

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DICK KNOX**, on March 15, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Toole

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB's 294, 311 and 248

Executive Action: SB 171

Presentation from the Department of Health and Environmental
Sciences (DHES) on the hazardous waste permitting process.

Presentation by DHES:

Richard Knatterud, environmental engineer, Department of Health
and Environmental Sciences (DHES) Solid & Hazardous Waste Bureau,
presented requirements for the hazardous waste permitting process
in Montana. **EXHIBIT 1**

The permitting process begins by submitting a permit, **Mr.**

Knatterud explained, with the draft copy of the permit available for public comment prior to its issuance. The worst-case-test conditions are preceded by established permit conditions.

In February 1991, the Environmental Protection Agency (EPA) issued Boilers and Industrial Furnaces (BIF) rules to provide controls for toxic organics. Additional rules have been developed to reinforce BIF rules. Success of these rules is determined by measuring waste input and output, **Mr. Knatterud** noted.

One metal in 100,000 is toxic, **Mr. Knatterud** stated. Below this limit, there are no adverse actions noticed. Burning is not allowed until the entire permitting process has been completed. Soils and surface waters are tested for metal accumulation. If air quality is poor, hazardous burning is ceased. In Lewis and Clark County, this includes about five days per year.

Annual emissions testing is conducted for dioxins, **Mr. Knatterud** continued, with all hazardous waste storage inspected and regulated. Standards are required to guarantee that a facility can operate effectively to protect health and human environments.

Don Vidrine, Manager, Hazardous Waste Division, DHES, stated that all hazardous waste burning in Montana is resource intensive. HB 419 will give authority to assess administrative penalties associated with hazardous burning. Presently, only lawsuits can levy fines, he said. HB 592 will also give DHES authority to assess fees on applications for commercial hazardous waste facilities.

Questions from Committee Members and Responses:

REP. TUNBY asked **Mr. Thorvilson** if time-frames are consistent. **Mr. Thorvilson** answered that time-frames will be shorter in the future.

REP. GILBERT asked if DHES has the authority to regulate monitoring after the permit is issued. **Mr. Vidrine** said the fee bill will impose an \$18 per ton fee which will give DHES funding to hire staff for on-site monitoring.

REP. GILBERT asked if DHES determines a case is severe, could the facility be shut down. **Mr. Vidrine** replied, yes.

REP. GILBERT asked if a permit is issued, will DHES continue to monitor the soil site for cumulative affects. **Mr. Vidrine** stated that additional monitoring will be done throughout the life of the facility.

REP. RANEY asked **Mr. Thorvilson** if there is language in the siting bill to prevent importation of waste. He also asked how does this affect superfund monies. **Mr. Thorvilson** answered there will be no effect on superfund monies.

REP. RANEY asked Mr. Thorvilson if every carcinogenic element from out of state is monitored. Mr. Thorvilson replied that stack emissions, which will be low, are monitored. He added that bio-accumulation effects are not seen.

REP. RANEY asked if the waste stream entering the cement kiln is controlled. Mr. Vidrine said yes, although certain wastes are excluded. Waste will be from Montana as well as other states.

REP. RANEY asked if cement kilns burn every waste Montana needs to burn. Mr. Vidrine answered, no, all Montana wastes cannot be burned.

REP. RANEY asked when accepting waste stream for the kilns, is there is an analysis conducted of how these products will interact with fossil fuels. Mr. Vidrine said DHES does not go into extensive chemical analysis but, yes, there are parameters.

REP. RANEY asked at what point could a disbelieving public approach DHES. Mr. Vidrine replied when draft permits are issued.

REP. RANEY said if the public doesn't believe DHES findings, can they stop the permitting process if SB 339 is not passed. Mr. Thorvilson replied there is always some type of recourse available.

REP. SWANSON asked for an explanation of dust emissions and disposal. Mr. Vidrine stated that excess kiln dust is used as a raw material feed. Most dust, however, goes back into quarry sites. EPA is currently developing a two-part test for cement kiln dust disposal. It may become necessary to manage the dust as hazardous waste, he noted.

REP. SWANSON said she has heard there is cement dust covering parts of Trident. Mr. Vidrine replied that risk assessments for dioxins are being conducted. Dust is not currently managed as a hazardous waste.

REP. SWANSON said farmers are nervous about the effects of dioxins on milk. How broad is the geographical area encompassing testing sites, she asked. Mr. Vidrine said federal BIF rules are required for sites. Background testing of soils and surface waters is done on site, he said.

REP. SWANSON said since Montana isn't currently burning hazardous waste, plants do not have a track record. This industry could become very big, she said. Mr. Vidrine said a baseline will be established prior to burning.

REP. BROOKE said that when the trial burn period is established, there are special burning temperatures. She asked how does DHES know that these temperatures don't affect the permit level. Mr. Vidrine said a graph will be displayed showing burning sites and

temperatures.

REP. BROOKE said that plans to burn PCB's have nothing to do with BIF rules. Cement kilns are part of industrial waste. Chuck Homer, DHES, Air Quality Board, stated that when air quality conditions are determined, burning periods can be decided.

REP. TUNBY asked Mr. Vidrine what type of monitoring can be expected 450 miles from Montana. Mr. Homer replied monitoring will be minimal; perhaps once per year.

REP. HARPER stated that cement products are unregulated and raise new concerns over possible contamination. Mr. Vidrine said there is a cement kiln dust study being conducted as well as an exploration of the risk of dioxin; inhalation vs. ingestion.

REP. HARPER stated there have been bad experiences with PCB's, and asked if modeling is the only way to monitor contamination levels in products. Mr. Vidrine said all determinations were not theoretical. Modeling is one of the methods used by DHES.

REP. HARPER asked if permit issuance based on theory or modeling. Mr. Vidrine said initially there is a trial burn followed by compliance tests.

REP. HARPER said there is concern in Helena that residents are becoming toxic guinea pigs because of air conversions. He asked if it could be expected that federal rules will change measurably. Mr. Vidrine said he did expect some changes. The EPA has already published draft studies showing the risk of ingestion, although these studies are not site specific.

REP. RANEY asked if the Colstrip plant would be considered BIF? Mr. Homer replied that if Colstrip chooses to burn hazardous waste, the plant will likely fall under BIF.

REP. RANEY asked why toxic rain couldn't be expected to be emitted from the stacks. Mr. Homer responded that when an analysis for air quality is conducted ambient air standards are used as a model. These standards are based on a maximum impact area and worst-case scenario.

REP. RANEY asked how toxic chemical coming out of the stack relate to PIC's. Mr. Vidrine said a trial burn will retake what comes out of the stack.

REP. RANEY asked if it is possible to know if these emissions are safe. Mr. Vidrine stated PIC's coming from the stack will be at trace level.

REP. SCHWINDEN said the revenue for the Ashgrove plant must come from waste importation. He said that monetary amounts have not been noted. Mr. Vidrine said the combination of both money to treat and dispose of hazardous waste and fees generate revenue

for the plant.

REP. ORR asked if DHES monitored emissions from hospitals. Mr. Homer said there are no specific rules to monitor these emissions.

HEARING ON SB 248

Opening Statement by Sponsor:

REP. BOB GILBERT, HD 22, Sidney, on behalf of SEN. BILL YELLOW-TAIL, SD 50, Wyola, stated SB 248 will remove surface owner consent for strip mining. The bill brings Montana law into compliance.

Proponents' Testimony:

Jim Mockler, Executive Director, Montana Coal Council, asked the committee to pass SB 248.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. GILBERT said SB 248 is a simple bill to bring Montana into compliance with supreme court standards.

HEARING ON SB 311

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 17, Malta, presented SB 311 to the committee on behalf of SEN. GREG JERGSON, SD 8, Chinook. The bill is designed to define the oil and gas division order.

Proponents' Testimony:

Russell S. Unruh, member of the Montana Land and Mineral Association, testified in support of SB 311. EXHIBIT 2

Herb Vasseur, President, Montana Land and Mineral Association, submitted proponent testimony. EXHIBIT 3

Janelle Fallan, Executive Director, Montana Petroleum Association, testified in support of the SB 311. EXHIBIT 4

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. JERGESON was expected to close the hearing on SB 311.

HEARING ON SB 294Opening Statement by Sponsor:

SEN. TOM KEATING, SD 44, Billings, told the committee that Montana does not have a definition of coal mining within its statutes. Methane gas has a nebulous definition as gas is formed from the compaction. Gas can migrate in and out of a coal bed, he said. SB 294 will define that coal is a solid hydrocarbon with methane a separate component. SB 294 is necessary to help with leasing.

Proponents' Testimony:

Janelle Fallan, Executive Director, Montana Petroleum Association, stated that the Board of Oil and Gas did not have a definition of coal.

Jim Mockler, Director, Montana Coal Council, testified in support of SB 294. He said he would be concerned should the bill apply to surface coal mining. The Montana Coal Council should not be charged with loss of any royalties. EXHIBIT 5

Doug Abelin, Northern Montana Oil and Gas Association (NMOGA), said NMOGA supports the bill as written.

Monte Mason, Manager, Minerals Division, DSL, said mineral rights of the state are in trusts. SB 294 clarifies the definition of coal. Although coal is a hydrocarbon, not all hydrocarbons are coal. The intent of the bill is to clarify the term within mineral title documents.

Opponents' Testimony: NoneQuestions From Committee Members and Responses:

REP. RANEY asked SEN. KEATING who could be adversely affected by the bill. SEN. KEATING said there could be an adverse affect on railroads as the bill states that they cannot own gas in a coal bed. Only the state has ownership, he noted.

REP. FELAND asked if he could lease methane gas from a Colstrip coal bed. SEN. KEATING replied, yes, at the present time you can.

REP. RANEY stated some people own coal but not surface rights. SEN. KEATING answered, yes.

REP. STOVALL asked if the Crow will own coal on their lands.

SEN. KEATING stated Indian tribes own mineral and surface rights on their land, and coal is a mineral.

