

EXHIBIT 1

Gustafson & Rohrer

Attorneys at Law
400 South Main Street, Suite 101
Conrad, Montana 59425

Gale R. Gustafson, J.D.
Arnold M. Rohrer, J.D.

Telephone: 406-278-7521
FAX: 406-278-7522

July 24, 2007

Montana Oil & Gas Conservation Commission
2535 St. Johns Avenue
Billings, MT 59102
Attention: Mr. Tom Richmond, Administrator
Fax: (406)655-6015

**CERTIFIED MAIL -RETURN RECEIPT
REQUESTED**

Mr. Clyde "Norman" Peterson
Agency Legal Services
State of Montana, Department of Justice
P.O. Box 201440
Helena, Montana 59620
Fax: (406)444-4303

RE: Fey-Rossmiller 12-27 Oil Well located on Albert Fey Ranch, Fulton Fuel
Sunburst B Sand Unit, Lease No. 3000103 and Refusal of Operator, MCR,
L.L.C., to Respond To Working Interest Owner, Brad Berthelson and Comply
with Or Amend Oil & Gas Commission Order #64-93 dated December 9, 1993.

Dear Commission Members, Administrator Tom Richmond and Commission Counsel
Clyde "Norman" Peterson,

I just noticed in last week's edition of the Independent Observer, Conrad's weekly newspaper, that the "Gale Gustafson matter" is scheduled for the Commission's consideration for its July 25th, 2007 meeting. I can only presume from my recent conversations with Mr. Peterson that this matter actually involves the complaint of my client, Brad Berthelson, of Conrad, Montana, who is one of several Working Interest Owners in the above-referenced Oil Well. As Mr. Richmond can attest, Mr. Gary McDermott, the principal owner of MCR, L.L.C., the Operator of this well has ignored my certified letters of March 11, 2006, March 22, 2006 and June 2, 2006, copies of which have also been sent to Mr. Richmond, as well as Gary Klotz of your Shelby Office, as well as my follow-up calls to his office where I have left numerous messages with his Secretary, Leslie Woldvedt, who has also signed Receipts for my Certified Letters. Similarly, Mr. Richard Beatty, who was also sent a copy of my initial letter

dated March 11, 2006, as legal counsel for MCR, L.L.C., has likewise failed to return my numerous calls to his office.

In this correspondence I have requested an explanation as to why this oil well, which was placed on production as a unit in May 1999, is being subjected to unit cost allocation when it is to be operated as a separate or stand alone well not subject to unit cost allocation pursuant to the Commission's Order #64-93 dated December 9, 1993, which deleted Tract 9 from the Fred and George Creek Sunburst "B" Sand Unit then operated by Fulton Fuel Company.

Although, Mr McDermott represented to me on September 12, 2001 that he was going to seek re-unitization of this oil well in this same unit, and in July 1999, when he was the Accountant for Fulton Fuel Company, that this oil well, which he claimed produced 8-30 bbls/day was projected to pay out in 12-15 months when it went into production again in May 1999, this oil well as yet to be unitized or "pay-out". In my last correspondence from Gary McDermott dated July 12, 2005, a copy of which is enclosed for your convenient reference, he furnished me a "revised accounting of the Rossmiller 12-27 Tract participation in the Unit starting January 1, 1994 through December 31, 2004, as well as the results of a unit production study done by Ryder Scott Company, Petroleum Engineers, of Denver, Colorado, showing a Phase I or initial Tract Participation Factor of 9.11% reduced now to a Phase II Tract Participation Factor of only .52%. How this Unit Tract Participation factor can be reduced by almost 99.5% is beyond my comprehension, especially since this oil well was apparently dormant from 1993 to May 1999.

Mr. McDermott also advises me in this same letter that using this substantially reduced tract participation factor of .52% that

" As of December 31, 2004 Mr Berthelson owes the unit \$342.90."

Mr. McDermott then goes on to say that in "my opinion" the Rossmiller 12-27 Working Interest Owners have two options available to them:

1. They can agree to join the Fred and George Creek Sunburst B Sand Unit. MCR, LLC as Unit Operator would write off the money owed by the Rossmiller well owners as of December 31, 2004, if they decided to join the unit.
2. The Rossmiller well could be operated as a separate well. MCR, LLC (Fulton Fuel Company) is recognized by the Montana Board of Oil and Gas as the bonded Operator. To convert this well to a stand alone operation the Rossmiller working interest owners would have to purchase and set pumping unit, purchase and install a heater treater and construct a tank battery. In addition, a pumper would have to be hired to pump the well.

Estimated Capital Cost To Implement This Plan:

Used Pumping Unit and Base	\$3,500
Install and set pumping unit	\$2,500
Electric Motor	\$500
Electric Panel	\$250
Purchase & Installation of Treater, Tank Battery and Flow Lines	\$75,000
Contingency 5%	<u>\$4,100</u>
Total	\$86,100

If the Berthelson and Rossmiller owners have other suggestions to resolve this matter, please advise."

Following receipt of this last correspondence from Mr. McDermott some two (2) years ago I have, on behalf of my client, beginning with my correspondence of March 22, 2006, requested Mr. McDermott, principal owner and managing member of MCR, LLC, the **bonded** Operator of this Oil Well, whether he advised the other working Interest Owners of the options, and, if so, what has been their response, and whether my client and the other Working Interest Owners can assume that the Working Interest Owners should finally receive some positive returns with oil prices at \$60-\$70 per bbl. I have also requested the names, current addresses and telephone numbers of the Working Interest Owners, and, absent unanimous consent of all the Working Interest Owners, what steps are necessary to officially and legally unitize this oil well if that is, in fact, the desire of a majority of the Working Interest Owners. A list of the names, current addresses and telephone numbers of the Working Interest Owners, of course, is essential in order to call a meeting of the Working Interest Owners, which Mr. McDermott appears to have no interest in doing, so the Working Interest Owners can discuss the two (2) options outlined in Mr. McDermott's letter of July 12, 2005, as well as other possible options. As noted in my letter of March 22, 2006, my client, Brad Berthelson, as a Working Interest Owner, has also repeatedly requested, via the Certified letters I have sent to Mr. McDermott, his response to the other inquiries in my letter to him of March 11, 2006, including the oil and water production of this well, as well as that of the Unit since December 31, 2004, along with an updated Schedule Of Crude Oil Sales, Royalty Expense, Production Taxes, Operating Expenses and Capital Expenditures Allocated to Well. We have also asked for the name, address and telephone number of the company which is purchasing the production for this Unit, which request like our other inquiries, has been ignored by Mr. McDermott.

Notwithstanding this Commission's Order #64-93 requiring this Oil Well to operate as a Stand Alone, Fulton Fuel Company and MCR, LLC, has been operating this oil well as a part of the Sunburst "B" Sand Unit, and allocating operating costs among fifteen (15) operating wells, only eleven (11) of which are supposedly producing wells. In his accounting from May 1999, when this oil well first went back into production, through December 31, 2004, Mr. McDermott shows **no** production for this oil well for twenty-five

(25) months, or approximately 37% of the time. Monthly operating costs for this same period range from a low of \$385.42 for May of 1999 when this oil well was first put back into production, to a high of \$2,020.32 in May of 2001, two (2) years later. And, Brad Berthelson's Cumulative Balance has decreased from a negative of \$2,017.04 in May of 1999 to a negative of \$4,251.56 in December 2004. In other words, Brad Berthelson's **negative** interest in this oil well tumbled 53% in this 68 month time period from May 1999 to December 2004

My question to Mr. McDermott as to how his company as Operator expects to reverse this negative trend has likewise been disregarded. Since the criteria for unit operation is that

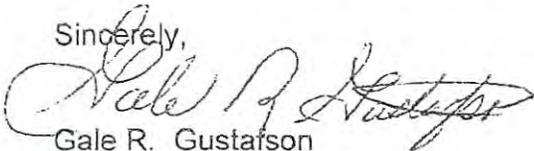
"The value of the estimated additional recovery of oil or gas less royalties . . . exceeds the estimated additional cost incident to conducting such operations."

this subject oil well which doesn't appear to be producing as part of a unit made under the operation of MCR, LLC., according to its accounting. This being the case, it appears doubtful this well will ever produce as a stand alone. See Paragraph 2 of Section 82-11-205. Board order for unit operation . . . criteria., M.C.A.

In closing, we have come to question the motives of Mr. Gary McDermott in his accounting for this oil well, or the lack thereof, in view of the fact that his company is in arrears on its taxes owing the Montana Department of Revenue in excess of \$1,000,000 and is presently defending a lawsuit by the State to recover the same predicated upon Mr. McDermott's breach of his 2005 tax settlement with the Department of Revenue. We suspect that Mr. McDermott and his company are pocketing all the production from this well, as well as others and defrauding the Working Interest Owners like he is the State and all of us taxpayers.

Thank you for your thoughtful consideration of my client's problems with this Operator. Anything your Commission can do to get this Operator to show cause why it has not complied with the Court's Order will be most appreciated. Thank you.

