NM 87111-

8587 MIRIAM L BROUDY .00195310 RI
 C/O LOUIS L BROUDY
 18 BRIDGE ROAD
 WESTON CT 06883-

8588 CONNELL TRUST 5/18/72 .01562500 RI
 W N CONNELL & MARJORIE CONNELL
 PO BOX 710
 LAS VEGAS NV 89125-

8593 RUTH V F DREWERY .00439450 OR
 3508 EUCLID AVE
 DALLAS TX 75205-3214

ECA227

AA1244

NAVAJO CRUDE OIL MARKETING COMPANY
OIL DIVISION ORDER
(INDEMNIFYING)

To: Navajo Crude Oil Marketing Company
P.O. Box 159, Artesia, NM 88211-0159
Telephone: (505) 748-3311
Fax: (505) 746-6410

Effective Date: May, 1996

PLEASE KEEP FOR
YOUR RECORDS

Property Number/Name: 005481 - Exxon Cowden E
Operator: Tamarack Petroleum Co., Inc.

Property Description: Upton County, Texas

E/2 SECTION 31, BLOCK 38, TOWNSHIP 5 SOUTH, T&P RY. CO. SURVEY, AS TO DEPTHS
FROM THE DEPTH OF 7,300 FEET BELOW THE SURFACE DOWN TO THE BASE OF THE DEAN
FORMATION

Owner Name *SEE ATTACHED*
and Address: *DIVISION OF INTEREST*
EXHIBIT

Owner Number:
Type of Interest:
Decimal Interest:

The undersigned certifies the ownership of their decimal interest in production or proceeds as described herein payable by Navajo Crude Oil Marketing Company.

Navajo Crude Oil Marketing Company shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Navajo Crude Oil Marketing Company is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest in production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Navajo Crude Oil Marketing Company may accrue proceeds until the total amount equals \$100.00 or pay annually if the amount is greater than \$25.00, whichever occurs first; or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil and gas.

In addition to the terms and conditions of this Division Order, the undersigned and Payor may have certain statutory rights under the laws of the state in which the property is located.

Special Clauses: It is understood that Navajo Crude Oil Marketing Company has based their Division Order upon the payment information of Scurlock Permian Corporation.

Margaret Connell, Trustee
Owner's Signature

88-6037338
Owner's Tax ID/SSH

702-878-8698
Owner's Daytime Telephone #

Eleanor Connell Hartman Co. Trustee
Owner's Signature

88-6037338
Owner's Tax ID/SSH

702 658 6026
Owner's Fax #

Federal Law requires you to furnish your Social Security or Taxpayer Identification Number. Failure to comply will result in 31% tax withholding and will not be refundable by Payor.

ECA228

AA 1245

WELR782 NAVAJO REFINING COMPANY
 DIVISION OF INTEREST EXHIBIT
 LEASE NO: 5481 EFFECTIVE DATE: 05/96
 LEASE NAME: EXXON COWDEN E
 OPERATOR: 900890 TAMARACK PETROLEUM CO., INC.

OWNER NO.	CREDIT TO	DIVISION OF INTEREST	TYPE INTEREST
7938	ANNA R WOLF TRUST AMERITRUST TEXAS NA TRE ACCT NO 4815151610 P O BOX 951416 DALLAS TX 75395-1416	.00130210	RI
7940	WILLIAM WOLF FAMILY TRUST AMERITRUST TEXAS NA TRE ACCT NO 4815151629 P O BOX 951416 DALLAS TX 75395-1416	.00130210	RI
7941	JOHN SCHERER JR P O BOX 3334 MIDLAND TX 79702-3334	.00362890	OR
8549	PETER R SCHERER 4801 OAKWOOD COURT MIDLAND TX 79707-	.00362890	OR
8582	ROY D GOLDSTON JR ET AL TRUST TEAM BANK NA TRUSTEE ACCT 441 PO BOX 99084 FORT WORTH TX 76199-	.00032550	RI
8585	CONSTANCE COWDEN FAUBER 1721 BROOKS DR ARLINGTON TX 76012-2319	.01041670	RI
8586	CORINNE COWDEN LAW 6104 PARKTREE PL NE ALBUQUERQUE NM 87111-	.01041670	RI
8587	MIRIAM L BROUDY C/O LOUIS L BROUDY 18 BRIDGE ROAD WESTON CT 06883-	.00195310	RI
8588	CONNELL TRUST 5/18/72 W N CONNELL & MARJORIE CONNELL PO BOX 710 LAS VEGAS NV 89125-	.01562500	RI
8593	RUTH V F DREWERY 3508 EUCLID AVE DALLAS TX 75205-3214	.00439450	OR

DIVISION ORDER

MAILED 7/5-96
COPY

Remuda Operating Company
301 N. Colorado, Ste 150
Midland, Texas 79701

Lease Number 123100 The above number will appear on all settlement checks and will be the only lease identification shown. It is important that you retain and record this number and lease description in your records.