EXECUTIVE ACTION ON SB 171

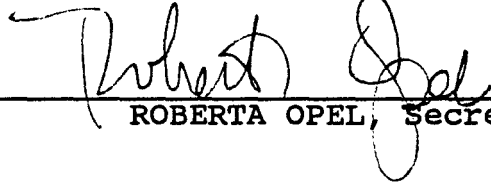
Motion: MOTION WAS MADE TO TABLE SB 171. Motion carried.

ADJOURNMENT

Adjournment: 8:00 p.m.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary

DK/ro

DATE 3-15-93

DATE _____

HR:1993
wp.rollcall.man
CS-09

AGENDA

EXHIBIT 1

DATE 3-15-93

HB DHE

presentati

House Natural Resources Committee - 3:00 p.m., March 15, 1993

Department of Health and Environmental Sciences
Solid and Hazardous Waste Bureau
Hazardous Waste Program

Presenters: Richard Knatterud, Environmental Engineer
Don Vidrine, Hazardous Waste Program Manager

1. Proposals by Cement Plants
2. Permitting Process
 - a. permit application review
 - b. draft/final permit
 - c. trial burn process
3. Existing Rules/Standards
 - a. federal BIF rules
 - b. state BIF rules
 - c. general facility standards
4. Other Laws/Rules
 - a. Air Quality Bureau
 - b. Moratorium
 - c. MEPA
5. EPA research/BIF Roundtable
6. Summary
7. Resources to Implement BIF Requirements
 - a. Resource needs
 - b. Program funding
 - c. Proposed legislation

EXHIBIT 2
 DATE 3-15-93
 HB SB 311

Attn:

Law Lucke

Timing

I may not be able to go to Helena to testify on the Bill. Please send it, if possible, with someone who goes. - Russ

LEGISLATIVE TESTIMONY
 DIVISION ORDER BILL
 SB 311

My name is Russell S. Unruh. I am a rancher in northern Blaine County and am a member of Montana Land and Mineral Association. I am here to testify in favor of SB 311, the Royalty Division Bill.

I believe that a Royalty Division Order should be only a document which is necessary to distribute royalty to mineral interests. In some cases, Royalty Division Orders have been used for other purposes as well.

My Division Order, for example, not only described my mineral interest but injected other provisions. One such provision was that "settlement of the mineral interest shall be made on the basis of NET PROCEEDS from the sale of the oil and gas". It then went on to describe net proceeds as "the amount received from such a sale less transportation, dehydration, separation, treating, processing and compressing charges or other expenses, if any".

As a result of the above provisions, I feel that my Royalty Division Order altered the provisions set forth in my lease. My lease stated that "the lessee shall pay the lessor, as royalty, one eighth of the PROCEEDS from the sale of the gas, as such, for gas from wells where gas only is found."

I believe that when we sign a 12 1/2 % land owners royalty lease, we are giving the lessee 87 1/2 % of our gas and oil to produce, transport and market our gas or oil without any cost to us. When we signed the above mentioned lease, we understood that we would receive 12 1/2 % of the proceeds from the sale of our gas as stated in our lease, but we receive approx. \$.45 per mcf less than the sale price. As a result, over the past 13 years that the field has been in production, I feel we have lost many thousands of dollars.

I believe that if SB 311 is enacted, it will stop future Royalty Division Orders from altering provisions in the lease. I would also recommend that future Division Orders use large enough print so you don't have to find a microscope to read them.

Respectfully,

Russell S. Unruh

Russell S. Unruh
 Box 457
 Chinook, Montana 59523
 406-357-3628

March 12, 1993

The majority of leases in our area are 1/8 share to the royalty owner and 7/8 to the producer. The 7/8 share is supposed to allow producers to pay costs of drilling, production, treating, and transportation to a delivery point, and still make a good profit. And it does.

The method used to change leases with division orders by our somewhat unscrupulous producers is to draft a legal document that is virtually undecipherable unless you have a law degree and then it's questionable unless you have expertise in this area. They send this document to the royalty owner with a letter saying you must sign this division order in order to get your money which at this time, is okay, say for example \$4,000. "We would like to disperse these funds but we cannot unless you sign and return the division order." It is a very exciting time (just like hitting the lottery) and so the mineral interest owner checks the share to make sure that it is right because that part was readable, signs the division order form, and has just been had. When his checks start coming, there are all these deductions that are taken from the gross proceeds over and above taxes.

What is happening is that the people are being taken advantage of and basically being bribed to sign these bad division orders. This law would stop that because if they wanted to change a lease, they would have to amend the lease and most people will take a much harder look at amending the lease. We are not the only ones having this trouble as a number of states already have a similar division order definition on the books.

Enclosed in this testimony are two examples of gas division orders that have taken advantage of the royalty owner. They are the same except they were used by two different companies, one from Canada and one from Colorado. They change the terms of the lease to allow additional deductions before royalties are paid. We also have examples from two of the major producers in Montana that do not change the terms of the lease and to our understanding, none of these major producers in our area are changing the terms of the lease with a division order.

We urge your support of SB 311 - Division Orders.

Thank you,



Herb Vasseur, President

GM:sn

- Attachment #1: Xeno, Inc. (poor)
- Attachment #2: Smoky Hill Exploration Co., Inc. (poor)
- Attachment #3: J. Burns Brown Operating Co., Inc. (fair)
- Attachment #4: Norfolk Energy Inc. (good)
- Attachment #5: Oil and Gas Lease (MLMOA-2)
- Attachment #5: Oil and Gas Lease (Montana 88b)

Montana Land and Mineral Owners Association

P.O. Box 1301

Helena, Montana 59501

March 12, 1993

Rep. Dick Knox, Chairman
Rep. Rolph Tunby
Rep. Jody Bird
Rep. Vivian Brooke
Rep. Russell Fagg
Rep. Gary Feland
Rep. Mike Foster
Rep. Bob Gilbert

Rep. Hal Harper
Rep. Scott Orr
Rep. Bob Raney
Rep. Dore Schwinden
Rep. Jay Stovall
Rep. Emily Swanson
Rep. Howard Toole
Rep. Doug Wagner

House Natural Resources Committee
Capitol Station
Helena, MT 59620

Re: SB 311 - Division Orders

Dear Representatives:

The Montana Land and Mineral Owners Association consists of 165 members and represents approximately one-and-a-half million acres of private land ownership in north central Montana with members primarily in Blaine, Chouteau, Hill, Liberty, Phillips, and Valley Counties. This area is the major gas-producing area in the State of Montana.

A division order is a legal instrument used to notify mineral interest owners that gas or oil has been found and is going to be produced from their mineral interests. What is needed in a division order is the correct name and address, the tax identification number, a notification clause that if any interest is sold, all involved are notified, and the division of mineral interests on that tract of land so everyone gets the correct share of the proceeds of the production.

To the best of our knowledge, the major producers are doing exactly what a division order is supposed to do; however, we have a few smaller producers and note, a few producers, that have been using division orders that change the terms of an oil and gas lease. Just about all leases give royalty owners a percentage of the gross proceeds less taxes. When division orders are used to change the terms of an underlying lease, it is always at the cost of the royalty owner. They are being charged for transportation, compression, treating, and even production costs.

EXHIBIT 3

DATE 3-15-93

HB SB 311

GAS DIVISION ORDER

TO: XENO, INC.

EFFECTIVE: August 1, 1978

The below named parties, hereinafter designated as "OWNERS", and each of them by their signatures hereto affixed, do hereby represent, certify and warrant that they are the legal owners in the proportions set out below of all the gas and associated liquid hydrocarbons produced from or allocated to the well, acreage or communitized area more particularly described as follows:

Township 36 North, Range 19 East MPM

Section 28 : All

 EXHIBIT 3
 DATE 3-15-93
 50311

in Blaine County, State of Montana, and are entitled to receive payments for gas taken or sold off of the premises, and until further notice credit for such gas so taken or sold from said premises shall be given as directed below:

CREDIT TO
(owner)
 DIVISION OF INTEREST
 (Working Interest - WI)
 (Overriding Royalty - ORR)
 (Landowners' Royalty - LOR)

 MAILING ADDRESS and
 SOCIAL SECURITY NO.
 or TAXPAYERS
 IDENTIFICATION NO.

 Russell S. Unruh &
 Joyce A. Unruh

4.4531 % LOR

CHINOOK, Montana, 59523

Social Security No.: 516-28-3365

XENO, INC., hereinafter called "OPERATOR" may sell and deliver to any purchaser and then remit to the Owners as set out herein for all gas and associated liquid hydrocarbons, including condensate produced, saved and sold from said premises as follows:

1. Payment for gas shall be paid to the Owners according to the division of interest shown above. Payment therefor may be made monthly by the Operator mailing to such parties its check therefor at the post office address stated, on or before thirty (30) days after receipt by Operator of sufficient information upon which settlement therefor may be made. If the amount accruing to the interest of any Owner herein is less than Four Dollars (\$4.00) in any one month, the proceeds of such runs may, at the option of Operator, be accumulated and paid without interest on an annual basis, payment to be made in December of each year.

If a refund of a portion of the proceeds derived from the sale of gas may be required under any order, rule or regulation of the Federal Power Commission or other governmental agency having jurisdiction thereof, or the provisions of the "Natural Gas Act", the price for gas shall be calculated on the basis of the unsuspended or unconditional certificated price for such gas. Operator may hold, without interest, the portion of proceeds subject to possible refund until the amount of the refund, if any, is determined by final unappealable order of the Federal Power Commission or such other governmental agency. Operator is also expressly authorized and given the right, in its sole discretion, to withhold or deduct from the share of any disbursement directed hereunder attributable to any Owner, a sufficient sum to pay all ad valorem taxes, Montana Net Proceeds Tax, Montana Conservation Tax, Resource Indemnity Fund Tax and any other tax (excluding income taxes) that will become due and payable by any Owner, and to pay such taxes and render a full account of any such taxes paid by it to any Owner for whom such taxes have been paid.