Sincerely,



Gale R. Gustafson

GRG:rmb
Enclosures/4
c. Brad Berthelson

Gustafson & Rohrer

Attorneys at Law
400 South Main Street, Suite 101
Conrad, Montana 59425

Gale R. Gustafson, J.D.
Arnold M. Rohrer, J.D.

Telephone: 406-278-7521
FAX: 406-278-7522

March 11, 2005

Mr. William M. Fulton, Jr.
Fulton Fuel Company
127 Main Street
Shelby, MT 59474

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

URGENT

Mr. Gary W. McDermott, CPA
201 1st Street South
Shelby, MT 59474

RE: Fey-Rossmiller 12-27 Oil Well located on Albert Fey Ranch, Fulton Fuel
Sunburst B Sand Unit, Lease No. 3000103

Dear Mr. Fulton and Mr. McDermott,

I received Mr. McDermott's letter of December 14, 2004, and, after thoughtful reviewing your response to my letter of November 15, 2005, and the accounting you enclosed therewith, my client, Brad Berthelson, and myself, have several questions which we need to have addressed.

First, I shall refer you to my earlier letter to each of you dated December 17, 2001, wherein I enclosed a copy of a letter I received from Mr. Tom Richmond, Administrator of the Board Of Oil & Gas Conservation, dated November 5, 2001.

If you will refer to Administrator Richmond's letter, the Fey-Rossmiller 12-27 Oil Well is a

"stand alone operation not subject to unit costs or allocations"

yet your latest accounting from May 1999 though December 2004 indicated in the upper left-hand corner that this oil well

"... was placed on production as a unit in May of 1999."¹

Secondly, the Board's records indicate Duard Rossmiller (or his Estate) as the Operator and that if Fulton Fuel Company is, in fact, the Operator, it had not filed a "Change Of Operator Form" or placed this well on its bond as of November 5, 2001. I have since been advised that the Change Of Operator Form was finally approved on August 13, 2002, some three (3) years later. As the attorney for Albert Rossmiller, the Personal Representative for Duard Rossmiller Estate since last September, I would like to know how this was accomplished in view of the fact that there was no one serving as Personal Representative for his Estate since the death of Albert's brother, Jerry Rossmiller, on January 21, 1997? Please furnish me any and all documentation pertaining to this Change Of Operator.

Also, please furnish me a complete, legible copy of the Fulton Fuel Company's Operator's Agreement for this Oil Well which I have requested in all of my prior correspondence to you.

In addition to the foregoing information request is hereby made for a list of all the names and last known addresses and phone numbers of all the other Working Interest Owners.

As you might have expected, my client also objects to your Accounting for this "Stand Alone" Oil Well which, by your own Accounting, "... was placed on production as a unit in May of 1999", or since this well was last put in production, and therefor "subject to unit costs or allocations with ten (10) other producing wells, for centralized tankage, treaters, piping and other,¹ as well as flowlines, roads and electrical lines and fourteen (14) other operating wells for monthly operating expenses, all contrary to Administrator Richmond's November 5, 2001 letter to me.

Please explain why Fulton Fuel Company continues to allocate expenses to this "stand alone" oil well as if it were a part of the Sunburst "B" Sand Unit contrary to the BOG Order #64-93, and why monthly operating costs are allocated among 15 operating wells where there is only 11 producing wells. What kind of wells are these other four (4) operating but non-producing wells? Assuming arguendo that this oil well is properly subject to unit costs or allocation with these ten (10) other **unidentified** producing wells, your accounting is still questionable since it shows no production from this oil well for twenty-five months of the some 68 months from May 1999 to December 2004, or approximately 37% of the time! Your accounting shows no production or sales for the following months:

¹ Although your Accounting shows 11 producing wells for allocation of centralized tankage (\$70,131.55), treater (\$25,812.97), piping (\$11,535.79), and other (\$26,982.52), as well as (\$97,376.30), roads (\$3,378.80) and electrical lines (\$14,782.43), totaling \$249,999.94, or \$22,727.27 for this well, your Accounting respecting production and "Allocated Operating Expense" shows 15 "Operating Wells".

1999: May, June, July

2000: August, September, October, November, December

2001: March, April, May

2002: June, July

2003: February, March, April, August, November

2004: January February, March, April, May, November, December

Your allocation of monthly operating costs to this one (1) well of 15 range from \$385.42 in May of 1999, when this well presumably was first put into production, to \$2,020.32 in May of 2001. It is of interest to note that your Accounting shows no production for either of these months and that Monthly Operating Costs are assessed to this "stand alone" oil well each of the other 23 months your Accounting shows no production for this well. If this well is, in fact, being produced as a unit, with allocation of operating costs among all fifteen (15) operating wells, then shouldn't the oil production from all eleven (11) producing wells likewise be fairly allocated among all fifteen (15) wells. By way of illustration, if the production from all eleven (11) wells in any one month is 4,500 bbls then wouldn't it be proper to allocate 300 bbls of production to each one of the fifteen (15) operating wells? In any event, assuming the propriety of such unit allocation of production, then wouldn't it be fair to assume that there would never be a month that a well with production being allocated to it would not show any production unless the whole unit tract dried up.

Also, please advise me the name, last known address and phone number of the company(s) which has (have) been purchasing the oil produced from this well since May of 1999.

I have also been advised that Fulton Fuel Company's Monthly Production Reports to be filed with the Board Of Oil & Gas Conservation are some nine (9) months delinquent, the last being filed June 2004, and that unless these delinquent Production Reports are filed in the immediate future, Fulton Fuel Company will be subject a new automatic penalty policy just being implemented. Needless to say, this information is essential to determine or verify the accuracy of your Accounting.

According to your Accounting, apparently because of Fulton Fuel Company's treatment of this stand alone oil well, Brad Berthelson's Cumulative Balance has increased from a negative \$2,017.04 in May of 1999 to a negative \$4,251.56 in December 2004. How do you expect to reverse this trend? Among the criteria for unit operation is that "The value of the estimated additional recovery of oil or gas less royalties . . . exceeds the estimated additional cost incident to conducting such operations." See Para. (2) of §82-11-205. Board order for unit operation - criteria., M.C.A.

Again, I should reiterate that in my telephone conversation with Gary on September 12, 2001, he advised me that Fulton Fuel Company, via the assistance of Attorney, Dick Beatty, and the Engineering Firm, Ryder Scott Company, of Denver, Colorado, was

going to seek to get this oil well re-unitized, or back into the Main Sunburst "B" Sand Unit. More than three (3) years have passed and I have not been advised this has been accomplished. Gary also advised me that this oil well produces 8-30 bbls/day and was projected to pay out in 12-15 months from when it went on to production again in July 1999. With such production and record prices of crude oil (\$47.55 on January 21, 2005, a high of \$55.00 plus in December, 2004) this well should now be making money for its Working Interest Owners like my clients, Brad Berthelson (8.875%) and Duard Rossmiller Estate (28.75%).

Please respond to my several inquiries and furnish me the requested information by April 11, 2005.

Sincerely,



Gale R. Gustafson

GRG:rmb

c. Brad Berthelson

Richard Beatty

Tom Richmond, Administrator, Montana Oil & Gas Conservation, Shelby, Montana

Gary Klotz, Oil & Gas Conservation, Shelby, Montana

Albert Rossmiller

7004 0750 0003 3652 3016

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William Fulton, JR

Street, Apt. No.,
or PO Box No. 127 Main Street

City, State, ZIP+4 Shelby, Montana 59474

7004 0750 0003 3652 3016

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Sent To Gary McDermott, CPQ

Street, Apt. No.,
or PO Box No. 201 1st Street South

City, State, ZIP+4 Shelby Montana 597474

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1. Article Addressed to:
 Mr. Gary W. McDermott
 201 1st Street South
 Shelby, Montana 59474

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) *Leslie Woodworth* B. Date of Delivery *7/12/07*
- C. Signature *[Signature]* Agent Address
- D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
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 Registered Return Receipt for Merchandise
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4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

7004 0750 0003 3652 3016

PS Form 3811, July 1999

7004 0750 0003 3652 3016

Domestic Return Receipt

102595-99-M-178

Gustafson & Rohrer

Attorneys at Law
400 South Main Street, Suite 101
Conrad, Montana 59425

Gale R. Gustafson, J.D.
Arnold M. Rohrer, J.D.