The undersigned and each of them guarantee and warrant that the legal owners in the production set out below of oil produced and/or of gas sold from Cowden "32" lease, described as:

NE/4 and the SW/4 (336 acres) of Section 32, T-5-S, T&P RR Company Survey, Upton County, Texas.

in Upton County, State of Texas and commencing at 7:00 am April 1, 1996, subject to the Covenants appearing on the reverse side hereof, which same are binding upon the undersigned, their successors, legal representatives and assigns, you are authorized until further notice either from you or from us to receive oil therefrom, and to give credit for oil and/or gas proceeds as directed below:

CREDIT TO	DIVISION OF INTEREST	P.O. ADDRESS
<u>Royalty Interest</u>		
Cornelia C. Blake, Trustee	.00937500	500 West 7th St., Suite 1213 Fort Worth, Texas 76102-4727
Melinda Anderson Cates	.00052080	4532 Lorraine Dallas, Texas 75205
Carolyn Cowden Chaney	.01822910	624 Amarillo Street Abilene, Texas 79602
Wm. & Marjorie Connell Trust	.02734380	P.O. Box 710 Las Vegas, Nevada 89125
Constance Cowden Fauber	.01822910	1721 Brooks Arlington, Texas 76012
Republicbank First National Midland Trustee for Trust No. 504-04	.00208340	P.O. Box 841549 Dallas, Texas 75284-1549
Republicbank First National Midland Trustee for Trust No. 504-02	.00208330	P.O. Box 841549 Dallas, Texas 75284-1549
Republicbank First National Midland Trustee for Trust No. 504-03	.00208330	P.O. Box 841549 Dallas, Texas 75284-1549
Corinne Cowden Law	.01822910	6104 Parktree Place N.E. Albuquerque, New Mexico 87111
Emil Mosbacher, Jr.	.00093750	P.O. Box 29396 New York, NY 10087-9376
Emil Mosbacher, III	.00010420	Melrose Square on Melrose Ave, Greenwich, Ct 06830
John David Mosbacher	.00010420	Melrose Square on Melrose Ave Greenwich, Ct 06830
R. Bruce Mosbacher	.00010420	2200 Sandhill Road #150 Menlo Park, CA 94025-6936

Y903

The undersigned certify and guarantee to Remuda Operating Company, herein called Remuda, that we are the owners of the interest set out opposite our name in oil and gas or the proceeds from the sale of oil and gas from the property as so described. Until further written notice either from Remuda or from us, Remuda is authorized to give credit as set forth for all proceeds derived from the sale of production from said property, subject to the following covenants, conditions and directions:

1. Oil sold hereunder shall be delivered f.o.b. to the carrier designated to gather and receive such oil and shall become Remuda's property upon receipt thereof by the carrier designated by Remuda or by any other purchaser to whom Remuda may resell such oil. The term "oil" as used in this division order shall include all marketable liquid hydrocarbons. Should the oil produced from the herein described land be commingled with oil produced from one or more other separately owned tracts of land prior to delivery to the designated carrier, the commingled oil sold hereunder shall be deemed to be the interest of the undersigned in that portion of the total commingled oil delivered which is allocated to the herein described land on the basis of lease meter readings or any other method generally accepted in the industry as an equitable basis for determining the quantity and quality of oil sold from each separately owned tract. Such formula shall be uniformly applied to all owners of an interest in the tracts of land involved. Should the interest of the undersigned in the oil produced from the herein described land be unitized with oil produced from one or more other tracts of land, this instrument shall thereafter be deemed to be modified to the extent necessary to conform with the applicable unitization agreement or plan of unitization, and all revisions or amendments thereto, but otherwise to remain in force and effect as to all other provisions. In such event, the portion of the unitized oil sold hereunder shall be the interest of the undersigned in that portion of the total unitized oil delivered which is allocated to the herein described land and shall be deemed for all purposes to have been actually produced from said land. Remuda agrees to pay for the oil sold hereunder at the price posted by Remuda for oil of the same grade and gravity in the same producing field or area on the date said oil is received by Remuda or the designated carrier. If Remuda does not currently post such a price, then until such time as Remuda does so, Remuda agrees to pay the price established by Remuda. Remuda is authorized to reduce the price by those truck, barge, tankcar, or pipe line transportation charges as determined by Remuda. Should the oil sold hereunder be resold by Remuda to another purchaser accepting delivery thereof at the same point at which Remuda takes title, Remuda agrees to pay for such oil based upon the volume computation made by such purchaser and at the price received by Remuda for such oil, reduced by any transportation charges deducted by such purchaser. Quality and quantity shall be determined in accordance with the conditions specified in the price posting. Remuda may refuse to receive any oil not considered merchantable by Remuda.
2. Settlements for gas shall be based on the net proceeds at the wells, after deducting a fair and reasonable charge for compressing and making it merchantable and for transporting if the gas is sold off the property. Where gas is sold subject to regulation by the Federal Power Commission or other governmental authority, the price applicable to such sale approved by order of such authority shall be used to determine the net proceeds at the wells.
3. Settlements shall be made monthly by check mailed to the respective parties according to the division of interest herein specified at the latest address known by Remuda less any taxes required by law to be deducted and paid by Remuda applicable to owner's interest.
4. In the event any dispute or question arises concerning the title to the interest of the undersigned in said land and/or the oil or gas produced therefrom or the proceeds thereof, Remuda will be furnished satisfactory abstracts or other evidence of title upon demand. Until such evidence of title has been furnished and/or such dispute, defect, or question of title is corrected or removed to your satisfaction, or until indemnity satisfactory to Remuda has been furnished, Remuda is authorized to withhold the proceeds of such oil or gas received and run, without interest. In the event any action or suit is filed in any court affecting the title to the interest of the undersigned in the herein described land or the oil or gas produced therefrom or the proceeds thereof to which the undersigned is a party, written notice of the filing of such suit or action shall be immediately furnished Remuda by the undersigned, stating the court in which the same is filed and the title of such suit or action. Remuda will not be responsible for any change of ownership in the absence of actual notice and satisfactory proof thereof.
5. Whether or not any contingency is expressly stated in this instrument, Remuda is hereby relieved of any responsibility for determining when any of the interests herein shall increase, diminish, terminate, be extinguished or revert to other parties as a result of the completion or discharge of money or other payments from said interest, or as a result of the expiration of any time or term limitation (either definite or indefinite), and unless Remuda is also the operator of the property, as a result of an increase or decrease in production, or as a result of a change in the depth, the methods or the means of production, or as a result of a change in the allocation of production affecting the herein described land or any portion thereof under any agreement or by order of Governmental authority, and until Remuda receives notice in writing to the contrary Remuda is hereby authorized to continue to remit without liability pursuant to the division of interest shown herein.
6. Working Interest Owners and/or Operators, and each of them, by signature to this instrument, certify, guarantee and warrant for Remuda's benefit and that of any pipe line or other carrier designated to run or transport said oil or gas, that all oil or gas tendered hereunder has been and shall be produced from or lawfully allocated to the herein described land in accordance with all applicable Federal, state and local laws, orders, rules and regulations.

Cowden "32"- Division Order
Page 2

Emil Mosbacher 1978 Trust Robert Mosbacher, Trustee	.00218750	P.O. Box 201678 Houston, Texas 77216-1678
North Central Oil Corporation	.01093750	P.O. Box 200201 Houston, Texas 77216-0201
Fred W. Shield & Company	.01041670	115 E. Travis St, Suite 1442 San Antonio, Texas 78205
Bennett E. Smullyan	.00015630	P.O. Box 201678 Houston, Texas 77216-1678
Clinton I. Smullyan, Jr.	.00015630	P.O. Box 201678 Houston, Texas 77216-1678
Sarah M. Woodward	.00156250	9004 Glen Springs Drive Dallas, Texas 75243
Robert Reece Miller And France Rev Trust dated 5/03/91	.02734380	P.O. Box 867417 Plano, Texas 75086-7417
Hardy Oil & Gas USA, Inc.	.02812500	P.O. Box 200284 Houston, Texas 77216
Cloyd Singleton Estate	.00312500	P.O. Box 717 Waxahachie, Texas 75165
Amoco Production Co.	.02083330	P.O. Box 841521 Dallas, Texas 75284-1521
Marijane Myers Anderson	.00052080	7618 Southwestern Blvd Dallas, Texas 75225
Michael Glenn Anderson	.00052080	P.O. Box 4584 Dallas, Texas 75208
Arch Petroleum, Inc.	.00312500	777 Taylor Street, Penthouse 11-A Fort Worth, Texas 76102
Arco Permian, a unit of Atlantic Richfield Company	.03125000	P.O. Box 910355 Dallas, Texas 75391-0355
Lee Vincent Berger Marital Trust Charles F. Berger Trustee	.00468750	6300 Ridglea Place, Ste 414 Fort Worth, Texas 76116
Walter R. Berger, Jr.	.00468750	203 West Wall, Suite 612 Midland, Texas 79701