2. Settlement for the above interests shall be made on the basis of the net proceeds received from the sale of gas based upon the volume computations made or accepted by the purchasers thereof. "Net proceeds" means the amount received from such sale less transportation, dehydration, separating, treating, processing and compression charges and other costs or expenses, if any. Operator may sell gas to any purchaser of its choice at such quantities and prices as it shall deem prudent. However, in the event the sales price for gas is established or regulated by the Federal Power Commission, or other governmental authority, the price applicable to such sales for the purpose of calculating net proceeds shall be the unsuspended or unconditional certificated price for such gas determined by final unappealable order of the Federal Power Commission or such other governmental agency.

3. Payments so made are to be in full settlement for such gas so taken or sold from said premises.

4. Owners severally shall notify Operator of any change of ownership, and no transfer of interest shall be binding upon Operator until a request to make such transfer and the recorded instrument evidencing such transfer, or a certified copy thereof, shall be furnished to Operator. Transfers of interest shall be made effective not earlier than the first day of the calendar month in which notice is received by Operator. Operator is relieved hereby of any responsibility for determining if and when any of the interests set forth above shall or should revert to or be owned by other parties as the result of the completion or discharge of money or other payments from said interests and the Owners whose interests are affected by such money or other payments, if any, assume said responsibility and shall give Operator notice in writing by certified letter addressed to Operator at the above address, when any such money or when any other division of interest than that set forth above shall, for any reason, become effective, and to furnish requests for transfer accordingly, and that in the event such notice shall not be received, Operator shall be held harmless in the event of and is hereby released from any and all damage or loss which might arise out of any overpayment.

5. In the event of any dispute or question at any time concerning title to the above described lands or the gas produced therefrom, Operator may hold the proceeds of all gas runs to reinure, until indemnity satisfactory to Operator has been furnished or until such dispute or question of title is corrected or removed to Operator's satisfaction. In the event that any court action or suit is filed in any court affecting title to either the real property above described or to the gas produced therefrom in which any of the undersigned are parties, written notice of the filing of such action shall immediately be furnished to Operator by the undersigned, stating the court in which the same is filed and the title of such action or suit, and Operator or any purchaser of gas runs shall be held harmless from any judgment rendered in such suit and all reasonable costs and expenses incurred in defending against said claim whether in Operator's defense or in the defense of the gas purchaser, and the undersigned shall pay said judgment and said costs and expenses in the proportion and to the extent that the same affects his or their interest. Where, under this provision the proceeds of any gas sales are retained, Owners agree to indemnify and hold the Operator harmless from any liability for any tax proposed or assessed against or paid on account of such retained proceeds, together with the penalties incident thereto, and the Operator may deduct the same from any amount owing by it to Owners. In the event of overpayment for gas to the interest of any Owner herein, Operator is authorized upon discovery thereof to recoup such amounts from future accruals to this or any other interest of such Owner for which Operator may make settlement.

6. This Agreement shall be binding upon all parties agreeing hereto irrespective of whether all parties owning an interest in the minerals, royalty and leasehold estates execute the same, and shall extend to and be binding upon their respective heirs, devisees, executors, legal representatives, successors and assigns. This Agreement may be attached as an exhibit to any other document and incorporated therein by reference for all purposes and execution of any such document to which this Gas Division Order may be attached shall be deemed to be for all purposes of the same force and effect as execution of this document.

7. If applicable, the Operator will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and any amendment or supplement thereto and of the rules, regulations and relevant orders of the Secretary of Labor.

 RUSSELL S. UNRUH

 JOYCE A. UNRUH

Copy

GAS DIVISION ORDER

TO:

SMOKY HILL EXPLORATION COMPANY, INC.

EFFECTIVE:

April 1, 1982

The below named parties, hereinafter designated as "OWNERS", and each of them by their signatures hereto affixed, do hereby represent, certify and warrant that they are the legal owners in the proportions set out below of all the gas and associated liquid hydrocarbons produced from or allocated to the well, acreage or communitized area more particularly described as follows:

Township 35 North, Range 12 East, NPM
Section 13: all
1-13 Meland

in Hill County, State of Montana, and are entitled to receive payments for gas taken or sold off of the premises, and until further notice credit for such gas so taken or sold from said premises shall be given as directed below:

CREDIT TO
 (owner)

DIVISION OF INTEREST
 (Working Interest - W.I.
 Overriding Royalty - ORR
 Landowners' Royalty - LOR)

MAILING ADDRESS and
 SOCIAL SECURITY NO.
 or TAXPAYERS
 IDENTIFICATION NO.

Sigurd Meland

3.125000% LOR

Havre, MT 59501

SMOKY HILL EXPLORATION COMPANY, INC.

hereinafter called "OPERATOR" may sell and deliver to any purchaser and then remit to the Owners as set out herein for all gas and associated liquid hydrocarbons, including condensate produced, saved and sold from said premises as follows:

1. Payment for gas shall be paid to the Owners according to the division of interest shown above. Payment therefor may be made monthly by the Operator mailing to such parties its check therefor at the post office address stated, on or before thirty (30) days after receipt by Operator of sufficient information upon which settlement therefor may be made. If the amount accruing to the interest of any Owner herein is less than Four Dollars (\$4.00) in any one month, the proceeds of such runs may, at the option of Operator, be accumulated and paid without interest on an annual basis, payment to be made in December of each year.

If a refund of a portion of the proceeds derived from the sale of gas may be required under any order, rule or regulation of the Federal Power Commission or other governmental agency having jurisdiction thereof, or the provisions of the "Natural Gas Act", the price for gas shall be calculated on the basis of the unsuspended or unconditional certificated price for such gas. Operator may hold, without interest, the portion of proceeds subject to possible refund until the amount of the refund, if any, is determined by final unappealable order of the Federal Power Commission or such other governmental agency. Operator is also expressly authorized and given the right, in its sole discretion, to withhold or deduct from the share of any disbursement directed hereunder attributable to any Owner, a sufficient sum to pay all ad valorem taxes, Montana Net Proceeds Tax, Montana Conservation Tax, Resource Indemnity Fund Tax and any other tax (excluding income taxes) that will become due and payable by any Owner, and to pay such taxes and render a full account of any such taxes paid by it to any Owner for whom such taxes have been paid.

2. Settlement for the above interests shall be made on the basis of the net proceeds received from the sale of gas based upon the volume computations made or accepted by the purchasers thereof. "Net proceeds" means the amount received from such sale less transportation, dehydration, separating, treating, processing and compression charges and other costs or expenses, if any. Operator may sell gas to any purchaser of its choice at such quantities and prices as it shall deem prudent. However, in the event the sales price for gas is established or regulated by the Federal Power Commission, or other governmental authority, the price applicable to such sales for the purpose of calculating net proceeds shall be the unsuspended or unconditional certificated price for such gas determined by final unappealable order of the Federal Power Commission or such other governmental agency.

3. Payments so made are to be in full settlement for such gas so taken or sold from said premises.

4. Owners severally shall notify Operator of any change of ownership, and no transfer of interest shall be binding upon Operator until a request to make such transfer and the recorded instrument evidencing such transfer, or a certified copy thereof, shall be furnished to Operator. Transfers of interest shall be made effective not earlier than the first day of the calendar month in which notice is received by Operator. Operator is relieved hereby of any responsibility for determining if and when any of the interests set forth above shall or should revert to or be owned by other parties as the result of the completion or discharge of money or other payments from said interests and the Owners whose interests are affected by such money or other payments, if any, assume said responsibility and shall give Operator notice in writing by certified letter addressed to Operator at the above address, when any such money or when any other division of interest than that set forth above shall, for any reason, become effective, and to furnish requests for transfer accordingly, and that in the event such notice shall not be received, Operator shall be held harmless in the event of and is hereby released from any and all damage or loss which might arise out of any overpayment.

5. In the event of any dispute or question at any time concerning title to the above described lands, or the gas produced therefrom, Operator may hold the proceeds of all gas runs hereunder, until indemnity satisfactory to Operator has been furnished or until such dispute or question of title is corrected or removed to Operator's satisfaction. In the event that any court action or suit is filed in any court affecting title to either the real property above described or to the gas produced therefrom in which any of the undersigned are parties, written notice of the filing of such action shall immediately be furnished to Operator by the undersigned, stating the court in which the same is filed and the title of such action or suit, and Operator or any purchaser of gas runs shall be held harmless from any judgment rendered in such suit and all reasonable costs and expenses incurred in defending against said claim whether in Operator's defense or in the defense of the gas purchaser, and the undersigned shall pay said judgment and said costs and expenses in the proportion and to the extent that the same affects his or their interest. Where, under this provision the proceeds of any gas sales are retained, Owners agree to indemnify and hold the Operator harmless from any liability for any tax proposed or assessed against or paid on account of such retained proceeds, together with the penalties incident thereto, and the Operator may deduct the same from any amount owing by it to Owners. In the event of overpayment for gas to the interest of any Owner herein, Operator is authorized upon discovery thereof to recoup such amounts from future accruals to this or any other interest of such Owner for which Operator may make settlement.

6. This Agreement shall be binding upon all parties agreeing hereto irrespective of whether all parties owning an interest in the minerals, royalty and leasehold estates execute the same, and shall extend to and be binding upon their respective heirs, devisees, executors, legal representatives, successors and assigns. This Agreement may be attached as an exhibit to any other document and incorporated therein by reference for all purposes and execution of any such document to which this Gas Division Order may be attached shall be deemed to be for all purposes of the same force and effect as execution of this document.

7. If applicable, the Operator will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and any amendment or supplement thereto and of the rules, regulations and relevant orders of the Secretary of Labor.

Social Security # _____

ATTACHMENT 13
NOV - 9 1991

GAS DIVISION ORDER

COPY

TO: J. Burns Brown Operating Company
P.O. Box 130966
Tyler, Texas 75713Division Order Number _____
Date Issued January 14, 1991
Effective Date First Production

This division order applies to ^{related} oil, gas, condensate, distillate, plant products, and all other hydrocarbons, or the proceeds from the sale thereof, produced from the following described wells(s) and land, to-wit:

Township
Section

St. M.P.M.