Telephone: 406-278-7521
FAX: 406-278-7522

March 22, 2006

CERTIFIED MAIL - RETURN RECEIPT
REQUESTED

Mr. Gary W. McDermott
c/o MCR, LLC
P.O. Box 176
Shelby, MT 59474

RE: Fey-Rossmiller 12-27 Oil Well located on Albert Fey Ranch, Fulton Fuel
Sunburst B Sand Unit, Lease No. 3000103

Dear Mr. McDermott,

I have reviewed with my client, Brad Berthelson, your letter of July 12, 2005, wherein you advise me that as of December 31, 2004 Mr. Berthelson owes the Sunburst "B" Sand Unit \$342.90. You also set out two (2) options which you believe are available to the Working Interest Owners of the Fey-Rossmiller 12-27 and indicated that if the Working Interest Owners can agree to join the Fred & George Creek Sunburst "B" Sand Unit your company MCR, LLC, as Unit Operator and successor to Fulton Fuel Company, will write off any monies owed by them as of December 31, 2004. This being the case, have you advised the other Working Interest Owners of their options, and, particularly, this latter option, and, if so, what has been their response? With oil prices at the \$60-\$70 range this past year, can we assume Mr. Berthelson and the other Working Interest Owners should finally be entitled to some positive return on their Working Interests? However, Mr. Berthelson advises me that he has yet to receive any working interest payments since your letter of July 12, 2005. Absent consent by all the Working Interest Owners, please advise us what is necessary to officially and legally make this Fey-Rossmiller 12-27 Oil Well a part of the Sunburst "B" Sand Unit, which you also refer to as the Fred & George Creek Sunburst "B" Sand Unit, even though it has been treated as part of the Unit all along. Maybe you can shed some light on how inclusion of this well in this Unit can be approved by the Oil and Gas Commission, especially now since Albert Rossmiller, the last appointed Personal Representative for the Duard Rossmiller Estate, just recently passed away.

Since it appears any decision will have to be made by all of the Working Interest Owners, please furnish me their names and last known addresses and telephone

numbers, as Mr. Berthelson would like to contact them for the purpose of possibly selling his Working Interest to another Working Interest Owner, and, if this cannot be accomplished, to possibly develop a consensus from the Working Interest Owners if necessary. As you may recall, I requested a list of the names, last known addresses and telephone numbers of all the Working Interest Owners for this well in my letter to you of March 11, 2005, a copy of which I am enclosing herewith for your convenient reference. Please also respond to the remaining inquiries in my March 11, 2005 letter to you and Mr. Fulton to which you have not responded and send me the oil production as well as water production from this well since December 31, 2004, along with an updated Schedule Of Crude Oil Sales, Royalty Expense, Production Taxes, Operating Expenses And Capital Expenditures Allocated To Well to encompass all of 2005 and the months of January and February 2006. I would also like the water production records from both this well, as well as the Unit since May of 1999 through December 31, 2004.

Also, please advise me of the name, address and telephone number of the company which is purchasing the production from this Unit.

Thank you for your thoughtful attention to these inquiries at your earliest convenience. If at all possible, we would like your response by April 10, 2006. As you might appreciate, my client would like any loss or income information for his 2005 Income Tax Returns and if this information can be provided sooner, please send it to me as soon as it is available.

Sincerely,



Gale R. Gustafson

GRG:rmb

Enclosures/1

c. Brad Berthelson

Mrs. Albert Rossmiller

Tom Richmond, Administrator, Montana Oil & Gas Conservation, Billings, Montana

Gary Klotz, Oil & Gas Conservation, Shelby, Montana

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 Mr. Gary McDermott
 c/o mcrd
 P.O. Box 176
 Shelby, MT 59474

2. Received by (Please Print Clearly) *LESLIE W. D. WEST* B. Date of Delivery *3/27/06*

C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
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Total Postage & Fees	\$ 4.88

Sent To: *G. McDermott*
 Street, Apt. No., or PO Box No. *P.O. Box 176*
 City, State & ZIP Code *Shelby, MT 59474*

2004 2510 0005 2224 6630
 6222 5000 0752 4002

Gustafson & Rohrer

Attorneys at Law
400 South Main Street, Suite 101
Conrad, Montana 59425

Gale R. Gustafson, J.D.
Arnold M. Rohrer, J.D.

Telephone: 406-278-7521
FAX: 406-278-7522

June 2, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Gary W. McDermott
c/o MCR, LLC
P.O. Box 176
Shelby, MT 59474

RE: Fey-Rossmiller 12-27 Oil Well located on Albert Fey Ranch, Fulton Fuel
Sunburst B Sand Unit, Lease No. 3000103

Dear Mr. McDermott,

I am quite concerned with your lack of response to my letter of March 22, 2006 wherein I advised you that I had reviewed with my client, Brad Berthelson, your letter of July 12, 2005, wherein you advise me that as of December 31, 2004 Mr. Berthelson owes the Sunburst "B" Sand Unit \$342.90. You also set out two (2) options which you believe are available to the Working Interest Owners of the Fey-Rossmiller 12-27 and indicated that if the Working Interest Owners can agree to join the Fred & George Creek Sunburst "B" Sand Unit your company, MCR, LLC, as Unit Operator and successor to Fulton Fuel Company, will write off any monies owed by them as of December 31, 2004. This being the case, have you advised the other Working Interest Owners of their options, and, particularly, this latter option, and, if so, what has been their response? With oil prices at the \$60-\$70 range this past year, can we assume Mr. Berthelson and the other Working Interest Owners should finally be entitled to some positive return on their Working Interests? However, Mr. Berthelson advises me that he has yet to receive any working interest payments since your letter of July 12, 2005. Absent consent by all the Working Interest Owners, please advise us what is necessary to officially and legally make this Fey-Rossmiller 12-27 Oil Well a part of the Sunburst "B" Sand Unit, which you also refer to as the Fred & George Creek Sunburst "B" Sand Unit, even though it has been treated as part of the Unit all along. Maybe you can shed some light on how inclusion of this well in this Unit can be approved by the Oil and Gas Commission, especially now since Albert Rossmiller, the last appointed Personal Representative for the Duard Rossmiller Estate, just recently passed away.

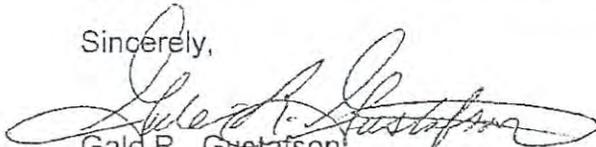
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selling his Working Interest to another Working Interest Owner, and, if this cannot be accomplished, to possibly develop a consensus from the Working Interest Owners if necessary. As you may recall, I requested a list of the names, last known addresses and telephone numbers of all the Working Interest Owners for this well in my letter to you of March 11, 2005, a copy of which I am again enclosing herewith for your convenient reference. Please also respond to the remaining inquiries in my March 11, 2005 letter to you and Mr. Fulton to which you have not responded and send me the oil production as well as water production from this well since December 31, 2004, along with an updated Schedule Of Crude Oil Sales, Royalty Expense, Production Taxes, Operating Expenses And Capital Expenditures Allocated To Well to encompass all of 2005 and the months of January through May 2006. I would also like the water production records from both this well, as well as the Unit since May of 1999 through May 31, 2006.

Also, please advise me of the name, address and telephone number of the company which is purchasing the production from this Unit.

Thank you for your prompt attention to this **second** request to provide answers and documentation to these inquiries on or before June 16, 2006.

Sincerely,



Gale R. Gustafson

GRG:rmb

Enclosures/1

c. Brad Berthelson

Mrs. Albert Rossmiller c/o David A. Gittins

Tom Richmond, Administrator, Montana Oil & Gas Conservation, Billings, Montana

Gary Klotz, Oil & Gas Conservation, Shelby, Montana

P.S. I called your offices on May 8th and again on May 26, 2006, when I did not receive a reply to my letter to you of March 22, 2006 requesting the courtesy of a reply by April 10, 2006, and left messages with Leslie, your secretary, who assured me she had, or would relay my messages requesting a reply to my March 22, 2006 letter. Unless you furnish me with the information I have requested and been patiently awaiting my client will be compelled to institute proceedings for a formal accounting.

7/25/06 Call to Gary McDermott - left message
with Leslie Waldredt

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Sent To: Gary McDermott, c/o MCR, LLC
 Street, Apt. No., or PO Box No.: P.O. Box 176
 City, State, ZIP+4: Shelby, MT, 59474

U.S. Form 3800, June 2009

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1. Article Addressed to:
 Gary McDermott
 c/o MCR, LLC
 P.O. Box 176
 Shelby, MT 59474

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly): *Leslie LeBlond* B. Date of Delivery: *6/23/09*

C. Signature: *Leslie LeBlond* Agent Address

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:
*P.O. Box 716
 Shelby MT 59474*

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label): *7004 2510 0005 2229 6623*

Receipt JUN 0 2009

MCR, LLC
P.O. BOX 716
SHELBY, MT 59474
(406) 424-8211

July 12, 2005

Mr. Gale Gustafson
Gustafson & Rohrer
400 South Main Street, Suite 101
Conrad, Montana 59425

Re: Rossmiller 12-27 – Township 37 North, Range 2 East, Section 27
Toole County, Montana

Dear Mr. Gustafson:

Enclosed are copies of letters from Mr. Larry Nelms of Ryder Scott Company verifying the Phase I and Phase II tract factors applied to Tract #9 the Rossmiller 12-27 well, as it relates to the Main Sunburst B Sand Unit.