Overriding Royalty Interest

Dorothy W. Montgomery	.00050000	1921 Chesham Drive Carrollton, Texas 75007
Zachry Oil & Gas Properties	.00625000	P.O. Box 80100 Midland, Texas 79708

Working Interest

Hydrocarbon Energy, Inc.	.11250000	P.O. Box M-2017 Hoboken, NJ 07030
J. Michael Muckleroy	.00450000	102 Broad Oaks Circle Houston, Texas 77057

ECA232

Donald P. Schoeder, Jr.	.00375000	P.O. Box 610148 Houston, Texas 77208
Melgerhel, Inc.	.16500000	P.O. Box 5623 Austin, Texas 78763
Comstock Oil & Gas Inc. Attn: Dean Kaster	.18500000	5005 LBJ Freeway, Suite 1000 Dallas, Texas 75244
Marc Briggs	.00750000	P.O. Box 579 Pleasanton, Texas 78064
Terry Fields	.02250000	P.O. Box 222 Midland, Texas 79702
Dale W. Beikirch	.01500000	P.O. Box 392 Midland, Texas 79702-0392
R E. Glasscock	.01500000	P.O. Box 50215 Midland, Texas 79710
Remuda Operating Company	.21343750	301 N. Colorado Ste 150 Midland, Texas 79701

Witness of Signatures:

Shelore Edhelweg
Anthony W Stone

Owners Sign Below

Marjorie J. Connell, Trustee
Eleanor C. Hartman, Co-Trustee
For the W.N. & Marjorie J. Connell Trust dated 5/18/92

Social Security Number or taxpayer Number
<i>Trust Number</i> <i>88-6037338</i>

Date 7-5-96

Be sure you show you correct mailing address and taxpayer identification number. If you are an individual, your **SOCIAL SECURITY NUMBER** is you identification number; if a Company or Estate, please furnish your employer identification number. PRINT OR TYPE - DO NOT ABBREVIATE.

DIVISION ORDER

TO: LPC Crude Oil, Inc.
P. O. Box 3821
Midland, Texas 79702

Lease No. TX1028700

Effective Date: June 1, 2006

The undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil produced from the **CONNELL A** well in **UPTON**, County **TX**, operated by **MOMENTUM ENERGY CORPORATION**, described as:

E/2 NE/4 SEC 36 BLK 39 T-5-S T&P RR CO SURVEY

From the effective date and until further written notice, and subject to the following provisions, you, or your designated agent, are authorized to receive such production and for the proceeds from the sale of oil in accordance with the division of interest set forth below. (The contents of the reverse side shall constitute a part of this division order.)

Owner No.	Lease No.	Interest	Type
1003988	TX1028700	0.02050780	RI

Credit To/Name and Address

MARJORIE T CONNELL & EC
P O BOX 710
LAS VEGAS NV 89125-0710

SIGNATURE OF
WITNESS/ATTEST:

Linda Vargas

SIGNATURE OF OWNER:

Marjorie T Connell, Trustee

BY: Eleanor Connell Hartman & Tr

NAME: _____

TITLE: _____

YOUR TAX ID# 88-6037338

OWNER'S REMITTANCE ADDRESS:

**IN ACCORDANCE WITH FEDERAL LAW 31% TAX WILL BE WITHHELD IF YOU DO NOT
PROVIDE YOUR SOCIAL SECURITY NUMBER OR EMPLOYER IDENTIFICATION NUMBER.

ECA234

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL OR GAS.

Terms of Sale. The undersigned will be paid in accordance with the division of interests set out on the front page. The payor shall pay all parties at the price agreed to by the operator for oil and gas to be sold pursuant to this division order.

Payment. From the effective date, payment is to be made monthly by payor's check, based on the division of interest for oil runs during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$100.00 may be accrued before disbursement until the total amount equals \$100.00 or more, or until December 31 of each year, whichever occurs first. Owner agrees to refund payor any amounts attributable to an interest or part of an interest that owner does not own.

Indemnity. The owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney's fees or judgments in connection with any suit that affects the owner's interest to which payor is made a party.

Dispute; Withholding of Funds. If a suit is filed that affects the interest of the owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed. In the event of a claim of a dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

Termination. Termination of this agreement is effective on the first day of the month that begins after the 30th day of the written notice of termination is received by either party.

Notices. The owner agrees to notify payor in writing of any changes in the division of interest, including changes of interest contingent on payment of money or expiration of time.

No change of interest is binding on payor until the recorded copy of the instrument of change or documents satisfactorily evidencing such change are furnished to payor at the time the change occurs.

Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor.

Any correspondence regarding this agreement shall be furnished to the addresses listed above unless otherwise advised by either party.

In addition to the legal rights provided by the terms and provisions of this Division Order, an owner may have certain statutory rights under the laws of this state (where the subject property is located).