EXHIBIT 3
DATE 3-15-93
SB 311

Credit To: (Division of Ownership)

See attached Exhibit "A"

3

Represents to the best of the undersigned's present information

Each of the undersigned, for himself and without regard to any other party, certifies and guarantees that the interest set out opposite his name, is the interest owned by him in the oil, gas, condensate, distillate, plant products, and all other hydrocarbons or proceeds from the sale thereof from the above described land.

Until further written notice of a change in ownership, as hereinafter provided, you will give credit to the undersigned for such interest shown above.

1. You or your assignees, nominees or vendees are authorized to purchase, receive, sell, and/or to deliver to other purchasers for my account and to receive the proceeds thereof, the oil, gas, condensate, distillate, plant products, and all other hydrocarbons as above defined.
2. For all gas taken hereunder, the undersigned will be paid his share of the proceeds at the delivery point of such gas less those expenses and settlement charges set forth below which, for all purposes hereunder shall be considered the price received for such gas under the terms of any applicable gas contract (or amendment or supplement to such contract) which is hereby ratified and confirmed by the undersigned: If J. Burns Brown Operating Company is a party to such gas contract, it will be made available to the undersigned for inspection at the offices of J. Burns Brown Operating Company during normal business hours. Settlement therefor shall be made as herein provided, less taxes, transportation, gathering, treating, processing and compression costs incurred in connection with the marketing of such gas incurred prior or subsequent to the "point of delivery" as defined in the referenced Gas Purchase Contract, which the undersigned hereby acknowledges and agrees to pay.
3. For all oil, condensate, distillate, plant products, and all other hydrocarbons (as above defined) the price to be paid shall be the market price of such oil, condensate, distillate, plant products and all other hydrocarbons at the time and place of delivery. In order to market such oil, condensate, distillate, plant products and all other hydrocarbons, it is necessary to transport same by truck or barge to a marketing point. In that event, you are authorized to deduct from the proceeds for such oil, condensate, distillate, plant products and all other hydrocarbons the trucking or barge charges. Proper deductions will be made for sediment and other impurities, and corrections for temperature will be made in accordance with established rules prevailing at the time and place of delivery.
4. The undersigned agrees to indemnify you and hold you harmless from any liability for any tax proposed or assessed against any interest hereunder and hereby authorizes you to deduct and pay such tax or taxes.
5. Accounting and payment shall be made only for the oil, gas, condensate, distillate, plant products and all other hydrocarbons marketed and actually settled for by the purchaser and shall be made by check payable to the undersigned at their respective addresses shown above, provided if the proceeds accruing to any interest hereunder should amount to less than Fifty Dollars (\$50.00) per month, you will withhold payment without accrual of interest until such accruals amount to Fifty Dollars (\$50.00). All payments hereunder shall be deemed properly made upon being deposited in the United States mail, postage prepaid, addressed to the undersigned as above set forth.
6. The undersigned agrees to refund any overpayment which he receives and agrees that you, in your discretion, may withhold proceeds attributable to this interest until the amount of the overpayment is fully recovered.
7. Satisfactory abstracts or other evidence of title will be furnished to you at any time on demand. In the event of a failure to furnish such evidence of title or in the event of any adverse claim or dispute of any kind concerning title, you may hold the proceeds of all oil, gas, condensate, distillate, plant products and other hydrocarbons received without being liable for interest on the amount retained until indemnity satisfactory to you has been furnished, and in the event of any action or suit is filed in any court affecting the title either to the lands described above or to the oil, gas, condensate, distillate, plant products and other hydrocarbons produced therefrom in which any of the undersigned are parties, written notice of the filing of said action shall be immediately furnished to you by the undersigned against whom action is commenced, stating the court to which the same is filed and the style of such action or suit; and you and or any carrier transporting the oil, gas, condensate, distillate, plant products and all other hydrocarbons for the undersigned's account shall be held harmless from any judgment rendered in such suit, insofar as the same adversely affects the interest in the above referenced lands owned by the undersigned and/or all reasonable costs and expenses incurred in defending against such claim insofar as the same adversely affects the interest of the undersigned whether, in your defense or in the defense of the carrier transporting the oil, gas, condensate, distillate, plant products and other hydrocarbons for your or the undersigned's account, and the undersigned agrees to pay said judgment and the costs and expenses in the proportion and to the extent that the same affect the interest owned by the undersigned, but such amount shall never exceed the interest of the undersigned hereunder.
8. If any portion of the proceeds derived from the sale of the oil, gas, condensate, distillate, plant products and all other hydrocarbons is subject to refund under any law, order, rule or regulation of any court, regulatory body, state, the U.S. Government, or any subdivision thereof, you may withhold without interest the portion of the proceeds subject to refund unless indemnity satisfactory to you has been furnished, or until the refund obligation has been finally determined. If any portion of the proceeds derived from the sale of the oil, gas, condensate, distillate, plant products and all other hydrocarbons is thereafter required to be refunded by you under any law, order, rule or regulation of any court, regulatory body, state, the U.S. Government or any subdivision thereof, you are authorized to recover the amount of the refund applicable to the interest of each of the undersigned from future payments, or at your election you may invoice the undersigned therefor and collect the same plus the legal rate of interest you are entitled to in connection with the undersigned's portion of the refund.
9. Quantities are to be computed from regularly compiled tank tables or gas recording charts or other methods of computation, with the undersigned to have the privilege of witnessing and verifying the computations, gas charts and chart integration results. You shall make available such records in your possession during normal business hours to the undersigned that will enable the undersigned to verify such quantities; in addition to the deduction of the tank tables and gas charts, corrections shall be made for temperature, impurities, and shrinkage according to the rules and regulations as prescribed by the legal authority of the State in which the wells are located.
10. If any royalty interest hereunder shall become subdivided, you shall have the right to require the undersigned to execute a common agent to receive payment for the several holders of the subdivided portion thereof, and you shall not be required to make payment for the subdivided interest until such designation is furnished.
11. The consideration for the execution of this agreement is the proceeds from the oil, gas, condensate, distillate, plant products and all other hydrocarbons obtained and to be obtained from the unit well and/or lands described above, along with those additional considerations set forth herein which are hereby recognized and acknowledged as being sufficiently reasonable. The undersigned hereby adopts, ratifies and confirms the above described declaration of unit/drilling and production unit together with all amendments and supplements thereto which are hereby recorded and do further ratify the oil, gas and mineral leases listed and described in such declaration of unit/drilling and production unit and amendments or supplements thereto, and do hereby grant, lease and let the land described in such leases to the record owners thereof according to the terms, provisions and conditions of such leases, and do also agree that all oil, gas and mineral leases heretofore executed by them, covering lands included in such unit and have been pooled in accordance with such declaration, and all such leases as well as assignments and/or subleases, unit declarations, agreements, gas sales contracts, processing agreements and all amendments covering the tracts of lands as to which the undersigned is credited with an interest are presently valid and subsisting.
12. The undersigned agrees to notify you in writing of any change in ownership of interest and to furnish you with a certified copy of the instrument evidencing such change. Any transfer, assignment or conveyance of any interest in said oil or gas shall be made subject to this division order and effective at seven o'clock a.m. on the first day of the calendar month following receipt of such notice by you.
13. You are hereby relieved of any responsibility for determining when any of the interests shown above shall increase, diminish, be extinguished, or revert to other payments from said interests or as a result of the increase or decrease in production, and you are hereby authorized to continue to remit, pursuant to the division of interest set forth above until you receive notice in writing to the contrary, by mail addressed to you at the address shown above, together with a certified copy of the instrument evidencing such change.

*SEE APPENDED SCHEDULE

14. You are authorized but not required to deduct from the proceeds of sale the amount of any severance, production excise, occupation or any other tax levied by or under authority of the laws of the United States, the State where the wells are located or any legal subdivision thereof against the undersigned for and on account of his interest in the lands and oil, gas, condensate, distillate, plant products and all other hydrocarbons and to pay such tax or taxes from the deducted revenue. ^{related}
15. With respect to any interest in the statement of ownership and order of division which is credited to a married person, the spouse of such married person joins herein and becomes a party hereto and authorizes and directs you to receive and market oil, gas, condensate, distillate, plant products and all other hydrocarbons under the terms hereof, and to pay in accordance with this agreement to such married person, in the proportion and interest set forth above; which such payment shall be in full and complete discharge of all obligations hereunder, in the same manner as though such payment had been made directly to such spouse or to them jointly. Each interest owner warrants and represents that his or her marital status has remained constant subsequent to his or her acquisition of interest in the lands described. ^{only}
16. Should any of the undersigned become indebted to you in any amount, you may apply the proceeds accruing to the sale of any oil, gas, condensate, distillate, plant products, and all other hydrocarbons attributable to the interest of the undersigned as may be indebted to you along with any interest due on said debt to the payment and satisfaction of such indebtedness; along with any other remedies you have, either at law or in equity. ^{related}
17. This division order shall be effective as to each party signing same regardless of whether or not any other party whose name appears above executed this instrument or any other instrument of similar import. This division order supersedes all former division orders given on the above described property.
18. This division order shall inure to the benefit of the parties hereto, their heirs, successors and assigns; and the undersigned, and each of them, by executing this division order hereby agree that the persons, partnerships, corporations or firms to whom all or any part of the oil, gas, condensate, distillate, plant products and all other hydrocarbons produced from or allocated to the lands described above are sold or marketed, may make payment to you for such oil, gas, condensate, distillate, plant products and all other hydrocarbons purchased from the undersigned; and the undersigned, as it concerns and to the extent of their interest owned hereunder, they will hold harmless, protect and indemnify all purchasers against any and all claims, damages and expenses of whatsoever nature in connection with the purchase of such oil, gas, condensate, distillate, plant products and all other hydrocarbons by said purchaser and the payment to you for same on the basis of one hundred percent of "eighty-eighth". ^{related}

Unless terminated earlier by you upon written notice, this division order shall remain effective for a term of One (1) years and year to year thereafter until terminated by either party upon sixty days written notice prior to the anniversary of the effective date hereof. ^{related}

Before signing, please verify your interest as set out above and verify your address, with zip code, to which all checks and future notices are to be mailed. Any change of address should be promptly sent to J. Burns Brown Operating Company, P.O. Box 130966, Tyler, Texas 75713. ^{related}

Please indicate your Social Security or Federal Tax Identification Number in the space provided below your signature.