Phase I - Tract Factor 9.11%

Phase II – Tract Factor 0.52%

When the Sunburst B Sand Unit was formed and approved in December 1993, the remaining primary oil was 30,184 barrels with 9.11% attributable to Tract #9 the Rossmiller 12-27 well.

Enclosed is a revised accounting of the Rossmiller 12-27 tract participation in the Unit starting on January 1, 1994 through December 31, 2004. The spreadsheet also accounts for Mr. Berthelson's interest in the Unit, using the above referenced tract participation factors and his ownership interest in Tact #9. As of December 31, 2004 Mr. Berthelson owes the Unit \$342.90.

In my opinion, the Rossmiller 12-27 working interest owners have two options available to them:

1. They can agree to join the Fred & George Creek Sunburst B Sand Unit. MCR, LLC as Unit operator would write off the money owed by the Rossmiller well owners as of December 31, 2004, if they decided to join the unit.
2. The Rossmiller well could be operated as a separate well. MCR, LLC (Fulton Fuel Company) is recognized by the Montana Board of Oil and Gas as the bonded operator. To convert this well to a stand alone operation the Rossmiller working interest owners would have to purchase and set a

JUL 14 2005

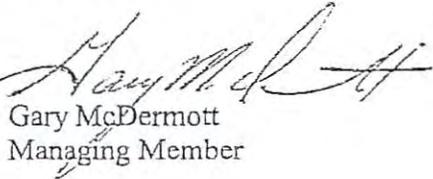
pumping unit, purchase and install a heater treater and construct a tank battery. In addition, a pumper would have to be hired to pump the well.

Estimated Capital Cost to implement this plan.

Used Pumping Unit & Base	\$3,500
Install and set pumping unit	2,500
Electric Motor	500
Electric Panel	250
Purchase and installation	
Treater, Tank Battery, Flow Lines	75,000
<u>Contingency 5%</u>	<u>4,100</u>
Total	\$86,100

If the Berthelson and Rossmiller owners have other suggestions to resolve this matter, please advise.

Sincerely yours,



Gary McDermott
Managing Member

FINANCIAL STATEMENT
As of 6/30/07

OIL AND GAS DIVISION
FY 2007 Budget vs. Expenditures

FTE Obj.	2007 Regulatory Budget	Expends	Expends % of Budget	2007 UIC Budget	Expends	Expends % of Budget	2007			2007			2007			TOTAL BUDGET	TOTAL EXPENDS	Expends % of Budget
							Educ & Outreach Budget*	Expends	Expends % of Budget	NAPE Budget*	Expends	Expends % of Budget	Pub Acc Data Budget*	Expends	Expends % of Budget			
	17.0			3.5								1.0			21.5			
1000 Pay Plan	-			-											-			
1100 Salaries	670,448	584,454	0.87	157,119	131,306	0.84						25,000	20,272	0.81	1,568,329	736,033	0.47	
1300 Other Comp	4,880	6,697	1.37	1,220	506	0.41							-		13,305	7,203	0.54	
1400 Benefits/Ins	206,823	180,475	0.87	45,983	38,528	0.84						10,520	8,158	0.78	482,330	227,161	0.47	
1600 Vacancy Svgs	(33,983)	-	0.00	(7,383)	-	-						(1,421)	-	-	(42,787)	-	0.00	
2100 Contracted Svcs	419,655	195,374	0.47	69,773	11,709	0.17	65,000	-	-			170,000	-	-	931,511	207,082	0.22	
2200 Supplies	37,641	42,051	1.12	7,346	6,898	0.94			4,000	-	-	3,500	1,004	0.29	101,438	49,953	0.49	
2300 Communications	37,942	37,556	0.99	7,134	7,544	1.06						1,500	1,368	0.91	91,678	46,468	0.51	
2400 Travel	28,995	37,532	1.29	7,830	5,375	0.69			4,442	-	-				84,176	42,907	0.51	
2500 Rent	13,442	19,624	1.46	2,882	2,383	0.83									38,333	22,007	0.57	
2600 Utilities	11,221	11,845	1.06	2,407	2,621	1.09									28,096	14,466	0.51	
2700 Repair/Maint	19,025	17,973	0.94	4,256	3,889	0.91									45,144	21,862	0.48	
2800 Other Svcs	15,767	16,567	1.05	10,136	8,837	0.87			5,000	-	-				56,309	25,404	0.45	
3000 Equipment	50,000	46,648	0.93	-	-	-									50,000	46,648	0.00	
6000 Grants							10,000	3,000	-									
Total	1,481,856	1,196,795	0.81	308,703	219,595	0.71	75,000	3,000	0.04	13,442	-	-	209,099	30,803	0.15	2,088,100	1,450,193	0.69

* includes unspent funds from fy06 (biennial approp)

FUNDING	2007 Regulatory Budget	Expends	2007 UIC Budget	Expends	2007 Educ & Outreach Budget*	Expends	2007 NAPE Budget*	Expends	2007 Pub Acc Data Budget*	Expends	TOTAL BUDGET	TOTAL EXPENDS	Expends % of Budget
State Special	1,481,856	1,196,795	198,703	127,299	75,000	3,000	13,442	-	209,099	30,803	1,978,100	1,357,897	
Federal			110,000	92,296							110,000	92,296	
Total Funds	1,481,856	1,196,795	308,703	219,595	75,000	3,000	13,442	-	209,099	30,803	2,088,100	1,450,193	

REVENUE INTO STATE SPECIAL REVENUE ACCOUNT as of 6/30/07

	FY 07	Total FY 06	Percentage FY07 to FY06
Oil Production Tax	3,148,244	3,424,490	0.92
Gas Production Tax	976,842	1,508,204	0.65
Penalty & Interest	-	-	
Drilling Permit Fees	78,305	86,850	0.90
UIC Permit Fees	185,300	190,350	0.97
Enhanced Recovery Filing Fee	-	-	
Interest on Investments	522,666	299,860	1.74
Copies of Documents	13,030	13,351	0.98
Miscellaneous Reimbursemts	6,981	2,859	2.44
TOTALS	\$4,931,368	\$5,525,964	0.89

REVENUE INTO DAMAGE MITIGATION ACCOUNT as of 6/30/07

	FY07
Transfer in from RIT	0
Bond Forfeitures	65,195
Interest on Investments	9,393
TOTAL	74,587

BOND FORFEITURES as of 6/30/07

Nerdlihc Company	65,194.75
------------------	-----------

REVENUE INTO GENERAL FUND FROM FINES as of 6/30/07

	FY07
Carrell Oil Company	150
Nerdlihc	2500
Yellowstone Petroleums	500
Cowry Enterprieses	500
Brandon Oil	40
Delphi - William Athens	90
Nerdlihc	1500
DL Inc.	180
TOTAL	5460

INVESTMENT ACCOUNT BALANCES as of 6/30/07

Damage Mitigation	231,280
Regulatory	12,671,018

GRANT BALANCES - 6/30/07

<u>Name</u>	<u>Authorized Amt</u>	<u>Expended</u>	<u>Balance</u>
EPA Exchange Network Grant	750,000	429,429	320,571
2005 Northern	300,000	162,546	137,455
2005 Eastern	300,000	87,830	212,170
TOTALS	\$1,350,000	\$679,805	\$670,195

CONTRACT BALANCES - 6/1/2007

HydroSolutions - Tongue River Info Project	150,000	97,422	52,578
HydroSolutions - Groundwater Vulnerability	49,924	48,635	1,289
Sylvan Petroleum LLC	36,750	-	36,750
GWPC - Mgmt - Exchange Node	131,450	53,803	77,647
ALL Consulting - IT - Exchange Node	577,825	357,076	220,749
DNRC Centralized Services Indirect - EPA	40,725	18,550	22,175
COR Enterprises - Janitorial	17,700	6,011	11,689
Agency Legal Services - Legal*	50,000	24,661	25,339
Liquid Gold - 05 Northern	210,000	138,284	71,716
C-Brewer - 05 Eastern (og-cb-120)	110,000	0	110,000
C-Brewer - 05 Eastern (og-cb-119)	250,000	126,084	123,916
TOTALS	1,624,374	870,526	753,848

Agency Legal Services Expenditures to Date in FY07

Case	Amt Spent	Last Svc Date
Diamond Cross	185	8/06
Diamond Cross 2	5,276	4/07
Tongue & Yellowstone	281	5/07
Hugh Gwynn	1,473	12/06
MEIC	3,885	4/07
BOGC Duties	13,561	4/07
Total	24,661	

Montana Board of Oil and Gas Conservation
Summary of Bond Activity

EXHIBIT 3

4/11/2007 Through 7/25/2007

Approved

AP Petroleum Company LLC Calgary AB	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$50,000.00 Multiple Well Bond 6/26/2007
Carl Johnson Family LLC Butte MT	Granite Mountain Bank Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 4/27/2007
Missouri Basin Well Service, Inc. Belfield ND	Wells Fargo Bank Montana Certificate of Deposit	Amount: Purpose: Effective	\$50,000.00 Multiple Well Bond 5/17/2007
Musketeer Oil and Gas Company, LLC Billings MT	1ST INTERST BNK OF COM, BLGS Certificate of Deposit	Amount: Purpose: Effective	\$24,000.00 Limited Bond 5/8/2007
Nautilus Poplar, LLC Denver CO	1ST INTERSTATE BANK WEST BLGS. Certificate of Deposit	Amount: Purpose: Effective	\$75,000.00 Multiple Well Bond 5/8/2007
Nearburg Producing Company Dallas TX	U.S. Specialty Insurance Co. Surety Bond	Amount: Purpose: Effective	\$50,000.00 Multiple Well Bond 7/3/2007
Oasis Petroleum North America LLC Houston TX	RLI INSURANCE COMPANY Surety Bond	Amount: Purpose: Effective	\$10,000.00 UIC - Single Well Bond 6/20/2007
Oasis Petroleum North America LLC Houston TX	RLI INSURANCE COMPANY Surety Bond	Amount: Purpose: Effective	\$50,000.00 Multiple Well Bond 5/29/2007
Oasis Petroleum North America LLC Houston TX	RLI INSURANCE COMPANY Surety Bond	Amount: Purpose: Effective	\$10,000.00 UIC - Single Well Bond 6/20/2007
Oasis Petroleum North America LLC Houston TX	RLI INSURANCE COMPANY Surety Bond	Amount: Purpose: Effective	\$10,000.00 UIC - Single Well Bond 6/20/2007
Pinnacle Gas Resources, Inc. Houston TX	RLI INSURANCE COMPANY Surety Bond	Amount: Purpose: Effective	\$4,500.00 UIC Limited Bond 5/22/2007
Solomon Exploration Inc. Havre MT	Independence Bank Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 7/10/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/16/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/18/2007

Montana Board of Oil and Gas Conservation Summary of Bond Activity

4/11/2007 Through 7/25/2007

Approved

Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/18/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/18/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/16/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/18/2007
Targe Energy Exploration and Production, LLC Denver CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/18/2007

Canceled

CamWest II, LP McKinney TX	FIDELITY & DEPOSIT CO. OF MD Surety Bond	Amount: Purpose: Effective	\$290,000.00 UIC Limited Bond 4/27/2007
Coastal Exploration Company	1ST INTERSTATE BANK OF BILLINGS Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 One-Well Bond 5/29/2007
Medallion Petroleum, Inc. Tulsa OK	BANK OF OKLAHOMA Letter of Credit	Amount: Purpose: Effective	\$10,000.00 Single Well Bond 5/14/2007
Missouri Basin Well Service, Inc. Belfield ND	Wells Fargo Bank Montana Certificate of Deposit	Amount: Purpose: Effective	\$10,000.00 Single Well Bond 5/25/2007
Missouri Basin Well Service, Inc. Belfield ND	Wells Fargo Bank, NA Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 5/25/2007

Released

Carl Johnson Family LLC Butte MT	Granite Mountain Bank Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/10/2007
Carl Johnson Family LLC Butte MT	Granite Mountain Bank Certificate of Deposit	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 7/10/2007
Duck Creek Energy, LLC Williston ND	1ST INTERSTATE BANK WEST Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 7/19/2007

Montana Board of Oil and Gas Conservation
 Summary of Bond Activity

4/11/2007 Through 7/25/2007

Released

Duck Creek Energy, LLC Williston ND	1ST INTERSTATE BANK WEST Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 7/19/2007
EEN, LLC Billings MT	FIRST CITIZENS BANK Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 6/20/2007
Fulton Fuel Company Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$2,100.00 UIC - Single Well Bond 6/6/2007
Fulton Fuel Company Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$11,400.00 UIC Limited Bond 6/6/2007
Fulton Fuel Company Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$20,000.00 UIC Limited Bond 6/6/2007
Fulton, William M. Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,442.00 UIC - Single Well Bond 6/6/2007
Fulton, William M. Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,442.00 UIC - Single Well Bond 6/6/2007
Fulton, William M. Shelby MT	1ST STATE BANK - SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$5,442.00 UIC - Single Well Bond 6/6/2007
Norwood, LLC Billings MT	FIRST CITIZENS BANK OF BLGS Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 6/4/2007
Norwood, LLC Billings MT	FIRST CITIZENS BANK OF BLGS Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 6/4/2007

JUL 20 2007

**FLYING J OIL & GAS INC.**

333 WEST CENTER STREET • NORTH SALT LAKE, UTAH 84054
PHONE (801) 296-7700 • FAX (801) 296-7888

MONTANA BOARD OF OIL
& GAS CONSERVATION BILLINGS

July 19, 2007

Montana Board of Oil & Gas Conservation
2535 St Johns Ave
Billings MT 59102

Re: Flying J Oil & Gas Inc. Ruegsegger 4N-24H, Sec. 24, T36N, R52E,
Sheridan Co, MT, Nisku Fm.

Members of the Board:

Flying J Oil & Gas Inc. hereby submits for Board approval an Application To Exceed the Associated Gas Flaring Limitation as per 36.22.1220 until January 1, 2008 concerning the Ruegsegger 4N-24H as referenced above. Flying J requests approval due to the length of time required to obtain relief in the form of the negotiation of a contract and the construction of a gas pipeline; the potential of not being able to acquire that relief; and the resulting negative effect of a delayed recovery of investment. The incremental gross oil production that would be curtailed due to non-approval of the Application is 2000 bbl. per month and the lost revenue to the working interest owners is \$110,000 per month. Lost revenues to the royalty owners would be proportionate.

Flying J is currently attempting to negotiate the construction of a low pressure six inch gas pipeline to connect to Bear Paw Energy's gas gathering system. However, if negotiations are successful, completion of this pipeline is anticipated to occur no sooner than November 2007. In addition, commitment to a contract by Bear Paw Energy may be dependent upon additional testing or development of additional wells in the Outlook Field which could result in even longer delays.

The pertinent facts concerning this application are as follows:

- **Estimated current production:** 160 bopd + 168 mcf
- **Gas analysis:** 1500 BTU, 6.11 GPM C₃ and heavier. See attached analysis.
- **Gas reserves:** Based on recoverable oil reserves of 250,000 BO and a measured GOR of 1050 SCF/BO Recoverable Gas Reserves are estimated at 263,000 mcf.
- **Proximity of the well to a market:** approximately 10 miles.

RECEIVED

JUL 26 2007

MONTANA BOARD OF OIL
& GAS COMMISSIONERS

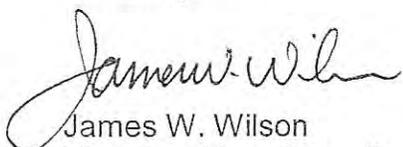
- **Estimated cost to install pipeline:** \$900,000 total all parties.
- **Estimated gas price:** \$5.50/ wellhead mcf., net of POP contract considerations.
- **Estimated cost of marketing gas:** \$2.15/ mcf .
- **Estimated gas used on location:** 150 mcf/month.
- **Re-injection Potential:** None.
- **Estimated Incremental gross gas flared if application approved:** 2100 mcf/ month.
- **Estimated gross value of incremental flared gas:** \$11,550/ month. .
- **Gross Oil production shut-in due to non-approval:** 2000 BO/ month.
- **Estimated lost revenue from incremental oil shut-in:**

Working Interest Owners: \$110,000/month.

Royalty Owners: Proportionate to Working Interest Owners.

Thank you for your consideration of this matter.

Sincerely,



James W. Wilson
Vice President Operations
Flying J Oil & Gas Inc.

Source: Flying J
Station #: 424Ruegsegr
Station Name: Ruegsegger 4-24 H
Field: test

Report Date: 06/06/2007 12:44:5
Sample Date: 6/4/07
Flowing Pressure: 25 psig
Flowing Temp.: 136 F

Method: c:\mti\ezchrom\200\methods\bperecol.met
File: c:\mti\ezchrom\200\chrom\424Ruegsegr.