Sign in ink exactly as your name appears above and have your signature witnessed. If your name is incorrectly stated, return the division order with advice as to your correct name. If executed on behalf of a corporation, indicate your official title and impress the corporate seal attested by a secretary or assistant power of attorney authorizing such action.

APPENDED TO AND BY THIS REFERENCE MADE A PART OF THAT CERTAIN GAS
DIVISION ORDER DIRECTED TO J. BURNS BROWN OPERATING COMPANY ISSUED
THE 14TH DAY OF JANUARY, 1991, AND EFFECTIVE THE FIRST PRODUCTION
DAY AND DATED FOR SIGNATURE THE 24TH DAY OF OCTOBER, 1991.

If J. Burns Brown Operating Company is a direct or indirect
purchaser of any or all of the gas and other related hydrocarbons
covered by this Order or has any legal or equitable economic
interest in the purchaser thereof, the "price received" from such
purchaser shall be deemed to be the prevailing wellhead market
price for gas and other related hydrocarbons in the area of the
well covered by this Gas Division Order.

EXHIBIT 3

DATE 3-15-93

7 50311

NORFOLK ENERGY, INC.
GAS DIVISION ORDER

NOV - 9 1991
COPY

IMPORTANT: Keep one copy and note the property number as our checks and statements will be identified by this number.

TO: NORFOLK ENERGY INC.
Five Post Oak Park, Suite 1910
Houston, Texas 77027

Dated this 23rd day of _____, 1991
Property No. 1050 -
Effective 7:00 a.m. on the _____
(the date of first run)
(NNG# 300534)

The undersigned, and each of them, certify and warrant that they are the legal owners in the proportion set out below of all the gas and associated liquid hydrocarbons (hereinafter referred to as "Gas") produced from and allocated as described below.

Allocations per Border Agreement

Township 32N-

Township 32N-

DATE 3-15-93
SB 311

In Blaine County, State of Montana,

and commencing at 7:00 a.m., Date of First Run, you are authorized to sell and receive payments for the interest of the undersigned in the gas produced and sold from the said area of the terms hereinafter stated and until further notice to credit the proceeds of the sale thereof as follows:

Credit to

Division and Kind of Interest

The following covenants are also part of this division order and shall be binding on the undersigned, their successors, legal representatives, and assigns.

1. Settlements and payments for proceeds of gas sold shall be paid to the interest owners in accordance with the division of interest set forth above. Payments therefor shall be made monthly by check, mailed to the above mentioned interest owners at the post office addresses set forth below, on or before thirty days after receipt by you or payment for the gas run and of sufficient information upon which allocations of production can be made. If the proceeds accruing to any interest owner under this Division order shall amount to less than Fifteen Dollars (\$15.00) per month, you are hereby authorized to withhold payment (without interest) until such time as the amount thereof shall exceed \$25.00, provided, that regardless of the total, payment of the accumulated amount shall be made in December of each year.

2. Settlements and payments shall be made on the basis of the net proceeds received by you from the sale of gas under existing or future gas purchase agreements and any amendments, extensions or renewals thereof, based upon the volume computations made by the gas purchaser and accepted by you. In the event the sales price is established or regulated by the Federal Energy Regulatory Commission or any other governmental authority, whether federal, state or local, the price utilized for the purpose of calculating net proceeds shall be the unsuspended, nonrefundable, price determined by final unappealable order of the Federal Energy Regulatory Commission or other government authority.

3. In the event of a dispute or question at any time concerning the title to the above described land and/or gas produced therefrom, you are authorized to withhold the proceeds of all gas sold without interest, until such dispute, defect or question of title is corrected or removed to your satisfaction, or until indemnity satisfactory to you has been furnished, and in the event any action or suit is filed in any court affecting the title to the land above described or the gas produced therefrom to which any of the undersigned is a party, written notice of the filing of such suit or action shall be immediately furnished you (or the operator as your agent) by the undersigned, stating the court in which the same is filed and the title of such suit or action. ~~In the event that any court action is commenced affecting or concerning the said land and/or gas produced therefrom in which you are named as a party, you are authorized to deduct from the interest or interests affected by such action actual attorneys fees paid by you in defending and representing you and for all court costs expended by you therein.~~

4. You are hereby relieved of any responsibility for determining if and when any of the interests, here and above 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 or for any other reason, including termination of any life tenancy or cessation of a trust or guardianship, and the signers whose interests are so affected hereby agree to give written notice when any such money or other payments have been completed or discharged or when any other divisions of interest than that set forth above shall, for any reason, including death of a life tenant, distribution to a beneficiary or termination of guardianship, become effective, and to furnish appropriate evidence accordingly, and in the event such notice shall not be received by you, to hold you harmless from any and all loss, cost, expense or damage that may result from any overpaying.

5. The signers hereof agree to give you written notice of any transfer of interest, accompanied by the original, a photostatic or certified copy of the recorded transfer instrument. Transfers of interest shall be made effective on the first day of the calendar month in which said notice is received by you or the unit operator. Should such notice not be received, you shall be held harmless in the event of payment made without regard to such transfer.

6. You are hereby authorized by, at your option, to withhold from the shares of the undersigned in proceeds from the sale of gas, a sum sufficient to pay the estimated amount of all taxes levied by or through the State of Montana, or a legal subdivision thereof, including local school districts, against the shares of the undersigned in production or proceeds thereof, which taxes shall include the Montana Net Proceeds Tax, the Resource Indemnity Trust Tax, the Oil and Gas Severance Tax, the Montana Conservation Board Tax and any tax which may hereafter be enacted and levied, based on volume or value of production.

7. The Division Order shall become valid and be binding on each and every owner of interest above named, as soon as signed by such owner, regardless of whether all of the above named owners have so signed.

The appended schedule is made a part hereof.

WITNESS TO SIGNATURE:

OWNER'S SIGNATURE AND ADDRESS:

NOTE: Spouses of all owners must join in this document.

Donnell A. Rantson
63 4th St
Chino, MT 59523

BY: _____

TAX _____

BY: /

TAX _____

Shirley Hormeister
8304 E. Cabal Bell Circle
Mesa, Az 85208

*The term "title" in this paragraph means the Lux Mineral Trust title.

APPENDED TO AND BY THIS REFERENCE MADE A PART OF THAT CERTAIN GAS DIVISION ORDER DIRECTED TO NORFOLK ENERGY INC., ITS SUCCESSORS AND ASSIGNS, ISSUED THE 23RD DAY OF AUGUST, 1991, AND EFFECTIVE THE FIRST PRODUCTION DAY AND DATED FOR SIGNATURE THE 30th DAY OF OCTOBER, 1991.

If Norfolk Energy Inc., its successors and assigns, is a direct or indirect purchaser of any or all of the gas and other related hydrocarbons covered by this Order or has any legal or equitable economic interest in the purchaser thereof, the "price received" from such purchaser shall be deemed to be the prevailing wellhead market price for gas and other related hydrocarbons in the area of the well covered by this Gas Division Order.

EXHIBIT 3
DATE 3-15-93
SB 311

Oil and Gas Lease

This agreement IS MADE AND ENTERED INTO THIS _____ DAY OF _____, 19_____, BY AND BETWEEN

OF _____

HEREIN REFERRED TO AS THE "LESSOR" (WHETHER ONE OR MORE) AND _____

OF _____

HEREIN REFERRED TO AS THE "LESSEE" (WHETHER ONE OR MORE).

The Lessor, for and in consideration of _____ Dollars, (\$_____), the receipt of which is hereby acknowledged, and of the covenants and agreements herein set forth on the part of the Lessee to be paid, kept and performed, does grant, demise, lease and let exclusively unto the lessee, for the purpose and with the exclusive right of exploring by geophysical and other methods, drilling and operating for and producing therefrom oil and gas of whatever nature or kind, and with rights of way and easements for laying pipelines, power lines, building tanks, power stations, ponds, roadways, and structures thereon for producing, saving, treating and caring for such products produced on the leased premises and any and all other rights and privileges necessary or incident thereto,

all that certain tract or tracts of land, together with any reversionary rights therein, situated in the County of _____

State of _____, described as follows:

For the purpose of determining the amount of any money payment under this lease this land shall be considered to contain

_____ acres.

1. TERM. Subject to the other provisions of this lease, this lease shall remain in force for a term of _____ years from this date (herein called "primary term") and as long thereafter as oil or gas is produced from said land or as long thereafter as lessee is engaged in actual drilling or reworking operations on said land as hereinafter provided.

2. ROYALTY. The lessee shall pay to the lessor, as royalty, free of cost, the following: (a) On Oil, _____ of that produced and saved from said lands, the same to be delivered at the wells or to the credit of the lessor into the pipelines to which the wells may be connected. Lessee may from time to time purchase any royalty oil in its possession, paying the market price for oil of like grade and gravity prevailing in the same field or area on the day such oil is run into the pipelines or into storage tanks. (b) On gas of whatsoever nature or kind produced and sold from said land or used for the manufacture of gasoline or any other products _____ of the proceeds from the sale of such gas at the mouth of the well. Lessee agrees that all royalties accruing to lessor under this lease shall be without deduction for cost of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting and otherwise making the oil, gas and other products hereunder ready for sale or use.

3. SHUT IN GAS WELL. If a well capable of producing gas is shut in such well shall not be considered to be producing gas in paying quantities. Nonetheless lessee shall be entitled to extend this lease beyond the primary term by paying or tendering to lessor on or before the anniversary date of this lease following the expiration of the primary term, and annually thereafter while such well is shut-in, for a period of _____ years after the expiration of the primary term, an amount equal to _____ dollars per acre held under this lease by such shut-in well. Such payments shall under no circumstances be construed as continuing the lease beyond the above stated time period. Payments may be tendered to lessor or to lessor's credit by check or draft mailed or delivered to the depository bank designated herein. "Shutting-in" of a well shall occur on the date on which production casing in such well is perforated and a gas flow test discloses that the well is capable of production in paying quantities. Until such casing shall have been run and the gas flow tested, no well shall be considered "shut-in."