Gas Analysis by Chromatograph

Name	Mole %	BTU	RD	GPM	
Nitrogen	17.861	0.000	0.173		
Methane	38.347	387.305	0.212		
CO2	5.218	0.000	0.079		
Ethane	16.625	294.196	0.173		
H2S	0.350	2.230	0.004		(Manual)
Propane	13.284	334.239	0.202	3.652	
i-Butane	1.504	48.909	0.030	0.491	
n-Butane	4.098	133.689	0.082	1.289	
i-Pentane	0.578	23.125	0.000	0.211	
n-Pentane	1.268	50.833	-0.000	0.458	
Hexanes	0.867	41.234	0.000	0.356	
Ideal Total	100.000	1315.759	1.028	6.457	
Unnormalized Total	99.645				

Gross BTU/Real Cu. Ft.
(@ 60 deg F, 14.696)
Dry = 1323.056
Wet = 1301.359
Actual = 1323.056
(0.000 lbs. water/MMCF)

Gasoline Content
Propane GPM = 3.652
Butane GPM = 1.780
Gasoline GPM = 1.025
26# Gasoline GPM = 2.314
Total GPM = 6.457

Real Relative Density Calculated = 1.0329
On-Site Relative Density = 0.0000

Gas Compressibility = 0.9945

Remarks: RUN BY: RK H2S = 3500 ppm

Source: Flying J
Station #: 4N24Ruegsegr
Station Name: Ruegsegger 4N-24 H
Field: test

Report Date: 06/06/2007 12:56:33
Sample Date: 6/4/07
Flowing Pressure: 25 psig
Flowing Temp.: 90 F

Method: c:\mti\ezchrom\200\methods\bperecol.met
File: c:\mti\ezchrom\200\chrom\4N24Ruegsegr

Gas Analysis by Chromatograph

Name	Mole %	BTU	RD	GPM
Nitrogen	3.657	0.000	0.035	
Methane	59.065	596.557	0.327	
CO2	0.142	0.000	0.002	
Ethane	16.969	300.283	0.176	
H2S	0.000	0.000	0.000	
Propane	11.723	294.962	0.178	3.223
i-Butane	1.357	44.128	0.027	0.443
n-Butane	3.852	125.664	0.077	1.212
i-Pentane	0.832	33.287	0.000	0.304
n-Pentane	1.153	46.223	-0.000	0.417
Hexanes	1.250	59.449	0.000	0.513
Ideal Total	100.000	1500.553	0.911	6.111
Unnormalized Total	99.047			

Gross BTU/Real Cu. Ft.
(@ 60 deg F, 14.696)
Dry = 1509.253
Sat. = 1484.464
Actual = 1509.253
(0.000 lbs. water/MMCF)

Gasoline Content
Propane GPM = 3.223
Butane GPM = 1.655
Gasoline GPM = 1.233
26# Gasoline GPM = 2.445
Total GPM = 6.111

Real Relative Density Calculated = 0.9154
On-Site Relative Density = 0.0000

Gas Compressibility = 0.9942

Remarks: RUN BY: RK H2S = 0 ppm



The Ruegseggers

Bill & Linda Ruegsegger
2525 Keel Drive Billings, MT 59105
Phone: (406) 259-8016 Cell: (406) 855-5746
Fax: (406) 259-7646

RECEIVED

JUL 23 2007

MONTANA BOARD OF OIL
& GAS CONS. BILLINGS

July 19, 2007

Montana Board of Oil & Gas Conservation
2535 St Johns Ave
Billings, MT 59102

Re: Flying J Oil & Gas, Inc. Ruegsegger 4N-24H, Sec 24, T36N, R52E
Sheridan County, MT, Nisku Formation

Members of the Board:

I am writing for the Ruegsegger family in support of the Application To Exceed the Associated Gas Flaring Limitation as per 36.22.1220 by Flying J Oil & Gas, Inc for Ruegsegger 4N-24H. It is our understanding this extension will be in place until January 1, 2008.

As royalty owners, we understand the reasons for the extension request and the potential economic impact and want to let you know we support Flying J Oil & Gas, Inc. in this matter.

Thank you for your time and attention I am available to address any questions you may have.

Sincerely,

William Ruegsegger



Montana Fish, Wildlife & Parks

P. O. Box 200701
Helena, MT 59620-0701
406-444-3186
FAX:406-444-4952
Ref:DO245-07
May 24, 2007

Dear Plan Partner:

The Management Plan and Conservation Strategies for Sage Grouse in Montana (2005) describe relevant management issues that can impact both sage grouse populations and sagebrush habitat and lists suggested conservation actions to address and potentially mitigate those issues. Energy development is presented as one such issue in Section VI of this document. Since the completion of the Management Plan, various research investigations have been undertaken and results published that bring to light new considerations and a need to adaptively modify certain recommendations related to energy development. The need to develop energy resources is recognized and the efforts to do so in a responsible fashion are supported.

Montana Fish, Wildlife and Parks (FWP) by means of this document, is acknowledging that new information based on the most current science, will be used to help shape agency recommendations as they relate to development activities and the overall strategies designed to conserve sage grouse, other wildlife species and the sagebrush communities that support them. Recent efforts to lease both federal and state mineral resources for potential oil and gas development are occurring at a significant scale across the state. Existing conservation strategies as outlined in the plan appear insufficient to effectively mitigate intensive development.

To that end, FWP has summarized recent findings that assess oil and gas resource development and the documented impacts to sage grouse populations. The bulk of this information has come from work conducted in Wyoming, southern Alberta, Colorado and Montana. This position paper is attached for information purposes. Incorporating this information into more appropriately designed conservation measures will necessitate both fine and large-scale modifications to existing approaches. FWP looks forward to working with Plan partners to accomplish this task.

Sincerely,
/s/
M. Jeff Hagener
Director

Mailing List:

Mary Sexton, Director
Montana Dept of Nat'l Resources and Conservation
P O Box 201601
Helena MT 596520-1601

Tom Tidwell, Regional Forester
USDA, Forest Service
200 E Broadway
Missoula MT 59807

Gene Terland, State Director
USDI Bureau of Land Management
Montana State Office
5001 Southgate Dr
Billings MT 59101

Dave White, State Conservationist
USDA, Natural Resource Conservation Service
10 East Babcock street, Rm 443
Bozeman MT 59715-4704

Ben Deeble
Sage-Grouse Project Coordinator
National Wildlife Federation
240 N Higgins Ave #2
Missoula MT 59802

Craig Sharpe, Executive Director
Montana Wildlife Federation
5530 N Montana Ave
Helena MT 59602

Tom Mutchler, President
Montana Falconers' Association
Rt 1, P O Box 102
Silesia MT 59041

Jay Bodner, Natural Resource Coordinator
Montana Stockgrowers Association
420 North California
Helena MT 59601

Sam Milodragovich
Northwestern Energy
40 East Broadway
Butte MT 59701

Dave Galt, Executive Director
Montana Petroleum Association
25 Neill Ave
Helena MT 59601

R. Mark Wilson, Supervisor
USFWS – Ecological Services
585 Shepard Way
Helena MT 59601

Shawn Satorius
U S Fish and Wildlife Service
2900 4th Ave North, Ste 301
Billings MT 59101

Montana Fish, Wildlife and Parks
Agency Position – Sage-Grouse Conservation and Energy Development
May 2007

Background:

Greater Sage-grouse are widely considered in scientific and public arenas to be a species of significant conservation concern (Connelly and Braun 1997). In response to those concerns, states and provinces that are occupied by sage-grouse have implemented extensive conservation efforts. In 2000, the Western Association of Fish and Wildlife Agencies (WAFWA) committed to inter-jurisdictional coordination with the signing of the interagency sagebrush/sage-grouse conservation MOU with US Department of Agriculture, Forest Service (USFS), US Department of Interior, Fish and Wildlife Service (USFWS) and Department of Interior, Bureau Of Land Management (BLM).

This MOU established the Sage-grouse Conservation Planning Framework Team comprised of state and federal biologists. The Team produced the greater Sage-grouse Conservation Assessment in two Phases: a conservation assessment, *Conservation Assessment of Greater Sage-grouse and Sagebrush Habitats* (Connelly et al. 2004) as Phase I and the *Greater Sage-grouse Comprehensive Conservation Strategy* (Stiver et al. 2006) as Phase II. The Assessment and the Conservation Strategy were accepted by WAFWA and transmitted to the US Fish and Wildlife Service in 2004 and 2007, respectively.

The Strategy establishes seven biologically based sage-grouse and sagebrush management zones which cross jurisdictional boundaries and require cooperation and collaboration in order to maintain the distribution and abundance of the species. Management Zone 1 (MZ1) represents a core population encompassing a majority of the bird's range in Montana with the exception of inter-mountain valleys in the southwestern portion of the state. Included within MZ1 is northeastern Wyoming and the upper portion of the Powder River Basin (PRB). The document also presents a series of conservation issues, concerns or risks that confront the species at various scales. In discussing energy development as one of those issues, the Strategy highlights new information regarding impacts of development on sage-grouse populations.

Within these same timeframes, a petition to list the greater sage-grouse on a range-wide basis under provisions of the Endangered Species Act was determined to be "not warranted" by the USFWS (2005). However, this "not warranted" finding for the majority of the range of greater sage-grouse (excluding the Columbia Basin in Washington), encouraged continued and enhanced conservation efforts for sage-grouse. The 2005 determination is currently under litigation and substantiates the need to conserve sage-grouse populations at a scale that avoids the need to list the species.

Montana sportsmen, resource managers, landowners, and other conservation interests have been concerned about the status of sage-grouse and sagebrush habitat since the 1950s. Concurrent with the above-noted work, a collaborative effort was initiated in Montana in 2000 to develop a state-based conservation strategy to address these resource

issues. The Montana Sage-Grouse Work Group (SGWG) was responsible for the development of the Management Plan and Conservation Strategies for Sage Grouse in Montana (2004). The SGWG adopted the following goal: "*Provide for the long-term conservation and enhancement of the sagebrush-steppe/mixed-grass prairie complex within Montana in a manner that supports sage-grouse, a healthy diversity and abundance of wildlife species, and human uses*". The Management Plan describes relevant management issues that can impact both sage-grouse populations and sagebrush habitat and lists suggested conservation actions to address and potentially mitigate those issues.

Impetus for Modifying FWP's Position:

Section IV of the Management Plan entitled Conservation Actions, sought to adapt WAFWA Guidelines (Connelly et al. 2000) to Montana sagebrush habitats. Mining and energy development were identified as an unresolved issue and conservation actions were outlined to minimize impacts of development on sage-grouse and sagebrush habitats. Since the completion of the Management Plan, results from various research investigations have been reported that bring to light new considerations and a need to adaptively modify certain recommendations related to energy development. The need to develop energy resources is recognized and efforts to do so in a responsible fashion are supported.

Montana Fish, Wildlife and Parks (FWP), by means of this Position Statement, acknowledges that new information based on the most current and credible science, will shape agency recommendations as they relate to energy development activities and the overall strategies to conserve sage-grouse, other wildlife species and the sagebrush communities that support them. Recent studies have shown that certain conservation actions as outlined in the plan are inadequate to effectively mitigate intensive oil and gas development at the level of intensity observed in Wyoming and Alberta.

To that end, FWP has summarized recent findings that assess oil and gas resource development and the documented impacts to sage-grouse populations. The bulk of this information has come from work conducted in Wyoming, southern Alberta, Colorado and Montana. Incorporating this information into more appropriately designed conservation measures will necessitate both fine and large-scale modifications. We look forward to cooperatively working with federal, state and the private sector to accomplish this task.

Significant Findings:

Sage-Grouse Breeding Activities:

Holloran (2005) – western WY

- Male lek attendance declined as distance from leks to drilling rigs, producing wells and haul roads decreased and as densities of those infrastructure facilities increased. Effects were detectable out to various distances (3 – 6.2 km) depending on the disturbance variable. These observations were similar to that reported for sage-grouse associated with energy development in Alberta (Aldridge and Brigham 2003) and Colorado (Remington and Braun 1991).

- Well densities exceeding 1 producing well every 283 ha (1 well/699 acres) appeared to negatively influence male lek attendance.
- Main haul roads within 3 km of leks negatively influenced male lek attendance largely through increased traffic volume.
- Male attendance decreased with traffic volume of < 12 vehicles per day and leks became inactive when volume exceeded 75 vehicles per day.

Naugle et al. (2006) - northeast WY and southeast MT

- Among leks of known status in 2004-2005, only 34% remained active within CBNG fields, compared to 83% of leks adjacent to or outside CBNG fields.
- From 2000-2005, leks in CBNG fields had 11-55% fewer males per active lek than leks outside CBNG development. All known remaining leks with ≥ 25 males occurred outside CBNG fields in 2005.
- Findings show that CBNG development is having negative effects on sage-grouse populations over and above those of habitat loss caused by wildfire, sagebrush control, or conversion of sagebrush to pasture or cropland. Moreover, the extent of CBNG development explained lek inactivity better than power lines, pre-existing roads, or West Nile virus mortality.
- Research findings show a lag effect, with leks predicted to disappear, on average, within 4 years of CBNG development. Regardless of other stressors, 22 of 24 lek complexes (92%) did not go inactive until after CBNG development came into the landscape.
- Leks typically remained active when well spacing was ≥ 500 acres (1.3 wells per section), whereas leks typically were lost when spacing exceeded 4.2 wells per section.

Summary: During the breeding season, male sage-grouse are sensitive to disturbance during both the exploratory and production phase of oil and gas development. Levels of sensitivity as measured by the distance at which no change in male attendance was detectable, vary by factor but are significant at distances of less than 3 km. In the Powder River Basin, impacts to lek activity included an observed 50% decrease in the number of active leks within developed gas fields as well as a 50% reduction in the average number of males present on remaining leks. There was a discernable time lag between development and observed declines. Changes in numbers were likely an artifact of both distribution shifts in attendance as well as changes in survival and recruitment rates. Existing stipulations that restrict surface occupancy within .4 km (.25 mile) of an active lek are insufficient to maintain populations within developed oil and gas fields. Current well-spacing of 32 – 64 ha (80 – 160 acres) appear to be several times greater than breeding sage grouse populations can tolerate.

FWP Recommendation: Utilize a minimum 1.6 km (1 mile) buffer and preferably, a 3 km (1.8 mile) buffer, of no surface occupancy around existing leks. Recognize that development activities within 3 km will have negative impacts on sage grouse populations.

Sage-Grouse Nesting and Brood Rearing

Holloran and Anderson (2005), Holloran (2005) - western WY:

- Sage-grouse nest locations are spatially related to lek locations and a 5 km buffer included 64% of known nests. Moynahan's (2004) work in north central MT supports this finding.
- The substantial number of females nesting > 5 km from a lek could be important for population viability.
- Observed lek to nest distances was not related to lek size.
- Successful nests were generally located further from leks than destroyed nests.
- Nests located ≤ 1 km from another known nest tended to have lower success probabilities.
- Nesting females strongly avoided areas with high well densities but adult females can exhibit strong nest site fidelity. Mean annual survival rates for females suggest that 5 to 9 years may be required to realize ultimate nesting population response to development activities.

Lyon and Anderson (2003) – western WY

- Female sage-grouse disturbed by natural gas development during the breeding season had lower nest initiation rates.

Schroeder and Robb (2003) – north central WA

- Nest distribution patterns may change as a result of habitat alteration and fragmentation and the 5 km buffer should be considered relevant only for contiguous sagebrush habitats.

Aldridge and Boyce (2007) - southeast AB

- Sage-grouse chick survival decreased as well densities increased within 1 km of brooding locations. These brood-rearing areas acted as habitat sinks where recruitment was poor.
- Low nest success (39%) and low brood survival (12%) characterized sage-grouse vital rates in habitat fragmented by energy development in southern Alberta.

Summary: Female sage-grouse are spatially grouped around a lek or lek complex during the nesting season. Females tend to move away from leks in selecting nest locations and to an extent, those movements appear to improve their rates of nest success. However, females in developed habitat moved twice as far as females in undisturbed habitat and exhibited lower rates of nest initiation. Females also select nest locations that segregate their nests from those of adjacent hens and the probability of successfully hatching those nests increases when that distance is ≥ 1 km. When females have suitable and contiguous nesting habitat to select from, slightly over 60% of nests occur within 5 km of the lek. This strategy of mutual avoidance reduces nest densities and therefore reduces probability of detection by nest predators. However, land use practices that fragment sagebrush habitat and reduce the amount of suitable nesting cover may lead to increased densities of nesting birds and lower rates of nest success. Even if 5 km buffers are employed around existing leks, increased development and production activity in the zone beyond that buffer will impact the remaining 40% of nesting hens and potentially compromise the success of those birds nesting within that 5 km buffer based on the density dependent factors noted above. Stipulations restricting seasonal surface use within 2 miles of an active lek during the breeding and nesting period (1 March – 15 June) are inadequate to maintain sage-grouse populations within developed habitat.

FWP Recommendation: Utilize a 6.9 km (4 mile) buffer around leks to protect nesting and brood rearing habitat for a minimum of 70% of the nesting hens associated with a lek from March 1 through June 30. This protection should apply to both initial development and subsequent production and maintenance operations.

Sage-Grouse Winter Habitat Use

Naugle et al (unpub report 2006)

- In NE WY, predictive winter habitat use models based on vegetation and topographic features were strongly correlated with observed sage-grouse locations ($R^2 = 0.985$).
- Sage-grouse select for large intact and relatively flat expanses of sagebrush as winter habitat and avoid more rugged terrain and conifer habitat. Given that severe winter conditions (deep snow, low temperatures) could force birds into more rugged terrain, topographic variables should be considered in regions outside the PRB.
- After controlling for vegetation and topography, the addition of a variable quantifying the extent of energy development showed that sage-grouse avoid energy development in otherwise suitable habitat. Probabilities of use decrease by ~40% at 80 acre spacing, an avoidance level that would negate use of all but the highest quality habitat once development has occurred.
- Avoidance of CBNG in winter and the high likelihood of lek loss in spring threaten to severely impact populations along the Montana/Wyoming border where models classify only 13% of area as high quality winter habitat.

Summary: Sage-grouse are sensitive to energy development associated with winter habitat. Recent advances in modeling efficiencies provide a tool to assess important winter habitat and the spatial relationship between known leks and potential winter habitat. Sage-grouse in this region can be nonmigratory when suitable seasonal habitats occur in reasonable juxtaposition while other population segments do migrate to more distant winter habitat. In some cases, these dissimilar distribution patterns may involve birds using the same lek complex or a shared winter range. Winter habitat should be conserved at an appropriate scale and with some knowledge of sage-grouse distribution patterns. Seasonal restrictions will not be effective at mitigating infrastructure development if the level of development is moderate to intense and overlays important winter habitat.