4. LESSOR'S GAS USE. Lessor shall have gas free of charge from any gas well on the leased premises for use in lessor's buildings, structures, and improvements now existing or hereafter constructed for domestic and farming and ranching purposes provided that for each

gas well lessor shall be limited to _____ mcf of gas per _____ (time period). Lessor shall make his own connections to the well and the use of the gas shall be at lessor's sole risk and expense. Lessor shall have the same rights as above provided to free gas from wells located on lands with which the leased lands are pooled or unitized.

5. RENTAL. If no well be commenced on said land on or before one year from the date hereof, this lease shall terminate as to both parties, unless the lessee, on or before that date, shall pay or tender to the lessor or to the lessor's credit in the _____

_____ Bank at _____, or its successors, which shall continue as the depository of any and all sums payable under this lease regardless of changes in the ownership of said land or of the oil and gas or the rentals to accrue hereunder,

the sum of _____ Dollars, _____, which will operate as rental and cover the privilege of deferring the commencement of a well for one year from said date. In like manner and upon like payments or tenders, the commencement of a well may further be deferred for like periods successively. All payments or tenders may be made by check or draft of lessee or any assignee thereof, mailed or delivered on or before the rental date, either directly to lessor or assigns or to said depository bank.

6. SEGREGATION CLAUSE. Production from any well drilled hereunder, payments for any shut in gas well, or lessee's drilling or reworking operations shall not serve to extend the primary term of this lease nor to relieve the lessee from rental payments except as to such lands as are contained within the spacing unit within which the well is located. This clause shall also apply to pooled and unitized lands with production thereon extending the primary term of this lease only for such pooled or unitized lands.

7. DRY HOLE. If, prior to discovery of oil or gas on said lands, and during the primary term hereof, lessee drills a dry hole or holes thereon and the drilling of another well is not commenced before the next anniversary of this agreement, this lease shall terminate as to both parties, unless the lessee, on or before said date shall resume payment or tender of rentals in the same amount and same manner as hereinabove provided. Upon such resumption of the payment or tender of rentals, paragraph five (5) governing the payment of rentals and the effect thereof shall continue in force as though there had been no interruption in the rental payment.

8. CESSATION OF PRODUCTION. If after the discovery of oil or gas the production thereof should cease from any cause this lease shall terminate unless the lessee commences additional drilling or reworking operations within 60 days thereafter, or, if it be within the primary term, unless the lessee resumes the payment or tender of rental on or before the next rental paying date after the cessation of production. In the event of such drilling or reworking operations, or if the lessee is drilling or reworking any well or wells at the end of the primary term of this lease, this lease shall remain in force during the diligent prosecution of such operations and, if production results therefrom, then as long thereafter as production continues.

9. LESSER INTEREST. If the lessor owns less interest in the above described lands than the entire and undivided fee simple estate therein, then the royalties and rental herein provided shall be paid to the lessor only in the proportion which his interest bears to the whole and undivided fee. However, such rentals and royalties shall be increased at the next rental paying date after lessee has been notified of lessor's acquisition of additional interest by reversion or otherwise.

10. NOTICE TO LESSOR AND OCCUPANT. Lessee agrees to notify lessor, and the person in possession of the surface of said land if other than the lessor, in writing at least twenty days but not more than ninety days before a well is commenced of lessee's intent to commence a well, the date operations are proposed to begin and the location of the well. After completion of the well, if requested by lessor, lessee shall provide lessor with copies of all logs, reports and other geological information filed with the Montana Board of Oil and Gas Conservation at the time such information is so filed. Lessee further agrees to notify lessor in writing within 30 days after plugging and abandoning any well, giving the well name, location and date of plugging.

11. LESSEE'S GAS USE. Lessee shall have the right to use, free of cost, gas, oil and all water produced on the lands for his operations thereon in connection with the production of oil, gas, or either of them, from said lands.

12. PIPELINES. Lessee shall bury all pipelines at least six feet below the surface.

13. WELL LOCATION. No well shall be drilled nearer than 600 feet to any house, barn or other building or structure now on or hereafter constructed on said premises, without lessor's prior written consent.

14. DAMAGES. The lessee shall pay for all damages caused by his exploration or production operations on said lands including trail damages. Within six months after completion of a well or plugging and abandoning a well, lessee shall remove all material from any pits which are not necessary for operation of the well and shall fill any such pits. Within said six month period lessee shall also reclaim the drilling site as completely as reasonably practical commensurate with producing the well if the well is a producing well. Within one year after termination of this agreement lessee shall restore any previously unrestored lands to their original condition, as near as reasonably practical.

15. REMOVAL OF PROPERTY. The lessee shall have the right to remove all machinery, fixtures, buildings and other structures placed on the lands, including the right to draw and remove casing, within six months of the expiration of this lease or the early termination thereof, and all of the same not so removed shall become the property of the lessor at the expiration of such six months period.

16. SATLWATER DISPOSAL WELLS. This lease shall not include the right to drill wells for or use existing wells for salt water disposal.

17. ASSIGNMENT AND CHANGE OF OWNERSHIP. If the estate of either party hereto is assigned, and the privilege of assigning in whole or in part is hereby expressly allowed, the covenants hereof shall extend to and be binding upon the heirs, devisees, estate representatives, successors and assigns of the parties. No change in ownership of the land or assignment of rentals or royalties by lessor shall be binding on the lessee until the lessee has been furnished with an executed or certified copy of the transfer or assignment. In the event of the assignment of this lease in whole or in part by lessee or lessee's successors or assigns, such assignment shall not be binding on lessor until lessor is notified in writing of such assignments and of the name and address of the assignee.

18. RELEASE. Lessee may at any time release this lease as to part or all of the lands described herein by delivering or by placing a release of record in the proper county. In the event of a partial release, the annual delay rental above mentioned shall be reduced proportionately. Within 60 days after the expiration of this lease or any portion thereof for any reason, lessee shall place a release of record in the proper county or counties and shall mail or tender a copy of such release to lessor.

19. EXCUSE OF PERFORMANCE. All express or implied covenants of this lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this lease shall not be terminated, in whole or part, nor Lessee held liable in damages, for failure to comply therewith, if compliance is prevented by or if such failure is the result of any such Law, Order, Rules or Regulation.

20. WARRANTY. Lessor makes no warranty, express or implied, as to lessor's title to the above described land except that lessor agrees to defend whatever title lessor has and agrees that the lessee, at its option, may pay and discharge in whole or in part any taxes, mortgage, or other liens, existing, levied, or assessed on or against said land, and in the event it exercises such option it shall be subrogated to the rights of any holder or holders thereof and may reimburse itself by applying to the discharge of any such mortgage, tax or other lien, any royalty or rentals accruing hereunder. Lessor further agrees that any interest or title to said land acquired by lessor after the date hereof shall be subject to this lease to the same extent as if said interest or title had been held by Lessor at the date hereof. In such event the amount of rental payable hereunder shall be approximately adjusted at the next ensuing rental date after lessee has been furnished evidence of such after acquired title.

21. PARTIES BOUND. This lease shall be binding upon all who execute it, whether they are named in the granting clause and whether all parties named in the granting clause execute this lease. All provisions of this lease shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of lessor and lessee. Lessor hereby waives and releases all rights of dower and homestead in said lands insofar as the rights granted under this lease might be affected thereby.

22. CAPTIONS AND TITLES. The captions, titles and paragraph headings throughout this lease are for convenience and reference and shall not be held to explain, modify, amplify, or aid in the interpretation, construction or meaning of the provisions of this lease, nor to define, limit or describe the scope or intent of a particular paragraph.

IN WITNESS WHEREOF the undersigned have executed this instrument on the date first above written..

STATE OF _____ }
County of _____ } ss.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public for the State of _____ personally appeared _____

_____ known to me to be the person(s) whose names are subscribed to the foregoing instrument and acknowledged to me that he (she) (they) executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of _____

(NOTARIAL SEAL)

My commission expires _____

Residing at _____

Oil and Gas Lease

TO

STATE OF _____ }
County of _____ } ss.

Filed for record this _____ day

of _____, A.D., 19____

at _____ o'clock _____ M.,

and recorded in Book _____

page _____ of the records of

_____ County, State of _____

County Recorder.

By _____

Deputy.

Fees, \$ _____

OIL AND GAS LEASE

Billings Blue Print
Billings, Montana

AGREEMENT, Made and entered into this _____ day of _____, 19____,
by and between _____

Party of the first part, hereinafter called lessor (whether one or more) and

Party of the second part, hereinafter called lessee

WITNESSETH, That the said lessor, for and in consideration of _____ DOLLARS cash in hand paid, receipt of which is hereby acknowledged and of the covenants and agreements hereinafter contained on the part of lessee to be paid, kept and performed, has granted, demised, leased, and let and by these presents does grant, demise, lease and let unto the said lessee, its successors and assigns for the sole and only purpose of surveying by geological, geophysical and all other methods, mining and operating for oil and gas, and laying pipe lines, and building tanks, power stations and structures thereon to produce, save and take care of said products, all that certain tract of land, together with any reversionary rights therein, situate in the County of _____ State of _____ described as follows, to-wit:

EXHIBIT 3
SITE 3-15-93
SB 311

and containing _____ acres, more or less.
It is agreed that this lease shall remain in force for a term of ten years from date, and as long thereafter as oil or gas, or either of them, is produced from said land by the lessee, its successors and assigns:

In consideration of the premises the said lessee covenants and agrees:

First. The lessee shall deliver to the credit of lessor as royalty, free of cost in the pipe line to which lessee may connect its wells, the equal one-eighth part of all oil produced and saved from the leased premises, or, at lessee's option, may buy or sell such one-eighth royalty and pay lessor the market price for oil of like grade and gravity prevailing in the field on the day such oil is run into pipe lines or into storage tanks.