FWP Recommendation: Prior to field development, model potential winter habitat and once crucial areas have been identified, prohibit development in those areas.

West Nile Virus:

Naugle et al (2006)

- West Nile virus (WNV) mortalities in radio-marked sage-grouse each year since 2003 (2-25% per yr) show that disease is a new and likely permanent stressor to sage-grouse populations. Mortality from WNV may have population-level impacts because female survival plays a vital role in population growth. Mortality events from WNV in 8 of 11 states since 2003 support the need to

conserve the sage-grouse across their remaining range to reduce the risk of impacts from disease.

- Research shows that CBNG ponds pose a threat to sage-grouse because they provide habitat for mosquitoes that spread WNV. Landscapes with the highest mosquito densities also harbor the highest infection rates in *Cx. tarsalis*, the species of mosquito that spreads the disease. Larval *Cx. tarsalis* were produced at similar rates in CBNG and natural sites, whereas CBNG ponds produced *Cx. tarsalis* over a longer time period than agricultural irrigation.

Summary: West Nile Virus should be considered endemic across the northern Great Plains portion of the range of greater sage-grouse. The presence of this disease has added another stressor to sage-grouse population dynamics. The prevalence of the disease and associated level of mortality in sage-grouse appears to vary considerably from year to year based on environmental conditions. However, CBNG ponds do provide a much more consistent set of conditions favorable to the spread of WNV even in years of low natural precipitation. Conservation actions need to consider the relationship between CBNG and WNV and attempt to mitigate those conditions favorable to WNV.

FWP Recommendation: Reduce potential of CBNG ponds to produce late summer mosquito populations that vector WNV.

Management Approach: Recent research, coupled with previous investigations, has added measurably to our understanding of sage-grouse population response to oil and gas development. Knowledge that sage-grouse avoid energy development during both breeding and wintering seasons and do so at scales that render current protective stipulations ineffective, requires a new approach to conservation strategies and development plans. We believe the following approaches are warranted and need to be incorporated into all phases of lease, exploration and development activities on public and private lands. These measures should be implemented immediately or well in advance of full-scale coal bed methane production.

- Industry, agencies, landowners and concerned publics need to work cooperatively in the development of oil and gas resources and in the conservation of important fish and wildlife resources. State and federal land managers and industry should take the lead to voluntarily adopt measures that will adequately conserve sage-grouse in Montana.
- This will be best accomplished using current distribution information and predictive models to prioritize areas relative to their need for protection and at scales necessary to effectively conserve populations. This should include conservation areas set aside with no energy development that are deemed crucial for population maintenance and range connectivity.
- Significant fragmentation of habitat and associated loss of populations within the PRB, could serve to isolate important core populations in MZ1 and MZII with status implications to the species within the Great Plains portion of the species range.
- Officially amend stipulations for sage-grouse outside of protected crucial areas to reflect current science. This includes extending the no surface

occupancy stipulation to a minimum of one mile and the seasonal no-surface occupancy to 4 miles for annual operations as well as initial development.

- Minimize the footprint of energy development (infrastructure present on the landscape) and the level of use during the production phase based on current information pertaining to observed population response to specific development activities. Specifically this should include requirements for consolidating powerline, pipeline and roads in order to reduce habitat disturbance, burying powerlines to reduce raptor predation, utilizing directional drilling where feasible, remotely monitoring wells to reduce vehicle traffic and human disturbance, employ noise abatement techniques on production equipment, and treating, removing or re-injecting CBNG waste water to prevent the spread of mosquitoes that vector WNV.
- Continue to reduce areas of uncertainty with population monitoring and assessment, especially as related to the effectiveness of new stipulations. Refine prescriptions as appropriate.
- Plan development in incremental stages and in consideration of time periods required to monitor sage-grouse population response and to recover sagebrush habitat functions.
- Unify field development as a means of dealing effectively with mixed mineral and surface ownership.
- Assess potential impacts to other important wildlife species including mule deer, antelope, grassland birds and important Tier 1 Species as identified in the Montana Comprehensive Fish and Wildlife Strategy. Adopt appropriate conservation strategies so as to avoid the listing of Tier 1 Species of Concern under ESA.

Statutory definition:

82-11-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:... (9) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas the person produces from a pool either for the person or others or for the person and others, and the term includes all persons holding that authority by or through the person with the right to drill.

Rule definitions:

36.22.302 DEFINITIONS Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules:...

(52) "Operator" means any person who, duly authorized, is in charge of development and/or producing operations.

(53) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas the person produced from a pool either for the person or others or for the person or for the person and others, and the term includes all persons holding that authority by or through the person with the right drill. (82-11-101, MCA.)

Excerpt from bonding rule:

36.22.1308 PLUGGING AND RESTORATION BOND (1) Except as otherwise provided in these rules, the following bonds are required for wells within the board's jurisdiction:

(a) The owner or operator of a single well to be drilled, or of a single existing oil, gas, or Class II injection well to be acquired, must provide a one well bond:

(i) in the sum of \$1,500, where the permitted total depth of a drilling well, or the actual, or plugged-back, total depth of an existing well, is 2,000 feet or less; or

(ii) in the sum of \$5,000, where the permitted total depth of a drilling well, or the actual, or plugged-back, total depth of an existing well, is greater than 2,000 feet and less than 3,501 feet; or

(iii) in the sum of \$10,000, where the permitted total depth of a drilling well, or the actual, or plugged-back, total depth of an existing well, is 3,501 feet or more.

(b) The owner or operator of multiple wells to be drilled, of existing wells to be acquired, or any combination thereof, must provide a multiple well bond in the sum of \$50,000. A one-time consolidation of companies will not be considered an acquisition requiring a \$50,000 bond if the consolidation does not change the party or parties responsible for the ultimate plugging of the wells and the resulting consolidated company provides a bond not less than the aggregate amount of the existing bonds covering wells prior to consolidation.

(7) A notice of intent to change operator must be filed on Form No. 20 by a proposed new owner or operator of a well within 30 days of the acquisition of the well. Said notice shall include all information required thereon and *must contain the endorsement of both the transferor and the transferee.* The board administrator may delay or deny any change of operator request if he determines that either the transferor or the transferee is not in substantial compliance with the board's statutes, rules, or orders. The board may require an increase in any bond up to the maximum amount specified in (3) of this rule as a condition of approval for any change of operator request. The transferor of a well is released from the responsibility of plugging and restoring the surface of the well under board rules after the transfer is approved by the board.

MONTANA BOARD OF OIL AND GAS CONSERVATION
2535 ST. JOHNS AVENUE BILLINGS, MONTANA 59102

RECEIVED

Notice of Intent to Change Operator

JUL 16 2007

The undersigned Transferor hereby notifies the Board of Oil and Gas Conservation of its intention to transfer ownership and/or operation of the following wells to the undersigned transferee.

Lease Name: HARTE	Lease type:(Private, State, Federal, Indian) PRIVATE
County: TOOLE	Field name: KEVIN. SUNBURST

Description of wells: (Include official well name and number as reflected on Board of Oil and Gas Conservation records, API well number, and exact location of the well including quarter-quarter section, footage measurements, Section, Township, and Range.)

HARTE 5 25-101-05414 T34N R1W Sec 7 1024 FSL 1632 FWL (SE 1/4 SW 1/4)
HARTE 4 25-101-10019 T34N R1W Sec 7 660 FSL 2910 FWL (SE 1/4 SW 1/4)

Transferor's Statement:

I hereby designate the Transferee named herein as the owner and/or operator of record of the above described well(s). I acknowledge that the Transferor continues to be responsible for said well(s) and all associated equipment and facilities until such time as this transfer is approved by the Montana Board of Oil and Gas Conservation. I certify that the information contained herein is true and correct;

Transferee's Statement:

I hereby accept the designation of operator/owner for the above described well(s). I understand that this transfer will not be approved until the Transferee has complied with the Board's bonding requirements. I acknowledge that under Section 82-11-101 MCA, the Transferee herein is responsible for the costs of proper plugging and restoration of the surface of the well(s) described above. I certify that the information contained herein is true and correct;

Company _____
 Street Address _____
 P.O. Box _____
 City, State, ZIP _____
 Signed _____
 Print Name _____
 Title _____
 Telephone () _____

Company **Somont Oil Co, Inc.**
 Street Address **16126 Chasemore Drive**
 P.O. Box _____
 City, State, ZIP **Spring Tx 77379**
 Signed _____
 Print Name **Charles Jansky**
 Title **President**
 Telephone **(281) 251 4398**

BOARD USE ONLY

Approved _____ Date _____ No **07028**

Name _____ Title _____

Field Office Review _____ Date _____ Initial _____

Inspection _____
 Records Review _____
 Operations _____

Oper. No. 7120 Board No. 111