Second. The lessee shall pay lessor, as royalty, one-eighth of the proceeds from the sale of the gas, as such, for gas from wells where gas only is found and where not sold shall pay a sum equal to the annual delay rental herein as royalty, and while such royalty is so paid such well shall be held to be a producing well. The lessor to have gas free of charge from any gas well on the leased premises for stoves and inside lights in the principal dwelling house on said land by making his own connections with the well, the use of said gas to be at the lessor's sole risk and expense.

Third. To pay lessor one-eighth (1/8) of the market value at the well for gas produced from any oil well and used off the premises, or for the manufacture of casing-head gasoline or dry commercial gas.

If no well be commenced on said land on or before the _____ day of _____, 19____, this lease shall terminate as to both parties, unless the lessee on or before that date shall pay or tender to the lessor or to the lessor's credit in the

Bank at _____ or its successor or successors, or any bank with which it may be merged, or consolidated, or which succeeds to its business or assets or any part thereof, by purchase or otherwise, which shall continue as the depository regardless of changes in the ownership of the said land, the sum of

DOLLARS, which shall operate as a rental and cover the privilege of deferring the commencement of a well for twelve months from said date. In like manner and upon like payments or tenders the commencement of a well may be further deferred for like periods of the same number of months successively. And it is understood and agreed that the consideration first recited herein, the down payment, covers not only the privileges granted to the date when said first rental is payable as aforesaid, but also the lessee's option of extending that period as aforesaid, and pay any and all other rights conferred. Rentals may be paid by check or draft and may be remitted by mail. Mailing of rental on or before the rental-paying date shall be deemed a timely tender thereof and shall preclude termination of this lease. Notwithstanding the death of the lessor, or his successor in interest, the payment or tender of rentals in the manner provided above shall be binding on the heirs, devisees, executors and administrators of such person.

Should any well drilled on the land above described be a dry hole or cease to produce and there are no other producing well or wells on the land or drilling operations are not being conducted thereon, then and in that event if a well is not commenced before the next rental paying date this lease shall terminate as to both parties, unless the lessee on or before the next rental paying date shall resume the payment of rentals in the same amount and in the same manner as hereinbefore provided, and it is agreed upon the resumption of the payment of rentals, as above provided, the last preceding paragraph hereof, governing the payment of rentals and the effect thereof, shall continue in force as though there had been no interruption in the rental payment.

If said lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties and rentals herein provided shall be paid the lessor only in the proportion which his interest bears to the whole and undivided fee. However, such rentals shall be increased at the next succeeding rental anniversary after any reversion having occurred to cover the interest so acquired with or without notice of said reversion to lessee.

Lessee shall have the right to use, free of cost, gas, oil and water produced on said land for its operations thereon, except water from wells and reservoirs of lessor. Lessee shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

Lessee shall pay for all damages caused by its operations on said lands. When requested by the lessor, lessee shall bury his pipe lines below plow depth. No well shall be drilled nearer than 200 feet to the house or barn now on said premises, without the written consent of the lessor.

Lessee shall have the right to completion with reasonable diligence and dispatch (1) any well commenced within the term of this lease, and (2) any well commenced before the completion of a well which has been commenced within such term. If oil and gas or either of them be found in paying quantities in any such well this lease shall continue and be in force with like effect as if such well had been completed within the term of years herein first mentioned.

Lessee is hereby granted the right and power to pool or combine the acreage covered by this lease, or any portion thereof, with other land, lease or leases in the vicinity thereof at any time and from time to time, whether before or after production, when in lessee's judgment it is necessary or advisable to do so for the prevention of waste and the conservation and greatest ultimate recovery of oil or gas. Such pooling shall be into a unit or units not exceeding in area the acreage prescribed or required in any Federal or State law, order, rule or regulation for the drilling or operation of one well, or for obtaining the maximum allowable production from one well, or 40 acres each for the production of oil, or 640 acres each for the production of gas, whichever is the larger. Such pooling shall be effected by lessee's executing and filing in the office where this lease is recorded an instrument identifying and describing the pooled acreage. The production of pooled substances and development and operation on any portion of a unit so pooled, including the commencement, drilling, completion and operation of a well thereon, shall be considered and construed, and shall have the same effect, except for the payment of royalty, as production, development and operation on the leased premises under the terms of this lease. The royalties herein provided shall accrue and be paid to lessor on pooled substances produced from any unit in the proportion, but only in the proportion, that lessor's acreage interest in the land covered hereby and placed in the unit bears to the total acreage in the land placed in such unit.

If the estate of either party hereto is assigned, and the privilege of assigning in whole or in part is expressly allowed, the covenants hereof shall extend to their heirs, executors, administrators, successors or assigns, but no change in the ownership of the land or assignment of rentals or royalties shall be binding on the lessee until after the lessee has been furnished with a written transfer or assignment or a certified copy thereof, and it is hereby agreed in the event this lease shall be assigned as to a part or parts of the above described lands and the assignee or assignees of such part or parts shall fail or make default in the payment of the proportionate part of the rents due from him or them, such default shall not operate to defeat or affect this lease in so far as it covers a part or parts of said lands which the said lessee or any assignee thereof shall make due payment of said rentals. An assignment of this lease, in whole or in part, shall as to the extent of such assignment relieve and discharge the lessee of all obligations hereunder.

Compliance with any now or hereafter existing act, bill or statute purporting to be enacted by any Federal or State legislative authority, or with orders, judgments, decrees, rules, regulations made or promulgated by State or Federal courts, State or Federal officers, boards, commissions or committees purporting to be made under authority of any such act, bill or statute, shall not constitute a violation of any of the terms of this lease or be considered a breach of any clause, obligation, covenant, undertaking, condition or stipulation contained herein, nor shall it be or constitute a cause for the termination, forfeiture, reversion or revealing of any estate or interest herein and hereby created and set out, nor shall any such compliance confer any right of entry or become the basis of any action for damages or suit for the forfeiture or cancellation hereof, and while any such purport to be in force and effect they shall, when complied with by lessee or assigns, to the extent of such compliance operate as modifications of the terms and conditions of this lease where inconsistent therewith.

Lessee may at any time release this lease as to part or all of the lands above described after which all payments and liabilities thereafter to accrue, as to the lands released, shall cease and determine. In the event of a partial release, the annual delay rental above mentioned shall be reduced proportionately.

Lessor hereby warrants and agrees to defend the title to the lands herein described, and agrees that the lessee shall have the right at any time to redeem for lessor, by payment, any mortgage, taxes or other liens on the above described lands in the event of default of payment by lessor, and be subrogated to the rights of the holder thereof.

This lease and all its terms, conditions and stipulations binds each executing lessor and shall extend to and be binding on his assigns, heirs and devisees and successors, and those of the lessee, though unsigned by other lessors named herein.

IN WITNESS WHEREOF, We sign the day and year first above written.

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

MONTANA ACKNOWLEDGMENTS

STATE OF _____ }
COUNTY OF _____ } SS.

(Individual Form)

On this _____ day of _____, in the year 19_____, before me,
_____, a Notary Public,
personally appeared _____,
known to me to be the person _____ whose name _____ subscribed to the within instrument, and acknowledged to me that
_____ executed the same.

My commission expires.....

Notary Public for the State of

Residing at.....

MONTANA ACKNOWLEDGMENTS

STATE OF _____ }
COUNTY OF _____ } SS.

(Individual Form)

On this _____ day of _____, in the year 19_____, before me,
_____, a Notary Public,
personally appeared _____,
known to me to be the person _____ whose name _____ subscribed to the within instrument, and acknowledged to me that
_____ executed the same.

My commission expires..... Notary Public for the State of
Residing at.....

Oil and Gas Lease

FROM

TO

Date _____ 19____

Section Township Range

Number of Acres

County,

Term

STATE OF

COUNTY OF _____

55.

This instrument was filed for record on the

day of _____, 19____

at _____ book _____ page _____

of the records of this office.

County Clerk and Recorder

By

Deputy

When recorded return to

STATE OF _____ }
COUNTY OF _____ } SS.

(Corporate Form)

On this..... day of, in the year 19....., before me,
....., a Notary Public,
personally appeared.....,
known to me to be the..... of the corporation that executed the
within instrument and acknowledged to me that such corporation executed the same.

My commission expires.....

Notary Public for the State of

Residing at



MONTANA PETROLEUM ASSOCIATION
A Division of the
Rocky Mountain Oil and Gas Association

Helena Office
2030 11th Avenue, Suite 23

OUR NEW ADDRESS

33 So. Last Chance Gulch, #2B
P.O. Box 1186, Helena, MT 59624
Telephone: 406/442-7582
Fax: 406/443-7291

Billings, Montana 59103
Phone (406) 252-3871
Fax (406) 252-3271

Comments and Amendments on SB 311
House Natural Resources Committee
March 15, 1993

EXHIBIT 4
DATE 3-15-93
HB SB 311

We offer the following comments and suggested changes to SB 311:

P. 1, beginning with line 12:

(1) As used in this section, the term "division order" is limited to means an instrument executed by the lessor of an oil and gas lease to authorize the sale of and used for directing direct the distribution of proceeds from the sale of oil, gas, casinghead gas, or other related hydro-carbons. The holder of the division order may be the first purchaser of the production or any other holder of proceeds from the sale of such production.

P. 1, beginning with line 16:

(2) ~~A division order is executed to enable the first purchaser of the oil or gas production or the holder of proceeds of the production to make remittance of proceeds directly to the owners legally entitled to the proceeds.~~

We have limited the definition of a division order for the purposes of the legislation to those division orders executed by the lessors. We assume that is the class of citizens which the bill attempts to protect, although it is unclear why such protection is perceived as needed. The current version of the bill is confusing as it fails to take into consideration that various other owners who have no royalty rights under the lease also execute division orders (e.g. owners of working interests, production payments, overriding royalties). Whether or not the terms of the division order conflict with the terms of the royalty provisions of the underlying lease is of no consequence to them.

The bill describes the purpose of the division order as a direction to distribute proceeds from the sale of production. A division order also authorizes the holder to purchase or sell the production and we have added such language to subsection (1) of SB 311.

The first sentence of subsection (2) has been deleted as it seemed redundant in some respects and too expansive in others. Again, the bill should be limited to division orders executed by lessors.

Subsection (3) is unacceptable as drafted as it could be interpreted to bar the holder of the division order from including other necessary provisions in the document. The drafters of the bill must recognize that oil and gas leases generally do not include all the provisions necessary for disbursing proceeds from production -- e.g., time and method

of settlement, responsibility for payment of taxes, point of passage of title, measurement of production. The division order must also include the effective date of the order, the duration of the order, and a description of the premises or products covered by the order. The bill fails to include these necessary provisions. Thus, we suggest the following changes:

P. 1, beginning with line 23:

- (3) A division order must be in writing and ~~must~~:
- (a) must warrant the division of interest;
- (b) must contain the name, address, and tax indemnification number of the lessor ~~each interest owner~~; and
- (c) must contain a provision requiring notice of change of ownership; and
- (d) may contain any other terms which are necessary to facilitate the transaction.

Finally, it is our opinion that the last subsection should be deleted. If it is not deleted then it must be changed as follows:

P. 2, beginning with line 4:

- (4) Terms of a division order that conflict with terms of ~~any underlying the~~ lessor's oil or gas lease are invalid as between the lessor and the lessee.

This subsection as drafted could be interpreted to allow one lessor to claim rights under another lease ("the terms of any underlying oil and gas lease"). Thus, its application must be limited to the lease of the particular lessor who executed the division order. In addition, the purchaser of the production cannot be bound by the terms of the lease. If the purchaser offers to buy the production upon certain terms and those terms conflict with terms of the lease, the conflict is between the lessor and its lessee, not between the lessor and the purchaser.

The best course is to delete the provision in its entirety and thus avoid its inherent ambiguities. The provision is redundant as its purpose is fully addressed in subsection (2) of the bill which provides that the division order does not relieve the lessee of its liabilities and obligations under the lease.

(Comments and amendments prepared with assistance of Corinne Courtney, Regulatory Compliance Attorney, CENEX)

Proposed amendments to SB 311:

1. P. 1, beginning with line 12:

(1) As used in this section, the term "division order" is limited to means an instrument executed by the lessor of an oil and gas lease to authorize the sale of and used for directing direct the distribution of proceeds from the sale of oil, gas, casinghead gas, or other related hydro-carbons. The holder of the division order may be the first purchaser of the production or any other holder of proceeds from the sale of such production.

2. P. 1, beginning with line 16:

~~(2) A division order is executed to enable the first purchaser of the oil or gas production or the holder of proceeds of the production to make remittance of proceeds directly to the owners legally entitled to the proceeds.~~

3. P. 1, beginning with line 23:

- (3) A division order must be in writing and ~~must~~:
- (a) must warrant the division of interest;
- (b) must contain the name, address, and tax indemnification number of the lessor each interest owner; and
- (c) must contain a provision requiring notice of change of ownership; and
- (d) may contain any other terms which are necessary to facilitate the transaction.

4. P. 2, beginning with line 4:

Either delete the subsection or amend as follows:

- (4) Terms of a division order that conflict with terms of ~~any underlying the~~ lessor's oil or gas lease are invalid as between the lessor and the lessee.

Montana Petroleum Association
March 15, 1993

EXHIBIT 4
DATE 3-15-93
SB 311

514

MANUAL OF OIL & GAS TERMS

Lessee

(1) The person entitled under an oil and gas lease to drill and operate wells, paying the lessor a royalty and retaining the remainder, often $\frac{7}{8}$ ths of the production, known as the "working interest." The lessee pays all production costs out of his fraction, the lessor's fraction being free and clear of all such costs.

(2) The term "lessee" is defined by some statutes to include the lessee under an oil and gas lease, or the owner of any land or mineral rights who conducts or carries on any oil and gas development, exploration and operation thereon, or any person so operating for himself or others. Wash. Laws 1951, ch. 146, § 3 (6), R. C. W. 78.52.010(7) (1962).

Lessor

The owner of mineral rights who has executed a lease. He is normally entitled to the payment of a royalty (often $\frac{1}{8}$ th) on production, free and clear of the cost of developing or operating the property, except taxes on his share of the production. Other interests of a lessor arising from a lease include a possibility of reverter or power of termination, a right in many instances to a bonus and delay rentals, and the benefit of implied covenants.

Division order

A contract of sale to the purchaser of oil or gas. The order directs the purchaser to make payment for the value of the products taken in the proportions set out in the division order.

Even though the lessee by the terms of the lease has authority to dispose of any products produced, the purchaser usually requests the operator to furnish complete abstracts of title which the purchaser causes to be examined, after which a division order is prepared by the purchaser on the basis of the ownership shown in the title opinion prepared after examination of the abstracts. The purchaser usually requires that the division order be executed by the operator, the royalty owners and other persons having an interest in the production. When the division order is executed and returned to the purchaser, payment is commenced for the products removed. The division order is typically terminable at the will of either party.

As to the effect of a division order as a conveyance of interests in the producing property, see *Snider v. Snider*, 208 Okla. 231, 255 P.2d 273, 2 O.&G.R. 711 (1953). Execution of a division order permits payment to be made by a purchaser in accordance with the terms thereof even though in conflict with the actual ownership of interests in production. *Chicago Corp. v. Wall*, 293 S.W.2d 844, 6 O.&G.R. 703 (Tex. 1956). The execution of a division order by a nonleasing concurrent owner may operate as a ratification of a lease [Texas & Pacific Coal & Oil Co. v. Kirtley, 288 S.W. 619 (Tex. Civ. App. 1926, error ref'd)], or alter the terms of a lease [Simpson v. United Gas Pipe Line Co., 196 Miss. 356, 17 So. 2d 200 (1944)].

See also the following:

Hollimon, "Division Orders—A Primer," 34 Sw. Legal Fdn. Oil & Gas Inst. 313 (1983);

Knowlton and Morrow, "Division Orders," *Rocky Mt. Min. L. Fdn. Inst. on Oil and Gas Agreements* Paper 12 (1983);

Jacobson, "Division Orders are Unilaterally Revocable Agreements that Bind the Parties Until Properly Revoked: Exxon Corp. v. Middleton," 13 Texas Tech L. Rev. 142 (1982);

Edwards, "A Suggested Analysis for Gas Division Orders," 17 *Tulsa L.J.* 534 (1982);

Bounds, "Division Orders," 5 Sw. Legal Fdn. Oil & Gas Inst. 91 (1954);

Ethridge, "Oil and Gas Division Orders," 19 Miss. L.J. 127 (1948);

TREATISE §§ 701-715.

See also DELAY RENTAL DIVISION ORDER; ONE HUNDRED PERCENT OIL DIVISION ORDER.

The definition of division order in this MANUAL was cited by *Kaufman v. Arnaudville Co.*, 186 So. 2d 337 at 342, 25 O.&G.R. 290 at 297 (La.App. 1966), writ ref'd, 249 La. 575, 187 So. 2d 739, 25 O.&G.R. 299 (1966).

Division order title opinion

See TITLE OPINION.

DL

DEVELOPMENT LICENSE (DL) (q.v.).

4
3-15-93
503 311

EXHIBIT 5
DATE 3-15-93
HB SB 294

FLORENTINE EXPLORATION & PRODUCTION, INC.
P.O. Box 23203
Billings, MT 59104
406/656-2727

April 10, 1993

House Natural Resources Committee
1625 11th Ave.
Capitol Station
Helena, MT 59620

Re: SB 294 - DEFINITION OF THE TERMS: COAL, GAS & OIL

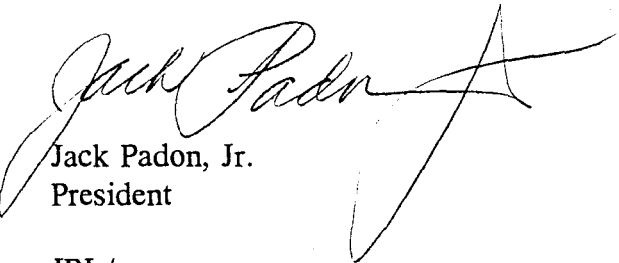
Ladies and Gentlemen:

I would like to purchase copies of the House Natural Resources Committee's minutes and testimony from your hearing of SB 294, referenced above. If you require a check prior to sending the requested information, please call me collect with the amount required and I will promptly forward a check.

Thank you for your immediate attention to this matter.

Yours very truly,

FLORENTINE EXPLORATION & PRODUCTION, INC.



Jack Padon, Jr.
President


JPJr/nv

EXHIBIT 5
DATE 3-15-93
SB 294

TESTIMONY, JIM MOCKLER, SB 294, March 15, 1993

Jim Mockler, Director, Montana Coal Council, testified in support of SB 294. Mr. Mockler said he would be concerned should the bill apply to surface coal mining. Mr. Mockler also said he would not want the Montana Coal Council to be charged with the loss of any royalties.

(Permission to release this testimony, given this day, April 20, 1993 by House Chief Clerk, Marilyn Miller and House Natural Resources Chairman, Dick Knox.)

Roberta G. Opel 
House Natural Resources Secretary
444-4897

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. _____

DATE 3/15/93 SPONSOR(S) _____

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Betty Grizzle Bozeman		✓	
Joanne Hall	myself	✓	
STUART WEISS	HOLNAM INC		
Roger Thorvilson	DHES (BIFS)		
Charles Homen	DHES (AQB)		
Rich Kratterud	DHES (SHWB)		
Jim Macklen	MTCA/CORRECTION	SB294 SB248	
Marlyn Atkins	myself	✓	
DON VIDRINE	DHES		
Herb Vasseur	Hon. Lend + Hon. Lend	SB311	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

NATURAL RESOURCES

COMMITTEE

BILL NO. SB 294

DATE 3/15/93 SPONSOR(S) SEN. KEATING

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.